

# Oregon Vaccine Exemption Laws

## OREGON REVISED STATUTES

### TITLE 36. PUBLIC HEALTH AND SAFETY

#### CHAPTER 433. DISEASE AND CONDITION CONTROL; MASS GATHERINGS; INDOOR AIR

##### **433.102 Parental responsibility for immunization; medical or religious exemptions.**

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

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

##### **433.104 Use of immunization registry for potential catastrophic disease threat.**

(1) The immunization registry and associated tracking and recall systems established under ORS 433.094 may be used as a vaccination management and tracking system in preparation for a potential catastrophic disease threat, such as smallpox or pandemic influenza.

(2) When used as authorized by this section, the immunization registry may include persons of any age, and vaccination records may be shared with authorized users of the registry without obtaining the prior consent of the clients of the registry.

(3) As used in this section, “client” and “immunization registry” have the meanings given those terms in ORS 433.090. [2003 c.593 §4]

##### **433.110 Duties of physicians and nurses in controlling communicable disease.**

Every physician or nurse attending a person affected with any communicable disease shall use all precautionary measures to prevent the spread of the disease as the Department of Human Services may prescribe by rule. [Amended by 1973 c.259 §10; 2005 c.471 §3]

##### **433.121 Emergency administrative order for isolation or quarantine; contents; ex parte court order.**

(1) The Public Health Director or a local public health administrator may issue an emergency administrative order causing a person or group of persons to be placed in isolation or quarantine if the Public Health Director or the local public health administrator has probable cause to believe that a person or group of persons requires immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of the petition process set out in ORS 433.123. An administrative order issued under this section must:

- (a) Identify the person or group of persons subject to isolation or quarantine;
- (b) Identify the premises where isolation or quarantine will take place, if known;
- (c)

(A) Describe the reasonable efforts made to obtain voluntary compliance with a request for an emergency public health action including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine, and inspection and closure of facilities; or

(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;

(d) Describe the suspected communicable disease or toxic substance, if known, that is the basis for the issuance of the emergency administrative order and the anticipated duration of isolation or quarantine based on the suspected communicable disease or toxic substance;

(e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that could spread to or contaminate others if remedial action is not taken;

(f) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for purposes of isolation or quarantine;

(g) Describe the medical basis for which isolation or quarantine is justified and explain why isolation or quarantine is the least restrictive means available to prevent a risk to the health and safety of others;

(h) Establish the time and date at which the isolation or quarantine commences; and

(i) Contain a statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

(2) In lieu of issuing an emergency administrative order under subsection (1) of this section, the Public Health Director or a local public health administrator may petition the court for a written ex parte order. The petition to the court and the court's order must include the information described in subsection (1) of this section.

(3) Within 12 hours of the issuance of an order under subsection (1) or (2) of this section, the person or group of persons detained or sought for detention must be personally served with the written notice required by ORS 433.126 and with a copy of any order issued under subsection (1) or (2) of this section. If copies of the notice and order cannot be personally served in a timely manner to a group of persons because the number of persons in the group makes personal service impracticable, the Public Health Director or the local public health administrator may post the notice and order in a conspicuous place where the notice and order can be viewed by those detained or may find other means to meaningfully communicate the information in the notice and order to those detained.

(4) A person or group of persons detained pursuant to an order issued under subsection (1) or (2) of this section may not be detained for longer than 72 hours unless a petition is filed under ORS 433.123.

(5) If the detention of a person or group of persons for longer than 72 hours is deemed necessary, immediately following the issuance of an order under subsection (1) or (2) of this section, the Public Health Director or the local public health administrator must petition the court in accordance with ORS 433.123.

(6) A person or group of persons detained under subsection (1) or (2) of this section has the right to be represented by legal counsel in accordance with ORS 433.466. [2007 c.445 §8]

**433.123 Petition for court order for isolation or quarantine; contents; hearing on petition; contents of order; duration of isolation or quarantine.**

(1) The Public Health Director or a local public health administrator may petition the court for an order authorizing:

- (a) The isolation or quarantine of a person or group of persons; or
- (b) The continued isolation or quarantine of a person or group of persons detained under ORS 433.121.

(2) A petition filed under subsections (1) and (9) of this section must:

- (a) Identify the person or group of persons subject to isolation or quarantine;
- (b) Identify the premises where isolation or quarantine will take place, if known;
- (c)
  - (A) Describe the reasonable efforts made to obtain voluntary compliance with a request for an emergency public health action, including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine and inspection and closure of facilities; or
  - (B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;
- (d) Describe the suspected communicable disease or toxic substance, if known, and the anticipated duration of isolation or quarantine based on the suspected communicable disease, infectious agent or toxic substance;
- (e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that could spread to or contaminate others if remedial action is not taken;
- (f) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons would pose a

serious risk to the health and safety of others if not detained for purposes of isolation or quarantine;

(g) Describe the medical basis for which isolation or quarantine is justified and explain why isolation or quarantine is the least restrictive means available to prevent a serious risk to the health and safety of others;

(h) Establish the time and date on which the isolation or quarantine commences; and

(i) Contain a statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

(3) The person or group of persons detained or sought for detention must be personally served with a copy of the petition filed with the court under subsection (1) of this section and with the written notice required by ORS 433.126. If copies of the petition and notice cannot be personally served in a timely manner to a group of persons because the number of persons in the group makes personal service impracticable, the Public Health Director or the local public health administrator may post the petition and notice in a conspicuous place where the petition and notice can be viewed by those detained or may find other means to meaningfully communicate the information in the petition and notice to those detained.

