

3701-40-01      **Definitions.**

As used in this chapter of the Administrative Code:

- (A) "Address," in the case of an individual, means the individual's residence and, in the case of a government agency, means the office at which the records pertaining to a particular child are maintained.
- (B) "Attending physician" means the newborn's or infant's primary care physician who will provide care for the newborn or infant after discharge. If there is no known primary care physician, the physician treating the infant or newborn while the newborn or infant is in the hospital will be deemed the attending physician.
- (C) "Audiologist" means an individual authorized under the section 4753.07 of the Revised Code to practice audiology.
- (D) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.
- (E) "Custodian" means a government agency, or an individual, other than a parent or guardian, with legal or permanent custody of a child as defined in section 2151.011 of the Revised Code.
- (F) "Director" means the director of health or person designated by the director of health.
- (G) "Discharge" means the release of a patient from a hospital or freestanding birthing center to a non-institutional setting.
- (H) "Freestanding birthing center" has the same meaning as the term is defined in section 3702.51 of the Revised Code.
- (I) "Guardian" has the same meaning as the term is defined in section 2111.01 of the Revised Code.
- (J) "Healthcare facility" means any of the following:
  - (1) A hospital that is registered under section 3701.07 of the Revised Code;
  - (2) A free standing birthing center as defined in section 3702.51 of the Revised Code; or
  - (3) A building, office, clinic, or other location in which a physician or an audiologist is licensed to practice in Ohio and provides hearing evaluations.
- (K) "Hearing evaluation" means evaluation through the use of audiologic procedures by an audiologist or physician.
- (L) "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension.

- (M) "Hearing screening" means the use of a physiologic test in each ear to identify newborns and infants who may have hearing impairment.
- (N) "Hospital" means an institution classified and registered as a hospital under section 3701.07 of the Revised Code that has a maternity unit or newborn nursery.
- (O) "Infant" means a child who is at least thirty days but less than twenty-four months old.
- (P) "Maternity Unit" means any unit or place in a hospital where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care.
- (Q) "Newborn" means a child who is less than thirty days old.
- (R) "Nursery" means any area, including an individual patient room, in a hospital or freestanding birthing center where a newborn or infant is housed prior to being discharged into the custody of his or her parent, guardian, or custodian other than for transport to another hospital.
- (S) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian.
- (T) "Patient-identifying information" means individually identifiable information relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual.
- (U) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.
- (V) "Physiologic test" means a screening method that can measure the electrical activity from the cochlea or the brainstem. Screening methods include, but are not limited to, automated auditory brainstem evoked response screening and otoacoustic emission screening.
- (W) "Regional infant hearing program" means a regional program that is funded by the Ohio department of health, to provide statewide coverage for follow along and tracking of newborns or infants who do not pass a newborn or infant hearing screening, and provide services for families with newborns, infants and toddlers who are deaf and hard of hearing.
- (X) "Third party payer" means any person or agency, government or otherwise, other than the department of health, that provides reimbursement for hearing screenings for newborns and infants.
- (Y) "Transfer" means the release of a patient from a hospital or freestanding birthing center to another healthcare facility, which undertakes responsibility for the patient.

- (Z) "Certified nurse-midwife" means a registered nurse who holds a valid certificate of authority issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a certified nurse-midwife in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.
- (AA) "Certified nurse practitioner" means a registered nurse who holds a valid certificate of authority issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a certified nurse practitioner in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

Effective: 05/19/2008

R.C. 119.032 review dates: 02/01/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

05/02/2008

---

Date

Promulgated Under: 119.03  
 Statutory Authority: 3701.508  
 Rule Amplifies: 3701.508  
 Prior Effective Dates: 2/1/2003

