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RULES:

333-027-0060, 333-071-0450, 333-071-0460, 333-072-0210, 333-076-0175, 333-076-1030, 333-500-0010, 333-505-0005, 333-505-0070, 333-505-0080, 333-515-0030, 333-700-0100, 333-700-0110

AMEND: 333-027-0060

RULE TITLE: Administration of Home Health Agency

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-027-0060 – Provides additional clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority.

RULE TEXT:

An agency shall clearly set forth in writing the organization, services provided, administrative control, and lines of authority for the delegation of responsibility to the patient care level. An agency shall not delegate administrative and supervisory functions to another agency, individual, or organization.

(1) The primary agency shall monitor and control all services provided through contractual agreements between the primary agency and any patient service provider.

(2) An agency shall maintain appropriate administrative records for each of its offices. If an agency has any branch offices, it shall ensure that each branch office is part of the agency and shares administration, supervision, and services on a daily basis.

(3) If an agency chooses to provide professional students with a practicum in home health, the governing body must ensure that:

(a) A contract between the agency and the accredited educational institution is in effect and it includes at a minimum, a description of:

- (A) Program objectives;
- (B) Program coordination;
- (C) Student supervision;

- (D) Adherence to agency policy; and
 - (E) Conformance with applicable professional practice laws, rules, and regulations.
- (b) The agency maintains documentation of each practicum and the student's activities, supervision and the evaluation of these activities.
- (c) The agency maintains documentation of patient care services provided by the student.
- (4) An agency's governing body, or its designee, shall assume full legal and fiscal responsibility for the agency's operation. The agency's governing body shall provide for effective communication with administration of the agency and the owner of the agency.
- (5) An agency's governing body shall:
- (a) Employ a qualified administrator, unless exempted under ORS 443.025, who may also serve as Director of Professional Services;
 - (b) Regularly monitor the performance of the administrator;
 - (c) Appoint a professional policy-making committee;
 - (d) Adopt and annually review its written by-laws or acceptable equivalent; and
 - (e) Document all decisions affecting home health services.
- (6) The Administrator shall have the following qualifications:
- (a) A physician or registered nurse, currently licensed in Oregon, who has education, experience, and knowledge in community health service systems appropriate to the fulfillment of his/her responsibilities; or
 - (b) An individual who has education, experience, and knowledge in a related community health service systems and at least one year overall administrative experience in home health care or related community health program appropriate to the fulfillment of his/her responsibilities.
- (7) The Administrator shall:
- (a) Have authority and responsibility for the agency's overall management and operation;
 - (b) Organize and direct the agency's ongoing functions;
 - (c) Maintain ongoing communication between agency's governing body, professional policy-making committee, and staff;
 - (d) Employ qualified personnel and ensure the provision of adequate staff education and the completion of performance evaluations;
 - (e) Involve the Director of Professional Services in health care decisions;
 - (f) Ensure the accuracy of information provided to the public regarding the agency and its services;
 - (g) Implement an effective budgeting and accounting system;
 - (h) Designate, in writing, an individual qualified to serve as acting administrator in the administrator's absence; and
 - (i) Ensure that adequate and appropriate staff resources are available and used to meet the care needs of the agency's patients as identified in the plans of treatment.
- (8) The agency shall employ a Director of Professional Services who must be a physician or registered nurse. The agency shall ensure that the Director of Professional Services or a similarly qualified alternate, designated in writing, is available for consultation at all times during operating hours of the agency. The Director of Professional Services or designee shall have written authority, responsibility, and accountability for:
- (a) Functions, activities, and evaluations of all health care personnel;
 - (b) The quality of home health services;
 - (c) Orientation and in-service education for all agency health care personnel;
 - (d) Coordination of home health services;
 - (e) Development and documentation of all written material related to agency services, including policies, procedures, and standards;
 - (f) Participation and involvement in employment decisions affecting home health care personnel;
 - (g) Assignment of adequate and appropriate staff resources to meet the home health care needs of the agency's patients; and

- (h) Designating, in writing, a person qualified to serve as acting Director of Professional Services in the Director's absence.
- (9)(a) The agency shall develop personnel policies which must be appropriate to the agency, be documented, and include:
- (A) Hours of work;
 - (B) Orientation that is appropriate to the classification of the employee. The following portions of the orientation shall be completed within two weeks of employment; and shall include at a minimum: policies and procedures of the agency; job description and responsibility; role as team member providing services in the home setting; and information regarding other community agencies, infection control, ethics and confidentiality.
 - (C) An inservice program that provides ongoing education to ensure that staff skills are maintained for the responsibilities assigned and ensures that staff are educated in their responsibility in infection control;
 - (D) Work performance evaluations;
 - (E) Employee health program;
 - (F) A tuberculosis infection control plan that includes provisions for employee assessment and screening for protecting patient and employees from tuberculosis in accordance with OAR 333-019-0041; and
 - (G) Provisions for the completion of criminal records checks in accordance with ORS 443.004 and OAR 333-027-0064.
- (b) Personnel records shall include job descriptions, personnel qualifications, evidence of any required licensure or certification, evidence of orientation and performance evaluations, evidence of a completed criminal records check and fitness determination.
- (c) An agency may provide services by agency personnel working out of their individual homes within a portion of the geographic area served by an agency. The individual homes are not construed to be a branch. These services must be controlled, supervised, and evaluated by the agency, in accordance with all written agency policies. Such policies shall, at a minimum require documentation of:
- (A) A meeting at least every two weeks of the supervisor and the individual to review the plan(s) of treatment;
 - (B) A telephone conference on at least a weekly basis between meetings;
 - (C) Supervisor participation in the development of each plan of treatment; and
 - (D) Procedures for submitting clinical and progress notes, summary reports, schedule of visits and periodic evaluations.
- (10) An agency contracting with individual personnel or public or private entities for home health care services shall maintain written contracts and shall clearly designate:
- (a) That patients are accepted for care only by the primary agency;
 - (b) The services to be provided;
 - (c) The rights and responsibilities of the contracting individual or entity in the coordination, supervision, and evaluation of the care or service provided;
 - (d) The obligation to comply with all applicable agency policies;
 - (e) The party with responsibility for development and revisions of the plan of treatment, patient assessment, progress reports, and patient care conferences, scheduling of visits or hours, and discharge planning;
 - (f) Appropriate documentation of services provided on record forms provided by the agency; and
 - (g) The terms of the agreement and basis for renewal or termination.
- (11) An agency, under the direction of the governing body, shall prepare and document an overall program plan and annual operating budget. The agency's operating budget shall include all anticipated income and expenses related to items that would, under generally accepted accounting principles, be considered income and expense items. The agency's overall program plan and budget shall be reviewed and updated at least annually by a committee consisting of representatives of the governing body, the administrative staff, and the professional staff of the agency.
- (12) An agency's governing body shall appoint a professional policy-making committee composed of professional personnel associated with the agency.
- (a) The committee shall include one or more physicians and one or more registered nurses, at least two of whom are neither owners nor employees of the agency, and two consumers.

