

**OHSU + Legacy Health:
An Urgent Case for Integration in Response to Public Comments
(January 2025)**

January 24, 2025

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Dr. Sejal Hathi, M.D., M.B.A
Director
Oregon Health Authority

Submitted via hcmo.info@oha.oregon.gov

Dear Director Hathi,

As values-driven leaders in health care, we both know the status quo is failing for far too many people in Oregon. Our communities are experiencing some of the longest wait times in the country for new patient appointments, and on many days our hospital beds are full. Integrating OHSU and Legacy is a once-in-a-generation opportunity to address these persistent challenges head on, ensure continued local control of major Oregon health care systems, and improve transparency and accountability.

After several months of robust public comment, OHSU respectfully submits the following comment. My team and I recognize that this is a complex proposal, and we will continue thoughtfully engaging with the community, leaders and regulators.

As stated in our filing notice, the proposed effective date for the transaction is March 30, 2025. We will continue to respond quickly and fully to questions from OHA, HCMO program staff, and members of the Community Review Board as they arise, working in good faith to support the 180-day comprehensive review. Pending approval, day one of integration is set to begin this spring.

I am confident that this combination will allow us to help more people through our research, education, and clinical missions, which, at the end of the day, is a goal we all share. Thank you for considering this additional comment and including it in the public record.

Sincerely,

A handwritten signature in black ink that reads "Steve Stadum". The signature is written in a cursive, flowing style.

Steve Stadum, J.D.
Interim President, OHSU

I. Executive Summary

The health care system in Oregon is failing to meet people's needs. Families across the state know this from firsthand experience, and data from a variety of sources confirm it: Oregon's health care status quo is defined by long wait times, delayed surgeries and procedures, and crowded and overburdened hospitals. The OHSU and Legacy Health integration will create an integrated public university health system providing concrete benefits to help address these and other critical issues. This comment will explore a few key points:

- **This status quo cannot be the right answer for the health of people in Oregon.** The Board of Legacy Health determined that it needs a strategic partner due to operating losses and capital needs of up to \$750 million. Legacy cannot make these investments on its own. And, contrary to some public comments, it would not be feasible for the state to provide financial or institutional support to address Legacy's current issues. OHSU is proposing to better the status quo by integrating with Legacy and making major investments in Legacy's facilities, which will lead to significant improvements in health care access.
- **The OHSU-Legacy integration will deliver substantial health care benefits to the people of Oregon.** OHSU went above and beyond the state's minimum requirements for a HCMO Notice, choosing to articulate specific benefits, commitments, and accountability metrics. While under Federal law many details cannot be finalized until the two entities share a fiduciary relationship, OHSU pushed to do as much up front planning as possible in order to demonstrate to state regulators and community members that it is deeply committed to achieving real benefits for people through the integrated public university health system.
- **OHSU's unique structure prioritizes public interest and accountability.** As a public entity, OHSU is subject to public records law and has Governor-appointed leadership. Its mission to improve the health and well-being of Oregonians is even codified in state law. The new, combined health system will expand the reaches of this transparent and publicly accountable model.
- **The OHSU-Legacy integration is different from other hospital mergers.** OHSU's proposal to integrate with Legacy is different than any other health care merger in the state or country, and it is impossible to draw conclusions about the effects of the OHSU-Legacy integration based on general findings from national research about typical health care mergers. Some public comments have ignored the specific commitments and plans OHSU has made, opting instead to rely only on conclusions of general research, which leads them to draw erroneous conclusions about this particular proposed transaction.

Fundamentally, OHSU believes that mergers and acquisitions in health care should only be approved if they can demonstrate an ultimate benefit to the people of Oregon. In fact, OHSU was the only hospital in Oregon to support the 2021 legislation that created the HCMO Program, which was developed with the aim of increasing transparency and oversight of health care transactions. That is why OHSU has been more transparent than any HCMO applicant to-date and has made real plans and commitments that are far more specific than any other application in the program's history. OHSU values the ongoing public engagement that is core to the HCMO process and will continue to operate with integrity and transparency as it works toward approval of its comprehensive HCMO application.