**Hearing screening requirements for hospitals and freestanding birthing centers.**

- (A) For the purposes of this rule, a "pass" result is defined as appropriate results to either click stimuli presented at thirty-five decibels (35dB nHL) or appropriate responses from the cochlea to a minimum of three frequencies in the range of one thousand to six thousand hertz (1000 to 6000 Hz) in both ears, depending on the reliable physiologic test used.
- (B) Each hospital and each freestanding birthing center shall do all of the following:
- (1) Designate a hearing screening coordinator who is responsible for the coordination of the facility's hearing screening program. The coordinator shall be an individual with staff privileges at the facility and either:
    - (a) A physician or audiologist; or
    - (b) An individual working under the supervision of a physician or audiologist.
  - (2) Notify the chief of the bureau of early intervention services, Ohio department of health, of the name of the individual designated as the hearing screening coordinator and the physician or audiologist on an annual basis and whenever the designated individual changes;
  - (3) Develop a written protocol for conducting hearing screenings to include:
    - (a) Recommendations from the joint committee on infant hearing "Year 2007 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs," unless it would create an undue burden on the hospital or freestanding birthing center to include such recommendations. The complete version of this position statement is published in "Pediatrics" at volume 120, number 4, October 2007, pages 898 to 921. A complete copy of this position statement is also available at [www.jcih.org/posstatemts.htm](http://www.jcih.org/posstatemts.htm);
    - (b) A second hearing screening when the newborn or infant does not pass the first hearing screening;
    - (c) A process for communicating the results of the hearing screening to the attending physician, the certified nurse-midwife or the certified nurse practitioner and parent, guardian, or custodian;
    - (d) A requirement that the name of the attending physician or the physician's designee, the certified nurse-midwife or the certified nurse practitioner or the facility where the parent will take the newborn or infant for follow up care after birth be included in the information sent to the Ohio department of health;
    - (e) A process for providing the parent, guardian or custodian with information on where to obtain an audiologic evaluation if the newborn or infant does not pass the second hearing screening, the importance of

making and keeping an appointment for a hearing evaluation, and when practical, assisting the parents in scheduling follow-up appointments before discharge; and

- (f) A process for providing each parent, guardian, or custodian with the printed information prepared by the director of health, pursuant to paragraphs (A) and (B) of rule 3701-40-10 of the Administrative Code, and obtain a signature indicating such receipt before discharge.
- (4) Communicate the results of the hearing screening and required information prepared by the director of health pursuant to paragraph (A) of rule 3702-40-10 of the Administrative Code to each parent, guardian, or custodian before discharge of the newborn or infant.
- (C) Except as provided in rule 3701-40-04 of the Administrative Code or paragraph (D) of this rule, each hospital and each freestanding birthing center shall conduct a hearing screening on each newborn or infant born in the hospital or freestanding birthing center prior to the discharge of such newborn or infant. If the newborn or infant does not pass the first screening, the hospital or freestanding birthing center shall conduct a second hearing screening prior to discharge.
- (D) If the newborn or infant is transferred to another hospital, the transferring hospital or freestanding birthing center must document when a hearing screening has been conducted on the newborn or infant. If a hearing screening was not conducted before the newborn or infant was transferred, it is the responsibility of the receiving hospital to conduct the hearing screening, including a second screening when necessary, prior to the newborn's or infant's discharge from the receiving hospital, or when determined to be medically appropriate.
- (E) The hospital or freestanding birthing center that conducts a hearing screening on a newborn or infant shall:
- (1) Notify the newborn's or infant's attending physician, certified nurse-midwife or certified nurse practitioner or the facility where the parent will take the newborn or infant for care after hospital discharge of the screening results in accordance with the protocol established pursuant to paragraphs (B)(3) and (B)(4) of this rule.
  - (2) Notify the department of health of the newborn's or infant's screening results within ten calendar days from when the hearing screening was conducted in accordance with rule 3701-40-08 of the Administrative Code.
- (F) Each hospital and freestanding birthing center shall refer any newborn or infant who does not pass a second hearing screening for a hearing evaluation.
- (1) Each hospital and freestanding birthing center shall provide parents with a written list of providers and healthcare facilities that conduct hearing evaluations, located within a sixty-mile radius of the newborn's or infant's home address, if the address is in Ohio. This list may include the referring hospital itself, if diagnostic audiologic services are provided.

- (2) If the infant's or newborn's home address is outside of Ohio, the hospital and freestanding birthing center shall report the screening results and patient-identifying information to the director.
- (3) The provider or healthcare facility that conducts a hearing evaluation of a newborn or infant referred to such provider or health care facility under this paragraph shall report the results of the hearing evaluation to the newborn's or infant's attending physician, certified nurse-midwife or certified nurse practitioner and to the director. Unless it creates an undue hardship with the health care provider or facility, the follow-up hearing evaluation shall be consistent with the recommended protocol in the joint committee on infant hearing "Year 2007 Position Statement: Principles and Guidelines for Early Detection and Intervention Programs," which includes the following guidelines:
  - (a) If the hospital screening included an auditory brainstem response (ABR) measurement, the follow-up audiological testing must include the ABR measurement;
  - (b) Follow-up audiological testing should assess both ears even if only one ear did not pass the inpatient hospital screening;
  - (c) Follow-up audiological testing should include a battery of test procedures to assess the integrity of the auditory system, estimate hearing sensitivity and determine the type of hearing loss; and
  - (d) Follow-up audiological testing conducted more than one month following the infant's discharge from the hospital or birthing facility must include an auditory brainstem response (ABR) measurement.