(b) The committee shall establish in writing and review annually, the agency's policies governing scope of services, admission and discharge policies, medical supervision, plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation.

(c) The committee shall meet as needed to advise the agency on other professional issues.

(d) The committee members shall participate with the agency staff in the annual evaluation of the agency's program.

(e) The agency shall document the committee's systematic involvement and effective communication with the governing body and the management of the agency.

STATUTORY/OTHER AUTHORITY: ORS 443.085

STATUTES/OTHER IMPLEMENTED: ORS 443.004, 443.055, 443.065, 443.085

AMEND: 333-071-0450

RULE TITLE: Infection Control

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-071-0450 –Provides clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority. Rule text has been moved from OAR 333-071-0460 (Tuberculosis Control) and placed under this rule.

RULE TEXT:

- (1) Each SICF shall establish and maintain an active facility-wide infection control program. This program shall, at a minimum, include the following:
 - (a) Identification of existing or potential infections in patients and employees, medical staff, and health care practitioners with SICF privileges;
 - (b) Control of factors affecting the transmission of infections and communicable disease;
 - (c) Provisions for orienting and educating all medical staff, health care practitioners with SICF privileges and employees on the cause, transmission, and prevention of infections; and
 - (d) Collection, analysis, and use of data relating to infections in the SICF.
- (2) Each SICF shall be responsible for the development, implementation and periodic review of policies under section (1) of this rule.
- (3) The infection control program shall be managed by a qualified individual and overseen by a multidisciplinary committee with the responsibility for investigating, controlling and preventing infections in the facility. The composition of the committee may vary but shall include at least representation from major departments and services and shall provide for consultation both from other departments and services and to them.
- (4)(a) An SICF shall comply with all rules of the Authority for the control of communicable diseases as specified in OAR chapter 333, divisions 17, 18 and 19.
- (b) An SICF shall have a tuberculosis infection control plan that includes provisions for employee assessment and screening for protecting patients and employees from tuberculosis in accordance with OAR 333-019-0041.
- (5) An SICF shall have a system of isolation that prevents the transmission of infections in an SICF.
 - (a) A system of isolation shall:
 - (A) Follow the principles of epidemiology and disease transmission;
 - (B) Include precautions to interrupt the spread of infection by all routes that are likely to be encountered in the SICF; and
 - (C) Be reviewed and approved by a committee responsible for the oversight of the infection control program.
 - (b) Guidelines for isolation precautions are published periodically by the Centers for Disease Control and Prevention, Hospital Infection Control Practices Advisory Committee (HICPAC) and may be used by an SICF as a reference in order to maintain up-to-date isolation practices.
- (6) The SICF multidisciplinary committee shall oversee all aspects of the infection control program, and will ensure that the system of isolation implemented addresses the following fundamentals of infection control:
 - (a) Handwashing and gloving;
 - (b) Patient placement;
 - (c) Transport of infected patients;
 - (d) Protective apparel;
 - (e) Patient care equipment and articles;
 - (f) Linen and laundry;
 - (g) Dishes, glasses, cups, and eating utensils; and
 - (h) Routine and terminal cleaning.
- (7)(a) An SICF shall develop and enforce policies and procedures related to cleaning, disinfection, sterilization, or disposal of:

- (A) Patient care items;
- (B) Patient care equipment;
- (C) Furnishings; and
- (D) The health care environment.

(b) Policies and procedures shall be developed in accordance with the 2008, Centers for Disease Control and Prevention, Guideline for Disinfection and Sterilization in Healthcare Facilities.

(8) Single patient use items and equipment must be labeled with patient name and room number when the items or equipment are used in a multi-bed room.

STATUTORY/OTHER AUTHORITY: ORS 441.025, ORS 433.004, 433.332, 442.855

STATUTES/OTHER IMPLEMENTED: ORS 441.025, ORS 433.004, 433.329, 442.405, 442.853, 442.855

REPEAL: 333-071-0460

RULE TITLE: Tuberculosis Control

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Repeal OAR 333-071-0460 – Repeals rule and moves information to OAR 333-071-0450 (Infection Control.)

RULE TEXT:

An SICF shall comply with the tuberculosis assessment and screening requirements in accordance with OAR 333-019-0041.