II. The Health Care Status Quo Is Not Acceptable

The health care system in Oregon today fails to meet patients' needs, making the OHSU-Legacy integration, and the benefits it will provide, necessary. As the data show, and as anyone who has tried to get an appointment for health care in Oregon in the last year knows, wait times for appointments are too long. Non-emergency surgeries and procedures often must be scheduled months in advance. A patient who goes to the Emergency Department and needs to be admitted for care must wait on average 19 hours for an inpatient bed. This is bad for patients and families, bad for providers, bad for cost control, and bad for outcomes.

In 2022, AMN Healthcare and Merritt Hawkins published a survey of physician appointment wait times in 15 major metropolitan areas across cardiology, dermatology, orthopedic surgery, obstetrics/gynecology, and family practice specialties. The survey found that Portland, Oregon, has the highest average new patient physician appointment wait time across all five specialties of the 15 metropolitan areas surveyed. Portland's average wait time in the survey was 45.6 days, compared to an average 26.0 days across all 15 large metro markets surveyed.¹ Data from OHSU and Legacy generally support these survey findings. See pages 43 – 45 in the Notice for more details.

This status quo cannot be the right answer for the health of people in Oregon.

The OHSU-Legacy integration provides a sustainable and achievable way to significantly address these issues. Access improvements in Oregon depend on financial investments in Legacy's facilities that Legacy cannot make on its own and that OHSU cannot commit to absent this transaction. Publicly available data, coupled with the Legacy Board of Directors' decision that Legacy must find a strategic partner, suggest that Legacy has not achieved financial stability. As detailed in the HCMO Notice:

- Legacy reported operating losses of \$(41.7) million in the quarter beginning April 2024, following a \$(50) million loss the prior quarter, and \$(96) million in losses for the fiscal year ending March 31, 2024, after adjusting for non-recurring items.
- Legacy's Board of Directors estimates \$300–\$750 million in capital investment is needed over five years to maintain service, quality, and access, but Legacy lacks a viable financial path for these investments.
- Legacy has "built" medical / surgical and ICU operating capacity, as well as operating room capacity, that it is unable to use due to staffing shortages. Currently, Legacy has about 90 unstaffed medical/surgical beds and 39 unstaffed critical care beds. This unused capacity is unevenly distributed throughout the Legacy Health system, with the most unused capacity available at hospitals located closer to downtown Portland. On average, an estimated 60-70 patients are served per bed per year, which means the 90 medical / surgical beds and 39 critical care beds could serve an additional 7,500 – 9,000 patients/year. Further, about 11 percent of Legacy's operating room capacity is not staffed. If this operating room capacity

¹ <https://www.amnhealthcare.com/blog/physician/perm/physician-appointment-wait-times-getting-longer/#:~:text=The%202022%20survey%20indicates%20that,from%2021%20days%20in%202004.>

was staffed, the system could treat about 5,100 additional patients through surgeries each year.

- Legacy's deferred maintenance totals over \$25 million, and Legacy has an age of plant that is 24 years, compared to the median of 12.7 years.

These facts point to underlying financial weakness and the need for a strategic partner, just as Legacy's board concluded in May 2022. Further, it is not sufficient for the state to simply provide additional financial support to Legacy. Such a solution would not provide the same opportunities to address pressing needs in health care recruiting and retention, access, and quality of care as the OHSU-Legacy integration proposal -- and at the same time, direct financial support from the state would not address the fundamental issues that Legacy faces. As noted in the HCMO application, OHSU has committed to providing \$1 billion in capital support to Legacy. Given Legacy's average age of plant and deferred capital spending, OHSU believes this is the minimum amount that needs to be spent across the combined health system to improve quality, access and equitable care within the combined system. An investment by the state on that scale, given other important priorities facing the state government, is untenable.

