

Department of Human Services, Public Health

Division 20

Newborn Hearing Screening Tests

333-020-0125

Definitions

As used in these rules:

- (1) "Advisory Committee" means the Newborn Hearing Advisory Committee appointed by the Director of the Department of Human Services to advise the Department and the legislature on the implementation and evaluation of universal newborn hearing screening in Oregon and the state newborn hearing screening test registry, tracking and recall system.
- (2) "Automated auditory brainstem response" means a specific test method that elicits an objective electro-physiological measurement of the brainstem's response to acoustic stimulation of the ear, obtained with equipment that automatically provides a pass/refer outcome.
- (3) "Birthing Center" means any health facility licensed by the State of Oregon for the primary purpose of performing low risk deliveries, as defined in ORS 442.015(14)(f).
- (4) "Birthing Facility" means the location of a child's birth, including hospital, birthing center (or) in the case of a home or out-of-facility birth, the child's birthing attendant.
- (5) "Child" (or plural "children") means any individual (or individuals) who is (are) less than 36 months of age.
- (6) "Department" means the Department of Human Services-Health Services.
- (7) "Diagnostic Facility" means any facility or person, including hospitals, private audiology practices, licenses health care providers and educational facilities that conduct newborn hearing diagnostic testing.
- (8) "Diagnostic Testing" means the performance of physiologically-based testing on children to determine the presence or absence and extent of a hearing loss, using procedures specified by the Department, for the purposes of establishing a diagnosis and serving as a basis for initiating therapy and/or intervention.
- (9) "Director" means the Assistant Director of the Department of Human Services-Health Services.
- (10) "Early intervention services" 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.
- (11) "Early intervention facility" is any public or private educational institution providing early intervention services.
- (12) "EI " (or, alternately, "EI/ECSE") means the Early Intervention/Early Childhood Special Education Program of the Office of Special Education of the Oregon Department

333-020-0127

Purpose and Intent

- (1) The purpose of these rules is to implement ORS 433.321 et seq., which:
 - (a) Authorizes the Department to develop a newborn hearing screening test registry and tracking and recall system for all newborns in Oregon; and
 - (b) Requires the Department 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 Department.
- (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 Department for the purposes of assuring that children are receiving needed services in a timely manner.

Stat. Auth.: OL 2003, Ch. 240

Stat. Implemented: OL 2003, Ch. 240

Hist.: PH 21-2003, f. & cert. ef. 12-16-03

333-020-0130

Requirement for Hearing Loss Screening in Newborn Children

- (1) In all hospitals or birthing centers with more than 200 live births per year, each newborn child shall receive a Newborn Hearing Screening Test within one month of the child's date of birth.
- (2) The hospital or birthing center shall attempt to conduct the Newborn Hearing Screening Test prior to discharge of the child from the facility.
- (3) No newborn child may be refused the Newborn Hearing Screening Testing because of an inability of the parent or guardian to pay for the testing.
- (4) For hospitalized children, the timing of the Newborn Hearing Screening Test may be deferred if medically indicated.
- (5) The hospital or birthing center shall notify the parent or guardian and the health care provider of the newborn child of the Newborn Hearing Screening Test results within 10 days of the test. This notification shall include a description of the meaning of a Pass result and a Refer result.
- (6) The hospital or birthing center shall, with the results of the Newborn Hearing Screening Test, provide the parent or guardian of a child who needs follow-up testing and

333-020-0140

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

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

(a) The Department 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 Department that they wish to be included on the list, and upon verification of eligibility, the Department shall immediately update the list.

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

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

Stat. Auth.: ORS 433.321

Stat. Implemented: ORS 433.321

Hist.: OHD 8-2000, f. & cert. ef. 7-20-00; PH 21-2003, f. & cert. ef. 12-16-03

333-020-0145

Maintaining and Distributing a List of Early Intervention Facilities

(1) The Department 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 Department 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 Department 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 333-20-0145, annually, no later than September first, to facilitate referrals.

