

Oregon Physical Activity Laws

August 2018

Health Promotion and Chronic Disease Prevention
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Oregon Physical Activity Laws

Introduction

Introduction

This document outlines Oregon state laws related to the physical activity goals and objectives contained in the Oregon Health Authority-Public Health Division's *2017-22 Health Promotion and Chronic Disease Prevention Strategic Plan*. Specifically, it details state laws related to:

- the planning and provision of active transportation infrastructure;
- public health plan coverage of physical activity interventions for preventing and treating health outcomes related to physical activity; and,
- physical activity requirements in public schools.

In addition, it also includes [Executive Order No 17-01 – State Agency Employee Wellness](#). While an executive order is not a law, this executive order has been instrumental in laying the foundation for worksite wellness efforts in state agencies, many of which address, or will likely address, physical inactivity.

A brief overview of the federal landscape, where applicable, is included as well. Laws include a brief summary and, where practical, full legal citations.

Definitions:

ORS: Oregon Revised Statutes; contains statutes and the Oregon Rules of Civil Procedure.

OAR: Oregon Administrative Rules; ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” The Oregon Administrative Rules are published by the Oregon Secretary of State

I. Active Transportation

Active Transportation

Active transportation includes walking, biking, and transit. For the most part, the bicycle, pedestrian, and transit infrastructure that supports these modes and helps determine how easy or difficult it is for people to use them, is planned and built by cities, counties, and/or local transit authorities, according to the policies and guidance contained in each community's Comprehensive Plan.¹ ORS 197.175 requires all Oregon cities and counties to have a comprehensive plan that includes, among other things, a transportation element (OAR 197.015(5)). This transportation element is known as a Transportation System Plan (TSP).

OAR 660-012, commonly referred to as the Transportation Planning Rule (TPR), delineates the TSP requirements, including a TSP's necessary elements (OAR 612-012-0020), which include a public transportation (transit) plan and a bicycle and pedestrian plan. TSPs also identify and describe planned facilities, services, and major improvements to be considered for future investment. A key requirement of Comprehensive Plans, including the TSP, is that they are coordinated with state and regional transportation plans.

State Plans

The [*Oregon Transportation Plan*](#) (OTP) is the primary statewide transportation plan containing the policies that guide transportation planning and investment in Oregon. In addition to providing the policy framework for transportation planning and investment, the OTP includes a number of mode and topic plans that are developed separately and available as separate documents, but are adopted as part of the OTP and provide additional policy guidance for specific issues. Current mode and topic plans include the following:

- Oregon Aviation Plan
- Oregon Bicycle and Pedestrian Plan
- Oregon Highway Plan
- Oregon Public Transportation Plan
- Oregon Freight Plan
- Oregon State Rail Plan
- Oregon Transportation Safety Action Plan

¹ The primary exception is bicycle and pedestrian infrastructure that is part of a state or interstate highway system. Highway infrastructure is planned, built, and maintained by the Oregon Department of Transportation.

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- Oregon Transportation Options Plan

Regional Plans

Federal transportation legislation (23 CFR 450.310) requires that a Metropolitan Planning Organization (MPO) be designated for every census-defined urbanized area with a population of more than 50,000 people. An MPO is a transportation policy-making body made up of representatives from local government and transportation agencies that are responsible for developing, operating, and maintaining transportation systems within the MPO area. MPOs ensure that transportation projects receiving federal funding have been developed through a planning process that is consistent with local, state, and federal requirements. Oregon currently (2018) has eight MPOs:

- Albany Area MPO
- Bend MPO
- Central Lane MPO
- Corvallis area MPO
- Middle Rogue MPO
- Portland Metropolitan Area (Metro)
- Rogue Valley MPO
- Salem-Keizer Area Transportation Study

In addition, two Oregon cities, Rainier in Columbia County, and Milton-Freewater in Umatilla County are part of MPOs—Cowlitz-Wahkiakum Council of Governments and Walla Walla Valley MPO, respectively—that are primarily in Washington. MPOs coordinate transportation system planning and investment in their regions through the development of Regional Transportation Plans (RTPs). An RTP provides a long-range plan for coordinated transportation system investments for all modes of travel. It must be consistent with state and federal requirements. In turn, local (city and/or county) TSPs must be consistent with applicable RTPs (OAR 660-012-0055(6)).

Cited Laws

State Laws

OAR 197.015(5)

“Comprehensive plan” means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional

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and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs.

“Comprehensive” means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. “General nature” means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is “coordinated” when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. “Land” includes water, both surface and subsurface, and the air.

