

OREGON ADMINISTRATIVE RULES
DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH DIVISION
CHAPTER 333

HOSPITALS, GENERALLY

DIVISION 500

**DEFINITIONS, APPLICATION AND RENEWAL PROCEDURES, FEES,
FACILITY CLOSURE**

333-500-0005

Applicability

Unless a specific rule provides otherwise, OAR chapter 333, divisions 500 through 535 apply to a hospital classified as general, low occupancy acute care, orthopedic, or psychiatric or mental and do not apply to a hospital classified as a special inpatient care facility under ORS 442.015.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.055

333-500-0010

Definitions

As used in OAR chapter 333, divisions 500 through 535, unless the context requires otherwise, the following definitions apply:

- (1) "Assessment" means a complete nursing assessment, including:
 - (a) The systematic and ongoing collection of information to determine an individual's health status and need for intervention;
 - (b) A comparison with past information; and
 - (c) Judgment, evaluation, or a conclusion that occurs as a result of subsections (a) and (b) of this definition.
- (2) "Authentication" means verification that an entry in the patient medical record is genuine.
- (3) "Certified Nursing Assistant" (CNA) means a person who is certified by the Oregon State Board of Nursing (OSBN) to assist licensed nursing personnel in the provision of nursing care.
- (4) "Chiropractor" means a person licensed under ORS chapter 684 to practice chiropractic.
- (5) "Conditions of Participation" mean the applicable federal regulations that hospitals are required to comply with in order to participate in the federal Medicare and Medicaid programs.
- (6) "Discharge" means the release of a person who was an inpatient of a hospital and includes:
 - (a) The release and transfer of a newborn to another facility, but not a transfer between acute care departments of the same facility;
 - (b) The release of a person from an acute care section of a hospital for admission to a long-term care section of a facility;

- (c) Release from a long-term care section of a facility for admission to an acute care section of a facility;
- (d) A patient who has died; and
- (e) An inpatient who leaves a hospital for purposes of utilizing non-hospital owned or operated diagnostic or treatment equipment, if the person does not return as an inpatient of the same health care facility within a 24-hour period.
- (7) "Department" means the Department of Human Services.
- (8) "Division" means the Public Health Division within the Department.
- (9) "Emergency Medical Services" means medical services that are usually and customarily available at the respective hospital and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide care to a woman in labor where delivery is imminent if the hospital is so equipped and, if the hospital is not equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.
- (10) "Governing body" means the body or person legally responsible for the direction and control of the operation of the hospital.
- (11) "Governmental unit" has the meaning given that term in ORS 442.015.
- (12) "Health care facility" (HCF) has the meaning given the term in ORS 442.015.
- (13) "Health Care Facility Licensing Laws" means ORS 441.005 through 441.990 and its implementing rules.
- (14) "Hospital" has the meaning given that term in ORS 442.015.
- (15) "Licensed" means that the person to whom the term is applied is currently licensed, certified or registered by the proper authority to follow his or her profession or vocation within the State of Oregon, and when applied to a hospital means that the facility is currently licensed by the Department.
- (16) "Licensed nurse" means a nurse licensed by the Oregon Board of Nursing.
- (17) "Licensed Practical Nurse" means a person licensed under ORS chapter 678 to practice practical nursing.
- (18) "Major alteration" means any structural change to the foundation, roof, floor, or exterior or load bearing walls of a building, or the extension of an existing building to increase its floor area. Major alteration also means the extensive alteration of an existing building such as to change its function and purpose, even if the alteration does not include any structural change to the building.
- (19) "Manager" means a person who:
 - (a) Has authority to direct and control the work performance of nursing staff;
 - (b) Has authority to take corrective action regarding a violation of law or a rule or a violation of professional standards of practice, about which a nursing staff has complained; or
 - (c) Has been designated by a hospital to receive the notice described in ORS 441.174(2).
- (20) "Minor alteration" means cosmetic upgrades to the interior or exterior of an existing building, such as but not limited to wall finishes, floor coverings and casework.
- (21) "Mobile satellite" means a MRI, CAT Scan, Lithotripsy Unit, Cath Lab, or other such modular outpatient treatment or diagnostic unit that is capable of being moved, is housed in a vehicle with a vehicle identification number (VIN), and does not remain on a hospital campus for more than 180 days in any calendar year.

