

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form..

I certify that the attached copies\* are true, full and correct copies of the TEMPORARY Rule(s) adopted [ **upon filing** ] by the  
Date prior to or same as filing date

Department of Human Services, Administrative Services Division and Director's Office 407  
Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective [ **September 14, 2009** ] through [ **March 12, 2010** ].  
Date upon filing or later A maximum of 180 days including the effective date

**RULE CAPTION**

Department of Human Services Roles and Responsibilities During Oregon Health Authority Operational Transition Period  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

List each rule number separately, 000-000-0000.  
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

**ADOPT:** OAR 407-043-0010

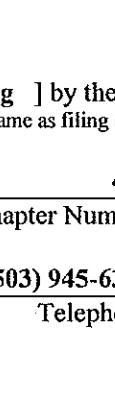
Stat. Auth.: ORS 409.050 & 2009 Or. Laws Chapter 595 (House Bill 2009)

Other Auth.:

Stats. Implemented: 2009 Or. Laws Chapter 595 (House Bill 2009)

**RULE SUMMARY**

Effective June 26, 2009, 2009 Or. Laws Chapter 595 (House Bill 2009) created the Oregon Health Authority (OHA) and transferred to OHA certain duties, functions, and powers of the Department of Human Services (Department) with respect to health and health care. House Bill 2009 authorized an operational transition period beginning June 26, 2009 and ending no later than June 30, 2011. These rules explain the roles and responsibilities of the Department and OHA concerning these transferred duties, functions, and powers during the operational transition period.

  
Authorized Signer

Kym Gasper, Authorized Signer  
Printed name

9.14.2009  
Date

\*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005

**STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

**Department of Human Services, Administrative Services Division and Director's Office**

**407**

Agency and Division

Administrative Rules Chapter Number

In the Matter of:

**The adoption of OAR 407-043-0010.**

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

**Department of Human Services Roles and Responsibilities During Oregon Health Authority Operational Transition Period**

Statutory Authority: **ORS 409.050 & 2009 Or. Laws Chapter 595 (House Bill 2009)**

Other Authority:

Stats. Implemented: **2009 Or. Laws Chapter 595 (House Bill 2009)**

Need for the Temporary Rule(s):

Effective June 26, 2009, 2009 Or. Laws Chapter 595 (House Bill 2009) created the Oregon Health Authority (OHA) and transferred to OHA certain duties, functions, and powers of the Department of Human Services (Department) with respect to health and health care. House Bill 2009 authorized an operational transition period beginning June 26, 2009 and ending no later than June 30, 2011. These rules explain the roles and responsibilities of the Department and OHA concerning these transferred duties, functions, and powers during the operational transition period.

Documents Relied Upon, and where they are available:

House Bill 2009, available at: <http://www.leg.state.or.us/09reg/measpdf/hb2000.dir/hb2009.en.pdf>

Justification of Temporary Rule(s):

When the legislature created OHA, it transferred to OHA certain duties, functions, and powers of the Department related to health and health care. The Department finds that failure to act promptly will result in serious prejudice to the public interest and the Department's functions, activities, or programs that have been transferred to OHA because without the immediate adoption of these rules, there is a substantial risk of disruption of the transferred functions, activities, or programs. These rules implement the Department's authority from OHA to continue to carry out the duties, functions, and powers that have been transferred to or established in OHA, subject to supervision and oversight of OHA, effective June 26, 2009 and until operational transfer to OHA occurs. These rules need to be adopted immediately to maintain business continuity. This temporary rulemaking action will avoid or mitigate the consequences of potential disruption that is likely to occur if this business continuity process is not adopted immediately.