ORS 197.175

Cities’ and counties’ planning responsibilities; rules on incorporations; compliance with goals. (1) Cities and counties shall exercise their planning and zoning responsibilities, including, but not limited to, a city or special district boundary change which shall mean the annexation of unincorporated territory by a city, the incorporation of a new city and the formation or change of organization of or annexation to any special district authorized by ORS 198.705 to 198.955, 199.410 to 199.534 or 451.010 to 451.620, in accordance with ORS chapters 195, 196 and 197 and the goals approved under ORS chapters 195, 196 and 197. The Land Conservation and Development Commission shall adopt rules clarifying how the goals apply to the incorporation of a new city. Notwithstanding the provisions of section 15, chapter 827, Oregon Laws 1983, the rules shall take effect upon adoption by the commission. The applicability of rules promulgated under this section to the incorporation of cities prior to August 9, 1983, shall be determined under the laws of this state.

(2) Pursuant to ORS chapters 195, 196 and 197, each city and county in this state shall:

(a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission;

(b) Enact land use regulations to implement their comprehensive plans;

(c) If its comprehensive plan and land use regulations have not been acknowledged by the commission, make land use decisions and limited land use decisions in compliance with the goals;

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(d) If its comprehensive plan and land use regulations have been acknowledged by the commission, make land use decisions and limited land use decisions in compliance with the acknowledged plan and land use regulations; and

(e) Make land use decisions and limited land use decisions subject to an unacknowledged amendment to a comprehensive plan or land use regulation in compliance with those land use goals applicable to the amendment.

(3) Notwithstanding subsection (1) of this section, the commission shall not initiate by its own action any annexation of unincorporated territory pursuant to ORS 222.111 to 222.750 or formation of and annexation of territory to any district authorized by ORS 198.510 to 198.915 or 451.010 to 451.620. [1973 c.80 §§17,18; 1977 c.664 §12; 1981 c.748 §15; 1983 c.827 §3; 1989 c.761 §18; 1991 c.817 §21; 1993 c.792 §45; 1999 c.348 §4]

OAR 612-012-0020

Elements of Transportation System Plans

(1) A TSP shall establish a coordinated network of transportation facilities adequate to serve state, regional and local transportation needs.

(2) The TSP shall include the following elements:

(a) A determination of transportation needs as provided in OAR 660-012-0030;

(b) A road plan for a system of arterials and collectors and standards for the layout of local streets and other important non-collector street connections. Functional classifications of roads in regional and local TSP's shall be consistent with functional classifications of roads in state and regional TSP's and shall provide for continuity between adjacent jurisdictions. The standards for the layout of local streets shall provide for safe and convenient bike and pedestrian circulation necessary to carry out OAR 660-012-0045(3)(b). New connections to arterials and state highways shall be consistent with designated access management categories. The intent of this requirement is to provide guidance on the spacing of future extensions and connections along existing and future streets which are needed to provide reasonably direct routes for bicycle and pedestrian travel. The standards for the layout of local streets shall address:

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(A) Extensions of existing streets;

(B) Connections to existing or planned streets, including arterials and collectors; and

(C) Connections to neighborhood destinations.

(c) A public transportation plan which:

(A) Describes public transportation services for the transportation disadvantaged and identifies service inadequacies;

(B) Describes intercity bus and passenger rail service and identifies the location of terminals;

(C) For areas within an urban growth boundary which have public transit service, identifies existing and planned transit trunk routes, exclusive transit ways, terminals and major transfer stations, major transit stops, and park-and-ride stations.

Designation of stop or station locations may allow for minor adjustments in the location of stops to provide for efficient transit or traffic operation or to provide convenient pedestrian access to adjacent or nearby uses.

(D) For areas within an urban area containing a population greater than 25,000 persons, not currently served by transit, evaluates the feasibility of developing a public transit system at buildout. Where a transit system is determined to be feasible, the plan shall meet the requirements of paragraph (2)(c)(C) of this rule.

(d) A bicycle and pedestrian plan for a network of bicycle and pedestrian routes throughout the planning area. The network and list of facility improvements shall be consistent with the requirements of ORS 366.514;

(e) An air, rail, water and pipeline transportation plan which identifies where public use airports, mainline and branchline railroads and railroad facilities, port facilities, and major regional pipelines and terminals are located or planned within the planning area. For airports, the planning area shall include all areas within airport imaginary surfaces and other areas covered by state or federal regulations;

(f) For areas within an urban area containing a population greater than 25,000 persons a plan for transportation system management and demand management;

(g) A parking plan in MPO areas as provided in OAR 660-012-0045(5)(c);

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(h) Policies and land use regulations for implementing the TSP as provided in OAR 660-012-0045;

(i) For areas within an urban growth boundary containing a population greater than 2500 persons, a transportation financing program as provided in OAR 660-012-0040.

