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

CHAPTER 331  
OREGON HEALTH AUTHORITY  
HEALTH LICENSING OFFICE

**FILED**  
10/12/2021 12:41 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Increase respiratory therapy and polysomnography licensing 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: Samantha 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: 1:00 PM - 3:00 PM

OFFICER: Samantha 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: 237145

More information can be found on the HLO website at

<https://www.oregon.gov/oha/PH/HLO/Pages/Board-RTPT.aspx>

NEED FOR THE RULE(S):

Increase fees for the Respiratory Therapist and Polysomnographic Technologist Licensing Board (Board) applicants and authorization holders to cover the cost of regulating the Board's professionals and protecting the public.

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 respiratory therapy, polysomnography 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 licensing 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:

Application: from \$50 to \$100

Examination: from \$50 to \$100

Original license: from \$50 to \$100

Renewal: \$50 to \$100

Online renewal: \$45 to \$90

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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) Effort number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities (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:

Oregon Institute of Technology (OIT) is a public university which may be considered a state agency under the authority of Higher Education. OIT has both a respiratory therapy and polysomnography education program which may be impacted if instructors are required to be licensed and renewal fees. There may also be impact if students are required to obtain temporary licensure, which may include pre-examination, and if the program pays the fees. In all scenarios there is no way to determine the fiscal impact as the number of students is unknown.

The public may be impacted if companies including small businesses pass the increase licensure cost on to the customer/patient/other. The fiscal impact as the number of customers/patients/clients is unknown.

If applicants for licensure and licensees are considered the public there will be a negative fiscal impact.

Application: from \$50 to \$100 an increase of \$50 which is a one-time cost

Examination: from \$50 to \$100 an increase of \$50 each time the examination is taken

Original license: from \$50 to \$100 an increase of \$50 which is a one-time cost

Renewal: \$50 to \$100 an increase of \$50 annually

Online renewal: \$45 to \$90 an increase of \$50 annually

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:

Many respiratory therapists work in hospital-based settings some of which may be considered small businesses particularly if they are 65 licensed hospitals in Oregon some of which are likely small businesses however the exact number is unknown.

<https://www.oregon.gov/oha/ph/providerpartnerresources/healthcareprovidersfacilities/healthcarehealthcareregulationquality>

Both respiratory therapists and polysomnographic technicians work within Durable Medical Equipment (DME) Companies. According to the National Durable Medical Equipment Database there are 1007 companies that supply DME to patients in Oregon equipment may include sleep technology and respiratory machines, oxygen tanks and nebulizers. It is certain, that some of these DME companies are small businesses however the number is unknown. [https://npidb.org/organizations/suppliers/durable-medical-equipment-medical-supplies\\_332b00000x/or/](https://npidb.org/organizations/suppliers/durable-medical-equipment-medical-supplies_332b00000x/or/) Both respiratory therapists work within sleep labs where diagnostic testing for sleep disorders are performed on patients. Some sleep labs are located within larger hospitals and others are smaller clinics that solely provide sleep testing and other sleep related illnesses. The smaller clinics are likely considered small businesses however the number of clinics is unknown.

b. Projected reporting:

There is not estimated to be any increased administration for compliance 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? YES

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AMEND: 331-740-0000

RULE SUMMARY: Increase respiratory therapy and polysomnography licensing fees.

CHANGES TO RULE:

331-740-0000

Fees ¶

(1) An applicant or licensee are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the

payment of fees, penalties and charges.¶¶

(2) Fees established by the Office pursuant to ORS 676.607 are as follows:¶¶

(a) Application:¶¶

(A) License: ~~\$5100~~.¶¶

(B) Temporary license: ~~\$5100~~.¶¶

(b) Examination - Oregon laws & rules: ~~\$5100~~.¶¶

(c) Original issuance of authorization to practice:¶¶

(A) License: ~~\$5100~~.¶¶

(B) Temporary license: ~~\$50~~.¶¶

(C) Temporary six-month license: ~~\$50~~¶¶

(d) Renewals:¶¶

(A) Licenses: ~~\$5100~~.¶¶

(B) Online license: ~~\$4590~~.¶¶

(C) Temporary license: ~~\$50100~~.¶¶

(e) Delinquent (late) renewal of license: \$50 for each year in inactive status up to three years.¶¶

(f) Replacement of license, including name change: ~~\$25~~.¶¶

(g) Duplicate license document: \$25 per copy with maximum of three.¶¶

(h) Affidavit of licensure for reciprocity: ~~\$50~~.¶¶

(i) Information packets: ~~\$10~~¶¶

(j) 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.

Statutory/Other Authority: ORS 676.615, ORS 676.576, ORS 688.830

Statutes/Other Implemented: ORS 676.615, ORS 676.576, ORS 688.830