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RULES:

333-020-0125, 333-020-0127, 333-020-0130, 333-020-0132, 333-020-0135, 333-020-0140, 333-020-0145, 333-020-0147, 333-020-0149, 333-020-0150, 333-020-0151, 333-020-0155, 333-020-0160, 333-020-0165

AMEND: 333-020-0125

RULE TITLE: Definitions

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended with new definitions as needed, deleted unnecessary definitions, clarified language in definitions for consistency with other rule sets and practice.

RULE TEXT:

As used in these rules:

- (1) "Advisory committee" means the Early Hearing Detection and Intervention (EHDI) Advisory Committee.
- (2) "Authority" means the Oregon Health Authority.
- (3) "Birthing center" has the same meaning as "freestanding birthing center" in ORS 442.015.
- (4) "Birthing facility" means the location of a child's birth, including hospital or birthing center.
- (5) "Child" means any individual who is under 36 months of age.
- (6) "Congenital" means present at birth.
- (7) "Diagnostic facility" means any facility that conducts pediatric diagnostic hearing evaluations.
- (8) "Diagnostic testing" means physiologic and behavioral testing on children to determine the presence or absence, type and degree of a hearing loss, using procedures specified by the Authority, for the purposes of establishing a diagnosis and serving as a basis for initiating intervention.
- (9) "Director" means the Director of the Public Health Division within the Oregon Health Authority.
- (10) "Early Hearing Detection and Intervention Program" or "EHDI" means the program, within the Public Health Division of the Oregon Health Authority, responsible for the implementation of ORS 433.321-433.327.
- (11) "Early intervention services" or "EI" means services for children with disabilities from birth until three years of age

that are designed to meet the developmental needs of children with disabilities and the needs of the family related to enhancing the child's development, and that are selected in collaboration with the parents and caregivers.

(12) "Early intervention facility" is any public or private educational institution providing early intervention services.

(13) "EI" (or, alternately, "EI/ECSE") means the Early Intervention/Early Childhood Special Education Program of the Office of Student Services of the Oregon Department of Education. EI/ECSE provides early intervention services under public supervision by personnel qualified in accordance with criteria established by rules of the State Board of Education and in conformity with an individualized family service plan, as defined in ORS 343.035.

(14) "Hearing screening" means a physiologically-based test procedure performed on both ears using technologies approved by the Authority, as described in the Hearing Screening Protocol.

(15) "Hearing Screening Protocol" means an Oregon specific protocol based on evidence and best practice for newborn hearing screening, to be implemented by all hearing screening facilities, and available from the Oregon Health Authority.

(16) "Hearing screening registry" (or, alternately, "EHDI Information System") means a database of newborn children and information related to their hearing status, including but not limited to results of hearing screenings, diagnostic testing, and early intervention referrals, designed for the purpose of contacting families and health care providers.

(17) "Hospital" means any health care facility licensed by the State of Oregon and meeting the definition of "hospital" in ORS 442.015.

(18) "Mandated facility" means any hospital or birthing center with more than 200 live births per calendar year.

(19) "Newborn" means a child less than one month of age.

(20) "Pass" means a hearing screening result that indicates that a child's hearing meets the pass criteria identified in the Hearing Screening Protocol, provided by the Oregon Health Authority EHDI program, or as determined by national best practice guidelines.

(21) "Private educational institution" means any private institution providing early intervention services as defined in ORS 343.035 or the equivalent and which have been accepted for the Office of Student Services of the Oregon Department of Education's "Approved Private Schools" list.

(22) "Public educational institution" means any public educational institution providing early intervention services, as defined in ORS 343.035.

(23) "Refer" means a child did not meet the pass criteria defined in these rules and needs more testing to determine the presence or absence of a hearing loss.

(24) "Risk factor" means any one of the risk indicators determined by the Joint Committee for Infant Hearing as being associated with either congenital or delayed-onset hearing loss.

(25) "Screening facility" means any facility that conducts hearing screenings, as defined in these rules.

(26) "Tracking and recall system" (or, alternately, "EHDI Information System") means a database of children and information related to their hearing status designed to identify and contact the parent or guardian of a child for the purposes of assisting in testing and in enrollment of the child in early intervention services.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

REPEAL: 333-020-0127

RULE TITLE: Purpose and Intent

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Repealed entire rule describing purpose of rules, as it was deemed unnecessary by OHA legal counsel.

