

Oregon’s Health Care Market Oversight Program
List of Upcoming Sub-Regulatory Guidance Documents

Revised December 3, 2021

The Oregon Health Authority (OHA) will publish sub-regulatory guidance documents designed to help health care entities better understand the Health Care Market Oversight Program. The list below summarizes the types of documents OHA will publish.

OHA encourages health care entities to review these documents and use them as guidance. For example, the safe harbor list of excluded transactions is a binding document that health care entities may use to help inform if a given proposed transaction is subject to review or not.

Technical Advisory Group (TAG) before March 1, 2022

The Oregon Health Authority will convene a TAG to discuss and inform the development of a document detailing more information about:

1. The definition of “essential services” which, in accordance with the statute, includes “services that are essential to achieve health equity”; and
2. How to determine if a transaction will eliminate or significantly reduce essential services.

The purpose of the guidance document will be to add clarity for health care entities to know if a proposed transaction is or is not subject to review under the new program.

The TAG will be open to all those wishing to join. OHA will notify Rules Advisory Committee members and interested parties about when and how to join the TAG. Materials will be posted on the program website. The first TAG meeting is tentatively scheduled for early January.

Before March 1, 2022 (the start of the program) – OHA will draft and post for feedback

OHA will notify Rules Advisory Committee members and interested parties when drafts are posted on the program website. OHA will accept and consider feedback on the posted documents and will specify by when feedback is due.

Document title	Description	Why the document is needed
Analytic Framework	OHA’s Analytic Framework will include the types of quantitative analyses staff will conduct when reviewing proposed material change transactions.	The proposed rules specify the standards of the Framework. RAC members requested additional information about what will be included in OHA’s review.
Safe harbor list of excluded transactions	The proposed rules specify that OHA will publish a list of categories or types of transactions that shall be exempt from review. The list will serve as sub-regulatory guidance and is binding. Entities may use the list as guidance regarding when to notify OHA of a covered proposed material change transaction.	RAC members requested such a list.
Criteria regarding when OHA will use outside advisors	OHA will publish criteria it will use when deciding when outside advisors are needed to complete a review.	RAC members requested such a document.
Criteria regarding when OHA will require a comprehensive review or a Community Review Board	OHA will publish criteria it will use when deciding when a proposed material change transaction requires a comprehensive review. This document will be rooted in the statutory criteria and will also include criteria for when OHA will initiate a Community Review Board.	RAC members requested such a document.
Adding more details about “control”.	OHA will publish guidance and clarifying examples regarding the definition of “control” in the proposed rule.	RAC members requested such a document.
Flow charts showing when the final executed copies of the agreements are required	OHA will publish guidance regarding what types of documents are required and at what stage of the review.	RAC members asked questions about when entities may submit a term sheet and when final executed copies of the agreement are required.

After March 1, 2022

Document title	Description	Why the document is needed
List of transactions and OHA’s determination of whether or not the transaction was subject to review	As health care entities seek technical assistance and provide scenarios, OHA will publish and update a list of transactions (with specific details such as names removed) as well as whether or not the scenario was subject to review.	This document will provide additional guidance for entities to know what types of transactions are or are not subject to review.

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