(3) Each element identified in subsections (2)(b)–(d) of this rule shall contain:

(a) An inventory and general assessment of existing and committed transportation facilities and services by function, type, capacity and condition:

(A) The transportation capacity analysis shall include information on:

(i) The capacities of existing and committed facilities;

(ii) The degree to which those capacities have been reached or surpassed on existing facilities; and

(iii) The assumptions upon which these capacities are based.

(B) For state and regional facilities, the transportation capacity analysis shall be consistent with standards of facility performance considered acceptable by the affected state or regional transportation agency;

(C) The transportation facility condition analysis shall describe the general physical and operational condition of each transportation facility (e.g., very good, good, fair, poor, very poor).

(b) A system of planned transportation facilities, services and major improvements. The system shall include a description of the type or functional classification of planned facilities and services and their planned capacities and performance standards;

(c) A description of the location of planned facilities, services and major improvements, establishing the general corridor within which the facilities, services or improvements may be sited. This shall include a map showing the general location of proposed transportation improvements, a description of facility parameters such as minimum and maximum road right of way width and the number and size of lanes, and any other additional description that is appropriate;

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(d) Identification of the provider of each transportation facility or service.

OAR 612-012-0055(6)

Cities and counties shall update their TSPs and implementing measures as necessary to comply with this division at each periodic review subsequent to initial compliance with this division. Local governments within metropolitan areas shall amend local transportation system plans to be consistent with an adopted regional transportation system plan within one year of the adoption of an updated regional transportation system plan or by a date specified in the adopted regional transportation system plan.

Federal Laws

23 CFR 450.310—Metropolitan planning organization designation and redesignation.

(a) To carry out the metropolitan transportation planning process under this subpart, an MPO shall be designated for each urbanized area with a population of more than 50,000 individuals (as determined by the Bureau of the Census).

(b) MPO designation shall be made by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

(c) The FHWA and the FTA shall identify as a TMA each urbanized area with a population of over 200,000 individuals, as defined by the Bureau of the Census. The FHWA and the FTA shall also designate any urbanized area as a TMA on the request of the Governor and the MPO designated for that area.

(d) TMA structure:

(1) Not later than October 1, 2014, each metropolitan planning organization that serves a designated TMA shall consist of:

(i) Local elected officials;

(ii) Officials of public agencies that administer or operate major modes of transportation in the metropolitan area, including representation by providers of public transportation; and

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(iii) Appropriate State officials.

(2) An MPO may be restructured to meet the requirements of this paragraph (d) without undertaking a redesignation.

(3) Representation. (i) Designation or selection of officials or representatives under paragraph (d)(1) of this section shall be determined by the MPO according to the bylaws or enabling statute of the organization.

(ii) Subject to the bylaws or enabling statute of the MPO, a representative of a provider of public transportation may also serve as a representative of a local municipality.

(iii) An official described in paragraph (d)(1)(ii) shall have responsibilities, actions, duties, voting rights, and any other authority commensurate with other officials described in paragraph (d)(1) of this section.

(4) Nothing in this section shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

(i) To develop the plans and TIPs for adoption by an MPO; and

(ii) To develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(e) To the extent possible, only one MPO shall be designated for each urbanized area or group of contiguous urbanized areas. More than one MPO may be designated to serve an urbanized area only if the Governor(s) and the existing MPO, if applicable, determine that the size and complexity of the urbanized area make designation of more than one MPO appropriate. In those cases where two or more MPOs serve the same urbanized area, the MPOs shall establish official, written agreements that clearly identify areas of coordination, and the division of transportation planning responsibilities among the MPOs.

(f) Nothing in this subpart shall be deemed to prohibit an MPO from using the staff resources of other agencies, non-profit organizations, or contractors to carry out selected elements of the metropolitan transportation planning process.

(g) An MPO designation shall remain in effect until an official redesignation has been made in accordance with this section.

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(h) An existing MPO may be redesignated only by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city, based on population, as named by the Bureau of the Census).

(i) For the purposes of redesignation, units of general purpose local government may be defined as elected officials from each unit of general purpose local government located within the metropolitan planning area served by the existing MPO.

(j) Redesignation of an MPO (in accordance with the provisions of this section) is required whenever the existing MPO proposes to make:

(1) A substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general purpose local government served by the MPO, and the State(s); or

(2) A substantial change in the decisionmaking authority or responsibility of the MPO, or in decisionmaking procedures established under MPO by-laws.

(k) Redesignation of an MPO serving a multistate metropolitan planning area requires agreement between the Governors of each State served by the existing MPO and units of general purpose local government that together represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city, based on population, as named by the Bureau of the Census).

