

# Oregon Reproductive Health Program Certification Requirements for Abortion Services Version 1

## Introduction

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The Oregon Reproductive Health (RH) Program oversees a network of certified health care providers to ensure access to abortion services.

This document outlines the minimum requirements for abortion services that providers must meet in order to be certified by the Oregon Health Authority (OHA) RH Program and receive funding per OAR 333-004-2000 through 333-004-2190.

The Certification Requirements provide the foundation for high-quality services based on national standards of care and align with best practices and recommendations for client-centered, culturally-responsive care. The Certification Requirements are based on the following:

- Nationally Recognized Standards (e.g., US Preventive Services Task Force, National Abortion Federation)
- Providing Quality Family Planning Services (QFP) – Recommendations from the Centers for Disease Control and Prevention (CDC) and the Office of Population Affairs (OPA)
- National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care

## Background

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The Reproductive Health Equity Act (HB 3391), passed by the Oregon legislature in 2017, expands coverage for a broad suite of reproductive health services for low-income individuals who can become pregnant and who would otherwise be eligible for medical assistance if not for their immigration status. The Reproductive Health Program provides coverage for these services, including abortion.

## Section A: Certification Process for Abortion Services

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### A.1 Application and Certification Process for Abortion Services

- a. An agency must submit an Application for Certification for Abortion Services and all supporting documents to the RH Program. (Application and instructions are available on the RH Program's website [healthoregon.org/rhcertification](http://healthoregon.org/rhcertification)).
- b. The RH Program will determine if the application is complete and notify the agency of its determination within seven calendar days of receipt of the application.

1. If the RH Program determines that the application is not complete, the RH Program will notify the agency and the agency will have 30 calendar days to complete their application.
  - A. If the agency does not complete their application within 30 calendar days, their application will be denied.
  - B. The agency may then re-apply or appeal the decision per OAR 333-004-2170.
- c. Once an application is determined to be complete, the RH Program will review the applicable documents and determine if the agency meets the certification requirements.
- d. If the RH Program determines that the certification requirements for abortion services are met, the RH Program will inform the agency in writing that the application has been approved and that the agency is certified. This notification will occur no more than 30 calendar days after the RH Program has determined the application to be complete.
- e. Once an agency is certified the RH Program will provide a Medical Services Agreement (MSA) for Abortion Services to be signed by both the Oregon Health Authority and the certified agency.
- f. Certification requirements attested to in the initial application will be verified in an on-site review by the RH Program within one year of approval. (See Section A.2)
- g. If an agency does not meet all requirements in its application for certification for abortion services, the RH Program may deny certification.
  1. The RH Program will respond to the agency with a letter of denial providing a clear description of reasons for denial, based on the certification requirements.
  2. An agency may request that the RH Program reconsider the denial of RH Program certification. A request for reconsideration must be submitted in writing to the RH Program within 90 calendar days of the date of the denial letter and must include a detailed explanation of why the agency believes the RH Program's decision is an error along with any supporting documentation.
  3. The RH Program shall inform the agency in writing, within 30 calendar days of receipt of the request, whether it has changed its decision.
  4. The agency may appeal this decision per OAR 333-004-2170.

#### A.2 Verification of Certification Requirements for Abortion Services

- a. The RH Program will conduct an on-site verification review to determine compliance with certification requirements for abortion services of each approved agency within one year of application approval.
- b. After the initial on-site verification review, the RH Program will conduct regular on-site compliance reviews for all agencies every year based on a schedule developed by the RH Program.
- c. RH Program staff will work with the agency to schedule the on-site compliance review at a mutually agreed upon time. The agency will be notified, in writing, a minimum of 30 calendar days before its scheduled on-site verification review.