III. The OHSU-Legacy Integration Will Deliver Substantial Health Care Benefits to the People of Oregon

OHSU and Legacy Health have proposed a unique integration that will improve health care for people in Oregon at a time when there is a significant need. Right now, across the state, health care wait times are long, quality is in jeopardy, people suffer from significant inequities, and costs are unsustainable and unpredictable. Combining OHSU and Legacy creates an accountable integrated public university health system that will:

- Reduce wait times for care, including primary and preventative care as well as the most specialized complex care;
- Improve health outcomes for people underserved by the health care system, including people covered by Medicaid and people who are racially and economically diverse;
- Improve the quality of health care outcomes;
- Ensure sustainable and predictable cost growth in alignment with Oregon's health care cost growth target;
- Improve research opportunities and access to clinical trials;
- Expand education and training opportunities of future health care practitioners; and
- Partner with frontline health care workers to assure job security, pay parity, investments in training, and other benefits over the long term to ensure the integrated system is ready to provide the health care that people in Oregon need.

OHSU's HCMO Notice articulates specific benefits, commitments, and accountability metrics. In fact, OHSU went well beyond the requirements in the Notice itself outlining binding commitments and potential metrics to track progress. Without repeating the information detailed in the HCMO Notice and in that Framework, OHSU summarizes some of the key metrics here.

a. *Commitments and Plans that Guarantee Access, Equity, Quality, and Cost Benefits for People*

Access

As described in the Measurement and Accountability Framework, OHSU has committed to do the following to improve access to high quality health care. Proposed metrics will be considered and refined during integration to ensure that they are applied appropriately:

- Reduce average wait times for new patient appointments for primary care. Proposed metric is “new patient median lag.” Proposed timeline requires establishing baseline and benchmark targets within 12 months of the transaction closing.
- Reduce average wait times for new patient appointments for specialty care. Proposed metrics are “new patients seen in 10 days” and “new patient median lag;” proposed timeline requires establishing baseline and benchmark targets within 12 months of closing.
- Improve access to acute adult inpatient beds. Proposed metric is to be determined during integration, and a metric may rely on other proposed metrics within the access pillar. Proposed timeline requires establishing baseline and benchmark targets within 24 months of closing.

Critical to achieving these benefits is OHSU’s \$1 billion capital investment—made possible only as a result of the transaction—that will improve Legacy facilities and services for the communities that depend on them to deliver better health care. Given Legacy’s significant deferred maintenance and need to upgrade facilities and equipment, delays in action would further endanger patient access and the system’s ability to retain staff. In addition, OHSU’s excellence in recruitment and retention of frontline health care workers will ensure the integrated system delivers on these access commitments.

The OHSU-Legacy integration is also needed to fulfill the health care workforce and training needs of the state. This aligns with OHSU’s role - and the future role of the integrated public university health system - as the state’s health care university. Almost every clinical training program requires clinical placements, and these remain a significant challenge due to the demands on health system resources, including space, time, and preceptor availability. The integrated public university health system will leverage Legacy’s longstanding commitment to and expertise in education, growing capacity to support more trainees. Further, OHSU is committed to increasing the size and diversity of its classes to meet the state’s needs, and the integration with Legacy will help enable this.

Equity

The proposed OHSU-Legacy integration also includes significant investment in health equity through a foundation, which will be the largest philanthropic organization in Oregon focused primarily on improving health equity and addressing social determinants of health. The foundation will be funded with Legacy’s net cash at closing, which is estimated at \$350 million.

Separate from the investment in the foundation, the integrated public university health system that will result from the OHSU-Legacy combination also has committed to the following equity improvements and investments:

- Disaggregating demographic information in current data systems and prioritizing equity indicators and measures (e.g., metrics related to screenings, reproductive health, maternal care, diabetes control, hypertension control, children’s health);
- Implementing a health equity strategy in collaboration with community groups; and
- Increasing the budget allocated to health equity initiatives, with a goal of spending at least an additional \$10 million over five years.

