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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 817  
OREGON HEALTH AUTHORITY  
HEALTH LICENSING OFFICE, BOARD OF COSMETOLOGY

**FILED**  
10/22/2021 11:43 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: CORRECTED Increase cosmetology authorization fees.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/29/2021 12:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Samie Patnode  
503-373-1917  
samie.patnode@dhsosha.state.or.us

1430 Tandem Ave. NE Suite 180  
Salem, OR 97301

Filed By:  
Anne Thompson  
Rules Coordinator

**HEARING(S)**

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 11/17/2021

TIME: 9:00 AM - 11:00 AM

OFFICER: Samie Patnode

ADDRESS: Health Licensing Office  
1430 Tandem Ave. NE Suite 180  
Salem, OR 97301

**SPECIAL INSTRUCTIONS:**

To limit exposure and spread of the COVID-19 virus and adhere to the Governor's social distancing requirements, the hearing is being held via telephone conference call only. Call-in number: 503-934-3605 Passcode: 747147  
More information can be found on the HLO website at <https://www.oregon.gov/oha/PH/HLO/Pages/Board-Cosmetology.aspx>

**NEED FOR THE RULE(S)**

Increase fees for the Board of Cosmetology (Board) applicants and authorization holders to cover the cost of regulating the Board's professionals and protecting the public.

A second Notice of Proposed Rulemaking-Hearing is being filed due to an error in the text of the original notice. Under Fiscal Impact Statement the original certificate did not show a fee increase. The fee is currently \$25 and is being increased to \$35 a difference of \$10.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

Documents used to prepare the proposed rules were financial records, Oregon Revised Statutes and Oregon Administrative Rules related to cosmetology and the Health Licensing Office (HLO), Board meeting materials and stakeholder outreach documents.

All documents are available at the HLO, 1430 Tandem Ave Suite 180, Salem, OR 97301-1287. To obtain information or

copies of information please contact Samie Patnode, Policy Analyst, at 503-373-1917 or by email at samie.patnode@dhsosha.state.or.us, during normal business hours Monday through Friday between 7 am to 2:30 pm.

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#### FISCAL AND ECONOMIC IMPACT:

The proposed rule changes increase several authorization fees which will allow continued operation of the licensing and regulatory functions of HLO and the Board. The Board's current fees cannot sustain the program; revenue and expense forecasts predict the Board to slip into the red within a year. This would have an extreme negative impact not just on this Board, but HLO, and the Legislature's mandate to protect the public would be compromised. There will be a substantial impact to all applicants and authorization holders.

Proposed fee changes are as follows:

##### Practitioner fees:

- Application: from \$20 to \$30 for each field of practice
- Examination: from \$35 to \$45 for each examination
- Original certificate: \$25 to \$35 for each field of practice
- Certificate renewal: \$45 to \$65 for each field of practice

##### Facility fees:

- Application: \$100 to \$140
- Original and renewal license: \$110 to \$155

##### Independent contractor fees:

- Application: \$50 to \$70
- Original and renewal/reactivation registration: \$100 to \$140

##### Freelance fees:

- Application: \$25 to \$35
- Original and renewal/reactivation authorization: \$100 to \$140

Late fee: \$30 to \$50 for each authorization renewed late

Replacement authorization fee: \$25 to \$35

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

##### 1. Impact on state agencies, units of local government and the public:

If students are considered the public, they will see an increase in cost to apply, examine and obtain a certificate in a field of practice.

If authorization holders are considered the public, they will see an increase cost to renew an authorization including if renewing late.

The public may be impacted if companies including small businesses pass the increase authorization costs on to the customer. There is no way to determine the fiscal impact as the number of customers.

Application: from \$20 to \$30 for each field of practice an increase of \$10 which is a one-time cost per field of practice.

Examination: from \$35 to \$45 for each examination an increase of \$10 which is a one-time cost per field of practice

Original certificate: \$25 to \$35 an increase of \$10 which is a one-time cost per field of practice

Certificate renewal: \$45 to \$65 which is an increase of \$20 bi-annually per field of practice.

Cost of compliance effect on small business (ORS 183.336):

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

There are currently 45 private career schools licensed by the Higher Education Coordinating Commission to teach cosmetology professions including barbering, hair design, nail technology and esthetics. In many cases private career schools likely fall under the definition of a "small business".

There are currently 4,689 licensed cosmetology facilities in Oregon that will be affected negatively by the rule change.

