

Public Comment Guidance

The Health Care Market Oversight (HCMO) program ensures that transactions involving health care entities support the goals of health equity, lower costs, increased access, and better care. Under ORS 415.500 et seq., the Oregon Health Authority reviews proposed material change transactions and monitors health care markets. For more information, visit the [program website](#).

You can get this document in other languages, large print, braille or a format you prefer free of charge. Contact us by email at hcmo.info@oha.oregon.gov or by phone at 503-945-6161. We accept all relay calls.

This document describes the Health Care Market Oversight program's approach to soliciting and receiving public comments.

Use of public comments

The HCMO program aims to ensure that material change transaction reviews are transparent, robust, and informed by the public, including the local community, through meaningful engagement. Public comment is an important way for HCMO program staff to engage with communities and learn from the public about transactions under HCMO review.

Public comment provides an opportunity for anyone to share thoughts and opinions about a specific topic with HCMO staff. Anyone can make a public comment. HCMO staff use public comments to inform transaction reviews, identify emerging issues, and understand potential impacts of a transaction on people and communities in Oregon. While HCMO staff consider the volume of public comments as an indicator of public interest, public comments are not considered to be "votes" in favor of or opposed to a transaction. OHA's decision about whether to approve, approve with conditions, or disapprove a transaction is not determined by tallying the number of public comments in either direction.

HCMO posts public comments to its program website and may include comments in HCMO reports and publications. Public comments that are related to a transaction will be posted on transaction-specific web pages. Generally, HCMO staff compile transaction-specific public comments into a single document to allow for easy access to all comments. HCMO staff may post some comments separately if they are lengthy or provided as separate documents.

HCMO accepts public comments as they are. HCMO staff will not attempt to correct or address inaccurate statements in public comments. In general, HCMO staff do not respond to public comments beyond confirming receipt, though staff may answer clarifying or process questions.

When does HCMO accept public comments?

Anyone can submit a public comment to HCMO about any transaction or anything HCMO-

related at any time. At a minimum, for transaction reviews HCMO posts public comment periods to its website. HCMO program staff may also publicize public comment periods via its distribution list or other email lists, announcements in OHA newsletters, posts to OHA's social media, or announcements to local media outlets.

Preliminary and follow-up reviews

For preliminary and follow-up reviews, the HCMO program accepts public comments throughout the duration of the review. The HCMO program may designate a public comment period, which is generally two weeks for preliminary reviews. This purpose of the public comment period is to allow enough time for HCMO staff to consider public comments and include them, as relevant, into analyses, information requests for entities, and publications before issuing a decision. In accordance with OAR 409-070-0055, HCMO will accept and publish comments received outside of the comment period but cannot guarantee that all comments received outside of the comment period will be considered during a transaction review.

Comprehensive reviews

For comprehensive reviews, the HCMO program accepts public comments throughout the duration of the review. Once OHA issues its proposed findings of fact and conclusions of law after a comprehensive review, the HCMO program will provide the entities and the public 30-days to submit written comments. Initiation of the 30-day time period will be posted to the HCMO website and HCMO staff will promptly post any comments received related to the proposed findings of fact and conclusions of law. Pursuant to ORS 415.501(18), OHA will consider public comments before issuing a final order setting forth its findings and conclusions.

Emergency exemptions

Emergency exemptions may be granted if there is an emergency situation that immediately threatens health care services or a transaction is urgently needed to protect the interest of consumers and the solvency of an entity. For more information, please see HCMO's Emergency Exemption guidance document. OAR 409-070-0070 allows the HCMO program to solicit public comment for Emergency Exemptions filings after providing an applicant with 10 days' notice before opening the public comment period. The HCMO program will hold a public comment period for emergency exemption filings unless either of the following applies, per OAR 409-070-0022(4):

- The need to maintain confidentiality outweighs the public interest in providing comments. An example might be a situation where publicly announcing an emergency could cause large numbers of staff, customers, or shareholders to leave all at once, causing an existing dire situation to worsen.
- The nature and urgency of the emergency will not allow time for public comment. An example might be if a company anticipates going out of business within two weeks, as this would not allow OHA to provide 10 days' notice to the entities, post a notice, and receive and consider public comments before the company closes its doors to patients.