The complete version of this position statement is published in "Pediatrics" at volume 120, number 4, October 2007, pages 898 to 921. A complete copy of this position statement is also available at [www.jcih.org/posstatemts.htm](http://www.jcih.org/posstatemts.htm).

Effective: 05/19/2008

R.C. 119.032 review dates: 02/01/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

05/02/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.504, 3701.505, 3701.508  
Prior Effective Dates: 2/1/2003

3701-40-03

**Notification requirements for boards of health.**

- (A) Each board of health, upon notification by the local registrar of the birth of a newborn or infant born in the area served by the board, who is not born in a hospital or freestanding birthing center, shall provide the parent, guardian, or custodian of each newborn or infant with the printed information prepared by the director, in accordance with paragraphs (A) and (B) of rule 3701-40-10 of the Administrative Code, within five business days of the receipt of notification.
- (B) Each board of health shall obtain a signature from the parent, guardian, or custodian of each newborn or infant indicating that they have received the printed information prepared by the director or otherwise document such receipt.

R.C. 119.032 review dates: 01/11/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

\_\_\_\_\_  
Certification

01/11/2008

\_\_\_\_\_  
Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.506, 3701.508  
Prior Effective Dates: 2/1/2003

**Objections to hearing screening.**

- (A) The parent, guardian or custodian of a newborn or infant may object to a hearing screening on the grounds that the hearing screening conflicts with the parent's, guardian's or custodian's religious tenets and practices or for reasons other than religious tenets and practices.
- (B) A parent's, guardian's or custodian's refusal to consent to a hearing screening must be documented on a form provided by the director or in a written statement signed by the parent, guardian or custodian. A refusal set forth in a written statement must include all of the following:
  - (1) The parent, guardian or custodian is fully informed and understands the possible consequences to their child's health resulting from undetected and untreated hearing loss;
  - (2) The parent, guardian or custodian has received hearing screening information;
  - (3) The parent, guardian or custodian is objecting on the grounds that the screening conflicts with their religious tenets and practices, or for reasons other than religious tenets and practices; and
  - (4) The parent, guardian or custodian releases and holds harmless the director, the hospital or freestanding birthing center, the person responsible for conducting the hearing screening, for any injury, illness, and/or consequences which may result from such refusal.
- (C) If the parent, guardian, or custodian of a newborn or infant objects to a hearing screening and refuses to sign the form or written statement, the hospital or freestanding birthing center shall document the parent's, guardian's, or custodian's refusal to sign the objection form or statement.
- (D) A signed copy of the objection form or written statement shall be sent to the director in accordance with rule 3701-40-08 of the Administrative Code.

R.C. 119.032 review dates: 01/11/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

\_\_\_\_\_  
Certification

01/11/2008

\_\_\_\_\_  
Date

Promulgated Under:	119.03
Statutory Authority:	3701.508
Rule Amplifies:	3701.508
Prior Effective Dates:	2/1/2003

**Qualifications of personnel conducting hearing screenings.**

- (A) A hearing screening conducted under rule 3701-40-02 of the Administrative Code shall be conducted under the direction of an audiologist or physician or in collaboration with a physician. For purposes of this rule, "In collaboration with a physician" means pursuant to a formal arrangement between the individual conducting the screening and the physician responsible for the coordination of the facility's hearing screening program. When the hearing screening is conducted in collaboration with a physician, the arrangement must provide that the physician is available in person or readily and continuously available to interactively communicate with the individual conducting the screening.
- (B) Any individual conducting hearing screenings must complete training addressing at a minimum the following topics:
  - (1) The significance of and rationale for universal newborn hearing screening;
  - (2) Reasons for a "non-passing" result and the need for further screening and evaluation;
  - (3) Conveying information to parents, guardians or custodians in a culturally competent manner; and
  - (4) Usage of hearing screening equipment to include hands-on-training, competency evaluation, skills demonstration and written testing.
- (C) All training of individuals conducted pursuant to this paragraph shall be documented and made available to the director upon request.