- (22) "NFPA" means National Fire Protection Association.
- (23) "Nurse Midwife/Nurse Practitioner" means a registered nurse certified by the OSBN as a nurse midwife/nurse practitioner.
- (24) "Nurse Practitioner" has the meaning given that term in ORS 678.010.
- (25) "Nursing staff" means a registered nurse, a licensed practical nurse, or other assistive nursing personnel.
- (26) "OB Unit" means a dedicated obstetrical unit that meets the requirements of OAR 333-535-0120.
- (27) "On-call" means a scheduled state of availability to return to duty, work-ready, within a specified period of time.
- (28) "Oregon Sanitary Code" means the Food Sanitation Rules in OAR 333-150-0000.
- (29) "Patient audit" means review of the medical record and/or physical inspection and/or interview of a patient.
- (30) "Person" has the meaning given that term in ORS 442.015.
- (31) "Physician" has the meaning given that term in ORS 677.010.
- (32) "Physician Assistant" has the meaning given that term in ORS 677.495.
- (33) "Plan of correction" means a document executed by a hospital in response to a statement of deficiency issued by the Division that describes with specificity how and when deficiencies of health care licensing laws or conditions of participation will be corrected.
- (34) "Podiatrist" has the same meaning as "podiatric physician and surgeon" in ORS 677.010.
- (35) "Podiatry" means the diagnosis or the medical, physical or surgical treatment of ailments of the human foot, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a licensed hospital or in a licensed ambulatory surgical center and is under the supervision of or in collaboration with a physician. "Podiatry" does not include the administration of general or spinal anesthetics or the amputation of the foot.
- (36) "Public body" has the meaning given that term in ORS 30.260.
- (37) "Registered Nurse" means a person licensed under ORS chapter 678 by the OSBN.
- (38) "Respite care" means care provided in a temporary, supervised living arrangement for individuals who need a protected environment, but who do not require acute nursing care or acute medical supervision.
- (39) "Retaliatory action" means the discharge, suspension, demotion, harassment, denial of employment or promotion, or layoff of a nursing staff person directly employed by the hospital, or other adverse action taken against a nursing staff person directly employed by the hospital in the terms or conditions of employment of the nursing staff person, as a result of filing a complaint.
- (40) "Satellite" means a building or part of a building owned or leased by a hospital, and operated by a hospital, through which the hospital provides outpatient diagnostic, therapeutic, or rehabilitative services in a geographically separate location from the hospital, with a separate physical address from the hospital, but that is within 35 miles from the hospital.
- (41) "Stable newborn" means a newborn who is four or more hours postdelivery and who is free from abnormal vital signs, color, activity, muscle tone, neurological status, weight, and maternal-child interaction.

(42) "Stable postpartum patient" means a postpartum mother who is four hours or more postpartum and who is free from any abnormal fluctuations in vital signs, has vaginal flow within normal limits, and who can ambulate, be independent in self care, and provide care to her newborn infant, if one is present.

(43) "Statement of deficiencies" means a document issued by the Division that describes a hospital's deficiencies in complying with health care facility licensing laws or conditions of participation.

(44) "Survey" means an inspection of a hospital to determine the extent to which a hospital is in compliance with health facility licensing laws and conditions of participation.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.055

333-500-0020

Application for Hospital License

(1) An applicant wishing to apply for a license to operate a hospital shall submit an application on a form prescribed by the Division and pay the applicable fee as specified in OAR 333-500-0030.

(2) A single hospital license may cover more than one building if the applicant meets the requirements in OAR 333-500-0025.

(3) If the applicant is proposing a new hospital the applicant shall also submit evidence of plans review approval as required by OAR chapter 333, division 675.

(4) An applicant that has a certificate of accreditation and deemed status for Medicare certification from the Joint Commission or Committee on Hospitals of the American Osteopathic Association (CHAOA) shall provide the certificate to the Division with its license application, and shall include:

(a) All Joint Commission or CHAOA survey and inspection reports; and

(b) Written evidence of all corrective actions underway, or completed, in response to Joint Commission or CHAOA recommendations, including all progress reports.

(5) No license shall be issued for any hospital for which a certificate of need is required, unless a certificate of need has first been issued under ORS 442.315.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.020, 441.025

333-500-0025

Indorsement of Satellite Operations

(1) The Division may indorse, under a hospital's license, a satellite or mobile satellite of a hospital.