(l) The following changes to an MPO do not require a redesignation (as long as they do not trigger a substantial change as described in paragraph (j) of this section):

(1) The identification of a new urbanized area (as determined by the Bureau of the Census) within an existing metropolitan planning area;

(2) Adding members to the MPO that represent new units of general purpose local government resulting from expansion of the metropolitan planning area;

(3) Adding members to satisfy the specific membership requirements described in paragraph (d) of this section for an MPO that serves a TMA; or

(4) Periodic rotation of members representing units of general-purpose local government, as established under MPO by-laws.

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(m) Each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs shall, to the extent practicable, provide coordinated transportation planning for the entire MPA. The consent of Congress is granted to any two or more States to:

(1) Enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under 23 U.S.C. 134 and 49 U.S.C. 5303 as the activities pertain to interstate areas and localities within the States; and

(2) Establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

II. Worksite Wellness

Worksite Wellness

Executive Order No 17-01 – State Agency Employee Wellness—While an executive order is not a law, this executive order has effectively established a policy and funded a position to develop and implement an infrastructure for continued and sustainable employee wellness.

http://www.oregon.gov/gov/Documents/executive_orders/eo_17-01.pdf

III. Health Systems

Health Systems

The Oregon Legislature created the Health Evidence Review Commission (HERC) in 2011 via HB 2100 (ORS 414.688 to 414.704). The HERC reviews clinical evidence in order to guide the Oregon Health Authority in making benefit-related decisions for its health plans. Its main products are the Prioritized List of Health Services used by the legislature to guide funding decisions for the Oregon Health Plan (Medicaid), and evidence-based reports on specific topics of interest to Oregon health payers and providers as well as members of the public.

The HERC can indirectly impact physical activity in Oregon if it finds that interventions that include physical activity, such as the National Diabetes Prevention Program or Multi-Sector Interventions for the Prevention and Treatment of Obesity, are sufficiently effective and evidence-based to include on the Prioritized List of Health Services that could be covered by the Oregon Health Plan.

In 2015, the Oregon Legislature also created the Health Plan Quality Metric Committee (HPQMC) via SB 44 (ORS 413.017). The HPQMC is charged with identifying health outcome and quality measures that may be applied to services provided by coordinated care organizations or paid for by health benefit plans sold through the health insurance exchange or offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board. One of the quality measures identified by the HPQMC is "Weight Assessment and Counseling for Nutrition and Physical Activity for Children/Adolescents".

Cited Laws

414.688 Commission established; membership. (1) As used in this section:

(a) "Practice of pharmacy" has the meaning given that term in ORS 689.005.

(b) "Retail drug outlet" has the meaning given that term in ORS 689.005.

(2) The Health Evidence Review Commission is established in the Oregon Health Authority, consisting of 13 members appointed by the Governor in consultation with professional and other interested organizations, and confirmed by the Senate, as follows:

(a) Five members must be physicians licensed to practice medicine in this state who have clinical expertise in the areas of family medicine, internal medicine, obstetrics, perinatal health, pediatrics, disabilities, geriatrics or general surgery. One of the physicians must be a doctor of osteopathy, and one must be a hospital representative or a physician whose practice is significantly hospital-based.

(b) One member must be a dentist licensed under ORS chapter 679 who has

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clinical expertise in general, pediatric or public health dentistry.

(c) One member must be a public health nurse.

(d) One member must be a behavioral health representative who may be a social services worker, alcohol and drug treatment provider, psychologist or psychiatrist.

(e) Two members must be consumers of health care who are patient advocates or represent the areas of indigent services, labor, business, education or corrections.

(f) One member must be a complementary or alternative medicine provider who is a chiropractic physician licensed under ORS chapter 684, a naturopathic physician licensed under ORS chapter 685 or an acupuncturist licensed under ORS chapter 677.

(g) One member must be an insurance industry representative who may be a medical director or other administrator.

(h) One member must be a pharmacy representative who engages in the practice of pharmacy at a retail drug outlet.

(3) No more than six members of the commission may be physicians either in active practice or retired from practice.

(4) Members of the commission serve for a term of four years at the pleasure of the Governor. A member is eligible for reappointment.

(5) Members are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out of funds available to the Oregon Health Authority for purposes of the commission. [2011 c.720 §22]

414.689 Members; meetings. (1) The Health Evidence Review Commission shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers the commission determines necessary for the performance of the functions of the offices.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least four times per year at a place, day and hour determined by the chairperson. The commission also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(4) The commission may use advisory committees or subcommittees whose members are appointed by the chairperson of the commission subject to approval by a majority of the members of the commission. The advisory committees or subcommittees may contain experts appointed by the chairperson and a majority of the members of the commission. The conditions of service of the experts will be determined by the chairperson and a majority of the members of the commission.

(5) The Oregon Health Authority shall provide staff and support services to the

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commission. [2011 c.720 §23, 2015 c.318 §22]

414.690 Prioritized list of health services. (1) The Health Evidence Review Commission shall regularly solicit testimony and information from stakeholders representing consumers, advocates, providers, carriers and employers in conducting the work of the commission.

