

# RESOLUTION OF THE ADVISORY COMMITTEE OF THE OREGON HEALTH INSURANCE EXCHANGE

WHEREAS, Senate Bill 1, a legislative act of 2015 abolishing the Oregon Health Insurance Exchange Corporation and transferring its duties and functions to the Oregon Department of Consumer and Business Services (DCBS), was enacted by the Oregon Legislative Assembly and signed into law by Governor Kate Brown on March 6, 2015;

WHEREAS, DCBS created the Oregon Health Insurance Marketplace, a division of DCBS, to administer the functions and duties transferred from the Oregon Health Insurance Exchange Corporation;

WHEREAS, Senate Bill 65, a legislative act of 2021, transfers the duties of the Oregon Health Insurance Marketplace and functions from DCBS to the Oregon Health Authority (OHA) was enacted by the Oregon Legislative Assembly and signed into law by Governor Brown on July 19, 2021;

WHEREAS, under the governing legislation, the governor must appoint 13 members of the Health Insurance Exchange Advisory Committee, hereafter referred to as the Health Insurance Marketplace Advisory Committee, and the OHA and DCBS Directors or their designees must serve as a member;

WHEREAS, the OHA has committed to ending health inequities by 2030, and the Oregon Health Policy Board has prioritized ensuring policy work is centered on health equity; and

WHEREAS, the members of the Health Insurance Marketplace Advisory Committee (HIMAC) acknowledge their individual and collective responsibilities to provide advice in good faith, in the best interest of Oregonians, and in accordance with Senate Bill 65 and other law;

NOW, THEREFORE, BE IT RESOLVED that the HIMAC hereby adopts its bylaws for the HIMAC of the Oregon Health Insurance Marketplace, attached as Exhibit A.

I HEREBY CERTIFY that the foregoing resolution was adopted on the, by the HIMAC of the Oregon Health Insurance Marketplace.

Lindsey Hopper  
Committee Chair

Rev.10/18/24

# Exhibit A: BYLAWS OF THE HEALTH INSURANCE MARKETPLACE ADVISORY COMMITTEE

## ARTICLE I

### DEFINITIONS

- ACA: Patient Protection and Affordable Care Act signed into law by President Barack Obama on March 23, 2010.
- Actual conflict of interest: As defined in ORS 244.020, means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in ORS 244.020 (12).
- Biennium: The state fiscal or budgetary cycles begins July 1 of every odd-numbered year and ends June 30 two years later. For example, the 2015-17 biennium begins July 1, 2015, and ends June 30, 2017.
- Business: As defined in Government Ethics statute (ORS 244.020), business means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, and any other legal entity operated for economic gain, but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a non-remunerative capacity.
- CCIIO: U.S. Department of Health and Human Services; Centers for Medicare and Medicaid Services; Center for Consumer Information and Insurance Oversight.
- CMS: U.S. Department of Health and Human Services; Centers for Medicare and Medicaid Services.
- Executive session: As defined in ORS 192.610 (2): Any meeting or part of a meeting of a governing body that is closed to certain people for deliberation on certain matters.
- Fiscal year: The fiscal year of the Marketplace begins July 1 of each year and ends June 30 of the next year.
- Health equity: A health system under which all people can reach their full health potential and well-being and are not disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, intersections among these communities or identities, or other socially determined circumstances. Achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments to address the equitable distribution or redistribution of resources and power and recognizing, reconciling, and rectifying historical and contemporary injustices.

- Health Insurance Marketplace Advisory Committee: The committee is the advisory body, also referred to as the Health Insurance Exchange Advisory Committee, established by the 2015 legislation creating the Oregon Health Insurance Marketplace as modified by Senate Bill 65 in 2021.
- Potential conflict of interest: As defined in ORS 244.020, means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:
  - (a) An interest or membership in a particular business, industry, occupation, or other class required by law as a prerequisite to the holding by the person of the office or position.
  - (b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation, or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.
  - (c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.
- Public Meeting Law: ORS 192.610-192.690 are the state statutes governing public meetings. The committee must comply with these statutes.