(4) A person or group of persons subject to a petition filed under subsection (1) or (9) of this section has the right to be represented by legal counsel in accordance with ORS 433.466.

(5) The filing of a petition under subsection (1) of this section to continue isolation or quarantine for a person or group of persons detained under an emergency administrative order issued under ORS 433.121 extends the isolation or quarantine order until the court holds a hearing pursuant to subsection (6) of this section.

(6)

(a) The court shall hold a hearing on a petition filed under subsection (1) of this section within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.

(b) In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days. The court may grant a continuance at its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) The hearing required under this subsection may be waived by consent of the affected persons.

(d) The provisions of ORS 40.230, 40.235 and 40.240 do not apply to a hearing held under this subsection. Any evidence presented at the hearing that would be privileged and not subject to disclosure except as required by this paragraph shall be disclosed only to the court, the parties and their legal counsel or persons authorized by the court and may not be disclosed to the public.

(7) If a person or group of persons who is the subject of a petition filed under subsection (1) or (9) of this section cannot personally appear before the court because personal appearance poses a risk of serious harm to others, the court proceeding may be conducted by legal counsel for the person or group of persons and be held at a location or via any means that allows all parties to fully participate.

(8) The court shall grant the petition if, by clear and convincing evidence, the court finds that isolation or quarantine is necessary to prevent a serious risk to the health and safety of others. In lieu of or in addition to isolation or quarantine, the court may order the imposition of other public health measures appropriate to the public health threat presented. The court order must:

(a) Specify the maximum duration for the isolation or quarantine, which may not exceed 60 days unless there is substantial medical evidence indicating that the condition that is the basis of the public health threat is spread by airborne transmission and cannot be rendered noninfectious within 60 days or may recur after 60 days, in which case the maximum duration of the isolation or quarantine may not exceed a period of 180 days;

(b) Identify the person or group of persons subject to the order by name or shared or similar characteristics or circumstances;

(c) Specify the factual findings warranting imposition of isolation, quarantine or another public health measure;

(d) Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section; and

(e) Be served on all affected persons or groups in accordance with subsection (3) of this section.

(9) Prior to the expiration of a court order issued under subsection (8) or (10) of this section, the Public Health Director or the local public health administrator may petition the court to continue isolation or quarantine. A petition filed under this subsection must comply with the requirements of subsections (2) to (8) of this section.

(10)

(a) The court will hold a hearing on a petition filed under subsection (9) of this section within 72 hours of filing, exclusive of Saturdays, Sundays and legal holidays.

(b) In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days. The court may grant a continuance at its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) The hearing required under this subsection may be waived by consent of the affected parties.

(d) The court may continue the isolation or quarantine order if the court finds there is clear and convincing evidence that continued isolation or quarantine is necessary to prevent a serious threat to the health and safety of others. In lieu of or in addition to

continued isolation or quarantine, the court may order the imposition of a public health measure appropriate to the public health threat presented.

(e) An order issued under this subsection must comply with the requirements of subsection (8) of this section.

(11) An order issued under subsection (10) of this section shall be for a period not to exceed 60 days and shall be served on all affected parties in accordance with subsection (3) of this section.

(12) In no case may a person or group of persons be in quarantine or isolation for longer than 180 days unless, following a hearing, a court finds that extraordinary circumstances exist and that the person or group of persons subject to isolation or quarantine continues to pose a serious threat to the health and safety of others if detention is not continued.

(13) Failure to obey a court order issued under this section shall subject the person in violation of the order to contempt proceedings under ORS 33.015 to 33.155.

**433.235 Definitions for ORS 433.235 to 433.284. As used in ORS 433.235 to 433.284:**

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

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

(a) A certified child care facility as described in ORS 657A.030 and 657A.250 to 657A.450, except as exempted by rule of the Department of Human Services;

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

(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the department.

(3) “Local health department” means the district or county board of health, public health officer, public health administrator or health department having jurisdiction within the area.

(4) “Parent” means a parent or guardian of a child or any adult responsible for the child.

(5) “Physician” means a physician licensed by the Oregon Medical Board or by the Board of Naturopathic Examiners or a physician similarly licensed by another state or country in which the physician practices or a commissioned medical officer of the Armed Forces or Public Health Service of the United States.

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

**433.267 Immunization of school children; rules; exceptions; effect of failure to comply.**

(1) As a condition of attendance in any school or children's facility in this state, every child through grade 12 shall submit to the administrator one of the following statements unless the school or facility which the child attends already has on file a record which indicates that the child has received immunizations against the restrictable diseases prescribed by rules of the Department of Human Services as provided in ORS 433.273:

(a) A statement signed by the parent, a practitioner of the healing arts who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the child has received;

(b) A statement signed by a physician or a representative of the local health department that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; or

(c) A statement signed by the parent that the child has not been immunized as described in paragraph (a) of this subsection because the child is being reared as an adherent to a religion the teachings of which are opposed to such immunization.

