

# DRAFT

## SUMMARY

Removes ability of parent to decline required immunizations against restrictable diseases on behalf of child for reason other than child's indicated medical diagnosis. Allows child who is not immunized or exempt for reason of indicated medical diagnosis to attend school that provides education program through online courses. Prohibits child from attending in person specified school-related events, meetings and opportunities. Allows Oregon Health Authority to recommend diseases in addition to restrictable diseases against which children may be immunized.

Directs boards that regulate certain licensed health care practitioners to review documents completed by licensed health care practitioners granting exemptions from immunization requirements because of indicated medical diagnosis. Defines "licensed health care practitioner." Requires boards to annually report to authority on results of review. Requires authority to report annually to Legislative Assembly on reports submitted to boards.

Directs authority to establish outreach and education plan regarding disease control in schools.

Allows child who is not immunized to continue attending school in person until August 1, 2022. Allows child who is not immunized and has schedule for immunizations approved by authority to continue attending school in person after August 1, 2022.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to health care; creating new provisions; amending ORS 433.102,  
3 433.235, 433.255, 433.260, 433.267, 433.269, 433.273 and 433.284; and declar-  
4 ing an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made**  
7 **a part of ORS 433.235 to 433.284.**

8 **SECTION 2. (1)(a) Notwithstanding ORS 433.267, a child who is not**

1 immunized as required under ORS 433.267 for a reason other than be-  
2 cause of an indicated medical diagnosis may attend a school that pro-  
3 vides its education program through online courses.

4 (b) A child described in this subsection may not attend in person  
5 an event or meeting described in ORS 338.120 (1)(j), (k) or (L).

6 (2) A child described in subsection (1) of this section shall submit  
7 to the administrator of the school:

8 (a) A document described in ORS 433.267 (1); or

9 (b) A document, on a form prescribed by the Oregon Health Au-  
10 thority and signed by the parent, stating that the child is not  
11 immunized as required under ORS 433.267.

12 (3) The State Board of Education, in consultation with the author-  
13 ity, may adopt rules to carry out this section.

14 SECTION 3. (1) As used in this section, “board” means the Oregon  
15 Board of Naturopathic Medicine, the Oregon Medical Board and the  
16 Oregon State Board of Nursing.

17 (2) The Oregon Health Authority shall provide monthly to each  
18 board copies of the documents described in ORS 433.267 (1)(b) that are  
19 signed by licensed health care practitioners regulated by the board.

20 (3) Each board shall review the documents described in subsection  
21 (2) of this section that are signed by licensed health care practitioners  
22 regulated by the board to determine whether exemptions described in  
23 ORS 433.267 (1)(b) are granted in compliance with a reasonable inter-  
24 pretation of recommendations by the Advisory Committee on Immu-  
25 nization Practices, or its successor organization, as adopted by the  
26 board by rule.

27 (4)(a) Not later than the date determined by the authority by rule,  
28 each board shall report annually to the authority the results of the  
29 reviews described in subsection (3) of this section conducted during the  
30 preceding year.

31 (b) Not later than December 31 of each year, the authority shall

1 **report, in the manner provided in ORS 192.245, to an interim commit-**  
2 **tee of the Legislative Assembly related to health care, on the reviews**  
3 **conducted by the boards under this section. The report described in**  
4 **this paragraph may not include personally identifiable health infor-**  
5 **mation of a child.**

6 **(5)(a) Each board shall adopt rules to carry out this section. The**  
7 **rules adopted under this section must include, but are not limited to,**  
8 **rules to establish a process for the board to perform the review de-**  
9 **scribed in subsection (3) of this section.**

10 **(b) A board may consult with the authority in adopting rules under**  
11 **this section.**

12 **SECTION 4.** ORS 433.102 is amended to read:

13 433.102. (1) Nothing in ORS 433.090 to 433.102 is intended to affect the  
14 responsibility of a parent or guardian to have a child of that parent or  
15 guardian properly immunized.

16 (2) Nothing in ORS 433.090 to 433.102 is intended to require immunization  
17 or tracking of any child otherwise exempt from immunization requirements  
18 under ORS 433.267 (1)(b) [*or (c)*].

19 **SECTION 5.** ORS 433.235 is amended to read:

20 433.235. As used in ORS 433.235 to 433.284:

21 (1) “Administrator” means the principal or other person having general  
22 control and supervision of a school or children’s facility.