STATUTORY/OTHER AUTHORITY: ORS 433.004, 433.332, 441.025

STATUTES/OTHER IMPLEMENTED: ORS 433.004, 441.025, 433.329

AMEND: 333-072-0210

RULE TITLE: Definitions

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-072-0210 –Based on passage of SB 127 (2019 Oregon Laws, chapter 233) changes nurse midwife terminology and adds a definition for Certified Nurse Midwife. Based on passage of SB 64 (2019 Oregon Laws, chapter 358), updates term "certified nurse practitioner" to "licensed nurse practitioner."

RULE TEXT:

As used in OAR 333-072-0200 through 333-072-0225 the following definitions apply:

- (1) "Certified nurse midwife" means a registered nurse licensed by the Oregon State Board of Nursing as a nurse practitioner specializing in nurse midwifery.
- (2) "Emergency department services" means services provided in the part of a licensed hospital facility open 24 hours a day to provide acute care treatment and services for a wide range of illnesses and injuries.
- (3) "Facility" means a hospital, outpatient clinic owned by a hospital, ambulatory surgical center, freestanding birthing center as defined in ORS 442.015, or a facility that receives Medicare reimbursement as an independent diagnostic testing facility.
- (4) "Financial interest" means the direct or indirect ownership interest of five percent or more held by a health practitioner or the practitioner's immediate family member.
- (5)(a) "Health practitioner" means a physician, podiatric physician and surgeon, naturopathic physician licensed under ORS chapter 685, dentist, direct entry midwife, licensed nurse practitioner, certified nurse midwife, licensed physician assistant or medical imaging licensee under ORS 688.405 to 688.605.
- (b) "Health practitioner" does not include a provider in health maintenance organizations as that term is defined in ORS 750.005.
- (6) "Immediate family member" means a health practitioner's spouse, domestic partner, child, stepchild, mother, father or sibling.
- (7) "Inpatient hospital services" means all medical and nursing services provided to persons who require 24-hour supervision because of acute or chronic medical or psychiatric illness.
- (8) "Outpatient clinic owned by a hospital" means a satellite or mobile satellite indorsed under a hospital's license under OAR 333-500-0025.
- (9) "Physician" has the meaning given that term in ORS 677.010.
- (10) "Referral" means the direction of a patient to a facility for a diagnostic test or health care treatment or service.
- (11) "These rules" means OAR 333-072-0200 through 333-072-0225.

STATUTORY/OTHER AUTHORITY: ORS 441.098

STATUTES/OTHER IMPLEMENTED: ORS 441.098

AMEND: 333-076-0175

RULE TITLE: ASC Infection Control

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-076-0175 - Provides additional clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority.

RULE TEXT:

- (1) Each ASC shall establish and maintain an active facility-wide infection control program for the control and prevention of infection. The program shall be managed by a qualified individual and overseen by a multi-disciplinary committee which shall be responsible for investigating, controlling and preventing infections in the facility.
- (2) Each ASC shall be responsible for developing written policies and for annual review of such policies, relating to at least the following:
 - (a) Identification of existing or potential infections in patients, employees, medical staff, and health care practitioners with ASC privileges;
 - (b) Control of factors affecting the transmission of infections and communicable diseases;
 - (c) Provisions for orienting and educating all employees, medical staff, health care practitioners with ASC privileges and volunteers on the cause, transmission, and prevention of infections;
 - (d) Collection, analysis, and use of data relating to infections in the ASC.
- (3) Each ASC shall be responsible for the development, implementation and annual review of policies under section (2) of this rule.
- (4) An ASC shall comply with all rules of the Authority for the control of communicable diseases.
- (5) Written isolation procedures in accordance with the 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, incorporated by reference, shall be established and followed by all ASC personnel for control and prevention of cross-infection. Guidelines can be obtained from U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Atlanta, GA 30333 (<https://www.cdc.gov/infectioncontrol/guidelines/isolation/>). Any guidelines published and distributed by the Authority shall also be taken into consideration.
- (6) There shall be an employee health screening program for the purpose of protecting patients and employees from communicable diseases, including but not limited to requiring tuberculosis testing for employees in accordance with section (8) of this rule.
- (7) An ASC shall restrict the work of employees with restrictable diseases in accordance with OAR 333-019-0010.
- (8) Each ASC shall have a tuberculosis infection control plan that includes provisions for employee assessment and screening for protecting patients and employees from tuberculosis in accordance with OAR 333-019-0041.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025, ORS 433.004, 433.411

AMEND: 333-076-1030

RULE TITLE: ESC Infection Control

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-076-1030 - Provides additional clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority.

RULE TEXT:

- (1) Each ESC shall establish and maintain an active facility-wide infection control program for the control and prevention of infection. The program shall be managed by a qualified individual and overseen by a multi-disciplinary committee which shall be responsible for investigating, controlling and preventing infections in the facility.
- (2) Each ESC shall be responsible for developing written policies and for annual review of such policies, relating to at least the following:
 - (a) Identification of existing or potential infections in patients, employees, medical staff, and health care practitioners with ESC privileges;
 - (b) Control of factors affecting the transmission of infections and communicable diseases;
 - (c) Provisions for orienting and educating all employees, medical staff, health care practitioners with ESC privileges and volunteers on the cause, transmission, and prevention of infections;
 - (d) Collection, analysis, and use of data relating to infections in the ESC.
- (3) Each ESC shall be responsible for the development, implementation and annual review of policies under section (2) of this rule.
- (4) An ESC shall comply with all rules of the Authority for the control of communicable diseases.
- (5) Written isolation procedures in accordance with the 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, incorporated by reference, shall be established and followed by all ESC personnel for control and prevention of cross-infection. Guidelines can be obtained from U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Atlanta, GA 30333 (<https://www.cdc.gov/infectioncontrol/guidelines/isolation/>). Any guidelines published and distributed by the Authority shall also be taken into consideration.
- (6) There shall be an employee health screening program for the purpose of protecting patients and employees from communicable diseases, including but not limited to requiring tuberculosis testing for employees in accordance with section (8) of this rule.
- (7) An ESC shall restrict the work of employees with restrictable diseases in accordance with OAR 333-019-0010.
- (8) Each ESC shall have a tuberculosis infection control plan that includes provisions for employee assessment and screening for protecting patients and employees from tuberculosis in accordance with OAR 333-019-0041.

