

CD

Summary

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## NOTICE OF PROPOSED RULEMAKING: New definitions and disease reporting requirements

*“You are remembered for the rules you break.” — Douglas MacArthur*

In response to the sunset of an authorizing statute, the changing of various definitions and terms, and the emergence of communicable diseases of public health importance, we are proposing to repeal and to amend some of our rules. This issue of the *CD Summary* serves as notice of the proposed changes and summarizes them (*infra*). The full text of the proposed changes, as well as cited literature, may be found at [www.oregon.gov/ph-rules](http://www.oregon.gov/ph-rules).

We are interested in your comments on these proposed changes, which you may relay via video conference on August 15 at 4:00 PM, or by email before 5:00 P.M. on August 21, 2023, to the Public Health Division Rules Coordinator: [publichealth.rules@odhsoha.oregon.gov](mailto:publichealth.rules@odhsoha.oregon.gov). If you would like the link to log into the video conference, please contact the Rules Coordinator at the email address above.

### SCRUBBING VESTIGIAL LANGUAGE

Oregon Administrative Rule (OAR) 333-018-0011 had required health care providers to collect data on Race, Ethnicity, and (preferred spoken and written) Language, along with Disability status (“REALD”) at the time of each COVID-19-related patient encounter, and to provide those data to the Oregon Health Authority (OHA). The statutory authority for this rule was Oregon Laws 2020, 1st Special Session, Chapter 12, Sections 40–41 (House Bill 4212). That law was repealed effective January 1, 2023.\* Without statutory

authority the rule is no longer in force, so we are taking it off the books, along with references to it in other rules.

### REVISED DEFINITIONS AND NOMENCLATURE

Not that you need to remember all these rule numbers, but OAR 333-017-0000 defines terms used in OARs 333-018 and 333-019, which regulate reportable diseases and communicable disease control. Proposed amendments include updating bacterial nomenclature (bacterial family *Enterobacteriaceae* is now order *Enterobacterales*); substituting the term “resistant” for “nonsusceptible” in reference to reportability of certain *Enterobacterales* order bacteria; changing “lead poisoning” to “elevated blood lead level”; and adding a definition of carbapenem resistance specific to *Acinetobacter*, which is proposed to be made reportable in OAR 333-018-0015 (see below).

In October 2021, the Centers for Disease Control and Prevention (CDC) dropped its blood lead reference value (BLRV) from 5 micrograms per deciliter ( $\mu\text{g}/\text{dL}$ ) to 3.5  $\mu\text{g}/\text{dL}$ . Our current case definition for childhood lead poisoning ( $\geq 5 \mu\text{g}/\text{dL}$ ) is higher than CDC’s new BLRV. This means that Oregon children with blood lead levels of 3.5–4.9  $\mu\text{g}/\text{dL}$  are currently ineligible for public health case-management services that assist families in reducing or eliminating lead exposure sources, and direct referrals to services aimed at improving the health outcomes for these children (for example, Early Intervention, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and nurse home-visiting

programs). CDC has identified populations at highest risk for lead exposure as children from low-income households, persons identifying as African American, and immigrant and refugee children. Lowering the case definition to 3.5  $\mu\text{g}/\text{dL}$  for children <18 years of age will increase access to important public health, nutrition, and education services for Oregon’s highest-risk children. Additionally, changing the condition name from “lead poisoning” to “elevated blood lead level” recognizes the fact that the CDC has identified no safe level of lead in blood.

With regard to the reporting of suspected Multi-System Inflammatory Syndrome in Children (MIS-C), to remain consistent with the updated national case definition, we will change the time frame for exposure to COVID-19 prior to symptom onset to “up to 60 days prior to or during hospitalization.”

### NEWLY REPORTABLE

We are proposing to make newly reportable the following: carbapenem-resistant *Acinetobacter* species found to be resistant to any carbapenem antibiotic; any organism known to be carbapenemase-producing; *Candida auris* (somehow *C. auris* had fallen off the list so we’re making sure it’s back on), *Cronobacter sakazakii* in an infant less than one year of age; and evidence of enterotoxigenic or Shiga-toxigenic organism, for example, from nucleic-acid or antigen testing. Finally, in line with existing reportability of influenza deaths in children and in light of the June 2023 repeal of general COVID-19 reportability, we are proposing to make reportable the death of any person <18 years of age

\* [House Bill 3159 \(2021\)](https://legislature.oregon.gov/2021/bills/3159)

with laboratory-confirmed respiratory syncytial virus (RSV) or SARS-CoV-2 infection; this makes consistent our surveillance for all 3 respiratory viral infections.

