**Memorandum**

To: Coalition of Local Health Officials Board

From: CLHO Legislative Committee

Date: November 13, 2017

Subject: 333-014-0040 – Modernization Administrative Rules (HB 3100 (2015) and HB 2310 (2017))

**Background**

In 2015 and 2017 the Oregon Legislature passed two bills (HB 3100 and HB 2310) related to Public Health Modernization implementation. Over the Summer the Public Health Division also pulled together several workgroups prior to the Rules Advisory Committee meetings to get feedback on these proposed rules.

These rules will replace the prior rules that set forth the requirements for each Local Public Health Authority in Oregon to deliver or assure ten programs in each department. These rules pull out requirements from across the Oregon Revise Statutes for Local Public Health Authorities, Public Health Administrators and Public Health Departments.

**CLHO Recommendations**

Recommended language in **BOLD** and eliminated language in ~~strikethrough~~ with brief description after each recommendation.

333-014-0510 – Definitions

Add Definition of Public Health Department –- “**Local health department**” means the agency established by the local public health authority that is responsible for administering public health programs and public health activities within the local public health authority’s jurisdiction. ORS 431.003(4)

333-014-0520 – Local Public Health Administrators – no recommendations

333-014-0530 – **Funding Formula**, Incentives and Matching

Add the following language to the “Incentives and Matching” section as the administrative rules as introduced don’t include any language regarding the funding formula or base distribution process. We also recommend that the Administrative Rules include language around process measures that are being used to show progress to improvements in accountability metrics and health outcomes.

**From state moneys available the Oregon Health Authorities shall develop a funding formula that provides for the equitable distribution of moneys. The Authority will consult with the PHAB as necessary to develop a formula that has the elements required in ORS 431.380**

1. **Local Public Health Administrators and Health Officers and Local Public Health Authorities will be consulted on the distribution of funds to Local Public Health departments**
2. **Each even numbered year the Oregon Health Authority shall submit the funding formula to the Public Health Advisory Board and the Legislative Fiscal Office**
3. ~~(1)~~ To the extent funds, above the base funds, are available, the Authority will make incentive and matching funds available to a local public health authority in accordance with ORS 431.380(1)(b)(c)
4. ~~(2)~~ Incentive funds may be awarded based on data that show achievement of benchmarks or improvement targets for accountability metrics.
5. **The Public Health Advisory Board may develop process measures, as needed, to show progress toward greater health outcomes and accountability metrics. Nothing in this section prevents the Oregon Health Authority to award incentive payments based on progress on process measures.**

333-014-0540 - Accountability Metrics

Due to the fact that we have a couple of non-profits that deliver the services and sit on Conference of Local Health Officials committees it doesn’t seem like “Local Public Health Authorities” as defined as the County Government is the right term to reflect the membership of the Conference. ORS defines Conference as “Public Health Administrators and Health Officers” and many Health Officers are not employees of the County Government so we’d recommend expanding the term.

Also, there are some accountability metrics that are using survey data (BRFSS) that the Local Public Health Department doesn’t have access to and shouldn’t be held accountable for providing. Suggested language would require when the Local Public Health Department has the data.

(2) Local Public Health ~~Authorities~~ **Administrators and Health Officers** will be consulted through the Conference of Local Health Officials (CLHO) –

(4) Local public health authorities are required to report actual expenditure data and accountability metrics data, **if data is housed at the Local Public Health Department and available to report**, annually in a time, form and manner prescribed by the Authority, with **consultation by the Conference of Local Health Officials,** once the accountability metrics are finalized.

333-014-0550 – Local Public Health Authority Statute Responsibilities

Add language around a Local Public Health Department could delivery the contracted out services.

**(3) Nothing in this rule is intended to prohibit establishing a Local Public Health Department to deliver services and activities, as defined in ORS 431.003 included in this rule**

333-014-0560 – Foundational Capabilities and Programs

These Administrative Rules adopt the Public Health Modernization Manual into Rule and so these comments would add a requirement to the OHA that when changes are made to the Manual they would have to provide notice that the requirements to local health departments have changed as well.

The changes in (2) clean up the Rules to ensure that capabilities are included and “other agreements” for Modernization work is too broad.

(2) The FAA, ~~or other agreements~~, will describe more specifically the duties and activities that are to be performed in order to carry out the local foundational programs **and capabilities**.

**(4) Changes to the Public Health Modernization Manual that affect local duties and activities will be noticed and announced at the Public Health Advisory Board, Conference of Local Health Officials meetings and sent out to Public Health Administrators and Health Officers.**

333-014-0570 –Local Public Health Contracts or Agreements for Local Public Health Services or Activities

This section of the Administrative Rules requires 75 days notice whenever there is a contract, subcontract or intergovernmental agreement for any public health services. This seems overly broad and administratively cumbersome for both the local public health and state public health.

(2) A local public health authority must provide written notice to the Authority at least 75 days prior to executing a **new** contract or agreement with a person or public body for the provision of a local public health services or activities, if the local public health authority is performing the public health service or activity pursuant to a contract or agreement with the Authority, unless the local public health authority is specifically exempted from complying with this notice provision in the contract or agreement with the Authority.

1. **This section ONLY applies to services and activities delivered with state or federal dollars contracted through the FAA.**

333-014-0590

I’m concerned that the Oregon Health Authority mostly included that ORS but left out some of the words. I’m recommending including the whole statute. Also, there is a provision that allows the governing body of a Local Public Health Authority to revoke the ordinance relinquishing control of the LPHA but unless the governing board knows what is being provided, or not, they probably won’t make that determination. The addition of a sub (8) below would at least yearly remind the governing body that they made that determination and could open the door for revoking the ordinance.

(1) If the Authority does not receive state monies in an amount that equals or exceeds the estimate that the Authority submitted to the Legislative Fiscal Office under ORS 431.380(2) **the governing body of the** Local Public Health Authority may adopt an ordinance transferring to the Authority the responsibility for fulfilling the local public health authority’s duties under ORS 431.001 to 431.550 and 431.990 and the other public health laws of this state.

**(8) If the governing body of the Local Public Health Authority adopts an ordinance under ORS 431.382(1) the Oregon Health Authority shall annually provide notice of services and activities being delivered in the County.**