

Senate Bill 254

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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, 433.235, 433.255, 433.260,
3 433.267, 433.269, 433.273 and 433.284; and declaring an emergency.

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

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

7 **SECTION 2. (1)(a) Notwithstanding ORS 433.267, a child who is not immunized as required**
8 **under ORS 433.267 for a reason other than because of an indicated medical diagnosis may**
9 **attend a school that provides its education program through online courses.**

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

12 **(2) A child described in subsection (1) of this section shall submit to the administrator**
13 **of the school:**

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

15 **(b) A document, on a form prescribed by the Oregon Health Authority and signed by the**
16 **parent, stating that the child is not immunized as required under ORS 433.267.**

17 **(3) The State Board of Education, in consultation with the authority, may adopt rules to**
18 **carry out this section.**

19 **SECTION 3. (1) As used in this section, "board" means the Oregon Board of Naturopathic**
20 **Medicine, the Oregon Medical Board and the Oregon State Board of Nursing.**

21 **(2) The Oregon Health Authority shall provide monthly to each board copies of the doc-**
22 **uments described in ORS 433.267 (1)(b) that are signed by licensed health care practitioners**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 regulated by the board.

2 (3) Each board shall review the documents described in subsection (2) of this section that
3 are signed by licensed health care practitioners regulated by the board to determine whether
4 exemptions described in ORS 433.267 (1)(b) are granted in compliance with a reasonable in-
5 terpretation of recommendations by the Advisory Committee on Immunization Practices, or
6 its successor organization, as adopted by the board by rule.

7 (4)(a) Not later than the date determined by the authority by rule, each board shall re-
8 port annually to the authority the results of the reviews described in subsection (3) of this
9 section conducted during the preceding year.

10 (b) Not later than December 31 of each year, the authority shall report, in the manner
11 provided in ORS 192.245, to an interim committee of the Legislative Assembly related to
12 health care, on the reviews conducted by the boards under this section. The report described
13 in this paragraph may not include personally identifiable health information of a child.

14 (5)(a) Each board shall adopt rules to carry out this section. The rules adopted under this
15 section must include, but are not limited to, rules to establish a process for the board to
16 perform the review described in subsection (3) of this section.

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

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

19 433.102. (1) Nothing in ORS 433.090 to 433.102 is intended to affect the responsibility of a parent
20 or guardian to have a child of that parent or guardian properly immunized.

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

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

24 433.235. As used in ORS 433.235 to 433.284:

25 (1) "Administrator" means the principal or other person having general control and supervision
26 of a school or children's facility.

27 (2) "Children's facility" or "facility" means:

28 (a) A certified child care facility as described in ORS 329A.030 and 329A.250 to 329A.450, except
29 as exempted by rule of the Oregon Health Authority;

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

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

36 (3) "Licensed health care practitioner" means:

37 (a) A physician licensed under ORS chapter 677 who holds a degree of Doctor of Medicine
38 or Doctor of Osteopathy;

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

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

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

42 [(3)] (4) "Local health department" has the meaning given that term in ORS 431.003.

43 [(4)] (5) "Parent" means a parent or guardian of a child or any adult responsible for the child.

44 [(5)] "Physician" means a physician licensed by the Oregon Medical Board or by the Oregon Board
45 of Naturopathic Medicine or a physician similarly licensed by another state or country in which the

1 *physician practices or a commissioned medical officer of the Armed Forces or Public Health Service*
 2 *of the United States.]*

3 (6) “School” means a public, private, parochial, charter or alternative educational program of-
 4 fering kindergarten through grade 12 or any part thereof, except as exempted by rule of the au-
 5 thority.

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

7 433.255. Except in strict conformity with the rules of the Oregon Health Authority, *[no]* a child
 8 or employee *[shall]* **may not** be permitted to be in any school or children’s facility when:

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

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

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

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

15 433.260. (1) Whenever any administrator has reason to suspect that any child or employee has
 16 or has been exposed to any restrictable disease **or other disease that poses a threat to public**
 17 **health, as identified by the Oregon Health Authority by rule,** and is required by the rules of the
 18 *[Oregon Health]* authority to be excluded from a school or children’s facility, the administrator shall
 19 send such person home and, if the disease is one that must be reported to the authority, report the
 20 occurrence to the local health department by the most direct means available.