(2) In order for a satellite to be indorsed under a hospital's license, the applicant or licensee shall pay the appropriate fee and provide evidence to the Division that:

(a) The satellite meets the requirements in OAR chapter 333, divisions 500 through 535;

(b) The services at the satellite are integrated with the hospital;

(c) The financial operations of the satellite are integrated with the hospital;

(d) The hospital and the satellite have the same governing body;

(e) The satellite is under the ownership and control of the hospital;

(f) Staff at the satellite have privileges at the hospital; and

- (g) Medical records of the satellite are integrated with the hospital into a unified system.
 - (3) A satellite shall be subject to a plans review and must pass life safety code requirements.
 - (4) In order for a mobile satellite to be indorsed under a hospital's license, the applicant or licensee shall pay the appropriate fee and provide evidence to the Division that:
 - (a) The mobile satellite is operated in whole or in part by the hospital through lease, ownership or other arrangement;
 - (b) The services at the mobile satellite are integrated with the hospital;
 - (c) The financial operations of the mobile satellite are integrated with the hospital;
 - (d) The mobile satellite is physically separate from the hospital and other buildings on the hospital campus by at least 20 feet; and
 - (e) It meets the 2000 NFPA 101 Life Safety Code for mobile units.
 - (5) A mobile satellite shall keep and provide to the Division and the Fire Marshal upon request, a log that shows where the mobile satellite is located every day of the year, and its use. A copy of the log shall be kept in the mobile satellite at all times.
 - (6) A hospital that has a satellite that provides inpatient services that is indorsed under its license as of October 1, 2009, may continue to have that satellite indorsed under its license. After October 1, 2009, as is consistent with the definition of satellite and mobile satellite, only a satellite or mobile satellite that provides outpatient services will be eligible for indorsement.
- Stat. Auth.: ORS 441.055
Stats. Implemented: ORS 441.020

333-500-0030

Annual License Fee

- (1) The annual license fee for a hospital is as specified in ORS 441.020.
 - (2) If a hospital license covers a satellite or mobile satellite approved by the Division under OAR 333-500-0025, the applicable license fee shall be the sum of the license fees which would be applicable if each location or unit was separately licensed.
- Stat. Auth.: ORS 441.055
Stats. Implemented: ORS 441.020

333-500-0032

Classification

- (1) A hospital shall be classified as one of the following:
 - (a) General Hospital;
 - (b) Low Occupancy Acute Care Hospital;
 - (c) Mental or Psychiatric Hospital; or
 - (d) Orthopedic Hospital.
- (2) A hospital's classification shall be determined by the type of services it provides, as described in OAR chapter 333, divisions 520 and 525, and the staffing requirements related to the provision of those services.
 - (a) A hospital classified as a general hospital shall:
 - (A) Provide at least general medical, maternity and surgical services;
 - (B) Have an emergency department;

- (C) Have available on-site or through contract, dietary, laboratory, and radiology services;
 - (D) Have an on-site pharmacy;
 - (E) Have a pharmacist on call 24 hours a day, 7 days a week (24/7) to staff the pharmacy; and
 - (F) Have on-site or in-house 24/7 staffing for its laboratory and radiology services.
- (b) A low occupancy acute care hospital shall:
- (A) Have 25 or fewer inpatient beds;
 - (B) Provide at least general medical services;
 - (C) Have an emergency department;
 - (D) Have available on-site or through contract, dietary, laboratory, and radiology services;
 - (E) Have an on-site pharmacy or a drug room; and
 - (F) Have appropriately trained laboratory, radiology, and pharmacy staff on-site or on-call 24/7.
- (c) A mental or psychiatric hospital shall:
- (A) Be devoted primarily to the care of people suffering from mental illness;
 - (B) Have available on-site or through contract, dietary, laboratory, and radiology services;
 - (C) Have an on-site pharmacy or a drug room;
 - (D) Have appropriately trained laboratory, radiology, and pharmacy staff on-site or on-call 24/7; and
 - (E) Comply with the requirements in OAR 333-525-0000.
- (d) An orthopedic hospital shall:
- (A) Be devoted exclusively to the care of orthopedic patients;
 - (B) Provide orthopedic surgical services and related general medical care;
 - (C) Have available on-site or through contract, dietary, laboratory, and radiology services;
 - (D) Have an on-site pharmacy or a drug room;
 - (E) Have appropriately trained laboratory, radiology, and pharmacy staff on-site or on-call 24/7; and
 - (F) Comply with the requirements in OAR 333-525-0010.
- (3) The classification of each hospital shall be included on the license.
- (4) A hospital licensed by the Division may not assume a descriptive title or hold itself out under a descriptive title other than the classification title established by the Division and under which the hospital is licensed. This rule applies to the name on the hospital and any stationery, advertising, media, or other representations made by the hospital. A general hospital and a low occupancy acute care hospital may be described as a "hospital" without any modifications. A mental or psychiatric hospital and an orthopedic hospital shall use a descriptive title that describes or is reflective of the specialty services it offers.
- (5) A hospital may not change its license classification unless it applies for reclassification on a form prescribed by the Division and submits a fee as required by OAR 333-500-0020. The Division shall conduct an on-site survey prior to granting a hospital a new classification to determine compliance with this rule.

