

Chapter 331, Division 900 through 950
“Amended Statement of Need and Fiscal Impact”

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).

The Health Licensing Office (HLO) filed a Notice of Proposed Rules, including a Statement of Need and Fiscal Impact (Notice), on December 30, 2022, with the Secretary of State’s Office (SOS), notifying interested parties that public comment would be accepted from January 1 to January 28, 2023. During that time, the HLO received public comment regarding electrologists who may be interested in administering the Electrology Training Program to temporary trainees but may decide not to because of insurance concerns. Specifically, concerns were raised that being the supervisor of a temporary trainee may disqualify a licensee from obtaining professional/premises liability insurance and getting reimbursed by health insurance providers for permanent hair removal services done by temporary trainees for individuals seeking gender reassignment surgery. Such services are generally covered by health insurance, including the Oregon Health Plan.

The HLO reached out to several insurance carriers to inquire about professional/premises liability insurance for electrologists who are interested in administering the Electrology Training Program to temporary trainees. Two out of the 10 insurance carriers responded to the HLO’s request for information.

- Insurance carrier one: Electrologists can obtain professional liability insurance to cover training and supervising of students and temporary trainees as well as for practicing electrology.
- Insurance carrier two: Electrologists can obtain professional liability insurance to cover training and supervising of students and temporary trainees as well as for practicing electrology. With this insurance, there are no classroom size limits, and it would cover in-person education and training. Insurance carrier two also allows students or temporary trainees to obtain professional liability insurance, which would cover them if they provided electrology services under the supervision of a supervisor.

The HLO also contacted the Oregon Health Authority (OHA), Health Services Division (HSD), to see if an electrologist, who is also an approved supervisor, could be reimbursed by the Oregon Health Plan (OHP) for permanent hair removal services provided by a temporary trainee to individuals seeking gender reassignment surgery. OHA, HSD stated that if the approved supervisor is listed on the insurance claim, they would be responsible for the work done by the temporary trainee. It was explained that OHP frequently uses this method in terms of delegating services to other individuals (a physician delegates to a nurse, and the physician bills OHP). The HLO will work with OHA, HSD on a memorandum to interested parties explaining the billing and reimbursement requirements.

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

As stated above, the OHP is regulated by the OHA, HSD which is considered a state agency. If there is an increase in electrologists and temporary trainees, there may be an increased cost to the OHP if more payments for permanent hair removal services are required. For those payments to be approved, a review of medical and behavioral health records and documentation for patients may be necessary, as well as the maintenance of client records.

If licensed electrologists are considered members of the public, there may be an additional cost to obtain professional liability insurance for being a supervisor. The cost of professional liability insurance weighs several factors for each individual policyholder, making it difficult to provide an estimate of fiscal impact.

(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).

There are 82 licensed electrologists who could potentially become supervisors and may obtain professional liability insurance. Most electrologists own their own body art facility, which is considered a small business.

There may be reporting, recordkeeping, and administrative activities for electrologists who become supervisors and obtain professional liability insurance, including but not limited to, documentation filed with the insurance carrier, license and experience verification, and details regarding the temporary trainee. This information would likely need to be maintained by the electrologists on the body art facility premises.

If professional liability insurance is considered a “professional service,” then electrologists who obtain it will have costs associated with the insurance carrier.

Permanent rules are expected to become effective on April 15, 2023.

Public comment has been extended from March 16 through March 27, 2023, at 12 p.m. (noon).

Please send all public comment or questions to:
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