

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

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

Oregon Health Licensing Agency /Respiratory Therapist Licensing Board  
Agency and Division

OAR Chapter 331  
Administrative Rules Chapter Number

General maintenance, amendments made to provide clarification on certain procedures provided by Respiratory Therapists.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

**ADOPT:** 331-705-0070, 331-715-0045

**AMEND:** 331-705-0050, 331-705-0060, 331-710-0010, 331-710-0020, 331-710-0030, 331-715-0000, 331-715-0010, 331-715-0030, 331-720-0010, 331-720-0020, 331-725-0020

**Statutory Authority:** ORS 688.830, 676.615

**Other Authority:**

**Stats. Implemented:** ORS 688.800, 688.805, 688.815, 688.834

**Need for the Rule(s):**

General maintenance and housekeeping of Oregon Administrative Rules, Chapter 331 Divisions 705-725 is necessary to ensure that current statutory, industry, and rulemaking requirements are being met and aligned appropriately with each agency program.

Amendments are necessary to integrate administrative rules from all Oregon Health Licensing Agency programs. These changes would include standardization of application, identification requirements, examination, and affidavit of licensure. Changes also include synchronization of administrative rule citations and statutory references.

Adoption of 331-705-0070, a sleep lab exemption, is necessary to allow for any personnel working in a sleep lab setting to perform certain respiratory care services. Currently the definition of respiratory care services under ORS 688.830(5) includes the maintenance of natural and artificial airways, as well as "diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions and pulmonary function testing. Continuous positive airway pressure treatments are considered a respiratory care service and under ORS 688.805(1) are prohibited by anyone who is not a licensed respiratory therapist. The exception to this prohibition, under ORS 688.805(2), (3) and (4) applies to "other persons and health providers licensed by appropriate agencies of this state," specifically respiratory care students, self-care by a patient or gratuitous care by friends or family of the patient as long as the friends or family do not claim to be respiratory therapists, respiratory care rendered in an emergency. This would not include a person licensed or certified nationally such as a registered polysomnographic technologist (RSPGT) and, currently, unlicensed persons are not statutorily authorized to practice respiratory care in Oregon. The exemption excludes certain respiratory care services that require a respiratory therapist to provide the service due to the complexity.

Adoption 331-715-0045 is needed to ensure safety to the public. Under ORS 688.800(5) respiratory care practitioners are permitted to use pharmacological agents when related to respiratory care procedures. The new rule limits certain pharmacological agents and the administration of the agents by a respiratory

therapist including intravenous narcotics, paralytics and opioids. Sets general parameters for administration of intravenous administration of agents.

**Documents Relied Upon, and where they are available:**

Agency and board meeting documents and administrative rule records, meeting minutes from 2009 and 2010, committee reports and documents from Rules Advisory Committee Meetings, legal advice from assistant attorney general.

All documents except information exempt from public disclosure are available at the Oregon Health Licensing Agency 700 Summer Street NE, Suite 320, Salem, OR 97301-1287. To obtain information or copies of information please contact Samantha Patnode, Policy Analyst, at (503) 373-1917, during normal business hours Monday Through Friday between 7:30am to 4:30pm. Email: [samie.patnode@state.or.us](mailto:samie.patnode@state.or.us)

**Fiscal and Economic Impact:**

Statement of Cost of Compliance:

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

There may be a decrease in fiscal impact on universities and hospitals if they have sleep labs within their facility as the exemption for sleep labs may allow the university or hospital to hire other qualified persons who may cost less to provide certain respiratory care services in a sleep lab. However the exemption does not include any services provided by a sleep lab if done in the home. All respiratory care services provided in the home must be done by a respiratory therapists which may be an increase cost.

There may be some increased fiscal impact on universities or hospitals and that may be considered government agencies such as the Oregon Health Sciences University (OHSU) or the Portland VA Medical Center. The impact may include increased cost for universities or hospitals to require prescribing physician to be physically present at all times when intravenous pharmacological agents are being administered by a respiratory therapist. There may also be an increase to fiscal impact on universities and hospital prohibiting respiratory therapists from administering intravenous narcotics, paralytics and opioids. There may increased cost to health care workers who can administer these specific agents.

There may be a decrease in fiscal impact by defining “place” as a setting which may be an emergency or ambulatory setting. This would allow universities with emergency transport teams such as OHSU’s PANDA team to hire respiratory therapists to serve on the team at a lower cost then other health care providers.

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

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

There may be a decrease in fiscal impact to small businesses who own sleep labs as the exemption for sleep labs may allow the small business to hire other qualified persons who may cost less to provide certain respiratory care services in a sleep lab.

There may be some increased fiscal impact on universities or hospitals and that may be considered government agencies such as the Oregon Health Sciences University or the Portland VA Medical Center. The impact may include increased cost for universities or hospitals to require prescribing physician to be physically present at all times when intravenous pharmacological agents are being administered by a respiratory therapist. There may also be an increase to fiscal impact on universities and hospital prohibiting respiratory therapists from administering intravenous narcotics, paralytics and opioids. There may increased cost to health care workers who can administer these specific agents.

There may be a decrease in fiscal impact by defining “place” as a setting which may be an emergency or ambulatory setting. This would allow small businesses who transport critical care patients to hire respiratory therapists who may cost less then other health care providers.

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

There maybe a decrease in fiscal impact as sleep labs would not have to have licensed respiratory therapists on staff to perform certain respiratory care services. This would eliminate application and renewal forms and processes including tracking and receipt of continuing education classes.

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

None anticipated

**How were small businesses involved in the development of this rule?**

The agency provided outreach to licensees and stakeholders at Respiratory Therapist Licensing Board meetings and Rules Advisory Committee meetings in 2009 and 2010. Additionally, the agency has posted information on the Board's Web site and through agency electronic newsletter (Licensing Line) regarding the proposed changes.

**Administrative Rule Advisory Committee consulted?:** Yes

If not, why?:

Signature on File

Samantha Patnode, Policy Analyst

06/14/2010

Signature

Printed name

Date