Effective: 05/19/2008

R.C. 119.032 review dates: 02/01/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

\_\_\_\_\_  
Certification

05/02/2008

\_\_\_\_\_  
Date

Promulgated Under: 119.03  
 Statutory Authority: 3701.508  
 Rule Amplifies: 3701.505, 3701.508  
 Prior Effective Dates: 2/1/2003

3701-40-06

**Hearing screening methods.**

- (A) Each hospital and freestanding birthing center required to conduct a hearing screening on a newborn or infant in accordance with rule 3701-40-02 of the Administrative Code shall, before discharge, conduct a hearing screening on each ear of every newborn or infant born in a hospital or freestanding birthing center through the use of a physiologic test. The equipment used for screening must be capable of giving reliable results, maintained in good working order and calibrated per manufacturer's guidelines. Screening methods include, but are not limited to, automated auditory brainstem evoked response screening and otoacoustic emission screening.
- (B) If the hospital and freestanding birthing center conducts a second screening on a newborn or infant, the second screening must also be a physiological test and must be completed prior to discharge. If the first screening was an otoacoustic emission screening, the second screening method shall be an auditory brainstem response (ABR) measurement, if available.

Effective: 05/19/2008

R.C. 119.032 review dates: 02/01/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

05/02/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.504, 3701.505, 3701.508  
Prior Effective Dates: 2/1/2003

**Reimbursement for hearing screening.**

- (A) For the purposes of this rule:
- (1) "Provider" means the hospital or freestanding birthing center that provided a hearing screening under rule 3701-40-02 of the Administrative Code.
  - (2) "Filed" means received by the director.
- (B) The director shall reimburse providers for a maximum of one hearing screening per newborn or infant in accordance with this rule at a rate determined by the director if all the following criteria are met:
- (1) The screening is performed before the newborn or infant is discharged by the provider;
  - (2) The parent, guardian, or custodian is financially unable to pay for the screening as determined by a signed statement certifying that they are financially unable to pay, are not eligible for medicaid, and do not have insurance coverage for the screening; and
  - (3) The provider is not reimbursed by a third-party payer.
- (C) The provider seeking reimbursement from the director for a hearing screening shall submit an invoice for reimbursement to the director no later than twelve months after the completion of the screening. The invoice shall contain at least the following information:
- (1) The name and address of the provider of the screening;
  - (2) The name and Ohio license number of the audiologist performing or supervising the performance of the hearing screening or the name and license number of the physician performing or supervising the hearing screening;
  - (3) The date and nature of service provided and the amount of the charge for this service;
  - (4) The name and date of birth of the newborn or infant screened;
  - (5) The name and address of the newborn's or infant's parent, guardian, or custodian;
  - (6) A written statement signed by the newborn's or infant's parent, guardian, or custodian attesting to an inability to pay for the screening and explaining the circumstances and reasons why the individual is unable to pay;
  - (7) Documentation of compliance with paragraph (D) of this rule; and
  - (8) Signature of the billing agent.

- (D) The provider shall submit claims for all third-party benefits, including medicaid, for which the newborn or infant may be eligible, which may provide payment for the screening. The provider shall make all reasonable efforts to assist the parent, guardian, or custodian of the newborn or infant who was screened to submit claims and appeal denials for third-party benefits and the provider shall provide any information necessary for processing the claims. Claims for third-party benefits shall have been submitted no less than sixty days before a request for payment is submitted to the director under this rule.

If any payment is made for the screening by the medicaid program established by Chapter 5111. of the Revised Code, the director shall not make payment under this rule. If the newborn's or infant's parent, guardian, or custodian has applied for medicaid reimbursement, the director shall not make payment under this rule unless the medicaid program has denied payment for the screening and the medicaid administrative appeals process has been exhausted by the parent, guardian, or custodian.

- (E) The director shall review the request for reimbursement and may request any additional information necessary for making a determination regarding reimbursement. The provider shall file any requested information with the director no later than forty-five calendar days after the date on the director's request for additional information. The director shall deny payment if the provider has failed to comply with the requirements established by this rule or if the criteria for payment prescribed by paragraph (B) of this rule have not been met.
- (F) Providers reimbursed by the director, medicaid or any third party payers for a hearing screening shall accept the amount paid by the director, medicaid or any third-party payers as payment in full and shall not seek payment from the parent, guardian, or custodian. This paragraph is not intended to prohibit the provider from collecting from the parent, guardian or custodian any applicable copayment or deductible when payment is made by a third party payer.
- (G) When the director proposes to deny reimbursement under this rule, the provider shall be notified, in writing, of the proposed denial and of the following procedures for reconsideration:
- (1) The provider may request reconsideration of the director's determination by filing with the director a written request for reconsideration no later than thirty calendar days after the date on the notice of the proposed action.
  - (2) The request for reconsideration shall contain a statement of the reasons why the provider believes that the proposed decision is incorrect or inappropriate and may include any written documentation, arguments, or other materials that the provider wishes to submit.
- (H) For the purposes of reconsideration, the director may request from the provider additional relevant records of documentation within forty-five calendar days of receipt of the request for reconsideration or of additional information previously submitted under this paragraph. The provider shall file any requested information with the director no later than forty-five calendar days after the date on the request for additional information.