(2) The commission shall actively solicit public involvement through a public meeting process to guide health resource allocation decisions.

(3) The commission shall develop and maintain a list of health services ranked by priority, from the most important to the least important, representing the comparative benefits of each service to the population to be served. The list must be submitted by the commission pursuant to subsection (5) of this section and is not subject to alteration by any other state agency.

(4) In order to encourage effective and efficient medical evaluation and treatment, the commission:

(a) May include clinical practice guidelines in its prioritized list of services. The commission shall actively solicit testimony and information from the medical community and the public to build a consensus on clinical practice guidelines developed by the commission.

(b) May include statements of intent in its prioritized list of services. Statements of intent should give direction on coverage decisions where medical codes and clinical practice guidelines cannot convey the intent of the commission.

(c) Shall consider both the clinical effectiveness and cost-effectiveness of health services, including drug therapies, in determining their relative importance using peer-reviewed medical literature as defined in ORS 743A.060.

(5) The commission shall report the prioritized list of services to the Oregon Health Authority for budget determinations by July 1 of each even-numbered year.

(6) The commission shall make its report during each regular session of the Legislative Assembly and shall submit a copy of its report to the Governor, the Speaker of the House of Representatives and the President of the Senate.

(7) The commission may alter the list during the interim only as follows:

(a) To make technical changes to correct errors and omissions;

(b) To accommodate changes due to advancements in medical technology or new data regarding health outcomes;

(c) To accommodate changes to clinical practice guidelines; and

(d) To add statements of intent that clarify the prioritized list.

(8) If a service is deleted or added during an interim and no new funding is required, the commission shall report to the Speaker of the House of Representatives and the President of the Senate. However, if a service to be added requires increased funding to avoid discontinuing another service, the commission shall report to the

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Emergency Board to request the funding.

(9) The prioritized list of services remains in effect for a two-year period beginning no earlier than October 1 of each odd-numbered year. [2011 c.720 §24]

414.695 Medical technology assessment. (1) As used in this section and ORS 414.698:

(a) "Medical technology" means medical equipment and devices, medical or surgical procedures and techniques used by health care providers in delivering medical care to individuals, and the organizational or supportive systems within which medical care is delivered.

(b) "Medical technology assessment" means evaluation of the use, clinical effectiveness and cost of a technology in comparison with its alternatives.

(2) The Health Evidence Review Commission shall develop a medical technology assessment process. The Oregon Health Authority shall direct the commission with regard to medical technologies to be assessed and the timing of the assessments.

(3) The commission shall appoint and work with an advisory committee whose members have the appropriate expertise to conduct a medical technology assessment.

(4) The commission shall present its preliminary findings at a public hearing and shall solicit testimony and information from health care consumers. The commission shall give strong consideration to the recommendations of the advisory committee and public testimony in developing its assessment.

(5) To ensure that confidentiality is maintained, identification of a patient or a person licensed to provide health services may not be included with the data submitted under this section, and the commission shall release such data only in aggregate statistical form. All findings and conclusions, interviews, reports, studies, communications and statements procured by or furnished to the commission in connection with obtaining the data necessary to perform its functions is confidential pursuant to ORS 192.501 to 192.505. [2011 c.720 §25]

Note: 414.695 to 414.701 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 414 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

414.698 Comparative effectiveness of medical technologies. (1) The Health Evidence Review Commission shall conduct comparative effectiveness research of medical technologies selected in accordance with ORS 414.695. The commission may conduct the research by comprehensive review of the comparative effectiveness research undertaken by recognized state, national or international entities. The commission may consider evidence relating to prescription drugs that is relevant to a medical technology assessment but may not conduct a drug class evidence review or

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medical technology assessment solely of a prescription drug. The commission shall disseminate the research findings to health care consumers, providers and third-party payers and to other interested stakeholders.

(2) The commission shall develop or identify and shall disseminate evidence-based health care guidelines for use by providers, consumers and purchasers of health care in Oregon.

(3) The Oregon Health Authority shall vigorously pursue health care purchasing strategies that adopt the research findings described in subsection (1) of this section and the evidence-based health care guidelines described in subsection (2) of this section. [2011 c.720 §26]

Note: See note under 414.695.

414.701 Commission may not rely solely on comparative effectiveness research. The Health Evidence Review Commission, in ranking health services or developing guidelines under ORS 414.690 or in assessing medical technologies under ORS 414.698, and the Pharmacy and Therapeutics Committee, in considering a recommendation for a drug to be included on any preferred drug list or on the Practitioner-Managed Prescription Drug Plan, may not rely solely on the results of comparative effectiveness research. [2011 c.720 §26a]

Note: See note under 414.695.