(6) A hospital that cannot meet the criteria for classification established by this rule shall have until October 1, 2010 to make the necessary changes to come into compliance and retain the classification it had on October 1, 2009. Alternatively a hospital may apply for reclassification under section (5) of this rule, or apply for a waiver under OAR 333-500-0065.

Stat. Auth.: ORS 441.015, 441.055

Stats. Implemented: ORS 441.055, 442.015

333-500-0034

Application Review

(1) In reviewing an application for a new hospital the Division shall:

(a) Verify compliance with the applicable sections of ORS chapters 441 and 476, and OAR chapter 333, divisions 500 through 535, 675, and OAR chapter 837;

(b) Determine whether a certificate of need is required and was obtained;

(c) Conduct an on-site licensing survey in coordination with the State Fire Marshal's Office; and

(d) Verify compliance with conditions of participation if the applicant has requested Medicare or Medicaid certification.

(2) In determining whether to license a hospital the Division shall consider factors relating to the health and safety of individuals to be cared for at the hospital and not whether the hospital is or will be a governmental, charitable or other nonprofit institution or whether it is or will be an institution for profit.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.022, 441.025

333-500-0036

Approval of License Application

(1) The Division shall notify an applicant in writing if a license application is approved, and shall include the license with the appropriate classification.

(2) A license shall be issued only for the premises and persons or governmental units named in the application and it is not transferable or assignable.

(3) The license shall be conspicuously posted in an area where patients are admitted.

(4) No hospital licensed pursuant to the provisions of ORS chapter 441 shall in any manner or by any means assert, represent, offer, provide or imply that such person or hospital is or may render care or services other than that which is permitted by or which is within the scope of the license issued to the hospital by the Division nor shall any service be offered or provided which is not authorized within the scope of the license issued to the hospital.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.015 - 441.096

333-500-0038

Denial of License Application

If the Division intends to deny a license application, it shall issue a Notice of Proposed Denial of License Application in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.030, 441.037

333-500-0040

Expiration and Renewal of License

(1) Each license to operate a hospital shall expire on December 31 following the date of issue, and if a renewal is desired, the licensee shall make application and pay the appropriate fee at least 30 days prior to the expiration date upon a form prescribed by the Division.

(2) For emergency preparedness planning and licensing purposes, a licensee shall provide, in its application for license renewal:

(a) The number of beds currently in use or capable of being used;

(b) The total number of beds that could be used with only minor alterations, taking into consideration existing equipment, the ancillary service capability of the facility, and the physical environment required by OAR chapter 333, divisions 500 through 535, as applicable; and

(c) The number of beds to be licensed.

(3) A single hospital license may cover more than one location if the licensee meets the requirements in OAR 333-500-0025.

(4) An applicant that has a certificate of accreditation and deemed status for Medicare certification from the Joint Commission or Committee on Hospitals of the American Osteopathic Association (CHAOA) shall provide the certificate to the Division with its renewal application, and shall include:

(a) All Joint Commission or CHAOA survey and inspection reports; and

(b) Written evidence of all corrective actions underway, or completed, in response to Joint Commission or CHAOA recommendations, including all progress reports.

(5) If an applicant wishes to renew its license and increase the number of beds licensed from the previous licensing year, the applicant shall include:

(a) Evidence of plans review approval as required by OAR chapter 333, divisions 535 and 675 as applicable; and

(b) Evidence that a certificate of need was obtained, or is not required.