RULE TEXT:

(1) The purpose of these rules is to implement ORS 433.321 et.seq., which:

(a) Authorizes the Authority to develop a newborn hearing screening test registry and tracking and recall system for all newborns in Oregon; and

(b) Requires the Authority to adopt rules to develop and implement the registry and recall system.

(2) In order to identify children with hearing loss as early as possible and assure timely entry into early intervention services, it is the intent that all Oregon newborns will be enrolled in the newborn hearing screening test registry using information derived from birth records and from screening facility reports to the Authority.

(3) It is the intent that all children who are identified in the newborn hearing screening test registry as not having completed a newborn hearing screening test (and) all children who received a result of "REFER" on the newborn hearing screening test shall be enrolled in the Tracking and Recall system. In addition, it is the intent that all children in the Newborn Hearing Screening Test Registry who are diagnosed with a hearing loss regardless of their initial newborn hearing screening test result shall be enrolled in the Tracking and Recall System.

(4) It is the intent that all screening facilities and diagnostic facilities that are conducting follow-up hearing tests on children enrolled in the tracking and recall system shall report child-specific information to the Authority for the purposes of assuring that children are receiving needed services in a timely manner.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

AMEND: 333-020-0130

RULE TITLE: Requirement for Hearing Screening in Children

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to reorganize previous rules and clarify language for consistency and appropriateness with current practice.

RULE TEXT:

(1) In all mandated facilities, each newborn child shall receive a hearing screening, consistent with the Hearing Screening Protocol, prior to discharge of the child from the facility.

(2) No newborn child may be refused a hearing screening from a mandated facility because of an inability of the parent or guardian to pay for the procedure.

(3) The Authority will determine the number of live births per year by information provided by the Center for Health Statistics of the Authority.

(4) Hospitals or birthing centers which in the past have not had more than 200 births per year and which then report to the Authority more than 200 live births in a calendar year, shall be required to begin providing newborn hearing screening by July 1 of the following calendar year.

(5) Hospitals or birthing centers which in the past have had more than 200 live births per year and which then report to the Authority fewer than 200 live births in a calendar year may choose to discontinue providing newborn hearing screening on or after July 1 of the following calendar year.

(6) Hospitals or birthing centers with fewer than 200 live births per year, and which are not providing newborn hearing screening, shall provide the parent or guardian of a newborn child born in their facility with information furnished by the Authority including, but not limited to, a list of Authority recommended screening facility locations and contact information, and a statement indicating that newborn hearing screening is important to determine the presence or absence of hearing loss and is considered standard of care.

STATUTORY/OTHER AUTHORITY: ORS 433.321

STATUTES/OTHER IMPLEMENTED: ORS 433.321

ADOPT: 333-020-0132

RULE TITLE: Requirements for Screening Facilities

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Adopted new rule to reorganize rules related to requirements for screening facilities.

RULE TEXT:

Screening facilities shall:

(1) Provide the hearing screening results verbally and in writing within 10 days of the screening to the parent or guardian and the health care provider of the child. This notification shall include a description of the meaning of a Pass result and a Refer result, as defined in these rules.

(2) Provide the names and contact information for diagnostic facilities and a description of the importance of timely diagnosis and intervention to the parent or guardian and the health care provider of any child who needs additional testing.

(3) Provide the information described in ORS 433.321 to the parent or guardian of the child.

(4) Identify a point of contact for the facility and provide the designated staff name and contact information to the Early Hearing Detection and Intervention program.

STATUTORY/OTHER AUTHORITY: ORS 433.321

STATUTES/OTHER IMPLEMENTED: ORS 433.321

AMEND: 333-020-0135

RULE TITLE: Facility Responsible for Performing the Newborn Hearing Screening

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to clarify, consolidate and delete unnecessary language not required in statute.

RULE TEXT:

Should a newborn child be discharged from a mandated facility before the newborn hearing screening is performed or completed, it shall be the responsibility of the mandated facility to arrange for the provision of screening.

(1) The timing of the screening may be delayed, if medically indicated. If delayed, the mandated facility shall be responsible for performing the hearing screening prior to the child's discharge to home.

(2) For purposes of this rule, in the case of a newborn child admitted to a hospital as a result of transfer from another hospital or birthing center, the receiving hospital from which the child is discharged to home shall be responsible for assuring that a hearing screening is performed, according to the Hearing Screening Protocol.