Quality

Just like in the access and equity domains, the OHSU-Legacy integration makes concrete commitments and plans to deliver higher quality health care services and outcomes. Proposed metrics will be considered and refined during integration to ensure that they are applied appropriately. These include commitments to:

- Improve the quality of preventative care, including potential metrics for well child visits, immunizations, cancer screenings, and depression screenings. These are Healthcare Effectiveness Data and Information Set (HEDIS) metrics and CCO metrics. The proposed benchmark is to maintain or increase 2023 baseline values.
- Improve the quality of care for people with chronic diseases, including potential metrics related for hemoglobin A1c control and hypertension control. Hemoglobin A1c control is a CCO metric, hypertension control is a HEDIS metric; in both cases the proposed benchmark is to maintain or increase 2023 baseline values.
- Improve the quality of pediatric care, including reducing rates of necrotizing enterocolitis in very low birthweight babies. This is a potential metric from Vermont Oxford.

Cost

The integrated health system created by the OHSU-Legacy combination commits to a sustainable, predictable cost growth that also ensures people in Oregon can access affordable quality health care and employers have certainty about the cost of health benefits.

The OHSU-Legacy HCMO Notice commits to average annual cost growth of 4.6%. This is 1.2% above Oregon’s established cost growth target of 3.4%, **but the state’s methodology allows and encourages health systems to exempt wage increases for frontline health care workers from the calculation.** The state’s methodology ensures that the state’s cost growth target does not discourage health systems from paying frontline health care workers a living wage that accounts for increases in cost of living, a pertinent issue in the Portland metro area especially given the rapidly increasing cost of housing in recent years. OHSU estimates that the integrated system will see average cost growth of 4.6%, although both OHSU and Legacy have recently experienced much higher cost growth, in part due to higher-than-normal inflation. The additional 1.2% above the cost growth target accounts for labor costs. These sustainable cost increases would be expected with or without the OHSU-Legacy integration. OHSU and Legacy individually have in recent years experienced costs due to higher inflation than pre-pandemic levels.

b. The OHSU-Legacy Integration Will Increase Health Care Services for People who are Underserved

OHSU has committed to improve health care for people who are underserved through the OHSU-Legacy integration. This commitment is built into OHSU's governing statute and the documents governing the integration with Legacy. Specifically, OHSU is designated by Oregon law to carry out identified public purposes and missions, including to "**continue a commitment to provide health care to the underserved patient population of Oregon.**"² The definitive agreement signed by OHSU and Legacy also explicitly requires the parties to "**maintain and improve health care access to underserved, vulnerable populations in urban, suburban, and rural locations, thus improving health equity and the diversity of the combined system's patient population.**"

By definition, Medicaid covers many people who are underserved by the health care system. Individually, OHSU and Legacy care for a large number of people in Oregon who are covered by Medicaid. Continuing to provide complex care services for Medicaid patients will be a core priority for the newly integrated public university health system. This is why **the integrated system has made a commitment to serving a combined Medicaid population that is the same or larger in scale and size as OHSU and Legacy serve today.** In addition, OHSU's HCMO Notice explicitly considers and builds from the definition of "medically underserved population" used by the federal Health Resources & Services Administration (HRSA).

c. Binding Commitments to Workforce: The Labor Deal Is Unlike Any Other In Oregon's History

OHSU and major labor unions have signed a legally binding agreement about how the integrated public university health system will partner with labor. The labor unions included in the agreement represent the vast majority of frontline health care workers at OHSU and Legacy. A labor agreement on this scale for a transaction of this type has never happened in Oregon health care before.

The agreement reflects OHSU's history and practice of valuing its relationships with labor unions and workers they represent, which sets OHSU apart from many other hospitals and health systems. As a state entity, OHSU supports the right of employees to form, join, and participate in labor unions. But perhaps most importantly, OHSU sought to negotiate a meaningful and groundbreaking agreement with labor unions because OHSU recognizes that frontline health care workers will be critical partners in achieving the commitments to improve care for people in the integrated public university health system. These commitments require that the integrated system recruit and retain the caregivers who are on the front lines with patients.