STATUTORY/OTHER AUTHORITY: ORS 441.025, OL 2018 Chapter 50

STATUTES/OTHER IMPLEMENTED: ORS 433.004, 433.411, 441.025, OL 2018 Chapter 50

AMEND: 333-500-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-500-0010 - Based on passage of SB 127 (2019 Oregon Laws, chapter 233), adds a definition for Certified Nurse Midwife and removes definition of nurse midwife/nurse practitioner.

RULE TEXT:

As used in OAR chapter 333, divisions 500 through 535, unless the context requires otherwise, the following definitions apply:

(1) "Assessment" means a complete nursing assessment, including:

(a) The systematic and ongoing collection of information to determine an individual's health status and need for intervention;

(b) A comparison with past information; and

(c) Judgment, evaluation, or a conclusion that occurs as a result of subsections (a) and (b) of this definition.

(2) "Authentication" means verification that an entry in the patient medical record is genuine.

(3) "Authority" means the Oregon Health Authority.

(4) "Certified nurse midwife" means a registered nurse licensed by the Oregon State Board of Nursing as a nurse practitioner specializing in nurse midwifery.

(5) "Certified Nursing Assistant" (CNA) means a person who is certified by the Oregon State Board of Nursing (OSBN) to assist licensed nursing personnel in the provision of nursing care.

(6) "Chiropractor" means a person licensed under ORS chapter 684 to practice chiropractic.

(7) "Conditions of Participation" mean the applicable federal regulations that hospitals are required to comply with in order to participate in the federal Medicare and Medicaid programs.

(8) "Deemed" means a health care facility that has been inspected by an approved accrediting organization and has been approved by the Centers for Medicare and Medicaid Services (CMS) as meeting CMS Conditions of Participation.

(9) "Discharge" means the release of a person who was an inpatient of a hospital including, but not limited to:

(a) The release and transfer of a newborn to another facility, but not a transfer between acute care departments of the same facility;

(b) The release of a person from an acute care section of a hospital for admission to a long-term care section of a facility;

(c) Release from a long-term care section of a facility for admission to an acute care section of a facility;

(d) A patient who has died; and

(e) An inpatient who leaves a hospital for purposes of utilizing non-hospital owned or operated diagnostic or treatment equipment, if the person does not return as an inpatient of the same health care facility within a 24-hour period.

(10) "Direct ownership" has the meaning given the term 'ownership interest' in 42 CFR 420.201.

(11) "Division" means the Public Health Division within the Authority.

(12) "Emergency Medical Services" means medical services that are usually and customarily available at the respective hospital in an emergency department and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide care to a woman in labor where delivery is imminent if the hospital is so equipped and, if the hospital is not equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

(13) "Emergency Psychiatric Services" means mental health services that are usually and customarily available in an emergency department at the respective hospital and that must be provided immediately to prevent harm to the patient or others including but not limited to triage and assessment; observation and supervision; crisis stabilization; crisis intervention; and crisis counseling.

(14) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(15) "Full compliance survey" means a survey conducted by the Division following a complaint investigation to

determine a hospital's compliance with the CMS Conditions of Participation.

- (16) "Governing body" means the body or person legally responsible for the direction and control of the operation of the hospital.
- (17) "Governmental unit" has the meaning given that term in ORS 442.015.
- (18) "Health care facility" (HCF) has the meaning given the term in ORS 442.015.
- (19) "Health Care Facility Licensing Laws" means ORS 441.005 through 441.990 and its implementing rules.
- (20) "Hospital" has the meaning given that term in ORS 442.015.
- (21) "Indirect ownership" has the meaning given the term 'indirect ownership interest' in 42 CFR 420.201.
- (22) "Licensed" means that the person to whom the term is applied is currently licensed, certified or registered by the proper authority to follow his or her profession or vocation within the State of Oregon, and when applied to a hospital means that the facility is currently licensed by the Authority.
- (23) "Licensed nurse" means a nurse licensed under ORS chapter 678 to practice registered or practical nursing.
- (24) "Licensed Practical Nurse" means a nurse licensed under ORS chapter 678 to practice practical nursing.
- (25) "Major alteration" means any structural change to the foundation, roof, floor, or exterior or load bearing walls of a building, or the extension of an existing building to increase its floor area. Major alteration also means the extensive alteration of an existing building such as to change its function and purpose, even if the alteration does not include any structural change to the building.
- (26) "Manager" means a person who:
 - (a) Has authority to direct and control the work performance of nursing staff;
 - (b) Has authority to take corrective action regarding a violation of law or a rule or a violation of professional standards of practice, about which a nursing staff has complained; or
 - (c) Has been designated by a hospital to receive the notice described in ORS 441.174(2).
- (27) "Minor alteration" means cosmetic upgrades to the interior or exterior of an existing building, such as but not limited to wall finishes, floor coverings and casework.
- (28) "Mobile Satellite" means a MRI, CAT Scan, Lithotripsy Unit, Cath Lab, or other such modular outpatient treatment or diagnostic unit that is capable of being moved, is housed in a vehicle with a vehicle identification number (VIN), and does not remain on a hospital campus for more than 180 days in any calendar year.
- (29) "NFPA" means National Fire Protection Association.
- (30) "Nurse Practitioner" has the meaning given that term in ORS 678.010.
- (31) "Nursing staff" means a registered nurse, a licensed practical nurse, or other assistive nursing personnel.
- (32) "OB Unit" means a dedicated obstetrical unit that meets the requirements of OAR 333-535-0120.
- (33) "On-call" means a scheduled state of availability to return to duty, work-ready, within a specified period of time.
- (34) "Oregon Sanitary Code" means the Food Sanitation Rules in OAR 333-150-0000.
- (35) "Patient audit" means review of the medical record or physical inspection or interview of a patient.
- (36) "Person" has the meaning given that term in ORS 442.015.
- (37) "Physician" means a person licensed as a doctor of medicine or osteopathy under ORS chapter 677.
- (38) "Physician Assistant" has the meaning given that term in ORS 677.495.
- (39) "Plan of correction" means a document executed by a hospital in response to a statement of deficiency issued by the Division that describes with specificity how and when deficiencies of health care licensing laws or conditions of participation shall be corrected.
- (40) "Podiatrist" has the same meaning as "podiatric physician and surgeon" in ORS 677.010.
- (41) "Podiatry" means the diagnosis or the medical, physical or surgical treatment of ailments of the human foot, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a licensed hospital or in a licensed ambulatory surgical center and is under the supervision of or in collaboration with a physician. "Podiatry" does not include the administration of general or spinal anesthetics or the amputation of the foot.
- (42) "Public body" has the meaning given that term in ORS 30.260.
- (43) "Registered Nurse" means a person licensed under ORS chapter 678 to practice registered nursing.