414.704 Advisory committee. The Health Evidence Review Commission shall consult with an advisory committee in determining priorities for mental health care and chemical dependency. The advisory committee shall include mental health and chemical dependency professionals who provide inpatient and outpatient mental health and chemical dependency care. [Formerly 414.730]

413.017 Public Health Benefit Purchasers Committee, Health Care Workforce Committee and Health Plan Quality Metrics Committee. (1) The Oregon Health Policy Board shall establish the committees described in subsections (2) to (4) of this section.

(2)(a) The Public Health Benefit Purchasers Committee shall include individuals who purchase health care for the following:

- (A) The Public Employees' Benefit Board.
- (B) The Oregon Educators Benefit Board.

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(C) Trustees of the Public Employees Retirement System.

(D) A city government.

(E) A county government.

(F) A special district.

(G) Any private nonprofit organization that receives the majority of its funding from the state and requests to participate on the committee.

(b) The Public Health Benefit Purchasers Committee shall:

(A) Identify and make specific recommendations to achieve uniformity across all public health benefit plan designs based on the best available clinical evidence, recognized best practices for health promotion and disease management, demonstrated cost-effectiveness and shared demographics among the enrollees within the pools covered by the benefit plans.

(B) Develop an action plan for ongoing collaboration to implement the benefit design alignment described in subparagraph (A) of this paragraph and shall leverage purchasing to achieve benefit uniformity if practicable.

(C) Continuously review and report to the Oregon Health Policy Board on the committee's progress in aligning benefits while minimizing the cost shift to individual purchasers of insurance without shifting costs to the private sector or the health insurance exchange.

(c) The Oregon Health Policy Board shall work with the Public Health Benefit Purchasers Committee to identify uniform provisions for state and local public contracts for health benefit plans that achieve maximum quality and cost outcomes. The board shall collaborate with the committee to develop steps to implement joint contract provisions. The committee shall identify a schedule for the implementation of contract changes. The process for implementation of joint contract provisions must include a review process to protect against unintended cost shifts to enrollees or agencies.

(3)(a) The Health Care Workforce Committee shall include individuals who have the collective expertise, knowledge and experience in a broad range of health professions, health care education and health care workforce development initiatives.

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(b) The Health Care Workforce Committee shall coordinate efforts to recruit and educate health care professionals and retain a quality workforce to meet the demand that will be created by the expansion in health care coverage, system transformations and an increasingly diverse population.

(c) The Health Care Workforce Committee shall conduct an inventory of all grants and other state resources available for addressing the need to expand the health care workforce to meet the needs of Oregonians for health care.

(4)(a) The Health Plan Quality Metrics Committee shall include the following members appointed by the Governor:

(A) An individual representing the Oregon Health Authority;

(B) An individual representing the Oregon Educators Benefit Board;

(C) An individual representing the Public Employees' Benefit Board;

(D) An individual representing the Department of Consumer and Business Services;

(E) Two health care providers;

(F) One individual representing hospitals;

(G) One individual representing insurers, large employers or multiple employer welfare arrangements;

(H) Two individuals representing health care consumers;

(I) Two individuals representing coordinated care organizations;

(J) One individual with expertise in health care research;

(K) One individual with expertise in health care quality measures; and

(L) One individual with expertise in mental health and addiction services.

(b) The committee shall work collaboratively with the Oregon Educators Benefit Board, the Public Employees' Benefit Board, the Oregon Health Authority and the Department of Consumer and Business Services to adopt health outcome and quality

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measures that are focused on specific goals and provide value to the state, employers, insurers, health care providers and consumers. The committee shall be the single body to align health outcome and quality measures used in this state with the requirements of health care data reporting to ensure that the measures and requirements are coordinated, evidence-based and focused on a long term statewide vision.

(c) The committee shall use a public process that includes an opportunity for public comment to identify health outcome and quality measures that may be applied to services provided by coordinated care organizations or paid for by health benefit plans sold through the health insurance exchange or offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board. The Oregon Health Authority, the Department of Consumer and Business Services, the Oregon Educators Benefit Board and the Public Employees' Benefit Board are not required to adopt all of the health outcome and quality measures identified by the committee but may not adopt any health outcome and quality measures that are different from the measures identified by the committee. The measures must take into account the recommendations of the metrics and scoring subcommittee created in ORS 414.638 and the differences in the populations served by coordinated care organizations and by commercial insurers.

(d) In identifying health outcome and quality measures, the committee shall prioritize measures that:

(A) Utilize existing state and national health outcome and quality measures, including measures adopted by the Centers for Medicare and Medicaid Services, that have been adopted or endorsed by other state or national organizations and have a relevant state or national benchmark;

(B) Given the context in which each measure is applied, are not prone to random variations based on the size of the denominator;

(C) Utilize existing data systems, to the extent practicable, for reporting the measures to minimize redundant reporting and undue burden on the state, health benefit plans and health care providers;

(D) Can be meaningfully adopted for a minimum of three years;

(E) Use a common format in the collection of the data and facilitate the public reporting of the data; and

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(F) Can be reported in a timely manner and without significant delay so that the most current and actionable data is available.

