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**PERMANENT ADMINISTRATIVE ORDER**

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CHAPTER 333

OREGON HEALTH AUTHORITY

PUBLIC HEALTH DIVISION

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FILING CAPTION: Permitting human pathological waste removal from a health care facility

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**RULES:**

333-056-0020, 333-056-0045

AMEND: 333-056-0020

NOTICE FILED DATE: 01/30/2024

RULE SUMMARY: OAR 333-056-0020 is amended to reference statutory definitions used in OAR 333-056-0045, namely "Health care facility" (ORS 442.015) and "Pathological waste" (ORS 459.386).

**CHANGES TO RULE:**

333-056-0020

Definitions Relating to Infectious Waste ¶¶

As used in OAR 333-056-0010 through 333-056-0050, unless the context requires otherwise, the following definitions apply:¶¶

(1) ~~"Act" means chapter 763, Oregon Laws, 1989, codified as ORS 459.386 to 459.405.~~¶¶

(2) ~~"Disposal" has the meaning given that term in ORS 459.386.~~¶¶

(3) ~~"Disposal site" has the meaning given that term in ORS 459.005.~~¶¶

(4) ~~"Division" means the Oregon Health Authority, Public Health Division.~~¶¶

(4) "Health care facility" has the meaning given that term in ORS 442.015.¶¶

(5) ~~"Incineration" has the meaning given that term in ORS 459.395.~~¶¶

(6) ~~"Infectious waste" means biological waste, cultures and stocks, pathological waste, or sharps, as those terms are defined in ORS 459.386; or syringes.~~¶¶

(7) ~~"Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.~~¶¶

(8) ~~"Noninfectious" means a state in which a disease causing agent is not capable of causing an infection to occur.~~¶¶

(9) ~~"Pathological waste" has the meaning given that term in ORS 459.386.~~¶¶

(10) "Saturated waste" means waste that contains enough body fluid that it would cause dripping of the body fluid from the waste container, with or without compaction.¶¶

(10) ~~"Sterilization" means, for purposes of these rules, any process which changes infectious waste so that disease causing agents contained within it are rendered non-infectious at the time the process is completed.~~¶¶

(11) ~~"Storage" has the meaning given that term in ORS 459.386.~~¶¶

(123) "Syringe" means an instrument for the injection of medicine or the withdrawal of body fluids that consists of a hollow barrel fitted with a plunger and a hollow needle.¶

(134) "Transportation" has the meaning given that term in ORS 459.386.¶

(145) "Treatment" means incineration, sterilization or other method, technique or process approved by the Oregon Health Authority, Public Health Division that changes the character or composition of any infectious waste so as to render the waste noninfectious. Treatment also includes methods of rendering waste noninfectious, which are approved by the Environmental Quality Commission.

Statutory/Other Authority: ORS 431.110, 433.004, 459.395

Statutes/Other Implemented: ORS 431.110, 433.004, 459.395, 459.386, 459.400

AMEND: 333-056-0045

NOTICE FILED DATE: 01/30/2024

RULE SUMMARY: OAR 333-056-0045 is amended to authorize release of pathological waste other than a placenta to the donor of the pathological waste or to an authorized representative of the donor.

CHANGES TO RULE:

333-056-0045

Exemptions for Placenta Removal ~~Removal of Human Pathological Waste, Including Placentas, From a Health Care Facility-~~

~~(1) Notwithstanding any other provision in these rules, a health care facility or freestanding birthing center, as those terms are defined in ORS 442.015, may release~~ OAR chapter 333, division 56 or ORS 459.386 to 459.405, a health care facility is authorized to release pathological waste other than a placenta to the woman from whom the placenta originated, or to her designee, if:

- ~~(a) To donor of the pathological waste or to an authorized representative of the donor, if the facility or birthing center has a written policy and procedure to ensure the safe management and transport of placentas;~~ (a) The donor of the pathological waste or to an authorized representative of the donor, if the facility or birthing center has a written policy and procedure to ensure the safe management and transport of placentas;
- ~~(b) The woman tested negative for infection by hepatitis B and human immunodeficiency viruses by testing obtained since the beginning of the pregnancy; and~~ (b) The woman tested negative for infection by hepatitis B and human immunodeficiency viruses by testing obtained since the beginning of the pregnancy; and
- ~~(c) The woman, recipient attests in writing that the pathological waste will be disposed of by cremation, interment, or other means in accordance with ORS chapter 97, and the facility complies with sections (4) and (5) of this rule.~~ (c) The woman, recipient attests in writing that the pathological waste will be disposed of by cremation, interment, or other means in accordance with ORS chapter 97, and the facility complies with sections (4) and (5) of this rule.

~~(2) Notwithstanding any other provision in OAR chapter 333, division 56 or ORS 459.386 to 459.405, a health care facility may release a placenta to the individual from whom the placenta originated, or to their designee, if the facility complies with sections (3) to (5) of this rule, and the individual or their designee, and the woman~~ individual's health care provider sign a form that contains at least the following:

- ~~(Aa) The woman~~ (Aa) The individual's name, date of birth, address and the name of the health care provider;
- ~~(Bb) An attestation by the woman~~ (Bb) An attestation by the individual or their designee that the placenta will not be used for commercial purposes; and
- ~~(Cc) An attestation by the health care provider that:~~ (Cc) An attestation by the health care provider that:
  - ~~(iA) Since the beginning of the pregnancy the woman~~ (iA) Since the beginning of the pregnancy the individual tested negative for infection by hepatitis B and human immunodeficiency viruses;
  - ~~(iiB) The woman~~ (iiB) The individual either tested negative for hepatitis C virus since the beginning of the pregnancy or is not at risk for hepatitis C; and
  - ~~(iiiC) To the health care provider's knowledge, the woman~~ (iiiC) To the health care provider's knowledge, the individual has no infection that poses a threat to persons who handle the placenta.

~~(23) The health care facility or freestanding birthing center must keep a copy of the signed release form~~ attestations described in subsection (4)(c2) of this rule in the mother individual's medical record.

~~(34) Health care facilities and freestanding birthing center that release placentas or other pathological waste must have and implement a written policy and procedure that:~~

- ~~(a) Specify when placentas or other pathological waste will be released;~~ (a) Specify when placentas or other pathological waste will be released;
- ~~(b) Specify how the release will occur in order to ensure compliance with this rule;~~ (b) Specify how the release will occur in order to ensure compliance with this rule;
- ~~(c) Ensure the safe management and transport of placentas or other pathological waste; and~~ (c) Ensure the safe management and transport of placentas or other pathological waste; and
- ~~(d) Identify a procedure for patients to submit complaints about the facility's process for releasing pathological waste or about the implementation of that process.~~ (d) Identify a procedure for patients to submit complaints about the facility's process for releasing pathological waste or about the implementation of that process.

~~(5) Health care facilities shall make policies and procedures developed in accordance with subsection (1)(a4) of this rule available to the Public Health Division upon request.~~

~~(46) Nothing in this rule prohibits a health care facility or freestanding birthing center from having additional requirements for the removal of a placenta from the facility or center~~ from having additional requirements for the removal of a placenta from the facility.

~~(7) Nothing in this rule exempts facilities from other state or federal laws, including but not limited to the Resource Conservation and Recovery Act, regarding handling of pathological waste.~~

~~(8) The Oregon Health Authority recognizes that facilities that release pathological waste in accordance with these rules may help to support the final disposition of body parts in accordance with an individual's traditions, cultural beliefs, customs, and ceremonies.~~

Statutory/Other Authority: ORS 431.110, 433.004, 459.400, 97.010, 97.745

Statutes/Other Implemented: ORS 431.110, 433.004, 459.400, 97.010, 97.745, 459.386, 459.395