23 (2) “Children’s facility” or “facility” means:

24 (a) A certified child care facility as described in ORS 329A.030 and  
25 329A.250 to 329A.450, except as exempted by rule of the Oregon Health Au-  
26 thority;

27 (b) A program operated by, or sharing the premises with, a certified child  
28 care facility, school or post-secondary institution where care is provided to  
29 children, six weeks of age to kindergarten entry, except as exempted by rule  
30 of the authority; or

31 (c) A program providing child care or educational services to children,

1 six weeks of age to kindergarten entry, in a residential or nonresidential  
2 setting, except as exempted by rule of the authority.

3 **(3) “Licensed health care practitioner” means:**

4 **(a) A physician licensed under ORS chapter 677 who holds a degree**  
5 **of Doctor of Medicine or Doctor of Osteopathy;**

6 **(b) A physician assistant licensed under ORS 677.505 to 677.525;**

7 **(c) A nurse practitioner licensed under ORS 678.375 to 678.390; or**

8 **(d) A naturopathic physician licensed under ORS chapter 685.**

9 [(3)] (4) “Local health department” has the meaning given that term in  
10 ORS 431.003.

11 [(4)] (5) “Parent” means a parent or guardian of a child or any adult re-  
12 sponsible for the child.

13 [(5) “Physician” means a physician licensed by the Oregon Medical Board  
14 or by the Oregon Board of Naturopathic Medicine or a physician similarly li-  
15 censed by another state or country in which the physician practices or a com-  
16 missioned medical officer of the Armed Forces or Public Health Service of the  
17 United States.]

18 (6) “School” means a public, private, parochial, charter or alternative  
19 educational program offering kindergarten through grade 12 or any part  
20 thereof, except as exempted by rule of the authority.

21 **SECTION 6.** ORS 433.255 is amended to read:

22 433.255. Except in strict conformity with the rules of the Oregon Health  
23 Authority, [no] a child or employee [shall] **may not** be permitted to be in  
24 any school or children’s facility when:

25 (1) That child or employee has any restrictable disease **or other disease**  
26 **that poses a threat to public health, as identified by the authority by**  
27 **rule;**

28 (2) That child or employee comes from any house in which exists any  
29 restrictable disease **or other disease that poses a threat to public health,**  
30 **as identified by the authority by rule;** or

31 (3) That child has been excluded as provided in ORS 433.267 (5) or (7).

1        **SECTION 7.** ORS 433.260 is amended to read:

2        433.260. (1) Whenever any administrator has reason to suspect that any  
3 child or employee has or has been exposed to any restrictable disease **or**  
4 **other disease that poses a threat to public health, as identified by the**  
5 **Oregon Health Authority by rule**, and is required by the rules of the  
6 [*Oregon Health*] authority to be excluded from a school or children’s facility,  
7 the administrator shall send such person home and, if the disease is one that  
8 must be reported to the authority, report the occurrence to the local health  
9 department by the most direct means available.

10        (2) Any person excluded under subsection (1) of this section may not be  
11 permitted to be in the school or facility until the person presents a certifi-  
12 cate from a [*physician, physician assistant licensed under ORS 677.505 to*  
13 *677.525, nurse practitioner licensed under ORS 678.375 to 678.390*] **licensed**  
14 **health care practitioner**, local health department nurse or school nurse  
15 stating that the person does not have or is not a carrier of any restrictable  
16 disease **or other disease that poses a threat to public health, as iden-**  
17 **tified by the authority by rule.**

18        **SECTION 8.** ORS 433.267 is amended to read:

19        433.267. (1) As a condition of attendance in any school or children’s fa-  
20 cility in this state, every child through grade 12 shall submit to the admin-  
21 istrator, unless the school or facility the child attends already has on file a  
22 record that indicates that the child has received immunizations against the  
23 restrictable diseases prescribed by rules of the Oregon Health Authority as  
24 provided in ORS 433.273, one of the following:

25        (a) A document signed by the parent, a practitioner of the healing arts  
26 who has within the scope of the practitioner’s license the authority to ad-  
27 minister immunizations or a representative of the local health department  
28 certifying the immunizations the child has received; **or**

29        (b) **A document signed by a licensed health care practitioner stating**  
30 **that the child should be exempted from receiving a specified immu-**  
31 **nization because of an indicated medical diagnosis. A document de-**