- (44) "Respite care" means care provided in a temporary, supervised living arrangement for individuals who need a protected environment, but who do not require acute nursing care or acute medical supervision.
- (45) "Retaliatory action" means the discharge, suspension, demotion, harassment, denial of employment or promotion, or layoff of a nursing staff person directly employed by the hospital, or other adverse action taken against a nursing staff person directly employed by the hospital in the terms or conditions of employment of the nursing staff person, as a result of filing a complaint.
- (46) "Satellite" means a building or part of a building owned or leased by a hospital, and operated by a hospital in a geographically separate location from the hospital, with a separate physical address from the hospital but that is within 35 miles from the hospital, through which the hospital provides:
- (a) Outpatient diagnostic, therapeutic, or rehabilitative services;
 - (b) Psychiatric services in accordance with OAR 333-525-0000 including:
 - (A) Inpatient psychiatric services; and
 - (B) Emergency psychiatric services through an emergency department in accordance with OAR 333-520-0070; or
 - (c) Emergency medical services in accordance with OAR 333-500-0027.
- (47) "Special Inpatient Care Facility" means a facility with inpatient beds and any other facility designed and utilized for special health care purposes that may include but is not limited to a rehabilitation center, a facility for the treatment of alcoholism or drug abuse, a freestanding hospice facility, or an inpatient facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by the Division, after determination of the need for such classification and the level and kind of health care appropriate for such classification.
- (48) "Stable newborn" means a newborn who is four or more hours post-delivery and who is free from abnormal vital signs, color, activity, muscle tone, neurological status, weight, and maternal-child interaction.
- (49) "Stable postpartum patient" means a postpartum mother who is four hours or more postpartum and who is free from any abnormal fluctuations in vital signs, has vaginal flow within normal limits, and who can ambulate, be independent in self-care, and provide care to her newborn infant, if one is present.
- (50) "Statement of deficiencies" means a document issued by the Division that describes a hospital's deficiencies in complying with health care facility licensing laws or conditions of participation.
- (51) "Survey" means an inspection of a hospital to determine the extent to which a hospital is in compliance with health facility licensing laws and conditions of participation.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025

AMEND: 333-505-0005

RULE TITLE: Governing Body Responsibility

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-505-0005 – Based on passage of SB 127 (2019 Oregon Laws, chapter 233), updates "nurse midwife nurse practitioner" terminology to "certified nurse midwife" and correct rule reference.

RULE TEXT:

- (1) In a multi-hospital system, one governing body may oversee multiple hospitals.
- (2) The governing body of a hospital shall be responsible for the operation of the hospital, the selection of the medical staff and the quality of care rendered in the hospital. The governing body shall ensure that:
 - (a) All health care personnel for whom a state license or registration is required are currently licensed or registered;
 - (b) Qualified individuals allowed to practice in the hospital are credentialed and granted privileges consistent with their individual training, experience and other qualifications;
 - (c) Procedures for granting, restricting and terminating privileges exist and that such procedures are regularly reviewed to assure their conformity to applicable law;
 - (d) It has an organized medical staff responsible for reviewing the professional practices of the hospital for the purpose of reducing morbidity and mortality and for the improvement of patient care;
 - (e) A physician is not denied medical staff privileges at the facility solely on the basis that the physician holds medical staff membership or privileges at another health care facility;
 - (f) Licensed podiatric physicians and surgeons are permitted to use the hospital in accordance with ORS 441.063; and
 - (g) All hospital employees and health care practitioners granted hospital privileges have been tested for tuberculosis in compliance with OAR 333-505-0070.
- (3) A hospital may grant privileges to nurse practitioners or physician assistants in accordance with ORS 441.064 and subject to hospital rules governing credentialing and staff privileges.
 - (a) Privileges granted to certified nurse midwives, if any, must be consistent with privileges granted to other medical staff and include:
 - (A) Admitting privileges that do not require a certified nurse midwife to co-admit a patient with a physician who is a member of the medical staff; and
 - (B) Voting rights;
 - (b) A hospital may refuse to grant privileges to nurse practitioners only upon the same basis that privileges are refused to other licensed health care practitioners.
 - (c) A hospital may refuse to grant privileges to a physician assistant based on the refusal of privileges to the physician assistant's supervising physician.
- (4) A hospital shall require that every patient admitted shall be and remain under the care of a member of the medical staff as specified under the medical staff by-laws.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.055, 441.064

AMEND: 333-505-0070

RULE TITLE: Infection Control and Prevention

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-505-0070 – Provides clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority. Rule text has been moved from OAR 333-505-0080 (Tuberculosis Control) to this rule.

