

DATE: February 26, 2025

TO: Hearing Attendees and Commenters –
Oregon Administrative Rules chapter 333, divisions 71, 76, 535,
675 – “Project Review and Physical Environment
Requirements for Health Care Facilities”

FROM: Brittany Hall, Hearing Officer and Administrative Rules Coordinator

cc: Dana Selover, Section Manager
Health Care Regulation and Quality Improvement

Matt Gilman, Program Manager
Facility Planning and Safety

SUBJECT: Presiding Hearing Officer’s Report on Rulemaking Hearing and
Public Comment Period

Hearing Officer Report

Date of Hearing: December 16, 2024, via Microsoft Teams

Purpose of Hearing: The purpose of this hearing was to receive testimony regarding the Oregon Health Authority (OHA), Public Health Division, Facility Planning and Safety (FPS) Program’s proposed permanent amendments to Oregon Administrative Rules in chapters 333, divisions 71, 76, and 535 relating to the physical environment requirements for ambulatory surgery centers, extended stay centers, hospitals, outpatient renal dialysis facilities and special inpatient care facilities. In addition, the FPS program is proposing to permanently adopt and amend Oregon Administrative Rules in chapter 333, division 675 relating to the project plan review process for health care facilities, residential care and assisted living facilities.

The proposed adoption and amendments to OAR chapter 333, division 675 are being made to:

- Provide clearer, streamlined rules;
- Separate topics into their own rule for clarity;
- Ease thresholds for mandatory review by the FPS program and reduce administrative burden by modernizing the process;
- Ensure that FGI standards align across health care facility types;
- Eliminate some stringent FGI standards that create an unnecessary financial burden for improving existing conditions in licensed health care facilities; and
- Clarify terminology, align text with statute, and correct inaccurate terms.

Hearing Officer: Brittany Hall

Testimony Received: Two individuals provided testimony at the hearing.

Other Comments: Two individuals or organizations submitted written comments to OHA within the period allotted for public comment, which closed at 5:00 PM on December 23, 2024. Written comments are attached to this report as **EXHIBIT 1**.

Oral testimony and written comments are summarized below, in no particular order.

In written comments, OHA heard that the “project cost threshold should be increased to at least \$150,000 to match construction cost inflation.”

Agency response: The OHA thanks the respondent for their feedback. The Facility Planning and Safety (FPS) program operates on project review fees, which are calculated based on the scope and size of a project. To ensure program integrity and cover the costs of the program, FPS has proposed to increase the project review threshold to \$100,000 for licensed health care facilities and \$50,000 for licensed long-term care facilities. The OHA will not be pursuing an increase to the project cost threshold at this time, however, additional increases will be re-evaluated in the future.

In written comments and oral testimony, OHA heard a request concerning OAR 333-675-0140, Time Period for Review, to amend rule text so that “reasonable

timelines apply for OHA to issue comments to project sponsors once all required materials and appropriate fees are collected,” particularly for smaller to medium sized projects. Suggested language for OAR 333-675-0140 is provided in the attached Exhibit.

Agency response: The OHA thanks the Hospital Association of Oregon (HAO) for considering the proposed rules and their participation in the Rule Advisory Committee (RAC). The OHA has a 15-day response requirement for initial review of projects submitted to the FPS program in administrative rule. There are multiple factors to consider during project review timelines including, for example, requests for expedited reviews based on critical community needs or other urgent circumstances and very large projects that result in additional time for thorough review. During the RAC meeting, it was discussed that project sponsors do not expect projects of large magnitude to be reviewed within 15 business days and were supportive of setting a 30-business day response for larger projects.

Further, OHA offers transparency by publicly posting team workload on the program’s website every week, which provides not only the quantity of projects awaiting review but also their deadlines discussed herein. This transparency establishes a general ‘queue’ so that sponsors can make educated assumptions about how soon they should expect the release of review comments.

OHA will proceed with RAC-reviewed language that adds back the requirement for Schematic Design (SD) reviews to be completed within 15 business days. This SD timeline requirement was removed in a 2017 rule amendment. Additionally, as supported by the RAC, OHA will extend the timeline for initial review of very large projects (\$20 million and up) to 30 business days. Regarding the recommendation to delegate plans review responsibilities when delays occur, this can be discussed at a future rulemaking and will require confirmation of OHA’s statutory authority to default to an external plans review vendor.

While the OHA does not support the suggested rule changes from HAO, it will consider the additional suggestions offered during the RAC meeting to ensure timely communication and updates with project sponsors. These internal quality improvement changes may include:

- Increased and consistent communication by all plans reviewers to set timeline expectations;

- Acknowledgement that an item is received and placed in the reviewer's queue;
- Prioritizing communications requesting status inquiries, feasibility questions, or interpretive guidance so that they do not land in the same queue as full project reviews which could delay assistance by weeks; and
- Priority consideration for urgent projects with active and promptly responsive project sponsors over those inactive projects with long-term non-communicative sponsors.