STATUTORY/OTHER AUTHORITY: ORS 433.321

STATUTES/OTHER IMPLEMENTED: ORS 433.321

REPEAL: 333-020-0140

RULE TITLE: Maintaining a List of Facilities Able to Perform Follow-up Diagnostic Testing

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Repealed rule requiring the maintenance of a list of facilities able to perform follow up diagnostic testing, as it merely restated the statute and was deemed unnecessary by OHA legal counsel.

RULE TEXT:

(1) The Authority shall maintain a list of licensed clinical audiologists or licensed physicians able to perform Diagnostic Testing, as follows:

(a) The Authority shall establish written criteria for placement on the list, including testing and reporting requirements.

(b) Individual audiologists or physicians may choose to be identified solely by the facility with which they are affiliated or by whom they are employed, if that facility accepts the testing requirements of 333-020-0145(1)(a).

(c) Audiologists or physicians who meet the criteria for inclusion on the list may notify the Authority that they wish to be included on the list, and upon verification of eligibility, the Authority shall immediately update the list.

(2) The list, and the criteria, shall be available at the Authority, upon request.

(3) The Authority shall provide the list, on at least an annual basis, no later than April first, to all hospitals or birthing centers.

STATUTORY/OTHER AUTHORITY: ORS 433.321

STATUTES/OTHER IMPLEMENTED: ORS 433.321

REPEAL: 333-020-0145

RULE TITLE: Maintaining and Distributing a List of Early Intervention Facilities

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Repealed rule requiring the maintenance of a list of early intervention facilities, as it merely restated the statute and was deemed unnecessary by OHA legal counsel.

RULE TEXT:

(1) The Authority shall maintain a list of early intervention facilities that provide early intervention services to infants who are deaf or hard-of-hearing, as follows:

(a) Each Regional Program.

(b) Each county office of the EI/ECSE program.

(c) Each private educational institution.

(d) The Authority may list the Regional Program in lieu of the EI county office(s) in that region, at the discretion of the Office of Special Education of the Oregon Department of Education, for the purpose of simplifying and facilitating the early intervention enrollment process for parents and guardians.

(2) The Authority shall provide this list of early intervention facilities to all individuals or facilities that are on the list of diagnostic facilities, as defined in OAR 333-020-0145, annually, no later than September first, to facilitate referrals.

STATUTORY/OTHER AUTHORITY: ORS 433.321

STATUTES/OTHER IMPLEMENTED: ORS 433.321

REPEAL: 333-020-0147

RULE TITLE: Newborn Hearing Screening Test Registry

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Repealed rule describing the hearing screening test registry, as it restated definitions and was deemed unnecessary by OHA legal counsel.

RULE TEXT:

Using information submitted by birthing facilities and screening facilities, including birth records and newborn hearing screening test results, the Authority shall establish a registry of all newborns and their hearing screening test results or status.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

REPEAL: 333-020-0149

RULE TITLE: Tracking and Recall System

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Repealed rule describing the tracking and recall system, as it restated definitions and was deemed unnecessary by OHA legal counsel.

RULE TEXT:

(1) In consultation with the Advisory Committee, the Authority shall establish and implement a tracking and follow-up protocol for newborns in the Newborn Hearing Screening Test Registry identified with hearing loss or at-risk of hearing loss, including, but not limited to:

(a) Newborns who have no recorded newborn hearing screening test results and/or no recorded newborn hearing screening status in the Newborn Hearing Screening Test Registry;

(b) Newborns who have newborn hearing screening test results or status of:

(A) "REFER";

(B) Unable to complete initial screen;

(C) Screening deferred for medical reasons.

(c) Newborns or children who have been diagnosed with hearing loss.

(2) At a minimum, the tracking and follow-up protocol shall include:

(a) Responsibilities of Authority staff for identifying children in need of follow-up testing and for contacting parents/guardians, health care providers and local public health staff regarding needed follow-up services;

(b) Recommended methods and time frames for contacting parents/guardians, health care providers and local public health agencies regarding needed follow-up services;

(c) Procedures to document contacts made and outcomes of contacts;

(d) Procedures to identify, document and comply with parent/family desire to opt-out of continued follow-up;

(e) Procedures to document and address barriers to timely follow-up services, including financial and geographic barriers;

(f) Procedures to document "Loss to follow-up" after reasonable attempts are made to contact family and/or health care provider;

(g) Procedures to assure child-specific and family information is used only for the purposes for which it is intended and is not disclosed for other unrelated purposes.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

AMEND: 333-020-0150

RULE TITLE: Collecting and Submitting Information Related to Hearing Screening

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to add missing language, clarify, consolidate and delete unnecessary language.