RULE TEXT:

(1) A hospital shall establish and maintain an active facility-wide program for the control and prevention of infection.

This program shall, at a minimum, include the following:

(a) Identification of existing or potential infections in patients, employees, medical staff, and health care practitioners with hospital privileges;

(b) Control of factors affecting the transmission of infections and communicable diseases;

(c) Provision for orienting and educating all medical staff, health care practitioners with hospital privileges and employees on the cause, transmission and prevention of infections; and

(d) Collection, analysis and use of data relating to infections in the hospital.

(2) A hospital shall be responsible for the development, implementation and periodic review of policies under section (1) of this rule.

(3) In the hospital, the infection control program shall be managed by a qualified individual and overseen by a multidisciplinary committee with responsibility for investigating, controlling and preventing infections in the facility. The composition of the committee may vary but shall include at least representation from major departments and services and shall provide for consultation both from other departments and services and to them.

(4) A hospital shall comply with all rules of the Division for the control of communicable diseases.

(a) Each hospital shall formally assess the risk of tuberculosis (TB) transmission among staff, residents and patients in accordance with OAR 333-019-0041.

(b) A hospital shall require documentation of baseline TB screening conducted in accordance with CDC guidelines, within six weeks of the date of hire, date of executed contract or date of being granted hospital credentials.

(c) If a hospital learns that a person or a patient at the hospital has TB disease or suspected TB, the hospital shall:

(A) Notify the local public health authority in accordance with OAR chapter 333, division 18;

(B) Provide the Division or local public health authority with any information necessary for it to conduct its investigation; and

(C) Cooperate with any public health investigation conducted by the Division or the local public health authority.

(d) A hospital shall notify the local public health authority of its intent to discharge a patient known to have probable or confirmed TB disease.

(5) A hospital shall have a system of isolation that prevents the transmission of infections in hospitals.

(a) A system of isolation shall:

(A) Follow the principles of epidemiology and disease transmission;

(B) Include precautions to interrupt the spread of infection by all routes that are likely to be encountered in the hospital; and

(C) Be reviewed and approved by a committee responsible for the oversight of the infection control program.

(b) Guidelines for isolation precautions are published periodically by the Hospital Infection Control Practices Advisory Committee (HICPAC) and may be used by a hospital as a reference in order to maintain up-to-date isolation practices.

(6) The hospital multidisciplinary committee shall oversee all aspects of the infection control program, and will ensure that the system of isolation implemented addresses the following fundamentals of infection control:

(a) Handwashing and gloving;

(b) Patient placement;

(c) Transport of infected patients;

- (d) Protective apparel;
 - (e) Patient care equipment and articles;
 - (f) Linen and laundry;
 - (g) Dishes, glasses, cups, and eating utensils; and
 - (h) Routine and terminal cleaning.
- (7) A hospital shall have policies and procedures related to cleaning, disinfection, sterilization, and disposal of patient care items.
- (a) All instruments or equipment used in patient care should be disinfected or sterilized based on whether the item is critical, semi-critical, or non-critical.
- (A) Critical items are those patient care items which enter the vascular system. These items must be sterile and should be sterilized by a Federal Drug Administration (FDA) approved method or purchased sterile for use.
- (B) Semi-critical items are those patient care items which come into contact with mucous membranes or nonintact skin. These items must be free of all organisms except spores. Semi-critical items require high level disinfection using wet pasteurization or chemical sterilants which are FDA-approved.
- (C) Non-critical items are those items that come into contact only with intact skin. Low level disinfectants may be used which have been approved by the Environmental Protection Agency (EPA) as hospital disinfectants.
- (b) All patient care items shall be disposed of properly at discharge or processed according to the categorization of the items: critical, semi-critical, or non-critical. Single patient use equipment must be disposed of or sent home with the patient at discharge.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025

REPEAL: 333-505-0080

RULE TITLE: Tuberculosis Control

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Repeal OAR 333-505-0080 - Repeals rule and moves information to OAR 333-505-0070 (Infection Control and Prevention.)

RULE TEXT:

(1) As used in this rule, "person" means any:

- (a) Hospital employee;
- (b) Hospital contractor;
- (c) Health care practitioner granted privileges by the hospital; or
- (d) Hospital volunteer or student.

(2) A hospital shall comply with the Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings, 2005, published in the Morbidity and Mortality Weekly Report by the Centers for Disease Control and Prevention (CDC), December 30, 2005, and incorporated by reference.

(3) A hospital shall obtain documentation that tuberculosis (TB) testing has been conducted in a manner consistent with the CDC guidelines for any person who enters a hospital and who has contact with patients, enters rooms that patients may enter, or who handles clinical specimens or other material from patients or their rooms.

(4) A hospital shall require documentation of baseline TB screening conducted in accordance with the CDC Guidelines, within six weeks of the date of hire, date of executed contract or date of being granted hospital credentials.

(5) A hospital that is classified as "potential ongoing transmission" under CDC Guidelines shall consult with the Oregon TB control program within the Division, for guidance on the extent of TB testing required.