Submitting public comments

To submit a public comment to the HCMO program, anyone may:

- Email hcmo.info@oha.oregon.gov
- Leave a voicemail at 503-945-6161
- Speak at a HCMO listening session, public hearing, or other public meeting during the public comment time

Commenters should not include sensitive or personal information that they do not want shared publicly. Commenters who may face harm due to publicly commenting may request to have their name removed from public comments. Examples include employees of an entity involved in a transaction who fear retribution from an employer or patients who worry that they may be dropped from a provider.

Sharing verbal comments at a public meeting

When sharing verbal comments during a public meeting, please consider the following:

- Wait for the host to call your name to share a comment.
- Once you are called on, please speak clearly and state your name, where you live (city or county), any organization or group you represent, and any affiliation with the matter at hand, if applicable (for example, if you are a board member of a company involved that is party to a transaction under HCMO review).
- In public meetings, you will generally have a set amount of time to provide your comments, such as three minutes. The meeting host or facilitator will indicate time is up; please conclude your comments when your time ends.
- If you have materials that you would like to share with your comment, please send those in advance of your comments or after you are done. Screen sharing is generally not allowed for public comments.
- Do not engage in disruptive, threatening, disparaging, or otherwise uncivil behavior. The meeting host may limit or end the comments of any person who engages in misconduct.

Statutory and Administrative Rule Guidance

Statutes

ORS 415.501(18)

18) A review board shall make recommendations to the authority to approve the material change transaction, disapprove the material change transaction or approve the material change transaction subject to conditions, based on subsection (9) of this section and the criteria adopted by rule under subsection (2) of this section. The authority shall issue a proposed order and allow the parties and the public a reasonable opportunity to make written exceptions to the proposed order. The authority shall consider the parties' and the public's written exceptions and issue a final order setting forth the authority's findings and rationale for adopting or modifying the recommendations of the review board. If the authority modifies the recommendations of the review board, the authority shall explain the modifications in the final order and the reasons for the modifications. A party to the material change transaction may contest the final order as provided in ORS chapter 183.

Administrative Rules

OAR 409-070-0000. Scope and Purpose

- 3) The Authority and the Department shall aim to achieve the following goals when reviewing proposed material change transactions:
 - a) Improving health, increasing the quality, reliability, availability and continuity of care and reducing the cost of care for people living in Oregon.
 - b) Achieving health equity and equitable access to care.
 - c) A process that is transparent, robust and informed by the public, including the local community, through meaningful engagement.
 - d) Using resources wisely and in collaboration with the Department when applicable.

409-070-0022. Emergency and Exempt Transactions

- 4) The Authority with respect to an application filed under paragraph (1) of this rule, and the Department with respect to an application filed under paragraph (2) of the rule, shall:
 - a) Provide a period for the filing of comments in respect of the application unless the Authority or the Department, as applicable, determines that:
 - A) The public interest in providing comments is outweighed by the interest in confidentiality of the applicant for emergency exemption; or
 - B) the nature of the emergency situation presented and the urgency of the need for emergency exemption will not allow time for the filing and consideration of comments.
 - b) Provide the applicant with ten calendar days' advance notice prior to posting the application for public comment.

409-070-0055. Preliminary 30-Day Review of a Notice of Material Change Transaction

- 1) Pursuant to ORS 415.501(5) and after receipt of a complete notice of material change transaction in accordance with OAR 409-070-0030(1)(a) and OAR 409-070-0045(5), the Authority shall complete a preliminary review to determine whether the proposed material

change transaction meets one or more of the criteria set forth in paragraph (2) of this rule. The Authority shall, subject to OAR 409-070-0070, publish the notice of material change transaction. For the duration of the preliminary review period, the Authority shall accept and publish public comment pertaining to the material change transaction.

409-070-0060. Comprehensive Review of a Notice of Material Change Transaction

- 4) The Authority shall issue proposed findings of fact and conclusion of law, along with the Authority's proposed order at the conclusion of its comprehensive review and shall allow the parties and the public a reasonable opportunity to make written comments to the proposed findings and conclusions and the proposed order. If the comprehensive review includes a community review board, recommendations of the community review board shall be in writing and appended to the proposed order. Unless otherwise directed by the Authority, written comments to the proposed findings and conclusions and the proposed order shall be filed with the Authority within thirty calendar days following publication. The Authority shall make any filed comments available to the public promptly following receipt.
- 5) The Authority shall consider the parties' and the public's written exceptions and issue a final order setting forth the Authority's findings and conclusions in respect of the proposed transaction. If the comprehensive review included a community review board, the Authority's findings and conclusions shall include an explanation of the reasons why the Authority accepted, rejected or modified the recommendations of the community review board.