### SEND THESE TO OSPHL

OAR 333-018-0018 specifies organisms and test-positive specimens that must be submitted to the Oregon State Public Health Laboratory (OSPHL) for additional testing. We're proposing to add to this list:

- isolates of *Acinetobacter* species resistant to any carbapenem antibiotic;
- isolates of any organism known to be carbapenemase-producing;
- isolates of *Cronobacter sakazakii* from infants under the age of 1 year; and
- specimens that test positive by antigen-detection or nucleic acid testing for:
  - *Listeria*, *Salmonella*, *Shigella*, *Vibrio*, or *Yersinia*, for which culture has not been attempted; and
  - Shiga toxin, and from which *Escherichia coli* O157 has not been isolated.

### RE: THE OREGON PUBLIC HEALTH RECORDS ACT

OAR 018-0130 relates to disclosure of data from mandated reporting of healthcare acquired infections; it is being amended to clarify OHA's duty to disclose records in accordance with Oregon's Public Records Act.<sup>†</sup>

### COVID-19

OAR 333-019-0010 specifies restrictions to control communicable diseases in school, child care and worksites. On August 20, 2022, this rule was amended to eliminate a requirement to exclude from schools and children's facilities susceptible

<sup>†</sup> Our lawyer made us do it.

students and employees following exposure to COVID-19; but the definitions for "evidence of immunity" and "exposed" to COVID-19, which were thereby rendered irrelevant, were not removed at that time. The rule is being amended to eliminate them.

We propose to remove also the requirement to exclude persons with COVID-19 from work in food service and health care facilities, as well as from work or attendance in schools and children's facilities. The rationale is that many SARS-CoV-2 infections are mild or asymptomatic, and as of June 30, 2023, the requirement to report each case of COVID-19 to public health officials was repealed. The response to cases of COVID-19 is incorporated into school communicable disease response plans consistent with responses to other common infections. Health care facilities will follow federal guidance.

### SYRINGE DISPOSAL

OAR 333-056-0050 specifies disposal requirements for sharp instruments. An amendment to OAR 333-056-0020 on April 6, 2020, clarified that "syringes" were meant to refer to items fitted with hollow needles — but the term "syringe" was not added to the list of sharp instruments required to be disposed of in puncture-proof containers. This rule is being amended to correct this oversight.

### FOR MORE INFORMATION

Regarding this and other proposed Oregon public health rule changes, visit [www.oregon.gov/phrules](http://www.oregon.gov/phrules).

### ACKNOWLEDGMENTS

Thank you for reading this necessary issue of the *CD Summary*. We look forward to your comments.

Special thanks to this year's Rules Advisory Committee members whose dedication to the process made these rule-change proposals possible:

March 8, 2023

Joshua Bardfield (The Oregon Clinic); Trista Berry (St. Alphonsus Medical Center, Baker City); Pamela Cortez (Salem Health); Dennis Drapiza (Kaiser Permanente Northwest); Sydney Edlund (Oregon Patient Safety Commission) Robert Sandmeier, (The Portland Clinic), Pamela McCollister (Peggy Lillis Foundation), Jesse Mensik Kennedy (Oregon Nurses Association), Pat Preston (Center for Geriatric Infection Control)

March 13, 2023

Kendall Bryant (Kaiser Permanente), Baily Burkhalter (Jackson County Public Health), Genevieve Buser (Providence Health Care) Perry Cabot (Multnomah County Lead Program), Jini Danis (Lab Director, Retired Asante Rogue) Katie Harris (Oregon Association of Hospitals and Health Systems); Jessica Hoskins (Asante Rogue), Karl Kamper (Salem Health), Sarah Laiosa (Harney County Public Health Officer), Sarah Marshall (Mosaic Medical), Christine Pagano (Deschutes County Public Health), Kathleen Rees (Washington County Health and Human Services) Becky Sherman (La Clinica) definitions and disease reporting requirements.



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