(2)

(a) A newly entering child or a transferring child shall be required to submit the statement described in subsection (1) of this section prior to attending the school or facility.

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

(3) Persons who have been emancipated pursuant to ORS 419B.558 or who have reached the age of consent for medical care pursuant to ORS 109.640 may sign those statements on their own behalf otherwise requiring the signatures of parents under subsection (1) of this section.

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

(5) If the records do not meet the initial minimum requirements established by rule, the child may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

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

(7) The local health department shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated

in subsection (1)(a) or (b) of this section. If the child is determined to be in noncompliance, the local health department shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

(8) The administrator shall readmit the child to the school or facility when in the judgment of the local health department the child is in compliance with the requirements of this section.

(9) The administrator shall be responsible for updating the statement described in subsection (1)(a) of this section as necessary to reflect the current status of the immunization of the child and the time at which the child comes into compliance with immunizations against the restrictable diseases prescribed by rules of the department pursuant to ORS 433.273.

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

(11) All statements required by this section shall be on forms approved or provided by the department.

(12) In lieu of signed statements from practitioners of the healing arts, the department may accept immunization record updates using practitioner documented immunization records generated by electronic means or on practitioner letterhead but unsigned, if the department determines such records are accurate.

(13) As used in this section:

(a) “Newly entering child” means a child who is initially attending:

(A) A facility in this state;

(B) A school at the entry grade level;

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

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

(b) “Transferring child” means a child moving from:

(A) One facility to another facility;

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

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

**433.269 Immunization by local health departments; rules; records and reports.**

(1) Local health departments shall make available immunizations to be administered under the direction of the local health officer in convenient areas and at convenient times. No person shall be refused service because of inability to pay.

(2) The local health department and all schools and children's facilities shall report annually to the Department of Human Services as specified in the rules of the Department of Human Services on the number of children in the area served and those children who are susceptible to restrictable disease as prescribed by rules of the Department of Human Services pursuant to ORS 433.273 by reason of noncompliance. A child exempted under ORS 433.267 shall be considered to be susceptible.

(3) The administrator shall maintain immunization records of children, including children in attendance conditionally because of incomplete immunization schedules and children exempted under ORS 433.267.

**433.271 Thimerosal prohibited in school entry immunizations provided by Department of Human Services; exceptions.**

The Department of Human Services may not purchase or distribute a pediatric vaccine necessary for school entry immunization requirements if the vaccine contains thimerosal, unless thimerosal is detectable only in trace amounts or no other vaccine for the same purpose is commercially available in a form that does not contain thimerosal. The department may purchase and distribute a pediatric vaccine that contains thimerosal if no other vaccine for the same purpose is commercially available in a form that does not contain thimerosal.

**433.280 Status of immunization records as public records.**

Nothing in ORS 179.505, 192.518 to 192.529, 326.565, 326.575 or 336.187 prevents:

(1) Inspection by or release to administrators by local health departments of information relating to the status of a person's immunization against restrictable diseases without the consent of the person, if the person has been emancipated or has reached the age of majority, or the parent of a child.

(2) Local health departments from releasing information concerning the status of a person's immunization against restrictable diseases by telephone to the parent, administrators and public health officials.

**433.282 Required immunizations at certain post-secondary educational institutions; rules.**

(1) The Department of Human Services may require each post-secondary educational institution, except a community college or a career school, to require that each entering full-time student has current immunizations, as required for children attending school pursuant to rules adopted by the department under ORS 433.273, prior to the student's second quarter or semester of enrollment on an Oregon campus, using procedures developed by the institution.

(2) Notwithstanding subsection (1) of this section, the department may require each post-secondary educational institution, except a community college or a career school, to document, using procedures developed by the institution, that each entering full-time student has current

immunizations, as required for children attending school pursuant to rules adopted by the department under ORS 433.273, prior to the student attending classes if the student will be attending the institution pursuant to a nonimmigrant visa.

(3) The department by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies.

(4) The department may conduct validation surveys to ensure compliance with this section.

**433.283 Immunizations against measles for certain students at community colleges; rules.**

(1) The Department of Human Services may require each community college to require that students involved in clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams have current immunizations for measles prior to each student's participation. The requirement shall apply only to those students born on or after January 1, 1957.

(2) The State Board of Education by rule shall define clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams at the community colleges. The Department of Human Services by rule shall establish immunization schedules and may further limit the students and programs to which the requirement applies. Each community college shall develop procedures to implement and maintain this requirement.

(3) The Department of Human Services may conduct validation surveys to insure compliance with this section. Community colleges shall be required to keep immunization records only while the student is involved in the program. [1991 c.255 §11]

**433.284 Adoption of more stringent immunization requirements.**

Private schools, children's facilities and post-secondary educational institutions may adopt additional or more stringent requirements as long as medical and religious exemptions are included and the requirements are in compliance with the United States Public Health Service Advisory Committee on Immunization Practices recommendations.