The OHA would like to acknowledge two changes to the final, permanent rules. During its discussion with the RAC, the OHA proposed removing requirements for documentation stations in scope processing and sterile processing departments. These changes have been correctly identified under OAR 333-535-0015, subsection (4)(g), paragraphs (2)(b)(vi) and (3)(b)(v) and subsection (6)(g), paragraphs (2)(b)(iv) and (3)(b)(v). The OHA inadvertently included excluding documentation stations inside procedure rooms and prep/recovery areas and is correcting this error as follows:

OAR 333-535-0015

(4) The following chapters, sections, paragraphs, subparagraphs or appendices of the 2018, FGI, Guidelines for Design and Construction of Hospitals are deleted in their entirety:

- (a) Subsection A.1.2-2.1.2.1;
- (b) Subsection 1.2-2.1.2.3;
- (c) Section 1.2-8;
- (d) Section 1.2-9;
- (e) Paragraph (2)(b) in subsection 2.1-2.8.2.1;
- (f) Subsection 2.1-2.8.10.2;
- (g) Subparagraphs (2)(b)(vi) and (3)(b)(v) in subsection 2.1-5.1.2.2;
- (h) Paragraph (b) in subsection A2.1-7.2.4;
- (i) Paragraph (2) in subsection A2.1-8.3.3.1;
- (j) Subsections 2.2-3.1.2 through 2.2-3.1.2.8;
- (k) Subsection 2.2-3.1.8.17;
- (l) Paragraph (4) in subsection A2.2-3.3.1.1;
- (m) Paragraphs (1) and (2) in subsection 2.2-3.10.8.14;
- ~~(n) Subsection 2.2-3.11.8.3;~~
- (n) Chapter 2.3;
- (o) Chapter 2.4; and
- (p) Subsection 2.7-3.1.2.

(6) The following chapters, sections, paragraphs, subparagraphs or appendices of the 2018, FGI, Guidelines for Design and Construction of Outpatient Facilities are deleted in their entirety:

- (a) Subsection A1.2-2.1.2.1;
- (b) Subsection 1.2-2.1.2.3;
- (c) Section 1.2-8;
- (d) Section 1.2-9;
- (e) Paragraph (b) in subsection A2.1-3.6;
- (f) Subsection 2.1-3.8.10.2;
- (g) Subparagraphs (2)(b)(vi) and (3)(b)(v) in subsections 2.1-4.3.2.2;
- (h) Paragraph (7) in subsection A2.1-7.2.2.8;
- (i) Subsection 2.4-6.2.2 through A2.4-6.2.3;
- (j) Subsection A2.7-3.1.1.4;
- ~~(k) Subsection 2.9-3.3.2;~~
- (k) Subsection A2.10-3.4.1; and
- (l) Chapter 2.8;
- (m) Subsection 2.11-3.2.7.1 through 2.11-3.2.7.5;
- (n) Subsection 2.11-3.2.9.1 through 2.11-3.2.9.10; and
- (o) Subsection 2.11-3.2.10.



December 20, 2024

Oregon Health Authority
Public Health Division
800 NE Oregon Street
Portland, OR 97232

Submitted electronically to: mellony.c.bernal@oha.oregon.gov & publichealth.rules@odhsoha.oregon.gov

Re: NPRM – Project Review and Physical Environment Requirements for Health Care Facilities

Mellony Bernal:

The Hospital Association of Oregon appreciates the opportunity to comment on the proposed rules for Chapter 333 project plans, construction review processes, physical environment requirements for hospitals, special inpatient care facilities, ambulatory surgery centers, and extended stay centers. We write to provide comments on the following topic.

OAR 333-675-0140

Time Period for Review

We request reasonable timelines apply for OHA to issue comments to project sponsors once all required materials and appropriate fees are collected. As the rule is currently drafted, it appears that OHA could complete its review at any time, without limitation, which is unreasonable.

Requested language for OAR 333-675-0140:

*(3) When circumstances do not allow for review to be completed within the time periods specified in sections (1) and (2) of this rule, the Authority will inform the project sponsor of the approximate date such review will be completed. **The Authority shall not extend the completion of the review for a project less than \$100,000 by more than 15 business days. For projects ranging between \$100,000 and \$20 million, the Authority shall notify the project sponsor within 5 business days of submission of the project of the Authority's decision to either (a) complete the review within 30 business days of submission of the project or (b) allow the project sponsor to secure a qualified FPS-approved contractor to review and approve the project.***

Thank you for reviewing our suggestion.

Danielle Meyer
Senior Public Policy Advisor
Hospital Association of Oregon



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From: [Shane Moffitt](#)
To: [Public Health Rules](#)
Subject: Response to Proposed FPS Rulemaking Change
Date: Monday, December 23, 2024 8:38:21 AM

You don't often get email from shane.moffitt@cumming-group.com. [Learn why this is important](#)

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Hello,
Project cost threshold should be increased to at least \$150,000 to match construction cost inflation.

Thank you,

SHANE MOFFITT, CHC

Senior Project Manager



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