Facility application: \$100 to \$140 which is an increase of \$40 which is a one-time fee.

Original and renewal facility license: \$110 to \$155 which is an increase of \$45 annually.

There are currently 7,209 registered independent contractors in Oregon that will be affected negatively by the rule change.

Independent contractor application: \$50 to \$70 which is an increase of \$20 which is a one-time fee.

Original and renewal/reactivation independent contractor registration: \$100 to \$140 which is an increase of \$40 annually.

There are currently 624 freelance authorization holders in Oregon which will be affected negatively by the rule change.

Freelance authorization application: \$25 to \$35 which is an increase of \$10 which is a one-time fee.

Original and renewal/reactivation freelance authorization: \$100 to \$140 which is an increase of \$40 annually.

b. Projected reporting:

There is not estimated to be any increased projected reporting with this rule change.

c. Equipment, supplies, labor and increased administration for compliance:

There is not estimated to be any increased administration for compliance with this rule change.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small business owners were not involved in the development of these rules.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Board and authorization holders don't have the authority to change fees. Fees are determined by number of authorization holders and percentage of overall HLO expenses and expenses specific to each Board. HLO provided outreach and communication to the Board and stakeholders that fee increases were required.

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AMEND: 817-040-0003

RULE SUMMARY: Fee increases. A second Notice of Proposed Rulemaking-Hearing is being filed due to an error in the text of the original notice. Under Fiscal Impact Statement the original certificate did not show a fee increase. The fee is

currently \$25 and is being increased to \$35 a difference of \$10.

CHANGES TO RULE:

817-040-0003

Fees ¶¶

- (1) Applicants and authorization holders are subject to provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.¶¶
- (2) Fees established by the Office, in consultation with the Board, are as follows:¶¶
- (a) Application:¶¶
- (A) Practitioner certificate: ~~\$230~~ per field of practice. ~~Fee applies to each two-year renewal cycle even while in inactive status for up to three years.~~¶¶
- (B) Practitioner certificate by reciprocity: \$100 per field of practice.¶¶
- (C) Independent contractor registration: ~~\$570~~.¶¶
- (D) Freelance authorization: ~~\$235~~.¶¶
- (E) Facility license: ~~\$1040~~.¶¶
- (F) Temporary facility permit: ~~\$570~~.¶¶
- (G) Demonstration permit: \$25.¶¶
- (b) Examination:¶¶
- (A) Oregon laws & rules: ~~\$345~~.¶¶
- (B) Barbering: ~~\$345~~.¶¶
- (C) Hair design: ~~\$345~~.¶¶
- (D) Esthetics: ~~\$345~~.¶¶
- (E) Nail technology: ~~\$345~~.¶¶
- ~~(F) Freelance authorization: \$25~~¶¶
- (c) Original issuance of authorization to practice:¶¶
- (A) Practitioner certificate: ~~\$235~~ for two years.¶¶
- (B) Practitioner certificate by reciprocity: ~~\$465~~ for two years.¶¶
- (C) Independent contractor registration: ~~\$1040~~ for one year.¶¶
- (D) Freelance authorization: ~~\$1040~~ for one year.¶¶
- (E) Facility license: ~~\$11055~~ for one year.¶¶
- (d) Permits:¶¶
- (A) Temporary facility: ~~\$1040~~.¶¶
- (B) Demonstration: \$50.¶¶
- (e) Renewal of authorization to practice:¶¶
- (A) Practitioner certificate: ~~\$465~~ for two years. Fee applies to each two-year renewal cycle even while in inactive status for up to three years.¶¶
- (B) Independent contractor registration: ~~\$1040~~ for one year.¶¶
- (C) Freelance authorization: ~~\$1040~~ for one year.¶¶
- (D) Facility license: ~~\$11055~~ for one year. Fee applies to each renewal cycle even while in inactive status.¶¶
- (f) Other administrative fees:¶¶
- (A) Delinquency fee: ~~\$350~~ for each year in inactive status up to three years.¶¶
- (B) Replacement of freelance authorization, certificate, license or registration, including name change: ~~\$235~~.¶¶
- (C) Duplicate freelance authorization, certificate, license or registration document: \$25 per copy with maximum of three.¶¶
- (D) Affidavit of licensure: \$50.¶¶
- (E) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.¶¶
- (F) Information packets: \$10.
- Statutory/Other Authority: ORS 676.576, ORS 676.615, ORS 690.046
- Statutes/Other Implemented: ORS 676.576, ORS 690.046