## ARTICLE II

### PURPOSE AND POWERS

Section 1: The Committee will advise the director of OHA on development and implementation of the policies and operational procedures governing the administration of the Marketplace.

Section 2: The Oregon Health Insurance Marketplace is a distinct office within the Health Policy and Analytics Division of the OHA.

Section 3: The duties of the Health Insurance Marketplace Advisory Committee are to provide advice on all of the following:

- The amount of the assessment imposed on insurers under ORS 741.105;
- The maintenance of a Small Business Health Options Program in accordance with 42 U.S.C. 18031;
- The processes and procedures to enable each insurance producer to be authorized to act for all of the insurers offering health benefit plans through the Marketplace;
- The affordability of health benefit plans offered by employers under section

5000A(e)(1) of the Internal Revenue Code;

- Outreach strategies for reaching minority and low-income communities and other traditionally underserved populations;
- Ways to mitigate health disparities linked to race, ethnicity, primary language, gender identity, sexual orientation, disability, age, social class, and other similar factors and end health inequities by 2030;
- Solicitation of customer feedback; and
- The affordability of health benefit plans offered through the Marketplace.

Section 4: The committee may hire experts to help discharge its duties, subject to the approval of the director of the Oregon Health Authority. All expenses of the committee will be paid out of the Health Insurance Marketplace Fund.

## **ARTICLE III**

### **HEALTH INSURANCE MARKETPLACE ADVISORY COMMITTEE**

Section 1: The committee consists of 15 voting members, consisting of two ex-officio members (the directors or designees of the directors of OHA and DCBS) and 13 members appointed by the governor and confirmed by the Senate.

Section 2: Committee member terms of office are two years, with no more than three consecutive terms of service.

Section 3: Appointed committee members serve at the pleasure of the governor.

Section 4: The Chair and Vice Chair are elected by committee. In lieu of an election, the committee may choose to request these positions to be appointed by the director of the Oregon Health Authority.

Section 5: The committee may create policies that describe the governance structure, decision-making processes, and other relevant committee processes. Such policies may be outlined in a committee policy manual.

Section 6: A committee member, other than a qualified member as defined by ORS 292.495(4), shall serve without compensation, unless otherwise prohibited by law. A committee member is entitled to travel expenses as outlined in ORS 292.495 may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250. In addition to actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250, a qualified member – a committee member with single-filer or joint-filer adjusted gross income for the tax year prior to the year of service of less than \$50,000 or \$100,000 respectively – shall be provided, for each day or portion of a day during which the member is actually engaged in the performance of official duties, an amount equal to the per diem paid to members of the

Legislative Assembly under ORS 171.072. Notwithstanding the above, a committee member or a qualified committee member may decline any and all compensation.

#### Section 7: Rules of Order

- The committee will conduct its business through discussion, consensus building, and informal meeting procedures.
- The chairperson may, from time to time, establish specific procedural rules of order to assure the orderly, timely and fair conduct of business. The chairperson may refer to the most recent edition of Robert's Rules of Order for guidance.

#### Section 8: Quorum and Voting Rights

- Quorum – A majority of the voting members of the committee constitutes a quorum for the transaction of business or other action, so eight voting members constitute a quorum of the committee. The continued presence of a quorum is required for any official vote or action of the committee throughout an official meeting. Less than a quorum of the committee may receive testimony.
- Voting – All official actions of the committee must be taken by a public vote. On all motions or other matters, a voice vote may be used. At the discretion of the chairperson or at the request of a committee member, a show of hands or rollcall vote may be conducted. Proxy votes are not permitted. The results of all votes and the vote of each member by name must be recorded. Abstaining votes are recorded as abstention. At least eight concurring votes must be cast in order to pass or reject a motion.

Section 9: Conflict of Interest. Actions of the committee are subject to the Oregon government ethics law, including requirements for declaring conflicts of interest and potential conflicts of interest.

## **ARTICLE IV**

### **COMMITTEE MEETINGS**

Section 1: Meetings of the committee are open to the public and held in accordance with the state's public meeting law.

