

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority- Public Health Division

333

Agency and Division

Administrative Rules Chapter Number

Nonopioid Directive

Rule Caption

Statutory Authority: ORS 127.690

Other Authority:

Stats. Implemented: ORS 127.690

Need for the Rule(s):

The Oregon Health Authority (OHA), Public Health Division is proposing to permanently adopt administrative rules in chapter 333, division 271 relating to the execution of a non-opioid directive form. A non-opioid directive form is a method for an individual to communicate their wishes to not receive opioids for pain management and instead receive alternatives. OHP and other health insurance organizations do have alternative medications for pain management covered. There are specific exemptions for emergency, hospice and substance use disorder care.

These proposed administrative rules are in response to passage of HB 3211 (2025 Oregon Laws, chapter 154) and include the following:

- Recording and revoking form;
- Confidentiality and data handling;
- Exemptions; and
- Liability protections.

Documents Relied Upon, and where they are available:

- [ORS chapter 127](#)
- [HB 3211 \(Oregon Laws 2025, chapter 154\):](#)
- [Michigan non-opioid directive rules](#)
- [Michigan non-opioid directive form](#)
- [Massachusetts non-opioid directive form](#)
- [Louisiana's non-opioid directive form](#)

Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in This State:

It is unclear how adoption of these rules will affect racial equity. It is likely that a nonopioid directive form will be perceived differently by health care providers depending on the individual's medical history, the race of the individual, the provider's experience and the region of the state where the individual lives. There are historic and ongoing disparities in pain management/ pain control as well as opioid and substance use disorder. These issues can be entangled, so parsing likely outcomes is difficult.

Some potential positive outcomes from making this form available to patients and their health care providers include:

- Supporting improved outcomes for nonwhite groups by initiating conversations about pain management in groups with disproportionate rates of death. Data on overdose-related fatalities related to opioid use also has significant disparities based on race and age, which can be seen on [Oregon's dashboard on injury data](#). Reviewing deaths by race in 2024, rates of deaths among American Indian/Alaska native and Black Oregonians respectively were 70 people per 100,000 (AI/AN) and 84 people per 100,000 compared to white individuals with a rate of fewer than 40 people per 100,000.
- Providing a clearer directive about which patients may choose to avoid opioids. Emergency pain management has clear racial disparities and this bill could correct some of those biases. For example, in Oregon, more white patients than any other race receive pain management in emergency medical services (EMS) situations. In one report on Oregon data, Black patients were 30% less likely than white patients to receive any pain medications; Asian patients were 26% less likely than white patients to receive any pain medication¹. Lack of adequate pain management can have longer term physiological impacts and offering patients an opportunity to signal their preferences regarding opioid use could improve pain management.

Some potential negative outcomes include:

- Submission of the non-opioid directive may be interpreted as a signal of chronic pain or substance use disorder. People experiencing chronic pain report stigma as a barrier to accessing pain management and health care services to [The Oregon Pain Management Commission's annual reports](#). When added to other racial stigma, this may create further inequities in pain management by race. A requirement in the law to not require execution of this form as a requirement to receive health care services may mitigate this issue (Section 1 (2)(d)).
- Association of this form with behaviors that associated with overdose-related fatalities, which have significant disparities by race (see above) and by county in [Oregon's dashboard on injury data](#).

Fiscal and Economic Impact:

If a health care professional or health care facility is presented with a non-opioid directive form by an individual or an individual's health care representative, the health care professional or health care facility will be required to record the non-opioid directive into the individual's medical record. The costs to update electronic medical record systems is unknown.

Health care professional organizations, health care regulatory boards and health care facilities will need to train staff about this new requirement, which will take staff time and resources.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

There is no anticipated impact on members of the public.

¹ [Kennel, Jamie. "Investigating EMS treatment disparities by patient race/ethnicity for traumatic and painful emergencies." 2018, p6.](#) This study used the Oregon NEMSIS dataset in collaboration with OHA-PHD, Multnomah county and the Oregon Institute of Technology.

Local county public health departments that provide primary care, dental care and/or mental health services to individuals may be impacted by the requirements of these rules if presented with a non-opioid directive form that must be documented in an individual's medical record. Other governmental organizations that provide health care or respond to emergencies will also have to carry out the requirements of this statute.

There are nine hospitals that are operated by special districts that will be impacted by the adoption of these rules:

Bay Area Hospital, Blue Mountain Hospital, Coquille Valley Hospital, Curry General Hospital, Harney District Hospital, Lake District Hospital, Lower Umpqua Hospital District, Southern Coos Hospital and Health Center, and Wallowa Memorial Hospital.

If presented with a non-opioid directive by an individual, these hospitals will be required to document the directive in the individual's medical record. Documentation of nonopioid directive will take staff time and may require updates to electronic medical record systems. The cost to update necessary programs is unknown.

Health professional regulatory boards and the Oregon Health Authority may need to investigate complaints which will take staff resources.

2. Cost of compliance effect on small business (ORS 183.336): **ORS 183.310(10) defines small business as "a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees."**

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The OHA does not collect data on the number of health care facilities that may be considered a small business. There are no known ambulatory surgery centers, extended stay centers, outpatient renal dialysis facilities or hospitals subject to these rules in Oregon that can be considered a small business.

The OHA does not collect data on the number of health care professionals that may operate a small business, but it is assumed that there are several health care professional practices that would be considered a small business. Additionally, rural health clinics may be impacted by these requirements and would also be considered a small business.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

OHA does not have data on the number of health care facilities subject to these rules that could be considered a small business. Health care professionals that do operate a small business will be required to keep a record of a nonopioid directive form in an individual's medical record as well as remove the record should an individual revoke the directive. Training will be necessary for consistent record management.

c. Equipment, supplies, labor and increased administration required for compliance: None

OHA does not have data on the number of health care facilities subject to these rules that could be considered a small business. Health care professionals that do operate a small business will be

required to keep a record of a nonopioid directive form in an individual's medical record as well as remove the record should an individual revoke the directive. This will require staff time and resources and may result in necessary updates to an electronic medical record system.

How were small businesses involved in the development of this rule? Health care providers and health care facilities will be invited to the rulemaking process. [Will update with participants after RAC is completed]

Administrative Rule Advisory Committee consulted?: Yes, 10/6/2026

If not, why?:

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