21 (2) Any person excluded under subsection (1) of this section may not be permitted to be in the
 22 school or facility until the person presents a certificate from a *[physician, physician assistant li-*
 23 *icensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390]* **li-**
 24 **icensed health care practitioner,** local health department nurse or school nurse stating that the
 25 person does not have or is not a carrier of any restrictable disease **or other disease that poses a**
 26 **threat to public health, as identified by the authority by rule.**

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

28 433.267. (1) As a condition of attendance in any school or children’s facility in this state, every
 29 child through grade 12 shall submit to the administrator, unless the school or facility the child at-
 30 tends already has on file a record that indicates that the child has received immunizations against
 31 the restrictable diseases prescribed by rules of the Oregon Health Authority as provided in ORS
 32 433.273, one of the following:

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

36 **(b) A document signed by a licensed health care practitioner stating that the child should**
 37 **be exempted from receiving a specified immunization because of an indicated medical diag-**
 38 **nosis. A document described in this paragraph must be renewed and submitted annually to**
 39 **the administrator not later than the date determined by the authority by rule.**

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

43 *[(c) A document, on a form prescribed by the authority by rule and signed by the parent of the*
 44 *child, stating that the parent is declining one or more immunizations on behalf of the child. A document*
 45 *submitted under this paragraph:]*

1 *[(A) May include the reason for declining the immunization, including whether the parent is de-*
2 *clining the immunization because of a religious or philosophical belief; and]*

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

4 *[(i) A signature from a health care practitioner verifying that the health care practitioner has re-*
5 *viewed with the parent information about the risks and benefits of immunization that is consistent with*
6 *information published by the Centers for Disease Control and Prevention and the contents of the vac-*
7 *cine educational module approved by the authority pursuant to rules adopted under ORS 433.273; or]*

8 *[(ii) A certificate verifying that the parent has completed a vaccine educational module approved*
9 *by the authority pursuant to rules adopted under ORS 433.273.]*

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

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

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

18 (4) The administrator shall conduct a primary evaluation of the records submitted pursuant to
19 subsection (1) of this section to determine whether the child is entitled to begin attendance by rea-
20 son of having submitted a document that complies with the requirements of subsection (1) of this
21 section.

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

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

30 (7) The local health department shall provide for a secondary evaluation of the records to de-
31 termine whether the child should be excluded for noncompliance with the requirements stated in
32 subsection (1) of this section. If the child is determined to be in noncompliance, the local health
33 department shall issue an exclusion order and shall send copies of the order to the parent or the
34 person who is emancipated or has reached the age of majority and the administrator. On the effec-
35 tive date of the order, the administrator shall exclude the child from the school or facility and not
36 allow the child to attend the school or facility until the requirements of this section have been met.

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

39 (9) The administrator shall be responsible for updating the document described in subsection
40 (1)(a) of this section as necessary to reflect the current status of the immunization of the child and
41 the time at which the child comes into compliance with immunizations against the restrictable dis-
42 eases prescribed by rules of the authority pursuant to ORS 433.273.

43 (10) Nothing in this section shall be construed as relieving agencies, in addition to school dis-
44 tricts, which are involved in the maintenance and evaluation of immunization records on April 27,
45 1981, from continuing responsibility for these activities.

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

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

6 (12) In lieu of signed documents from practitioners **described in subsection (1)(a) of this sec-**
 7 **tion**, the authority may accept immunization record updates using practitioner documented immu-
 8 nization records generated by electronic means or on unsigned practitioner letterhead if the
 9 authority determines such records are accurate.

10 **(13) A school and a children’s facility shall provide every two weeks to the authority, in
 11 a manner established by the authority by rule, the documents described in subsection (1) of
 12 this section that are submitted to the school or children’s facility.**

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

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

15 (A) A facility in this state;

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

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

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

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

21 (A) One facility to another facility;

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

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

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

26 433.269. (1) A local public health authority shall ensure that immunizations required under ORS
 27 433.282 and 433.283 and the rules adopted pursuant to ORS 433.273 for attendance at a school,
 28 children’s facility or post-secondary educational institution are available through local health care
 29 providers or the local public health authority or its contractors:

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

32 (b) Regardless of whether a child or student is able to pay for the immunization.