(6) If a hospital learns that a person or a patient at the hospital is diagnosed with communicable TB, the hospital shall notify the local public health authority and conduct an investigation to identify contacts. If the Division or local public health authority conducts its own investigation, a hospital shall cooperate with that investigation and provide the Division or local public health authority with any information necessary for it to conduct its investigation.

(7) A hospital shall notify the local public health administrator of its intent to discharge a patient known to have active TB disease.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025

AMEND: 333-515-0030

RULE TITLE: Safety and Emergency Precautions

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-515-0030 – Amends hospital emergency preparedness requirements to align with federal regulations, 42 CFR 482.15.

RULE TEXT:

(1) A hospital shall:

(a) Have a physical plant and overall hospital environment that is developed and maintained in such a manner that the safety and well-being of patients are provided for.

(b) Have telephone or another communication method to summon help in case of fire or other emergency.

(c) Comply with ORS chapter 479, its implementing rules, and all other requirements of the State Fire Marshal.

(d) Have emergency power facilities that are tested monthly and are in readiness at all times for use in the delivery, operating and emergency rooms, nurseries and other areas as required in NFPA 99 and the National Electrical Code.

(2) A hospital shall develop and maintain a comprehensive emergency preparedness program that complies with 42 CFR 482.15 (available from the agency's website at www.healthoregon.org/hflc) and in accordance with OAR chapter 837, division 040.

(3) A hospital shall ensure that its emergency plan is available to Division staff during licensing and certification surveys.

(4) A hospital shall re-evaluate and revise its emergency plan as necessary or when there is a significant change in the facility or population of the hospital.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025

AMEND: 333-700-0100

RULE TITLE: Patient Care Staff

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-700-0100 - Provides additional clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority.

RULE TEXT:

(1) The facility shall maintain a personnel record for each staff member which includes, but is not limited to documentation of the following:

- (a) Hire date;
- (b) Required current license or certification;
- (c) Orientation completed prior to commencement of duties;
- (d) Job description;
- (e) Employment application;
- (f) Annual evaluation(s);
- (g) Education and qualifications;
- (h) Health status to include at a minimum:
 - (A) Documentation of compliance with OAR 333-019-0041 for assessing the risk of tuberculosis transmission; and
 - (B) Documentation of Hepatitis B (HbsAg) testing according to CDC guidelines;
- (i) Current CPR certification for direct patient care personnel.

(2) Properly trained personnel must be present in adequate numbers to meet the needs of the patients, including those needs arising from medical and nonmedical emergencies. Employees who have not demonstrated competency as defined by facility policy must not be counted in the staff/patient ratios.

(3) The facility must employ at least one full time qualified registered nurse responsible for nursing service:

- (a) This registered nurse may also act as the required full time nurse manager;
- (b) There shall be a registered nurse or physician, experienced in rendering ESRD care in the facility to supervise care whenever patients are undergoing dialysis treatments; and
- (c) A registered nurse or physician shall be designated as the charge person in each facility to oversee ESRD patient care.

(4) An adequate number of personnel must be present to ensure that the staff/patient ratio is appropriate to the level of dialysis care being provided. The staffing levels must be adjusted based on the individual and aggregate needs of the patients.

(5) At a minimum, the staffing level at a facility shall not exceed four patients receiving hemodialysis treatments per licensed nurse or CHDT providing direct patient care.

(6) During treatment times, there shall be a minimum of one registered nurse (RN) available for every 16 patients. If more than 16 patients are receiving hemodialysis treatments at one time, there shall be an additional registered nurse present. Should the RN to patient ratio exceed 1 to 12, the RN shall not be counted as part of the 1 to 4 direct patient care ratio.

(7) The facility shall have a staffing plan in place that shall allow them to maintain staffing ratios in the event of sick calls, vacations and unscheduled absences.

(8) The facility may continue to operate and treat scheduled patients in the event that circumstances temporarily do not allow these staffing levels to be met if the medical director or designee determines this can be done safely:

- (a) These circumstances shall be documented in the records of the facility; and
- (b) These circumstances must not occur during more than five percent of the facility's operating hours in any six month period without approval of a waiver by the Division.

(9) These staffing ratios do not preclude the use of new technology or experimental models. Application for a waiver

may be made to the Division by facilities wishing to implement new technology.

(10) The facility shall be responsible for developing and implementing a written facility-wide staffing plan for all patient care staff including registered nurses, licensed practical nurses, hemodialysis technicians, social workers, and dietitians. The facility shall have a process that ensures the consideration of input from patient care staff in the development, implementation, monitoring, evaluation, and modification of the staffing plan. The staffing plan shall include the number, qualifications, and categories of staff needed. The written staffing plan shall be evaluated and monitored for effectiveness, and revised as necessary, as part of the facility's QAPI process. Written documentation of these QAPI activities shall be maintained.

(a) The written staffing plan shall be based on the care required by aggregate and individual needs of patients. This care shall be the major consideration in determining the number and categories of personnel needed. The written staffing plan shall be based on the specialized qualifications and competencies of the staff. The skill mix and the competency of the staff shall ensure that the needs of the patient are met and shall ensure patient safety.

(b) The written staffing plan shall be consistent with the scopes of practice for RNs, LPNs, hemodialysis technicians, social workers, and dietitians.

(c) The facility shall maintain a list of qualified staff that may be called to provide qualified replacement or additional staff in the event of emergencies, sickness, vacations, vacancies and other absences of staff and that provides a sufficient number of replacement staff for the facility on a regular basis. The list shall be available to the individual responsible for obtaining replacement staff.