1 **scribed in this paragraph must be renewed and submitted annually to**  
2 **the administrator not later than the date determined by the authority**  
3 **by rule.**

4 *[(b) A document signed by a physician or a representative of the local*  
5 *health department stating that the child should be exempted from receiving*  
6 *specified immunization because of indicated medical diagnosis; or]*

7 *[(c) A document, on a form prescribed by the authority by rule and signed*  
8 *by the parent of the child, stating that the parent is declining one or more*  
9 *immunizations on behalf of the child. A document submitted under this para-*  
10 *graph:]*

11 *[(A) May include the reason for declining the immunization, including*  
12 *whether the parent is declining the immunization because of a religious or*  
13 *philosophical belief; and]*

14 *[(B) Must include either:]*

15 *[(i) A signature from a health care practitioner verifying that the health*  
16 *care practitioner has reviewed with the parent information about the risks and*  
17 *benefits of immunization that is consistent with information published by the*  
18 *Centers for Disease Control and Prevention and the contents of the vaccine*  
19 *educational module approved by the authority pursuant to rules adopted under*  
20 *ORS 433.273; or]*

21 *[(ii) A certificate verifying that the parent has completed a vaccine educa-*  
22 *tional module approved by the authority pursuant to rules adopted under ORS*  
23 *433.273.]*

24 (2)(a) A newly entering child or a transferring child shall be required to  
25 submit the document described in subsection (1) of this section prior to at-  
26 tending the school or facility.

27 (b) Notwithstanding paragraph (a) of this subsection, a child transferring  
28 from a school in the United States must submit the document required by  
29 subsection (1) of this section not later than the exclusion date set by rule  
30 of the authority.

31 (3) Persons who have been emancipated pursuant to ORS 419B.558 or who

1 have reached the age of consent for medical care pursuant to ORS 109.640  
2 may sign those documents on their own behalf otherwise requiring the sig-  
3 natures of parents under subsection (1) of this section.

4 (4) The administrator shall conduct a primary evaluation of the records  
5 submitted pursuant to subsection (1) of this section to determine whether the  
6 child is entitled to begin attendance by reason of having submitted a docu-  
7 ment that complies with the requirements of subsection (1) of this section.

8 (5) If the records do not meet the initial minimum requirements estab-  
9 lished by rule, the child may not be allowed to attend until the requirements  
10 are met. If the records meet the initial minimum requirements, the child  
11 shall be allowed to attend.

12 (6) At the time specified by the authority by rule, records for children  
13 meeting the initial minimum requirements and records previously on file  
14 shall be reviewed for completion of requirements by the administrator to  
15 determine whether the child is entitled to continue in attendance. If the re-  
16 cords do not comply, the administrator shall notify the local health depart-  
17 ment and shall transmit any records concerning the child's immunization  
18 status to the local health department.

19 (7) The local health department shall provide for a secondary evaluation  
20 of the records to determine whether the child should be excluded for non-  
21 compliance with the requirements stated in subsection (1) of this section. If  
22 the child is determined to be in noncompliance, the local health department  
23 shall issue an exclusion order and shall send copies of the order to the par-  
24 ent or the person who is emancipated or has reached the age of majority and  
25 the administrator. On the effective date of the order, the administrator shall  
26 exclude the child from the school or facility and not allow the child to attend  
27 the school or facility until the requirements of this section have been met.

28 (8) The administrator shall readmit the child to the school or facility  
29 when in the judgment of the local health department the child is in compli-  
30 ance with the requirements of this section.

31 (9) The administrator shall be responsible for updating the document de-

1 scribed in subsection (1)(a) of this section as necessary to reflect the current  
2 status of the immunization of the child and the time at which the child  
3 comes into compliance with immunizations against the restrictable diseases  
4 prescribed by rules of the authority pursuant to ORS 433.273.

5 (10) Nothing in this section shall be construed as relieving agencies, in  
6 addition to school districts, which are involved in the maintenance and  
7 evaluation of immunization records on April 27, 1981, from continuing re-  
8 sponsibility for these activities.

9 (11)(a) All documents required by this section shall be on forms [*approved*  
10 *or*] provided by the authority.