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

35 (A) The number of children in the area served by the local public health authority, school or
 36 children’s facility; and

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

40 (b) Each school and children’s facility shall report annually to the Oregon Health Authority on
 41 the number of children in the area served by the school or children’s facility who are in attendance
 42 at the school or children’s facility conditionally because of an incomplete immunization schedule.

43 (c) Each local public health authority shall make available to each school and children’s facility
 44 in the area served by the local public health authority data on the immunization rate, by disease,
 45 of children in the area. Upon request, the Oregon Health Authority shall assist local public health

1 authorities in compiling data for purposes of this paragraph.

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

4 (3)(a) For the purpose of providing parents with the information necessary to protect their
5 children's health, each school and children's facility shall make available the information reported
6 and received by the school and 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 facility's website, if avail-
9 able; and

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

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

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

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

21 433.273. (1) The Oregon Health Authority shall adopt rules pertaining to the implementation of
22 ORS 433.235 to 433.284, which shall include, but need not be limited to:

23 [(1)] (a) The definition of "restrictable" disease;

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

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

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

27 [(5)] (e) The procedures and time schedule whereby children may be excluded from attendance
28 in schools or children's facilities under ORS 433.267 (1)(b) [and (c)], provided that the authority in-
29 cludes as part of those procedures service of notice to parents;

30 [(6)] (f) The manner in which immunization records for children are established, evaluated and
31 maintained;

32 [(7)] (g) Exemptions for schools and children's facilities, including exemptions from the reporting
33 requirements of ORS 433.269 (2) and exemptions from the requirement under ORS 433.269 (3) to make
34 information available;

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

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

37 [(10)] *Criteria for a vaccine educational module, including the requirement that a vaccine educa-*
38 *tional module present information that is consistent with information published by the Centers for*
39 *Disease Control and Prevention concerning:*

40 [(a)] *Epidemiology;*

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

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

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

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

1 (2) The authority may, in consideration of information published by the Centers for Dis-
2 ease Control and Prevention, adopt rules to recommend diseases against which a child should
3 be immunized in addition to restrictable diseases against which a child must be immunized
4 or exempted from immunization pursuant to ORS 433.267 (1)(b).

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

7 SECTION 11. ORS 433.284 is amended to read:

8 433.284. Private schools, children's facilities and post-secondary educational institutions may
9 adopt additional or more stringent requirements as long as [*exemptions are*] **an exemption de-**
10 **scribed in ORS 433.267 (1)(b) is included** and the requirements are in compliance with the United
11 States Public Health Service Advisory Committee on Immunization Practices recommendations.

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

14 SECTION 13. The Oregon Health Authority shall establish an outreach and education
15 plan related to the implementation of ORS 433.235 to 433.284. The outreach and education
16 plan established under this section must include culturally and linguistically appropriate
17 outreach and education.

18 SECTION 14. (1) A child who is not immunized as required under ORS 433.267 (1) and has
19 not provided to the administrator of the school or children's facility that the child attends
20 a document described in ORS 433.267 (1)(b) may continue to attend the school or children's
21 facility until August 1, 2022.

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

23 (3) A child described in subsection (1) of this section may continue to attend the school
24 or children's facility after August 1, 2022, if by August 1, 2022, the child is on a schedule es-
25 tablished by the child's licensed health care provider and approved by the Oregon Health
26 Authority to complete the immunizations as required under ORS 433.267 (1).

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

28 (2) The Oregon Health Authority, the Oregon Board of Naturopathic Medicine, the
29 Oregon Medical Board and the Oregon State Board of Nursing may take any action before
30 the operative date specified in subsection (1) of this section that is necessary to enable the
31 authority and the boards to exercise, on or after the operative date specified in subsection
32 (1) of this section, all of the duties, functions and powers conferred on the authority and the
33 boards by sections 3 and 13 of this 2021 Act.

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

37