Authorized Signer

Kym Gasper, Authorized Signer

Printed name

9.14.2009

Date

**CHAPTER 407**  
**DEPARTMENT OF HUMAN SERVICES,**  
**ADMINISTRATIVE SERVICES DIVISION AND DIRECTOR'S OFFICE**

**DIVISION 43**  
**OREGON HEALTH AUTHORITY**

**407-043-0010**

**Oregon Health Authority Transition Period Roles and Responsibilities**

- (1) Effective June 26, 2009, 2009 Or. Laws Chapter 595 (House Bill 2009) created the Oregon Health Authority and transferred certain duties, functions, and powers of the Department of Human Services (Department) with respect to health and health care to the Oregon Health Authority. House Bill 2009 also authorized an operational transition period beginning June 26, 2009 and ending no later than June 30, 2011. The transferred subject areas are generally described in Section 19(1)(a), 2009 Or. Laws Chapter 595 as including but not limited to:
  - (a) Developing the policies for and the provision of publicly funded medical care and medical assistance in Oregon;
  - (b) Ensuring the promotion and protection of public health and the licensing of health care facilities;
  - (c) Developing the policies for and the provision of mental health treatment and treatment for substance use disorders;
  - (d) Administering the Oregon Prescription Drug Program; and
  - (e) Establishing responsibility for the Office for Oregon Health Policy and Research and all functions of the office.
- (2) The transferred functions described in section (1)(a)-(e) above are generally carried out as currently described in Department rules by the Public Health Division, the Addictions and Mental Health Division, and the Division of Medical Assistance Programs.
- (3) Operational transfer of any Department program, business transaction, judicial or administrative proceeding, or any other duty, function, or power transferred to the Oregon Health Authority may occur, in whole or in part, on the date specified by the Oregon Health Authority, but no later than June 30, 2011.
- (4) In accordance with OAR 943-001-0010 to 943-001-0015, the Department shall continue to exercise all of the duties, functions, and powers relating to the transfer to the Oregon Health Authority, subject to the supervision and oversight of the Oregon Health

Authority, until superseded by operational transfer, either in whole or in part, to the Oregon Health Authority as follows:

- (a) All rules shall remain in effect and ongoing rule filing processes may continue.
- (b) All program administration, policies, and procedures shall remain in effect and may continue to be developed and implemented.
- (c) Any judicial or administrative action, proceeding, contested case hearing, administrative review matter, or new action, proceeding, or matter involving or relating to the Department's duties, functions, or powers transferred to the Oregon Health Authority shall continue under the Department.
- (d) All procurements, contracts, grants, or other business transactions shall remain the Department's responsibility.
- (e) Rights and obligations legally incurred under contracts, leases, and business transactions shall remain legally valid.
- (f) Any taxes, assessments, fees, charges, or any payments due and payable to or reimbursable by the Department relating to the duties, functions, or powers transferred to the Oregon Health Authority shall continue to be paid to or reimbursed by the Department on behalf of the Oregon Health Authority.
- (g) Any former statutorily required findings, determinations, or recommendations to be made by the Department shall remain the Department's responsibility.
- (h) All filings, notices, or service documents that were formerly mailed, provided to, or served upon the Department relating to the duties, functions, or powers transferred to the Oregon Health Authority shall continue to be made, provided to, or served upon the Department on behalf of the Oregon Health Authority.
  - (A) Mailing or service of notices or documents on the Department shall be considered notice to the Oregon Health Authority. For example, any notice sent to the Department of Human Services Estate Administration Unit for purposes of ORS 113.145, 114.525, and 130.370 shall be considered notice to the Oregon Health Authority.
  - (B) If mailed, provided to, or served on the Oregon Health Authority, the filing, notice, or document shall be transmitted to the Department to respond or take such other actions as necessary to protect the state's interests.
- (5) Any and all remaining duties, functions, or powers relating to the duties, functions, and powers transferred to the Oregon Health Authority that are not described in section (4)

shall continue in effect or be exercised by the Department until superseded by operational transfer, either in whole or in part, to the Oregon Health Authority.

Stat. Auth.: ORS 409.050 & 2009 Or. Laws Chapter 595 (House Bill 2009)

Stats. Implemented: 2009 Or. Laws Chapter 595 (House Bill 2009)