(d) The written staffing plan shall establish minimum numbers of personnel (RNs, LPNs, hemodialysis technicians, social workers and dietitians) on specified shifts. The number of personnel on duty shall be sufficient to assure that the needs of each patient are met. In no case shall fewer than one registered nurse and one other staff member be on duty when a patient is undergoing dialysis treatment.

(e) After a facility learns about the need for replacement staff, the facility shall make every reasonable effort to obtain staff for unfilled hours or shifts before requiring a patient care staff member to work overtime. Reasonable effort includes the facility seeking replacement at the time the vacancy is known and contacting all available resources as described in section (2) of this rule. Such efforts shall be documented.

(f) The facility shall have a workable plan in place to deal with both medical and non-medical emergencies.

(g) If the facility offers self-care dialysis training, a qualified licensed nurse must be in charge of such training.

(h) Licensed practical nurses. This chapter does not preclude a licensed practical nurse (LPN) from practicing in accordance with the rules adopted by the Oregon State Board of Nursing. If the LPN is acting in the capacity of a hemodialysis technician, the facility shall ensure that the LPN is functioning within his/her job description and scope of practice.

(11) Employee Orientation and Training: Each facility shall have and execute a written orientation and training program to familiarize each employee with his/her job responsibilities. The facility shall maintain documentation that each staff member has attended the orientation program. Each employee shall be evaluated to assure that he/she possesses at least the minimum competencies required to perform his/her job function.

(a) The facility orientation program for all staff, approved by the medical director shall include at least:

(A) Review of the services provided by the facility;

(B) Review of facility policies and procedures, including general infection control procedures and use of universal precautions;

(C) The facility's emergency procedures and disaster preparedness plans;

(D) Training in the use of fire extinguishers;

(E) The facility's Quality Assessment and Performance Improvement Program;

(F) Documentation and records requirements; and

(G) Job descriptions that adequately describe the duties of every position including:

(i) Position;

(ii) Title;

(iii) Scope of authority;

(iv) Specific responsibilities; and

(v) Minimum requirements.

(b) The facility shall conduct and document a training needs assessment to identify training needs specific to care for the dialysis patients, and shall document the provision of such training by a qualified instructor.

(12) Job descriptions shall be given to each employee when assigned to a position or when the job description is revised.

A copy of this job description signed by the employee shall be maintained in the employee's file.

(13) The facility shall also maintain documentation of the satisfactory completion by each staff member of a skills competency checklist.

(14) Trainees must not be counted in staffing ratios until documentation reflects they are qualified to work independently. Patients shall be informed when trainees are participating in their treatment and the trainee shall be supervised at all times.

(15) All staff must maintain required current certification and licensure according to the requirements of their profession.

(16) The physician-director shall be responsible for ensuring that each patient caregiver has completed the appropriate training and orientation, and has demonstrated competence in their roles. This responsibility may be delegated to the facility's administrative and education staff. There must be documentation to reflect this delegation.

(17) The most recent statement of deficiencies resulting from an inspection by the state agency shall be reviewed with the staff and shall be available in the facility for reference.

STATUTORY/OTHER AUTHORITY: ORS 441.015, 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025

AMEND: 333-700-0110

RULE TITLE: Infection Control

NOTICE FILED DATE: 01/24/2020

RULE SUMMARY: Amend OAR 333-700-0110 - Provides additional clarification that aligns with requirements of OAR 333-019-0041 and revised CDC guidance for preventing the transmission of TB in health care settings adopted by the Oregon Health Authority. Provides additional clarification regarding OAR 333-019-0010 regarding restrictable diseases.

RULE TEXT:

- (1) There shall be written policies and procedures in effect for the prevention and control of hepatitis and other infections. These policies must include, but are not limited to:
 - (a) Appropriate procedures for surveillance and reporting of infections;
 - (b) Housekeeping;
 - (c) Handling and disposal of waste and contaminants;
 - (d) Sterilization and disinfection, including the sterilization and maintenance of equipment where dialysis supplies are reused; and
 - (e) The rinsing, cleaning, disinfection, preparation and storage of reused items which conform to requirements for reuse.
- (2) Dialysis facilities shall follow the Centers for Disease Control and Prevention (CDC) recommendations for preventing transmission of infections. This includes the use of long-sleeved gowns that are impervious to the passage of fluids during procedures at high risk for blood or other bodily fluid contamination (for example, initiation and termination of dialysis and reuse procedures).
- (3) The medical director shall designate a committee or individual qualified in surveillance, prevention and control of nosocomial infections to be responsible for the direction, provision, and quality of infection prevention and control services. The medical director shall be responsible for ensuring the facility maintains a record of all infections, their incidence, treatment, and outcome.
- (4) Facilities shall:
 - (a) Have a tuberculosis infection control plan that includes employee assessment and screening for protecting patients and employees from tuberculosis in accordance with OAR 333-019-0041; and
 - (b) Restrict the work of employees with restrictable diseases in accordance with OAR 333-019-0010.
- (5) Blood spills shall be cleaned immediately or as soon as is practical with an appropriate chemical disinfectant.
- (6) The facility shall employ appropriate techniques to prevent cross-contamination between the unit and adjacent hospital or public areas including, but not limited to: food service areas; laundry; disposal of solid waste and blood-contaminated equipment; and disposal of contaminants into sewage systems. Waste storage and disposal shall be carried out in accordance with applicable local laws and accepted public health procedures. The written patient care policies shall specify the functions to be carried out by facility personnel and by the self-dialysis patients with respect to contamination prevention. Where dialysis supplies are reused, records shall be maintained that can be used to demonstrate whether established procedures covering the rinsing, cleaning, disinfection, preparation and storage of reused items, conform to requirements for reuse.

STATUTORY/OTHER AUTHORITY: ORS 441.015, 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025