11 **(b) The document described in subsection (1)(b) of this section must**  
12 **allow the licensed health care practitioner to include any specialty**  
13 **areas in which the licensed health care practitioner practices.**

14 (12) In lieu of signed documents from practitioners **described in sub-**  
15 **section (1)(a) of this section**, the authority may accept immunization re-  
16 cord updates using practitioner documented immunization records generated  
17 by electronic means or on unsigned practitioner letterhead if the authority  
18 determines such records are accurate.

19 **(13) A school and a children's facility shall provide every two weeks**  
20 **to the authority, in a manner established by the authority by rule, the**  
21 **documents described in subsection (1) of this section that are submit-**  
22 **ted to the school or children's facility.**

23 [(13)] (14) As used in this section:

24 (a) "Newly entering child" means a child who is initially attending:

25 (A) A facility in this state;

26 (B) A school at the entry grade level;

27 (C) Either a school at any grade level or a facility from homeschooling;

28 or

29 (D) A school at any grade level or a facility after entering the United  
30 States from another country.

31 (b) "Transferring child" means a child moving from:



1 (A) One facility to another facility;

2 (B) One school in this state to another school in this state when the move  
3 is not the result of a normal progression of grade level; or

4 (C) A school in another state to a school in this state.

5 **SECTION 9.** ORS 433.269 is amended to read:

6 433.269. (1) A local public health authority shall ensure that immuniza-  
7 tions required under ORS 433.282 and 433.283 and the rules adopted pursuant  
8 to ORS 433.273 for attendance at a school, children's facility or post-  
9 secondary educational institution are available through local health care  
10 providers or the local public health authority or its contractors:

11 (a) To the entire population of the area served by the local public health  
12 authority in convenient areas and at convenient times.

13 (b) Regardless of whether a child or student is able to pay for the immu-  
14 nization.

15 (2)(a) Each local public health authority, school and children's facility  
16 shall report annually to the Oregon Health Authority on:

17 (A) The number of children in the area served by the local public health  
18 authority, school or children's facility; and

19 (B) The number of children in the area served by the local public health  
20 authority, school or children's facility who are susceptible to restrictable  
21 disease as prescribed by the Oregon Health Authority's rules pursuant to  
22 ORS 433.273.

23 (b) Each school and children's facility shall report annually to the Oregon  
24 Health Authority on the number of children in the area served by the school  
25 or children's facility who are in attendance at the school or children's fa-  
26 cility conditionally because of an incomplete immunization schedule.

27 (c) Each local public health authority shall make available to each school  
28 and children's facility in the area served by the local public health authority  
29 data on the immunization rate, by disease, of children in the area. Upon re-  
30 quest, the Oregon Health Authority shall assist local public health authori-  
31 ties in compiling data for purposes of this paragraph.

1 (d) A child exempted under ORS 433.267 is susceptible to restrictable  
2 disease for purposes of this subsection.

3 (3)(a) For the purpose of providing parents with the information necessary  
4 to protect their children’s health, each school and children’s facility shall  
5 make available the information reported and received by the school and  
6 children’s facility pursuant to subsection (2) of this section:

7 (A) At the main office of the school or children’s facility;

8 (B) On the school’s or school district’s website or on the children’s  
9 facility’s website, if available; and

10 (C) To the parents of the children who attend the school or children’s  
11 facility, in the form of a paper document or electronic communication that  
12 includes the information in a clear and easy to understand manner.

13 (b) The information required to be made available under paragraph (a)  
14 of this subsection must be made available at the beginning of each school  
15 year and not later than one month after the date that children may be ex-  
16 cluded as provided by ORS 433.267.

17 (4) The administrator of a school or children’s facility shall maintain  
18 immunization records of children, including children who are in attendance  
19 at the school or children’s facility conditionally because of an incomplete  
20 immunization schedule and children who are exempted as described in ORS  
21 433.267 (1)(b) [*and (c)*].