(e) The committee shall evaluate on a regular and ongoing basis the health outcome and quality measures adopted under this section.

(f) The committee may convene subcommittees to focus on gaining expertise in particular areas such as data collection, health care research and mental health and substance use disorders in order to aid the committee in the development of health outcome and quality measures. A subcommittee may include stakeholders and staff from the Oregon Health Authority, the Department of Human Services, the Department of Consumer and Business Services, the Early Learning Council or any other agency staff with the appropriate expertise in the issues addressed by the subcommittee.

(g) This subsection does not prevent the Oregon Health Authority, the Department of Consumer and Business Services, commercial insurers, the Public Employees' Benefit Board or the Oregon Educators Benefit Board from establishing programs that provide financial incentives to providers for meeting specific health outcome and quality measures adopted by the committee.

(5) Members of the committees described in subsections (2) to (4) of this section who are not members of the Oregon Health Policy Board are not entitled to compensation but shall be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by them by their attendance at committee meetings, in the manner and amount provided in ORS 292.495. [2009 c.595 §7; 2015 c.3 §43; 2015 c.389 §2]

Note: Section 3, chapter 389, Oregon Laws 2015, provides:

Sec. 3. The Oregon Health Authority shall submit two reports to the Legislative Assembly, in the manner provided in ORS 192.245, on the activities of the Health Plan Quality Metrics Committee and the authority in complying with the provisions of ORS 413.017 (4)(b) to (f). The first report shall be submitted during the 2017 regular session of the Legislative Assembly. A second report shall be submitted during the 2019 regular session of the Legislative Assembly. [2015 c.389 §3]

IV. Physical Education Requirements in Schools

Physical Education Requirements in Schools

ORS 329.496 sets physical education requirements for public schools. It requires students in grades K-5 to participate in at least 150 minutes of physical education during each school week, and students in grades 6-8 to participate in physical education for at least 225 minutes each week. ORS 329.496 also allows schools to phase in these requirements, with full implementation being required by the 2022-23 school year. ORS 329.498 requires the Department of Education to collect data annually on the number of minutes of physical education that each K-8 public school provides.

Cited Laws

329.496 Physical education participation; professional development; instruction without endorsement; rules.

(1) Every public school student in kindergarten through grade eight shall participate in physical education for the entire school year.

(2)(a) Students in kindergarten through grade five, and students in grade six at a school that teaches kindergarten through grade six, shall participate in physical education for at least 150 minutes during each school week.

(b) Except as provided by paragraph (a) of this subsection, students in grades six through eight shall participate in physical education for at least 225 minutes during each school week.

(c) Notwithstanding the time requirements established by paragraphs (a) and (b) of this subsection, the State Board of Education shall adopt rules that prorate the time requirements for:

(A) School weeks with scheduled school closures, including closures for holidays, inservice days and days scheduled for parent-teacher conferences;

(B) School weeks with unscheduled school closures, including closures for inclement weather and emergencies;

(C) School weeks with out-of-school activities that occur during usual school hours, including field trips and outdoor school programs;

(D) Part-time school programs, including half-day kindergarten; and

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(E) Irregular class schedules, including class schedules based on a four-day week.

(d) School districts and public charter schools are not required to comply with the time requirements established by paragraphs (a) and (b) of this subsection for school years during the biennium in which the total amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for school districts through the State School Fund under the tentative budget prepared as provided by ORS 291.210. After the beginning of a biennium, a school district or a public charter school may cease to comply with the time requirements established by paragraphs (a) and (b) of this subsection if the amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for distribution through the State School Fund, as calculated under ORS 291.210.

(3) School districts and public charter schools shall offer instruction in physical education that meets the academic content standards for physical education adopted by the State Board of Education under ORS 329.045. The instruction shall be a sequential, developmentally appropriate curriculum that is designed, implemented and evaluated to help students develop the knowledge, motor skills, self-management skills, attitudes and confidence needed to adopt and maintain physical activity throughout their lives.

(4)(a) School districts and public charter schools shall devote at least 50 percent of physical education class time to actual physical activity in each school week, with as much class time as possible spent in moderate physical activity.

(b)(A) For the purpose of satisfying the time requirements established by subsection (2) of this section, school districts and public charter schools may provide up to 45 minutes of activities during each school week that:

(i) Meet the academic content standards for physical education adopted by the State Board of Education under ORS 329.045;

(ii) Are provided for students by a teacher whose license allows the teacher to provide instruction in physical education to those students, even if the teacher does not have a physical education endorsement; and

(iii) Have been reviewed by a licensed teacher with a physical education endorsement.

