

3) ORS related to Public Health
TITLE 36
PUBLIC HEALTH AND SAFETY

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Relevant chapters are:

- Chapter 431. State and Local Administration and Enforcement of Health Laws
- 432. Vital Statistics
 - 433. Disease and Condition Control; Mass Gatherings; Indoor Air
 - 438. Clinical and Environmental Laboratories
 - 448. Pool Facilities; Water and Sewage Systems
 - 450. Sanitary Districts and Authorities; Water Authorities
 - 451. County Service Facilities
 - 452. Vector Control
 - 453. Hazardous Substances; Radiation Sources

431.035 Power of Director of Oregon Health Authority to delegate functions; Public Health Director; appointment; duties. (1) The Director of the Oregon Health Authority may delegate to any of the officers and employees of the Oregon Health Authority the exercise or discharge in the director's name of any power, duty or function of whatever character vested in or imposed upon the director by the laws of Oregon. However, the power to administer oaths and affirmations, subpoena witnesses, take evidence and require the production of books, papers, **correspondence, memoranda, agreements or other documents or records may be exercised by an officer or employee of the authority only when specifically delegated in writing by the director.**

(2) The official act of any such person so acting in the director's name and by the authority of the director shall be deemed to be an official act of the director.

(3)(a) The Director of the Oregon Health Authority shall appoint a Public Health Director to perform the duties and exercise authority over public health emergency matters in the state and other duties as assigned by the director. The director may appoint the same person to serve as both the Public Health Director and the Public Health Officer appointed under ORS 431.045.

(b) The Public Health Director shall be an assistant director appointed by the Director of the Oregon Health Authority in accordance with ORS 409.130.

(c) The Public Health Director shall delegate to an employee of the authority the duties, powers and functions granted to the Public Health Director by ORS 431.264 and 433.443 in the event of the absence from the state or the unavailability of the director. The delegation must be in writing. [1973 c.829 §2; 2007 c.445 §1; 2009 c.595 §532]

ENFORCEMENT OF HEALTH LAWS AND RULES

431.110 General powers of Oregon Health Authority. Subject to ORS 417.300 and 417.305, the Oregon Health Authority shall:

- (1) Have direct supervision of all matters relating to the preservation of life and health of the people of the state.
- (2) Keep the vital statistics and other health related statistics of the state.
- (3) Make sanitary surveys and investigations and inquiries respecting the causes and prevention of diseases, especially of epidemics.
- (4) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.840 to 222.915.
- (5) Have full power in the control of all communicable diseases.
- (6) Have authority to send a representative of the authority to any part of the state when deemed necessary.
- (7) From time to time, publish and distribute to the public in such form as the authority determines, such information as in its judgment may be useful in carrying on the work or purposes for which the authority was established.
- (8) Carry out the duties imposed on the authority under ORS chapter 690. [Amended by 1955 c.105 §1; 1967 c.624 §18; 1971 c.650 §9; 1977 c.582 §8; 1987 c.414 §83; 1989 c.834 §18; 1991 c.122 §11; 2001 c.900 §254; 2009 c.595 §534]

431.120 Duties of Oregon Health Authority; rules. The Oregon Health Authority shall:

- (1) Enforce state health policies and rules.
- (2) Have the custody of all books, papers, documents and other property belonging to the State Health Commission, which may be deposited in the authority's office.
- (3) Give any instructions that may be necessary, and forward them to the various local public health administrators throughout the state.
- (4) Routinely conduct epidemiological investigations for each case of sudden infant death syndrome including, but not limited to, the identification of risk factors such as birth weight, maternal age, prenatal care, history of apnea and socioeconomic characteristics. The authority may conduct the investigations through local health departments only upon adoption by rule of a uniform epidemiological data collection method.
- (5) Adopt rules related to loans and grants awarded under ORS 285B.560 to 285B.599 or 541.700 to 541.855 for the improvement of drinking water systems for the purpose of maintaining compliance with applicable state and federal drinking water quality standards. In adopting rules under this subsection, the authority shall coordinate the authority's rulemaking process with the Water Resources Department and the Oregon Business Development Department in order to ensure that rules adopted under this subsection are consistent with rules adopted under ORS 285B.563 and 541.845.
- (6) Control health care capital expenditures by administering the state certificate of need program pursuant to ORS 442.325 to 442.344.