22 **SECTION 10.** ORS 433.273 is amended to read:

23 433.273. (1) The Oregon Health Authority shall adopt rules pertaining to  
24 the implementation of ORS 433.235 to 433.284, which shall include, but need  
25 not be limited to:

26 [(1)] (a) The definition of “restrictable” disease;

27 [(2)] (b) The required immunization against **restrictable** diseases;

28 [(3)] (c) The time schedule for immunization;

29 [(4)] (d) The approved means of immunization;

30 [(5)] (e) The procedures and time schedule whereby children may be ex-  
31 cluded from attendance in schools or children’s facilities under ORS 433.267

1 (1)(b) *[and (c)]*, provided that the authority includes as part of those proce-  
2 dures service of notice to parents;

3 [(6)] **(f)** The manner in which immunization records for children are es-  
4 tablished, evaluated and maintained;

5 [(7)] **(g)** Exemptions for schools and children’s facilities, including ex-  
6 emptions from the reporting requirements of ORS 433.269 (2) and exemptions  
7 from the requirement under ORS 433.269 (3) to make information available;

8 [(8)] **(h)** The implementation of ORS 433.282 and 433.283; **and**

9 [(9) *The process for approving a vaccine educational module;*]

10 [(10) *Criteria for a vaccine educational module, including the requirement*  
11 *that a vaccine educational module present information that is consistent with*  
12 *information published by the Centers for Disease Control and Prevention con-*  
13 *cerning;*]

14 [(a) *Epidemiology;*]

15 [(b) *The prevention of disease through the use of vaccinations; and*]

16 [(c) *The safety and efficacy of vaccines; and*]

17 [(11) *Documentation required to verify completion of a vaccine educational*  
18 *module, including the qualifications of persons who may certify the*  
19 *completion.*]

20 **(i) Rules to carry out section 2 of this 2021 Act.**

21 **(2) The authority may, in consideration of information published**  
22 **by the Centers for Disease Control and Prevention, adopt rules to re-**  
23 **commend diseases against which a child should be immunized in ad-**  
24 **dition to restrictable diseases against which a child must be**  
25 **immunized or exempted from immunization pursuant to ORS 433.267**  
26 **(1)(b).**

27 **(3) The authority may adopt rules to establish a list of diseases that**  
28 **pose a threat to public health for the purposes of ORS 433.255 and**  
29 **433.260.**

30 **SECTION 11.** ORS 433.284 is amended to read:

31 433.284. Private schools, children’s facilities and post-secondary educa-

1 tional institutions may adopt additional or more stringent requirements as  
2 long as [*exemptions are*] **an exemption described in ORS 433.267 (1)(b) is**  
3 **included and the requirements are in compliance with the United States**  
4 **Public Health Service Advisory Committee on Immunization Practices rec-**  
5 **ommendations.**

6 **SECTION 12. Section 13 of this 2021 Act is added to and made a part**  
7 **of ORS 433.235 to 433.284.**

8 **SECTION 13. The Oregon Health Authority shall establish an out-**  
9 **reach and education plan related to the implementation of ORS 433.235**  
10 **to 433.284. The outreach and education plan established under this**  
11 **section must include culturally and linguistically appropriate outreach**  
12 **and education.**

13 **SECTION 14. (1) A child who is not immunized as required under**  
14 **ORS 433.267 (1) and has not provided to the administrator of the school**  
15 **or children’s facility that the child attends a document described in**  
16 **ORS 433.267 (1)(b) may continue to attend the school or children’s fa-**  
17 **cility until August 1, 2022.**

18 **(2) Subsection (1) of this section does not apply to a person excluded**  
19 **under ORS 433.260.**

20 **(3) A child described in subsection (1) of this section may continue**  
21 **to attend the school or children’s facility after August 1, 2022, if by**  
22 **August 1, 2022, the child is on a schedule established by the child’s li-**  
23 **censed health care provider and approved by the Oregon Health Au-**  
24 **thority to complete the immunizations as required under ORS 433.267**  
25 **(1).**

26 **SECTION 15. (1) Sections 3 and 13 of this 2021 Act become operative**  
27 **on January 1, 2022.**

28 **(2) The Oregon Health Authority, the Oregon Board of Naturopathic**  
29 **Medicine, the Oregon Medical Board and the Oregon State Board of**  
30 **Nursing may take any action before the operative date specified in**  
31 **subsection (1) of this section that is necessary to enable the authority**

1 and the boards to exercise, on or after the operative date specified in  
2 subsection (1) of this section, all of the duties, functions and powers  
3 conferred on the authority and the boards by sections 3 and 13 of this  
4 2021 Act.

5 SECTION 16. This 2021 Act being necessary for the immediate  
6 preservation of the public peace, health and safety, an emergency is  
7 declared to exist, and this 2021 Act takes effect on its passage.

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