

SERVICES FOR NEWBORNS

Hearing Screening Tests

433.321 Hearing screening tests for newborns; disclosure of information; religious exemption; effect of inability to pay. (1) In all Oregon hospitals and birthing centers where more than 200 live births occur per year, each newborn child must receive a newborn hearing screening test. A hospital or birthing center shall attempt to conduct the test required under this subsection prior to the discharge of the newborn child from the facility.

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

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

- (a) Notify the parent or guardian and the health care provider of the newborn child of the test results;
- (b) Provide the parent or guardian with names and contact information for diagnostic facilities that conduct newborn hearing screening tests in the community and with materials developed pursuant to ORS 433.298; and
- (c) Report to the authority the results of the test for the newborn child and information identifying the newborn child.

(4) A diagnostic facility conducting newborn hearing screening tests, within 10 days of conducting a newborn hearing screening test, shall report to the authority the results of the test for the newborn child and information identifying the newborn child. If a diagnostic facility conducting newborn hearing screening tests detects hearing loss in a newborn child, the diagnostic facility shall provide to the parent or guardian materials developed pursuant to ORS 433.298.

(5) Each public and private educational institution that provides early intervention services as defined in ORS 343.035 shall disclose to the authority 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 authority 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 authority, 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 hearing screening equipment;
- (c) A list of diagnostic facilities that conduct newborn hearing screening tests;
- (d) Using evidence-based best practice standards, a recommended schedule for conducting newborn hearing screening tests, and for referring parents and guardians to health care providers for the purpose of diagnosing whether the newborn child has congenital cytomegalovirus, within 21 days of the newborn child's date of birth;
- (e) 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

(f) Other information related to newborn hearing screening tests that the authority deems appropriate.

(7) A hospital or birthing center described in subsection (1) of this section is exempt from providing newborn hearing screening tests 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. The parent or guardian must sign a statement that the newborn child is being reared in accordance with those religious tenets and practices.

(8) A newborn child may not be refused the procedure described in subsection (1) of this section because of an inability of the parent or guardian to pay for the procedure. [1999 c.958 §1; 2003 c.240 §1; 2009 c.595 §660; 2017 c.426 §1]

Note: 433.321 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.

433.323 Newborn hearing screening test registry and tracking and recall system; rules. (1) As used in this section:

(a) “Newborn hearing screening test registry” means a listing of newborn children and information related to their newborn hearing screening tests.

(b) “Tracking and recall system” means a system attached to the newborn hearing screening test registry designed to contact the parent or guardian of a newborn child listed in the newborn hearing screening test registry for the purposes of assisting in testing and in enrollment of the newborn child in early intervention services in a timely manner.

(2) The Oregon Health Authority shall implement a newborn hearing screening test registry and tracking and recall system. The registry and system shall include, but are not limited to, the following:

(a) Information on the results of newborn hearing screening tests performed at Oregon hospitals, birthing centers and diagnostic facilities.

(b) Notification of the parent or guardian and the health care provider of a newborn child and of the local public health authority, as defined in ORS 431.003, of the county in which the parent or guardian resides when the system indicates that a newborn child has not received a newborn hearing screening test, has been referred to a diagnostic facility for a diagnostic evaluation but has not received the evaluation or has been diagnosed with hearing loss but has not been enrolled in an educational institution providing early intervention services.

(3) The Oregon Health Authority shall adopt rules:

(a) Implementing this section and ORS 433.321;

(b) Ensuring the privacy of individuals about whom information is collected pursuant to this section and ORS 433.321; and

(c) Specifying the forms to be used by hospitals, birthing centers, diagnostic facilities and educational institutions to provide the information required under this section and ORS 433.321.

(4) The authority shall analyze the information collected under this section to determine the efficacy of this section and ORS 433.321 in identifying hearing loss in the newborn child population and enrolling newborn children in early intervention services.

(5) The authority shall issue an annual report detailing the results of newborn hearing screening tests, diagnostic evaluations and participation in early intervention services.

(6) The authority shall implement the newborn hearing screening test registry within existing resources. The authority may accept contributions of funds and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions not inconsistent with the purposes of the registry. [1999 c.958 §2; 2003 c.240 §2; 2009 c.595 §661; 2015 c.736 §81]

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.

433.326 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 Oregon Health Authority 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; 2009 c.595 §662]

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.