

# STATEMENT OF NEED AND FISCAL IMPACT WORKSHEET

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Oregon Health Authority (OHA) - Health Policy & Analytics Division

409-070-xxxx

Agency and Division Name

Administrative Rules Chapter Number

## RULE CAPTION

Health Care Market Oversight Program

In the Matter of:

House Bill 2362 of the 2021 regular session authorized the Oregon Health Authority to review health entities' proposed material change transactions.

Stat. Auth.: ORS

Other Authority: House Bill 2362 (2021)

Stats. Implemented: ORS

Need for the Rule(s):

OHA is creating the Health Care Market Oversight Program to conduct the reviews and analyses mandated in HB 2362. The new program will sit in the Oregon Health Authority's Health Policy & Analytics Division. The new program is charged with reviewing proposed material change transactions involving health care entities in Oregon. These rules establish the parameters of the program and its operations.

Documents Relied Upon, and where they are available:

The program website is <https://www.oregon.gov/oha/HPA/HP/Pages/health-care-market-oversight.aspx>

This website hosts all publicly shared documents including multiple drafts of rules, the list of rules advisory committee members, summaries of changes, and additional documents.

Fiscal and Economic Impact:

The program is designed to have a positive economic impact on people living in Oregon. The statute specifies that a health care entity may engage in a material change transaction if, after a review conducted by the Oregon Health Authority, the Authority determines that the transaction will, among other things, reduce the growth of patient costs.

Moreover, after every approved material change transaction, the Authority is tasked with analyzing the transaction one, two, and five years later, focusing on, among other things, the cost trends and cost growth trends of the parties to the transaction.

The program will also have a fiscal impact on the entities proposing transactions. There are fees associated with the program and depending on the size of the entities, the level of review required, and if outside experts are needed, a given entity could face a significant fiscal impact. There also may be economic impacts from the new 180-day notice requirement, as specified in statute.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The new program will sit in Oregon Health Authority Health Policy & Analytics Division and will include four new positions. When necessary, the program may collaborate with other state agencies such as the Department of Consumer & Business Services, the Department of Justice, and other agencies.

It is estimated that there will be no costs of compliance on local governments.

The program is designed to have a positive impact on the public. For emergency situations in which there is an immediate threat to health care services, the program will exempt an entity from the 180-day notice requirement.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

The statute limits the number of entities subject to the new requirements. Only transactions that involve one entity with an average revenue of \$10 million or more and another entity with an average revenue of \$25 million or more are subject to the requirements of the program. It is possible that a small business with 50 or fewer staff could be subject to the requirements in this program, depending on the average revenue of the business. Only transactions involving a health care entity are subject to review under this program.

Health care entities are defined in the statute as individual health professionals, hospitals, carriers, coordinated care organizations, and other entities that have a primary function of providing health care items or services.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

As a result of this program there is an increase in administrative burden for qualifying entities proposing a qualifying transaction because they will be required to submit forms and materials to the program. Entities will also be required to furnish information after a transaction is completed, so that the Oregon Health Authority can conduct the required analyses after each approved transaction. Therefore, entities may need to keep records regarding the transaction and any conditions imposed by OHA.

The statute also specifies that the party or parties to a transaction shall bear the reasonable and actual cost of professionals who are retained by the Oregon Health Authority or the Department of Justice.

The program may impose conditions on the approval of a transaction, and those conditions may affect the business. The program also has the statutory authority to reject a proposed transaction, and such an action may affect the business.

c. Equipment, supplies, labor and increased administration required for compliance:

As a result of the program there may be an increase in labor associated with completing the required forms and exhibits. There are no anticipated significant costs associated with increases in equipment or supplies to comply with the new requirements.

How were small businesses involved in the development of this rule?

The Oregon Health Authority invited all organizations that provided testimony on HB 2362 as well as other entities to send representatives to participate in the Rules Advisory Committee process. The Oregon Health Authority accepted all individuals who requested to be a member and a total of 35 individuals comprise the Rules Advisory Committee. The program website also solicited input from the general public, and listed the program email address to which input should be sent. During every Rules Advisory Committee meeting, agency staff solicited public comment.

Administrative Rule Advisory Committee consulted? Yes or No?

If not, why not?

Yes