RULE TEXT:

(1) Within 10 days of screening a child, a screening facility shall report, at a minimum, the following information to the Authority via the confidential reporting mechanism(s) established by the Authority:

(a) Full name of the child;

(b) Child's date of birth;

(c) Parent or guardian's name, address and contact information;

(d) Name of birthing facility;

(e) Name of screening facility, if different than birthing facility;

(f) Identification number from newborn blood spot screening kit, for matching purposes;

(g) Medical record number, for matching purposes;

(h) Ear specific results of the hearing screening or status of the newborn hearing screening, if not completed;

(i) Type of screening performed;

(j) Date that screening was performed;

(k) Name of child's primary health care provider, for any child who does not pass the screening, does not receive a complete hearing screening, or has a risk factor for hearing loss; and

(l) Name of secondary point of contact for any child who does not pass the screening, does not receive a complete hearing screening, or has a risk factor for hearing loss.

(2) The Authority may request that screening facilities report additional information deemed necessary to:

(a) Match the hearing screening result or status with the appropriate child in the Early Hearing Detection and Intervention Information System;

(b) Assist in tracking and follow up for children needing additional testing; and

(c) Identify children with risk factors for hearing loss.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

AMEND: 333-020-0151

RULE TITLE: Collecting and Submitting Information Related to Diagnostic Testing for Hearing Loss in Children

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to add missing language, clarify, consolidate and delete unnecessary language.

RULE TEXT:

(1) Within 10 days of testing of a child who has a "REFER" result on the hearing screening, or who presents for an initial or completion of a hearing screening, or who is diagnosed with a permanent hearing loss, the diagnostic facility conducting the testing shall report, at a minimum, the following information to the Authority via the confidential reporting mechanism(s) established by the Authority:

- (a) Full name of the child;
- (b) Child's date of birth;
- (c) Name of birthing facility, if known;
- (d) Parent or guardian's name, address, and contact information;
- (e) Name of child's primary health care provider;
- (f) Newborn hearing screening results, if not already known;
- (g) Name of diagnostic facility;
- (h) Type of diagnostic tests performed;
- (i) Date that diagnostic testing was performed;
- (j) Ear specific results, including type and degree of hearing loss, if applicable;
- (k) Disposition, including referrals indicated for early intervention or other services;
- (l) Name and contact information for person completing diagnostic hearing evaluation; and
- (m) For those diagnosed with permanent hearing loss, the complete evaluation report.

(2) The Authority may request that diagnostic facilities report additional information deemed necessary to:

- (a) Match the follow-up test result or status with the appropriate child in the Early Hearing Detection and Intervention Information System; and
- (b) Provide or offer follow-up services to children identified with hearing loss or at-risk of hearing loss.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

AMEND: 333-020-0155

RULE TITLE: Responsibility for Issuing Reports

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to delete unnecessary language not required in statute.

RULE TEXT:

The Authority shall issue an annual report and analysis of aggregated data submitted by all screening, diagnostic and early intervention facilities.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

AMEND: 333-020-0160

RULE TITLE: Appointment of an Advisory Committee

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to clarify, consolidate and delete unnecessary language.

RULE TEXT:

(1) The Director shall appoint an advisory committee.

(2) At a minimum, the advisory committee shall include representatives from each of the following categories:

(a) Parent or guardian of a child with hearing loss;

(b) Adult with childhood hearing loss;

(c) Pediatric health care provider;

(d) Clinical audiologist representing a diagnostic facility;

(e) Hospital newborn hearing screening program representative;

(f) Early intervention program representative;

(h) Local public health agency representative; and

(i) Speech-language pathologist.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327

AMEND: 333-020-0165

RULE TITLE: Religious Exemption from Hearing Screening

NOTICE FILED DATE: 10/17/2017

RULE SUMMARY: Amended to clarify, consolidate and delete unnecessary language.

RULE TEXT:

(1) A hospital or birthing center directed to provide hearing screening under these administrative rules is exempt from providing such services if the parent or guardian of the newborn child objects to the procedure on the grounds that the procedure conflicts with the religious tenets and practices of the parent or guardian.

(2) The parent or guardian must sign a statement that the hearing screening is waived for religious reasons.

STATUTORY/OTHER AUTHORITY: ORS 433.323

STATUTES/OTHER IMPLEMENTED: ORS 433.321–433.327