May 21, 2026

TO: Sarah Bartlemann, Oregon Health Authority

FR: Ryan Tuthill, Oregon Business & Industry

RE: Proposed Rule Changes to Oregon Health Authority's (OHA) Health Care Market Oversight (HCMO) Program

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Oregon Business & Industry (OBI) is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. In addition to being the statewide chamber of commerce, OBI is the state affiliate for the National Association of Manufacturers and the National Retail Federation. Our 1,600 member companies, more than 75% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

We appreciate the opportunity to provide additional feedback on the Oregon Health Authority's (OHA) proposed rules to the Health Care Market Oversight (HCMO) program. We remain concerned with the unduly high fee increases proposed by the agency, the opacity and unpredictability of the program as a whole and its potential to further diminish access to healthcare throughout the state.

According to the most recent revenue forecast released in May 2026, Oregon's GDP growth continues to trail U.S. GDP growth while our unemployment rate continues to outpace U.S. unemployment rates by nearly a full percentage point. Faced with rising costs, it is imperative that employers are able to create partnerships that make sense for their community and allow for the long-term sustainability of employers in local communities.

Due to those concerns, we ask that the agency review its current program and better identify where it can manage its own costs and be a more collaborative partner with regulated entities.

Disproportionate Fee Increases Without Adequate Justification

In addition to new fees and civil penalties we remain concerned that OHA, despite significant opposition, chose to keep their most recent proposal largely intact and increase program fees anywhere from 250% to 1,400%. These fee increases, coupled with the cost of complying with the agency's changing requests for pass-through invoices, serial requests for information, and the unrestrained tolling of review timelines, will further compound the cost of providing healthcare in our state.

Any proposed fee increase should be tied to the actual cost of administering a program, and the agency should be transparent in sharing what those costs are. Regulated entities and the public should know the cost of outside advisory and legal fees, and the agency should work to minimize those costs. Additionally, OHA should provide a clear explanation of its anticipated revenue and workload assumptions before approving new fees.

We ask that the agency take time to systematically review its program and its own practices to better understand where there is opportunity to contain costs, improve their own internal processes, and better work with health care payers and providers to improve and maintain healthcare accessibility. At present, there is no clear justification for imposing such substantial fee increases for a program that has yet to demonstrate its effectiveness. Additionally, the agency should set aside unclear and unpredictable civil penalty language until it clarifies standards for enforcement and compliance.

Unpredictability and Complexity in the Current Process

Businesses and institutions need clear, stable regulations to plan and expand effectively. According to a 2025 StratACUMEN study, Oregon is the seventh most regulated state in the nation, and research shows that every 10% increase in regulation results in a 1% increase in consumer prices and a 0.6% decrease in small firm employment. Any proposed rule should add clarity, not further uncertainty, to program compliance. Furthermore, Oregon hospitals face three times as many regulations as their peers nationwide. That burden puts both patient care and the physical and economic health of communities at risk.

When transactions are paused for extended periods of time, local communities are left without timely and relevant information about their local healthcare landscape. This means that employees are left uncertain about their future, healthcare entities are stuck in a costly state of limbo, and the public is having to guess what healthcare access will look like in their community. State agencies have a duty to provide the public with clear timelines and transparent communication, as the absence of which only creates unnecessary anxiety and instability. The HCMO process must provide clear guidelines and requirements for healthcare entities, and transaction reviews must be completed within 180 days as required by its enabling legislation.

Furthermore, the opacity of the HCMO program makes it exceptionally difficult for regulated entities to anticipate and comply with the demands of the agency. As a matter of good governance, the rulemaking process should ensure fairness, consistency and transparency. OHA has failed to provide regulated entities with the necessary metrics that the agency requires to demonstrate success. The long review timelines without an end in sight has further made the HCMO process unworkable for healthcare entities, even when the end result would be enhanced access to quality care for consumers.

Current HCMO Program Risks Further Eroding Access to Care

Maintaining access to care is vital to the health and well-being of a community. Other entities have already noted that previously successful mergers would not have been viable had they been subject to the costs and uncertainty of the current HCMO process, even though those mergers enabled clinics to remain open, retained physicians and support staff, and preserved access options for the community. The HCMO's enabling legislation requires that entities engaged in a material change transaction benefit the public good; however, the agency's implementation of the program may directly contradict that objective by creating a process so costly and complex that affiliation or merger may not be a viable option.

OBI remains concerned that the costs and unpredictability associated with participation in the HCMO process will create deleterious effects on access to healthcare throughout the state. As the agency is aware, the healthcare system as a whole is struggling to keep up with rising costs due to both structural price increases and eligibility changes from federal passage of H.R. 1. The additional bureaucratic burden and uncertainty that comes along with participating in the HCMO process will make partnerships more costly and more difficult to pursue, resulting in lost opportunities for health systems to support one another. This is especially concerning as Oregon's healthcare system already has the second-fewest hospital beds per capita of any U.S. state.

A core weakness with the HCMO process is the implicit assumption that the status quo in a community is a realistic, or even sustainable, option. Providers often pursue these transactions because they are mutually beneficial for both entities and for consumers or because an entity is in a financially untenable situation and in need of support. It is imperative that the agency view these transactions in the lens of the alternative. Preserving the status quo, either directly or indirectly through a regulatory program that is too costly and time-consuming to effectively comply with, will ultimately limit opportunities to support small providers in financial distressed situations that seek to maintain access to care within a community.

As it currently stands, the structure and administration of the HCMO process risks undermining the objective of the program and the legislation that enabled it by introducing unnecessary complexity, uncertainty, and cost into transactions that are often undertaken to stabilize and strengthen the delivery of healthcare. An approach grounded in clear standards and expectations, meaningful engagement with regulated entities, and transparency will better support the partnerships that keep healthcare local and affordable for Oregonians.

For these reasons, OHA should take a comprehensive look at the current HCMO program and work to create a process that is more transparent, predictable, and even-handed. Those who pay for healthcare, provide healthcare, purchase healthcare, regulate healthcare, and receive healthcare share the same goal of preserving access to high-quality services. A more transparent, predictable and responsive process for both the public and regulated entities is achievable, and we believe an approach that emphasizes collaboration will more effectively protect patient access, support affordability and advance the public good.

Sincerely,

Ryan Tuthill
Policy & Program Manager
Oregon Business & Industry