Section 2: A majority of the voting members of the committee constitute a quorum for the transaction of business. Committee members may participate in meetings by telephone or videoconferencing. Committee members participating by such means are counted for quorum purposes, and their votes are counted when determining the actions of the committee.

Section 3: At the discretion of the chairperson, special or emergency meetings of the committee may be convened in order to conduct official business between regularly scheduled meetings. In the absence of the chairperson or vice chairperson, a majority of committee members may call a meeting. In accordance with ORS 192.660, the chairperson may convene an executive session during a regular, special, or emergency meeting.

Section 4: In accordance with ORS 244.120, committee members must publicly announce the nature of any conflict of interest or potential conflict of interest before participating in any official action on the issue giving rise to the conflict of interest.

## **ARTICLE V**

### **SUBCOMMITTEES**

Section 1: The committee may establish subcommittees, technical committees, or workgroups as needed to discharge its duties.

## **ARTICLE VI**

### **HEALTH INSURANCE MARKETPLACE FUND**

Section 1: The Oregon Health Insurance Exchange Fund is established in the state treasury, separate and distinct from the General Fund. Interest earned by the fund will be credited to the fund.

Section 2: The Oregon Health Insurance Marketplace Fund consists of money received by the OHA under ORS 741.001 to 741.540 and money transferred by Senate Bill 65. The money in the fund is continuously appropriated to the Marketplace.

Section 3: The committee advises the director of the OHA on the amount of assessment imposed on insurers under ORS 741.105.

## **ARTICLE VII**

### **INDEMNIFICATION**

Section 1: The following statutes apply to the members of the committee:

- 30.260 – 30.300: Definitions for statutes related to “Tort Actions Against Public Bodies”
- 30.310: Actions and Suits by Governmental Units
- 30.312: Actions by Governmental Units Under Federal Antitrust Laws
- 30.390: Satisfaction of Judgment Against Public Corporations
- 30.400: Actions by and Against Public Officers in Official Capacity

## **ARTICLE VIII**

### **AMENDMENT TO BYLAWS**

Section 1: The committee, or any member of the committee, may propose amendments to the bylaws. Committee members must receive proposed amendments no less than seven days before any regularly scheduled, special, or emergency meeting. Proposed amendments must be approved by a quorum vote.

History of amendments to bylaws:

- April 7, 2016 – Initial approval.
- June 4, 2018 – Revised title, updated with information of abolishment of the Oregon Health Insurance Exchange Corporation and creation of the Oregon Health Insurance Marketplace, sections reordered alphabetically, CMS definition added, Article 3, Section 1 added division director.
- October 2, 2019 – Revised term limits.
- July 22, 2021 – Revised title; revised resolution to incorporate SB 65 changes; revised Article I definition of “Marketplace Advisory Committee” to reflect SB 65 changes; revised Article II, Sections 1 and 2 and deleted Section 4 to reflect SB 65 changes; revised Article III, Section 1 to reflect changes required by SB 65; revised Article VI, Sections 2 and 3 to reflect SB 65 changes; deleted Article VII to reflect changes required by SB 65; renumbered Articles to Roman numerals, Articles VII and VIII to reflect deletions, and Article II Section 5 to reflect deletion; formatted spacing to be consistent with existing document; and made grammatical corrections.
- October 6, 2021 – Article II, Section 2 changed “independent” to “distinct”. Article II, Section 4 and Article III Section 4 changed “Department of Consumer and Business Services” to “Oregon Health Authority”.
- October 13, 2022 – Changed chair from Dan Field to Kraig Anderson. Revised resolution to include verbiage on OHA’s commitment and focus on work centered on health equity. All throughout, changed “Marketplace Advisory Committee” to “Health Insurance Marketplace Advisory Committee”. Updated Article I with agency’s definition of “health equity”. Updated Article III, Section 6 to comply with HB 4992.
- October 12, 2023 – Article II, Section 3 changed “implementation” to “maintenance” to comply with SB 966 (2023). Fourth paragraph of Resolution and Article III, Section 1 changed to update ex officio members in compliance with SB 966 (2023).
- October 18, 2024 – changed chair from Kraig Anderson to Lindsey Hopper