Major provisions of the agreement include: pay parity for former Legacy employees; job security for 12 months after closing and minimum severance equal to six months of base pay; an annual \$10 million commitment to workforce training; recognition of diversity, equity, inclusion, and belonging language in current collective bargaining agreements; and exploration of a diversity,

² ORS 353.030(3)

equity, inclusion, and belonging Labor-Management committee to support the integrated system. The \$10 million commitment will complement OHSU's education mission and help provide education programs and services including apprenticeship programs, career pathways, job training, accelerated and customized classes, tuition support, and extended learning opportunities. OHSU expects this partnership will increase training opportunities in the integrated public university health system for existing and new employees.

IV. OHSU's Unique Structure Prioritizes Public Interest and Accountability

OHSU's unique governance and accountability structure sets it apart from any other health care system in that state. This structure ensures that OHSU focuses on and prioritizes the public interest across all of its work. It is a natural outcome that OHSU has supported HCMO from the program's inception. Simply put, OHSU is a component part of the state, and no other health care provider is.

OHSU is purposely designed by the people of Oregon to be a hybrid system that is able to participate in the health care market while centering people, not profits, within its mission for excellence in education, research, and clinical practice. OHSU does not have shareholders or member-owners, and therefore, it does not need to prioritize shareholder profits like corporate health systems. Also, OHSU does not restrict access to any essential health care services, such as gender affirming care or the full range of reproductive and end of life care options, and it is not based out-of-state. Its sole financial motivation is the need to ensure long-term sustainable support for the community as described in state law, including the provision of health care services, training the next generation of health care clinicians, and bringing cures to the bedside through biomedical research.

Further, OHSU offers a unique accountability structure not found in any other health care entity in Oregon and only rarely nationally. As the state's only academic health center and a state entity acting on behalf of the people of Oregon, OHSU is subject to more rigorous transparency and accountability requirements than any of its competitors in the state. The Oregon Supreme Court and the Oregon Legislature have recognized OHSU as a state sovereign entity charged with "performing governmental functions and exercising governmental powers." ORS 353.020. OHSU's statutory framework and delineated responsibilities make it the most accountable health system in the state of Oregon. Specifically:

- OHSU's Board of Directors is appointed by the Governor and confirmed by the Oregon Senate. This is not window dressing. As an example, in October 2024 OHSU's publicly accessible Board of Directors planned to consider a resolution to appoint a new OHSU president, which was covered in depth by the media. The Governor of Oregon stepped in and directed OHSU to change course. OHSU followed the Governor's directive.
- OHSU is subject to Oregon public meetings and public records laws, just like state and local agencies. This means that OHSU's Board of Directors holds meetings open to the public and are easily reported on by the media and thinktanks. Similarly, members of the public, including journalists and researchers, can request records they would never be able

to review or publish were they produced by any other health system.³ The scrutiny of OHSU is much greater than that of any other health system in Oregon.

In alignment with its transparency values and responsibilities, OHSU has proactively made documents pertaining to this transaction public, including the signed Letter of Intent between OHSU and Legacy to explore the combination, the definitive agreement between the two organizations, and the HCMO documents, which OHSU has published to its website before the documents were available on the HCMO website.

But long before signing the Letter of Intent with Legacy, OHSU was the only hospital in the state to support the law creating HCMO, and OHSU continues to support HCMO.⁴ OHSU believes mergers and acquisitions involving health care entities warrant state review. Importantly, understanding of the potential risks of health care mergers, OHSU intentionally structured the integration proposal with Legacy to be different from typical health care mergers. This is why the OHSU HCMO Notice makes specific plans and commitments to ensure that people benefit due to improvements in access, equity, and quality while the integrated health system bends the cost curve in alignment with the state's cost growth target. To the extent that OHA has concerns about the effects of the transaction not addressed by OHSU's unique public structure and specific commitments with progress tracked by metrics, OHA can apply conditions to address those concerns and monitor compliance.

V. The OHSU-Legacy Integration is Different from Other Hospital Mergers

OHSU's proposal to integrate with Legacy is different than any other health care merger in the state or country, and it is impossible to draw conclusions about the effects of the OHSU-Legacy integration based on general findings from national research about typical health care mergers. This section outlines just some of the ways in which the OHSU-Legacy integration is different.