431.250 Federal grants to be handled by Oregon Health Authority; disbursement; planning. (1) The Oregon Health Authority hereby is designated as the state agency to apply to and receive from the federal government or any agency thereof such grants for promoting public health and the prevention of disease, including grants for cancer control and industrial hygiene programs, as may be available to this state or any of its political subdivisions or agencies.

- (2) For the purposes of subsection (1) of this section, the authority shall:
 - (a) Disburse or supervise the disbursement of all funds made available at any time by the federal government or this state for those purposes.

(b) Adopt, carry out and administer plans for those purposes. Plans so adopted shall be made statewide in application insofar as reasonably feasible, possible or permissible, and shall be so devised as to meet the approval of the federal government or any of its agencies, not inconsistent with the laws of the state.

431.150 Enforcement of health laws generally. (1) The local public health administrators are charged with the strict and thorough enforcement of the public health laws of this state in their districts, under the supervision and direction of the Oregon Health Authority. They shall make an immediate report to the authority of any violation of such laws coming to their notice by observation, or upon the complaint of any person, or otherwise.

(2) The authority is charged with the thorough and efficient execution of the public health laws of this state in every part of the state, and with supervisory powers over all local public health administrators, to the end that all the requirements are complied with.

(3) The authority may investigate cases of irregularity or violation of law. All local public health administrators shall aid the authority, upon request, in such investigation.

(4) When any case of violation of the public health laws of this state is reported to any district attorney or official acting in said capacity, such official shall forthwith initiate and promptly follow up the necessary proceedings against the parties responsible for the alleged violations of law.

(5) Upon request of the authority, the Attorney General shall likewise assist in the enforcement of the public health laws of this state.

431.155 Restraining violation of public health laws. (1) Whenever it appears to the Oregon Health Authority that any person is engaged or about to engage in any acts or practices that constitute a violation of any statute relating to public health administered by the authority, or any rule or order issued thereunder, the authority may institute proceedings in the circuit courts to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such person, or its officers, agents, employees and representatives from further violation of such statute, rule or order, and enjoining upon them obedience thereto.

(2) The provisions of this section are in addition to and not in substitution of any other enforcement provisions contained in any statute administered by the authority. [1967 c.94 §2; 1971 c.650 §13; 1977 c.582 §12; 2001 c.900 §145; 2009 c.595 §537]

431.157 County authority to restrain violation of public health laws. Pursuant to ORS 448.100 (1) and 446.425 (1), the county is delegated the authority granted to the Director of the Oregon Health Authority in ORS 431.155. [1983 c.370 §4; 2003 c.309 §5; 2009 c.595 §538]

431.170 Enforcing health laws and rules when local officers are delinquent. (1) The Director of the Oregon Health Authority shall take direct charge of the functions that are necessary to preserve the public health in any county or district whenever any county or district official fails or refuses to administer or enforce the public health laws or rules that the director or board is charged to enforce.

(2) The director may call to the aid of the director such assistance as is necessary for the enforcement of such statutes and rules, the expense of which shall be borne by the county or district making the use of this procedure necessary, to be paid out of the respective county or district treasury upon vouchers properly certified by the director.