Stat. Auth.: ORS 433.321

Stat. Implemented: ORS 433.321

Hist.: OHD 8-2000, f. & cert. ef. 7-20-00; PH 21-2003, f. & cert. ef. 12-16-03

333-020-0147

Newborn Hearing Screening Test Registry

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

Stat. Auth.: OL 2003, Ch. 240

(2) By November first of each year, or as necessary due to modifications, the Department shall provide a written description of the reporting mechanisms and protocols, including reporting form templates if appropriate, to all screening facilities.

(3) Prior to the January 1, 2004 effective date of the law and as requested, the Department shall offer training and technical assistance for screening facility staff to assure effective implementation of the newborn hearing screening reporting requirements.

(4) Beginning January 1, 2004, within 10 days of testing, each screening facility conducting newborn hearing screening tests shall report to the Department, at a minimum, the following information about each newborn child receiving hearing screening in that facility.

(a) Name of the child;

(b) Child's date of birth;

(c) Birthing facility identifier;

(d) Screening facility identifier, if different than birthing facility;

(e) Newborn blood spot screening kit unique identification number, for matching purposes;

(f) Result of the newborn hearing screening test (or) status of the newborn hearing screening test, if not completed.

(5) The Department may request that screening facilities report additional information deemed necessary to:

(a) Match the newborn hearing screening test result or status with the appropriate child in the Newborn Hearing Screening Test Registry;

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

Stat. Auth.: OL 2003, Ch. 240

Stat. Implemented: OL 2003, Ch. 240

Hist.: OHD 8-2000, f. & cert. ef. 7-20-00; PH 21-2003, f. & cert. ef. 12-16-03

333-020-0151

Collecting and Submitting Information Related to Diagnostic Testing for Hearing Loss in Newborns

(1) By November 1, 2003, the Department shall develop and maintain confidential reporting mechanism (s) for child-specific diagnostic hearing test information.

(2) In consultation with the Advisory Committee, the Department shall develop and distribute reporting form templates and protocols to approved diagnostic facilities, clinical audiologists and physicians conducting diagnostic hearing tests or other follow-up hearing testing on children.

(3) Prior to the January 1, 2004 effective date of the law and as requested, the Department shall develop and offer training sessions for diagnostic facility staff to assure effective implementation of the reporting forms and protocols.

(4) The Department shall review reporting forms and protocols at least annually, and as necessary, for effective management of the program. In the event of a modified form or protocol, the Department shall give the diagnostic facility at least one full calendar month to incorporate the new form or protocol into practice.

Stat. Implemented: OL 2003, Ch. 240

Hist.: OHD 8-2000, f. & cert. ef. 7-20-00; PH 21-2003, f. & cert. ef. 12-16-03

333-020-0160

Appointment of a Newborn Hearing Advisory Committee

(1) The Director shall appoint an Advisory Committee to:

(a) Provide policy level guidance and advice to the Department on the implementation of the Newborn Hearing Screening Test Registry and Tracking and Recall system as defined by OAR 333-020-125 through 333-025-0180.

(b) Provide assistance in the preparation of a report to the biennial Legislative Assembly on the status of early hearing detection and intervention efforts in Oregon and the implementation and evaluation of the Newborn Hearing Screening Test Registry and Tracking and Recall System. The report will include but not be limited to strategies to increase the rate of early screening for children born in hospitals and birthing centers with less than 200 live births per year or born outside of hospitals and birthing centers.

(2) At a minimum, the Advisory Committee shall include at least one representative from each of the following categories:

(a) Parent of a child with hearing loss;

(b) Adult with hearing loss;

(c) Pediatric health care provider;

(d) Clinical audiologist;

(e) Hospital newborn hearing screening program representative;

(f) Diagnostic facility representative;

(g) Early intervention facility representative;

(h) Local public health agency representative;

(i) Speech-language pathologist.

(3) The Director shall establish by-laws of the Advisory Committee, including additional committee membership categories, committee duties and terms.