As detailed above, OHSU and Legacy have developed and offered specific commitments and plans only possible because of the integration of the two organizations. These commitments will deliver timely, specific, and defined benefits for people in Oregon. OHSU's HCMO Notice also proposes specific voluntary accountability for these commitments. OHSU will identify accountability officers for each commitment, retain an objective third party to review progress toward commitments, and the OHSU board will hear a report regarding the current status of the Measurement and Accountability Framework during a public meeting each year. Further, the integrated public university health system will report the status of the integration, including metrics and measurements, to the Governor of Oregon one, two, and five years after the transaction is approved.

³ It is important to mention that the Oregon Legislature has set forth certain exemptions from disclosure based on public policy reasons, OHSU, like other public bodies, evaluates whether certain records are exempt from disclosure in responding to public records requests..

⁴ Although OHSU is a member of the Hospital Association of Oregon, it has not supported the organization's lawsuit against the HCMO program.

Some public comments submitted to HCMO ignore these commitments, opting instead to rely only on conclusions of general research about health care mergers that do not make these types of commitments or structure the transaction to benefit people. Below are five examples of erroneous conclusions in public comments:

- Several public comments cite poor access and long wait times as a reason to oppose or question the integration proposal between OHSU and Legacy, **but the OHSU-Legacy integration proposal makes concrete commitments to prioritize access improvements.** One public comment suggests that OHSU should simply transfer patients to Legacy to alleviate capacity constraints. Although Legacy facilities have capacity available, the capacity is ***built but unstaffed*** capacity. Because Legacy is not able to fully staff its facilities, the facilities are not able to serve as many people as they should, and people must wait longer for care. Today, OHSU cannot transfer patients to these facilities because there are not sufficient health care professionals there to care for additional patients. OHSU performs significantly better than national benchmarks on nursing turnover, and Legacy will benefit from OHSU's excellence in retention through the combination, allowing the integrated public university health system to manage capacity across the facilities.
- One comment states that OHSU has conceded that it will not satisfy the state's cost growth target. In fact, OHSU has committed to meeting the state's health care cost growth target, as detailed in Section II. This comment could be based on a lack of familiarity with the state's cost growth target and changes to its methodology. Other commenters also make broad assertions about cost growth for the integrated public university health system based on general research about the general impacts of consolidation on health care costs rather than the specifics of the OHSU-Legacy integration.
- One comment claims that the OHSU-Legacy integration will not improve and might even worsen access problems in Oregon, especially in primary care. This conclusion appears to rely on national studies about health care mergers rather than the facts of the OHSU-Legacy integration proposal. Unlike other mergers, OHSU's proposed integration with Legacy includes significant binding commitments to the public and plans that will produce critical improvements in access, including reduced wait times to receive primary care.
- Some comments question or dismiss OHSU's commitment to underserved populations. One comment cites general research about health care mergers typically reducing access to care for marginalized populations. However, unlike most hospital mergers, OHSU has made a binding commitment to maintain or expand health care provided to people covered by Medicaid.
- Finally, several public comments appear to misunderstand or underestimate how the agreement signed by OHSU and major labor unions will support the integrated health system's workforce and the access commitments. For example, one public comment claims that the agreement only forestalls layoffs for 12 months after closing but fails to

acknowledge the agreement requires OHSU to explore all avenues to avoid any layoffs. This public comment also dismisses the voices of health care workers who have provided comments in favor of the OHSU-Legacy integration.

Beyond the above examples, OHSU urges close reading of all comments and research in order to avoid errors or misrepresentations with respect to OHSU's commitments and plans about how the integrated health system will benefit people in Oregon. The focus of HCMO's review must be on the specifics of this unique and unprecedented transaction and the state's health care goals, not on general or misguided conclusions about generic hospital mergers outside of Oregon.

VI. Conclusion

As thoroughly reviewed in this comment, the proposed OHSU-Legacy integration offers significant benefits for the people of Oregon at a time when the status quo is not sufficient. OHSU has made concrete commitments that set the proposed integration apart from typical health care mergers, and OHSU's unique accountability would ensure that the integrated public university health system delivers on its promises. We urge approval of OHSU's comprehensive HCMO application.