431.262 Power of Oregon Health Authority and local public health administrators to enforce public health laws; authorized actions; rules; penalties. (1) The Oregon Health Authority and local public health administrators shall have the power to enforce public health laws. The enforcement powers authorized by this section include, but are not limited to, the authority to:

- (a) Investigate possible violations of public health laws;
- (b) Issue subpoenas requiring testimony or the production of physical or other evidence;
- (c) Issue administrative orders to enforce compliance with public health laws;
- (d) Issue a notice of violation of a public health law and impose a civil penalty as established by rule not to exceed \$500 a day per violation;
- (e) Enter private property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, evaluate or conduct tests, or take specimens or samples for testing, as may be reasonably necessary to determine compliance with any public health law;
- (f) Enter a public place to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing as may be reasonably necessary to determine compliance with the provisions of any public health law;
- (g) Seek an administrative warrant from an appropriate court authorizing the inspection, investigation, evaluation or testing, or taking of specimens or samples for testing, if denied entry to property;
- (h) Restrict access to contaminated property;
- (i) Require removal or abatement of a toxic substance on any property and prescribe the proper measures for the removal or abatement;
- (j) Maintain a civil action to enforce compliance with public health laws, including a petition to a court for an order imposing a public health measure appropriate to the public health threat presented;
- (k) Refer any possible criminal violations of public health laws to a district attorney or other appropriate law enforcement official; and
- (L) Request the Attorney General to assist in the enforcement of the public health laws.

(2) Any administrative actions undertaken by the state under this section shall comply with the provisions of ORS chapter 183.

(3) State and local law enforcement officials, to the extent resources are available, must assist the Oregon Health Authority and local public health administrators in ensuring compliance with administrative or judicial orders issued pursuant to this section.

(4) Nothing in this section shall be construed to limit any other enforcement authority granted by law to a local public health authority or to the state. [2007 c.445 §4; 2009 c.595 §549]

431.264 Authority of Public Health Director to take public health actions; authorized actions; rules. (1) Unless the Governor has declared a public health emergency under ORS 433.441, the Public Health Director may, upon approval of the Governor or the designee of the Governor, take the public health actions described in subsection (2) of this section if the Public Health Director determines that:

(a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance has affected more than one county;

(B) There is an immediate need for a consistent response from the state in order to adequately protect the public health;

(C) The resources of the local public health authority or authorities are likely to be quickly overwhelmed or unable to effectively manage the required response; and

(D) There is a significant risk to the public health; or

(b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance is reported in Oregon and is an issue of significant regional or national concern or is an issue for which there is significant involvement from federal authorities requiring state-federal coordination.

(2) The Public Health Director, after making the determinations required under subsection (1) of this section, may take the following public health actions:

(a) Coordinate the public health response across jurisdictions.

(b) Prescribe measures for the:

(A) Identification, assessment and control of the communicable disease or reportable disease, disease outbreak, epidemic or other condition of public health importance; and

(B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(c) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment guidelines and provide notice of those guidelines to health care providers, institutions and facilities.

(d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent the introduction or spread of a communicable disease or reportable disease, unless:

(A) The person has a medical diagnosis for which a vaccination is contraindicated; or

(B) The person has a religious or conscientious objection to the required treatments or prophylactic measures.

(e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or school under the jurisdiction of the board. The authority granted to the Public Health Director under this paragraph supersedes the authority granted to the district school board under ORS 332.075 to the extent the authority granted to the board is inconsistent with the authority granted to the director.

(f) Issue guidelines for private businesses regarding appropriate work restrictions.

(g) Organize public information activities regarding the public health response to circumstances described in subsection (1) of this section.

(h) Adopt reporting requirements for, and provide notice of those reporting requirements to, health care providers, institutions and facilities for the purpose of obtaining information directly related to the public health threat presented.

(i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(3) The authority granted to the Public Health Director under this section is not intended to override the general authority provided to a local public health authority except as already permitted by law, or under the circumstances described in subsection (1) of this section.

(4) If the Oregon Health Authority adopts temporary rules to implement subsection (2) of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may amend the temporary rules adopted under this subsection as often as is necessary to respond to the public health threat.

(5) If it is necessary for the authority to purchase antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or personal

protective equipment, the purchases are not subject to the provisions of ORS chapter 279A, 279B or 279C.

(6) If property is taken under the authority granted to the Public Health Director under subsection (2) of this section, the owner of the property is entitled to reasonable compensation from the state. [2007 c.445 §5; 2009 c.595 §550]