

# NOTICE OF PROPOSED RULEMAKING

## STATEMENT OF NEED AND FISCAL IMPACT

**Filing caption:** List of Prosthetic and Orthotic Devices under ORS743A.145

**Public comment deadline:** Click or tap to enter a date.

**Effective Date:** 1/1/2027

### HEARING

**Date:** Click or tap to enter a date.

**Time:** TBD

**Officer:** Ethan Baldwin

**Location:** Labor & Industries Building  
350 Winter St. NE  
Basement, Conf Rm  
Salem, OR 97301

This is a hybrid meeting conducted in-person and virtually via Microsoft Teams:

### NEED FOR RULE(S)

*Provide background on why the rule is needed, including a short summary of the rulemaking authority and statutes implemented. Provide a summary of what the rule does. Describe the involvement of the RAC, including the types of stakeholders that were invited to and did participate. Specify if any of the stakeholders were small businesses.*

ORS 743A.145 requires the Department of Consumer and Business Services (DCBS) to adopt and annually update rules listing the prosthetic and orthotic devices that must be covered under the bill. The list of devices must be no more restrictive than the list of devices used in the Medicare fee schedule. This rulemaking would reassert the existing rules listing the prosthetic and orthotic devices that must be covered.

### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

**STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT EQUITY IN THIS STATE:**

*(Who is this going to impact and how might it impact one group of people differently than others?)*

The proposed rules do not result in new substantive coverage requirements beyond the underlying statutory requirements, as the rules simply provide the annual update required by the statute. Key groups affected by these rules include Oregon health insurers, consumers that purchase health insurance policies in this state, and individuals enrolled in health insurance policies in this state. The proposed rule will most directly impact Oregon health insurers. Health insurers will need to continue to ensure that each health insurance policy offered in this state provides coverage for the prosthetic and orthotic devices listed in the rule and complies with all other provisions of the rule.

The division is not aware of any data suggesting a disproportionate impact on any specific groups of enrollees or policyholders.

Importantly, these rules and the underlying statute may contribute to advancing health equity by ensuring equitable access for individuals with limb loss and limb difference who are enrolled in individual or group health insurance policies. These individuals will be assured that any health insurance policy offered in this state will provide coverage for a broad range of prosthetic and orthotic devices, and the availability of insurance coverage to offset costs will make those devices more affordable and accessible to individuals who need them. These benefits will likely be disproportionately experienced by Oregonians most at risk for injuries or other health conditions resulting in amputation, including but not limited to veterans or people with diabetes.

**FISCAL AND ECONOMIC IMPACT:**

*Based on information available to DCBS, briefly discuss the cost of compliance for businesses, generally. State whether there are compliance costs for small businesses (independently owned and operated with fewer than 50 employees).*

The primary cost of complying with these rules will fall on licensed health insurers. Based on financial filings made to the Division of Financial Regulation (DFR), no health insurer meets the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

The rules may have indirect impacts upon businesses, including small businesses, that purchase a fully insured group health insurance policy in Oregon. Because plans sold to employers with fewer than 50 employees are already required to cover prosthetic and orthotic devices as part of Oregon’s essential health benefits under ORS 731.097 and 743B.013, the adoption of these rules

is not expected to have a significant additional cost impact on small employers. Based on the information available to DCBS, the proposed rules would not have any additional fiscal or economic impact on state agencies, local governments or the public beyond the underlying statutory requirements.

## **COST OF COMPLIANCE FOR SMALL BUSINESSES**

### **(1) Identify any state agencies, units of local government, and members of the public (including specific interest groups) likely to be economically affected by the rulemaking.**

Based on information currently available to DCBS, the proposed rule does not have a fiscal or economic impact on state agencies or local government units.

Members of the public who may be economically affected by the rulemaking may include health insurers that offer policies that are subject to the rule, individuals and businesses that purchase health insurance policies in this state, and any individuals enrolled in these plans.

The division does not have information available about economic impacts to other members of the public.

### **(2)(a) Estimate the number and type of small businesses subject to the rule(s).**

These rules apply to health insurers offering health insurance policies that are subject to ORS 743A.145. Based on financial filings made to DFR, no health insurer meets the definition of a small business under ORS 183.310, because no health insurer is independently owned and operated.

### **(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).**

The rules may impose recordkeeping and other administrative obligations on health insurers that may be necessary to ensure compliance with the list of devices and other requirements of these rules. The division does not have information available to estimate these costs. Because health benefit plans sold to individual and small employers are already required to cover prosthetic and orthotic devices as part of the essential health benefits package (and because health benefit plans sold to large employers often choose to cover these devices voluntarily), these rules are not expected to impose significant additional reporting, recordkeeping and administrative activities and costs.

Based on financial filings made to DFR, no health insurer meets the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

**(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).**

Health insurers offering plans that are subject to these rules may incur costs related to professional services, labor, and increased administration. The division does not have information available to estimate these costs. Because health benefit plans sold to individuals and small employers are already required to cover prosthetic and orthotic devices as part of Oregon's essential health benefits package (and because health benefit plans sold to large employers often choose to cover these devices voluntarily), the rules are not expected to impose significant additional reporting, recordkeeping and administrative activities and cost.

Based on financial filings made to DFR, no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

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

The Rules Advisory Committee (RAC) included participation from an advocacy organization representing the interests of businesses providing prosthetic and orthotic services, some of which are likely small businesses. Representatives of small businesses were also invited to provide comments on the rule.

**Was an administrative rule advisory committee consulted? Yes.**

The proposed rules were developed in conjunction with a RAC that included representatives of domestic health insurers and advocates for amputees and other persons with limb loss and limb difference. The committee held a hybrid meeting on May 27, 2026 at 1:00 PM.

**Did membership of the RAC represent the interests of persons and communities likely to be affected by the rule? Yes.**

The RAC represented the interests of health insurers and persons with limb loss and limb difference who are in need of prosthetic and orthotic devices.

**RULE NUMBER AND SUMMARY**

*List each rule number and a short summary of what the rule does.*

AMEND: OAR 836-052-1000

RULE SUMMARY: Establishes list of prosthetic and orthotic devices; prohibits internal or separate limits or caps on prosthetic and orthotic devices, other than the lifetime policy maximum, when permitted by law; defines when coverage for prosthetic and orthotic device is provided through a managed care organization.

**STATUTORY REFERENCE**

STATUTORY/OTHER AUTHORITY: Oregon Revised Statute 743A.145; ORS 731.244

STATUTES/OTHER IMPLEMENTED: Oregon Revised Statute 743A.145

TK Keen, Insurance Commissioner

Signature	Printed name	Date
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**LEGISLATOR NOTICE**

*If the rulemaking results from legislation passed within two years of this notice of proposed rulemaking, the agency must give notice to: 1) the legislator(s) who introduced the bill; and 2) the chair or co-chairs of all committees that reported the bill out. (Does not include referrals to other committees).*

*If the rule does not result from legislation within the last two years, notice shall be given to the chair or co-chairs of any interim or session committee with authority over the subject matter of the rule. If notice cannot be given to these individuals, notice shall be given to the Speaker of the House and the President of the Senate.*

Name	Committee or Title	Email
Sen. Deb Patterson	Chair, Senate Committee on Health Care	Sen.DebPatterson@oregonlegislature.gov
Rep. Rob Nosse	Chair, House Committee on Behavioral Health and Health Care	Rep.RobNosse@oregonlegislature.gov

**RULEMAKING ADVISORY COMMITTEE**

Name	Organization	Email
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