(6) The Division shall not renew a license for any hospital if a certificate of need is required and has not been obtained pursuant to ORS 442.315.

(7) If the Division intends to deny a license renewal application, it shall issue of Notice of Proposed Denial of License Renewal Application in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.025

333-500-0045

Submission of Plans

(1) A hospital proposing to make alterations to an existing facility or to construct a new facility shall, before commencing such alteration, addition or new construction, submit plans and specifications to the Division for preliminary inspection and approval or recommendations with respect to compliance with Division rules and compliance with

National Fire Protection Association standards when the facility is also to be Medicare or Medicaid certified.

(2) Submissions shall comply with OAR chapter 333, division 675. Plans should also be submitted to the local building division having authority for review and approval in accordance with state building codes.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.055, 441.060

333-500-0055

Discontinuance and Recommencement of Operation of Hospitals

(1) If a hospital wishes to temporarily discontinue operation but retain its license to operate, the hospital shall notify the Division of the fact at least 14 days prior to the temporary discontinuance.

(2) A hospital shall issue a multimedia press release within 24 hours of the temporary discontinuance, notifying the public of hospital closure. Such notice shall include a procedure by which individuals may obtain their medical records.

(3) Before any patient is admitted to a hospital that has temporarily discontinued operation, the hospital shall request that the Division conduct an on-site survey to determine whether the hospital is in compliance with health facility licensing laws and conditions of participation, if applicable.

(4) A hospital may not renew operation until it receives approval, in writing, from the Division.

Stat. Auth.: ORS 441.055 & ORS 442.015

Stats. Implemented: ORS 441.055 & ORS 442.015

333-500-0060

Return of Hospital License and Hospital Closure

(1) If a hospital's license is suspended, revoked, expires, or if a hospital decides to permanently close, the license certificate in the licensee's possession shall be returned to the Division immediately.

(2) If the hospital is voluntarily permanently closed, the hospital shall issue a multimedia press release within 24 hours, notifying the public of facility closure. Such notice shall include a procedure by which individuals may obtain their medical records.

(3) A hospital shall notify the Division of a hospital's closure under section (2) of this rule at least 14 days prior to the closure and submit a plan for the storage and disposal of medical records. Medical records not claimed that are more than seven years old from the last date of discharge may be destroyed. Medical records not claimed that are less than seven years old from the last date of discharge shall be stored until they are more than seven years old from the last date of discharge. Medical records may be thinned to include only the admission/discharge sheet (face sheet), discharge summary, history and physical, operative report(s), pathology report(s), and X-ray report(s).

Stat. Auth.: ORS 441.055 & ORS 442.015

Stats. Implemented: ORS 441.055 & ORS 442.015

333-500-0065

Waivers

- (1) While all hospitals are required to maintain continuous compliance with the Department's rules, these requirements do not prohibit the use of alternative concepts, methods, procedures, techniques, equipment, facilities, personnel qualifications or the conducting of pilot projects or research. A request for a waiver from a rule must be:
- (a) Submitted to the Division in writing;
 - (b) Identify the specific rule for which a waiver is requested;
 - (c) The special circumstances relied upon to justify the waiver;
 - (d) What alternatives were considered, if any and why alternatives (including compliance) were not selected;
 - (e) Demonstrate that the proposed waiver is desirable to maintain or improve the health and safety of the patients, to meet the individual and aggregate needs of patients, and will not jeopardize patient health and safety; and
 - (f) The proposed duration of the waiver.
- (2) Upon finding that the hospital has satisfied the conditions of this rule, the Division may grant a waiver.
- (3) A hospital may not implement a waiver until it has received written approval from the Division.
- (4) During an emergency the Division may waive a rule that a hospital is unable to meet, for reasons beyond the hospital's control. If the Division waives a rule under this section it shall issue an order, in writing, specifying which rules are waived, which hospitals are subject to the order, and how long the order will remain in effect.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.055 & ORS 442.015

333-500-0090

Adoption by Reference

All rules, standards and publications referred to in OAR chapter 333, divisions 500 through 535 are incorporated by reference. Copies are available for inspection in the Division during office hours. Where publications are in conflict with the rules, the rules shall govern.

Stat. Auth.: ORS 441.055

Stats. Implemented: ORS 441.055 & ORS 442.015