- (I) Within forty-five calendar days after receipt of a request for reconsideration from the provider that complies with paragraph (G) of this rule and of all necessary additional information requested and timely filed under paragraph (H) of this rule, the director shall notify the provider who requested the reconsideration, in writing, of his decision on reconsideration. The director's decision rendered upon reconsideration shall be final.

Effective: 05/19/2008

R.C. 119.032 review dates: 02/01/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

05/02/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.505, 3701.508  
Prior Effective Dates: 2/1/2003

**Submission and analysis of hearing screening information.**

- (A) Each board of health shall report to the director the number of newborns and infants not born in a hospital or freestanding birthing center whose parents, guardians or custodians received infant hearing screening information.
- (B) Each hospital or freestanding birthing center shall report to the director in a manner and format prescribed by the director, information which will allow the department to determine the following:
  - (1) The name and date of birth of each newborn or infant screened; the name, address and primary and secondary contact telephone numbers of the parent, guardian, or custodian of each newborn or infant screened; the hearing screening results for each newborn or infant screened; and for newborns or infants who did not pass the hearing screening, the name, address and telephone number of the primary care provider or facility treating the newborn or infant after discharge from the hospital;
  - (2) The number of newborns born in the hospital or freestanding birthing center and the number of newborns and infants not screened because they were transferred to another hospital;
  - (3) The number of newborns and infants whose parent, guardian, or custodian refused the hearing screening;
  - (4) The number of newborns and infants referred to the hospital or freestanding birthing center for a hearing screening and the number of those newborns and infants who received a hearing screening; and
  - (5) The number of newborns and infants who did not pass the hearing screenings conducted by the hospital or freestanding birthing center.
- (C) Each hospital or freestanding birthing center shall send to the director any copies of signed objection forms or statements in accordance with rule 3701-40-04 of the Administrative Code at least monthly.
- (D) The department of health shall review and analyze hearing screening information reported by all hospitals, freestanding birthing centers and boards of health for purposes of quality assurance, training, and disease prevention and control.

Effective: 05/19/2008

R.C. 119.032 review dates: 02/01/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

05/02/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.504, 3701.508, 3701.509  
Prior Effective Dates: 2/1/2003

3701-40-09

**Hearing screening tracking and follow-up.**

- (A) Patient identifying information, submitted to the department of health under rule 3701-40-08 of the Administrative Code by hospitals or freestanding birthing centers, shall be used by the department to implement the statewide tracking and early intervention components of the program.
- (B) The department of health shall provide patient-identifying information to other entities such as the regional infant hearing programs, help me grow programs and the bureau for children with medical handicaps as it considers necessary to implement the statewide tracking and early intervention components of the program established under section 3701.504 of the Revised Code.
- (C) The department of health and any entity that receives patient-identifying information from the department shall maintain the confidentiality of the information.

R.C. 119.032 review dates: 01/11/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

\_\_\_\_\_  
Certification

01/11/2008

\_\_\_\_\_  
Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.508, 3701.509  
Prior Effective Dates: 2/1/2003

**Printed hearing screening information.**

- (A) The director shall develop culturally appropriate information regarding hearing loss in various formats. This information shall describe factors or conditions of hearing loss and the effect of such a loss on language development and acquisition, and explain the importance of hearing screening, hearing evaluation, early intervention, and follow-up care for newborns and infants. This information will be provided to every hospital, freestanding birthing center, and every board of health.
- (B) The director shall develop and make available to hospitals, freestanding birthing centers, and boards of health a list of providers and healthcare facilities where hearing evaluations are conducted.

R.C. 119.032 review dates: 01/11/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

01/11/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.506, 3701.508  
Prior Effective Dates: 2/1/2003

- (A) The department shall provide educational programs for personnel involved in conducting hearing screenings including the hearing screening coordinator and supervising audiologist or physician. The programs shall include distance learning, computer-assisted learning, and/or on-site training.
- (B) The department training programs shall include the following subjects:
  - (1) The significance of and rationale for universal newborn hearing screening;
  - (2) Reasons for a "non-passing" result and need for further testing; and
  - (3) How to convey information to parents in a culturally competent manner, including the emotional impact of this information.

R.C. 119.032 review dates: 01/11/2008 and 01/01/2013

CERTIFIED ELECTRONICALLY

---

Certification

01/11/2008

---

Date

Promulgated Under: 119.03  
Statutory Authority: 3701.508  
Rule Amplifies: 3701.506, 3701.508  
Prior Effective Dates: 2/1/2003