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(B) The Department of Education shall:

(i) Review and, as appropriate, approve activities that are developed by nonprofit professional organizations representing health and physical education educators if the activities meet the requirements of subparagraph (A) of this paragraph; and

(ii) Make available to school districts and public charter schools a list of activities approved as provided by this subparagraph.

(C) School districts and public charter schools may provide activities that meet the requirements of subparagraph (A) of this paragraph even if the activities are not approved as provided by subparagraph (B) of this paragraph.

(5)(a) Notwithstanding subsections (1), (2) and (4) of this section, a student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student under ORS 343.151.

(b) Notwithstanding subsections (1), (2) and (4) of this section, a student who does not have an individualized education program but has chronic health problems, other disabling conditions or other special needs that preclude the student from participating in regular physical education instruction shall have suitably adapted physical education incorporated as part of an individualized health plan developed for the student by the school district or public charter school.

(6) School districts and public charter schools shall assess school curricula at regular intervals to measure the attainment of the minimum number of minutes that students are required to participate in physical education under this section.

(7)(a) All teachers of physical education for public school students in kindergarten through grade eight shall be adequately prepared and shall regularly participate in professional development activities to effectively deliver the physical education program.

(b)(A) Notwithstanding any licensing or endorsement requirements established by the Teacher Standards and Practices Commission, a teacher with an elementary multiple subject endorsement may instruct students in activities described in subsection (4)(b) of this section if the activities are reviewed by a licensed teacher with a physical education endorsement.

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(B) A teacher described in this paragraph may provide instruction in activities described in subsection (4)(b) of this section to students who are not regularly taught by the teacher as long as the instruction in the activities to students who are not regularly taught by the teacher does not exceed 45 minutes during each school week. Nothing in this subparagraph allows a school district to employ a teacher for the sole purpose of providing instruction in activities described in subsection (4)(b) of this section.

(8) A school district that does not comply with the requirements of this section is considered to be nonstandard under ORS 327.103. [2007 c.839 §5; 2017 c.301 §1]

Note: Sections 2, 3, 5, and 7, chapter 301, Oregon Laws 2017, provide:

Sec. 2. Phase-in of time requirements. (1) Except as provided by subsections (2) and (3) of this section and only for school years prior to the 2022-2023 school year, a school district may not be considered nonstandard under ORS 327.103 and moneys may not be withheld or any other penalty or sanctions imposed on a school district that does not comply with the time requirements established by ORS 329.496 (2).

(2)(a) For the 2019-2020 school year, students identified in ORS 329.496 (2)(a) shall participate in physical education for at least 120 minutes during each school week.

(b) For the 2020-2021 school year and every school year thereafter, students identified in ORS 329.496 (2)(a) shall participate in physical education for at least 150 minutes during each school week.

(c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school district may be considered nonstandard under ORS 327.103.

(3)(a) For the 2021-2022 school year, students identified in ORS 329.496 (2)(b) shall participate in physical education for at least 180 minutes during each school week.

(b) For the 2022-2023 school year and every school year thereafter, students identified in ORS 329.496 (2)(b) shall participate in physical education for at least 225 minutes during each school week.

(c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school district may be considered nonstandard under ORS 327.103.

IV. Physical Education Requirements in Schools

(4) For the purposes of this section, a school district may:

(a) Prorate time requirements provided by this section in compliance with rules adopted by the State Board of Education under ORS 329.496 (2)(c);

(b) Apply up to 45 minutes of activities described in ORS 329.496 (4)(b) to the time requirements provided by this section; and

(c) Cease to comply with the time requirements provided by this section if the conditions described in ORS 329.496 (2)(d) are satisfied. [2017 c.301 §2]

329.498 Data related to physical education; facilities; technical assistance.

(1) The Department of Education shall collect data from school districts on:

(a) The number of minutes of physical education that are provided to students in kindergarten through grade eight each school week in each public school within the district;

(b) The physical capacity of public schools to provide students with the number of minutes of physical education specified by ORS 329.496 (2); and

(c) The additional facilities required by public schools to provide physical education to students as described in paragraph (b) of this subsection.

(2) The department shall collect the data described in subsection (1) of this section:

(a) Annually, for data described in subsection (1)(a) of this section.

(b) Whenever a public school increases or decreases the school's physical capacity to provide students with physical education, for data described in subsection (1)(b) and (c) of this section.

(3) The department shall provide technical assistance to school districts and public charter schools to enable the school districts and public charter schools to comply with the requirements of ORS 329.496. [2007 c.839 §1; 2013 c.434 §1; 2017 c.301 §4]