Stat. Auth.: OL 2003, Ch. 240

Stat. Implemented: OL 2003, Ch. 240

Hist.: OHD 8-2000, f. & cert. ef. 7-20-00; PH 21-2003, f. & cert. ef. 12-16-03

333-020-0165

Religious Exemption from Testing

(1) A hospital or birthing center directed to provide Newborn Hearing Screening Tests under these Administrative Rules is exempt from providing such services if the parent or guardian of the newborn child objects to the testing 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 newborn child is being so reared, using the following language: [Form not included. See ED. NOTE.]

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: OL 2003, Ch. 240

Stat. Implemented: OL 2003, Ch. 240

Hist.: OHD 8-2000, f. & cert. ef. 7-20-00; PH 21-2003, f. & cert. ef. 12-16-03

Oregon Revised Statutes 433.321 — 433.323
Newborn Hearing Screening Test

433.321 Hearing screening tests for newborns; disclosure of information; exemptions. (1) In all Oregon hospitals and birthing centers with more than 200 live births per year, each newborn child shall receive a newborn hearing screening test within one month of the date of birth. A hospital or birthing center shall attempt to conduct the test required under this subsection prior to the discharge of the child from the facility.

(2) All Oregon hospitals and birthing centers with fewer than 200 live births per year shall provide the parent or guardian of a newborn child with the appropriate information furnished by the Department of Human Services concerning the importance of newborn hearing screening tests.

(3) All Oregon hospitals and birthing centers conducting newborn hearing screening tests shall, within 10 days of the test:

(a) Notify the parent or guardian and the health care provider for the newborn child of the test results;

(b) With the results of the test, provide names and contact information for diagnostic facilities in the community; and

(c) Report to the department the results of the test for the newborn child and information identifying the newborn child.

(4) A diagnostic facility conducting newborn hearing tests shall report, within 10 days of the test, to the department the results of the test for the newborn child and information identifying the newborn child.

(5) Each public and private educational institution that provides early intervention services as defined in ORS 343.035 shall disclose to the department information identifying the children referred to the educational institution with diagnosed hearing loss and the enrollment status of the children. The institution may disclose to the department additional information regarding children with hearing loss who are receiving early intervention services if the educational institution has obtained consent to disclose the information.

(6) The department, in collaboration with the Child Development and Rehabilitation Center of the Oregon Health and Science University shall, on an annual basis, provide to all Oregon hospitals and birthing centers the following information:

(a) A description of the responsibilities created by this section;

(b) A list of appropriate screening devices and descriptions of training protocols to ensure that staff members are adequately trained in the use of screening equipment;

(c) A list of newborn hearing screening testing and diagnostic facilities;

(d) A list of public and private educational institutions that provide early intervention services and a description of the geographic area served by each institution; and

(e) Other information related to newborn hearing screening tests that the department deems appropriate.

(7) A hospital or birthing center directed to provide newborn hearing screening tests under this section is exempt from providing such services if the parent or guardian of the newborn child objects to the testing procedure on the grounds that the procedure conflicts

public or private, and agree to conditions not inconsistent with the purposes of the registry. [1999 c.958 §2; 2003 c.240 §2]

Note: 433.323 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 433 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

433.325 [Amended by 1969 c.685 §19; renumbered 438.420]

433.326 Waiver of requirement of authorization to disclose information. The purpose of ORS 433.321, 433.323 and 433.327 and section 4, chapter 240, Oregon Laws 2003, is to waive the requirement of authorization to disclose information from, or provide information to, the record of a newborn child in the newborn hearing screening test registry and to waive confidentiality in regard to this information. The waiver allows providers, the Department of Human Services and local health departments and their agents, parents or guardians and diagnostic facilities to share information from the newborn hearing screening test registry without violating confidentiality. The newborn hearing screening test registry and the associated tracking and recall system are designed to increase early and appropriate intervention to minimize delays in developing language skills by the children of this state. [2003 c.240 §5]

Note: 433.326 and 433.327 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 433 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

433.327 Limitation on liability for good faith disclosure. A person may not maintain an action for damages against an Oregon hospital, birthing center, diagnostic facility or educational institution offering early intervention services as defined in ORS 343.035 or their employees for disclosures of information made in good faith in accordance with ORS 433.321 and 433.323. [2003 c.240 §3]

Note: See note under 433.326.