- d. An onsite agency review includes, but is not limited to:
  - 1. Review of enrollment forms, consents and all forms used in providing abortion services;
  - 2. Review of documents, policies, procedures, and/or protocols;
  - 3. Chart audit;
  - 4. On-site observation of patient counseling and education services; and,
  - 5. On-site observation of patient environment and physical environment.
- e. An exit report will be provided at the completion of the review.
  - 1. Preliminary findings will be presented to the Reproductive Health Coordinator (RHC), designated under Section B.5., the administrator and other staff interested in attending.
  - 2. If no certification deficiencies are identified during the review, the RH Program shall indicate as such in the exit report.
  - 3. If certification deficiencies are identified, the agency will be provided an opportunity to dispute any findings identified during the review at this time.
  - 4. A timeframe will be determined in which all compliance findings must be addressed.
  - 5. The RH Program may conduct an on-site follow-up visit to ensure compliance findings have been resolved.
- f. A copy of all the review materials and a final written exit report will be provided to the RHC within two weeks after the exit review.
- g. The RH Program will perform regular billing, enrollment, medical chart audits, and other quality assurance reviews.
- h. The RH Program may conduct a review of the agency without notice of any or all certification requirements for compliance and perform a verification on-site review if the RH Program is made aware of issues of compliance or complaints from any source.
- i. At any time, the agency may request an administrative review of compliance, which includes an on-site visit. The review will be considered a “no-penalty” review with the exception of gross violation or negligence that may result in agency decertification.
- j. The agency must notify the RH Program within seven calendar days of any change that brings the agency out of compliance with the certification requirements.

### A.3 Process for Ensuring Compliance

- a. If certification deficiencies are found during any RH Program or agency-initiated review, the agency must:
  - 1. Submit a plan for corrective action and date for meeting compliance within a 30, 60 or 90 calendar day period, depending on the finding and compliance feasibility; and
  - 2. Come into compliance by the specified date or the RH Program will issue a letter of non-compliance with notification of suspension or decertification.

- b. Compliance verification may be determined through submission of documentation or through an additional on-site review.
- c. An agency with its certification status suspended may have its suspension lifted once the RH Program determines that compliance with certification requirements for abortion services has been achieved satisfactorily.
- d. If compliance findings are not met within the designated 30, 60 or 90 calendar day timeframe, the agency may ask for an extension, providing justification.
- e. If the agency fails to address all compliance findings within 180 calendar days of the date of the initial non-compliance notification the RH Program may seek to suspend or terminate the agency's certification.
- f. An agency that has been decertified may reapply with an amended application and additional documentation at any time.

## **Section B: Administrative Requirements for Abortion Services**

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### **B.1 Informed Consent**

- a. The informed consent process, provided verbally and supplemented with written materials by the agency, must be presented in a language and style the client understands.
- b. An agency must inform clients that:
  - 1. Services are provided on a voluntary basis.
  - 2. They cannot be coerced to accept services or to use any particular method of birth control.

### **B.2 Confidentiality**

- a. Agencies must follow the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, HIPAA Security Rule, and Health Information Technology for Economic and Clinical Health (HITECH) Act.
- b. Services must be provided in a manner that respects the client's privacy and dignity.
- c. Clients must be assured of the confidentiality of services and their medical and legal records.
- d. Services must remain confidential during billing and collecting payments, when requested by clients.

### **B.3 Linguistic and Cultural Responsiveness**

- a. Agencies must have a comprehensive strategy to provide culturally and linguistically appropriate services.
- b. All services, support, and other assistance must be provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, languages, and behaviors of the client receiving services, and in a manner that has the greatest likelihood of ensuring maximum program participation.

- c. The agency must make interpretation services available to all clients needing or requesting such assistance at no cost to the client. Qualified or certified interpretation services are strongly recommended when available.
  - 1. The agency must notify clients in need of interpretation services of the availability of such services in accordance with the Civil Rights Act of 1964 and sections 1557, 1331 and 1001 of the Affordable Care Act (ACA).
  - 2. All persons providing interpretation services must adhere to confidentiality guidelines.
  - 3. Family and friends shall not be used to provide interpretation services, unless requested by the client.
  - 4. Individuals under age 18 shall never be used as interpreters for clinic encounters for clients with limited English proficiency or who otherwise need this level of assistance.
  - 5. When possible, the agency shall employ bilingual staff, personnel, or volunteers skilled or certified in the provision of medical and clinical interpretation that meets the needs of clients with limited English proficiency or who otherwise need this level of assistance during all clinic encounters.
- d. The agency shall make easily understandable print materials available to clients and post signage in the languages of groups represented or commonly encountered in the service area.
- e. Culturally and linguistically appropriate health educational materials must be available for clients needing them.
  - 1. All print, electronic, and audiovisual materials shall be appropriate in terms of the client's language and literacy level. A client's need for alternate formats must be accommodated.
- f. A copy of a patient bill of rights shall be posted in a public area of the clinic. See the RH Program's website for a sample patient bill of rights ([healthoregon.org/rh](http://healthoregon.org/rh)).

#### B.4 Federal Requirements Regarding Abortion Services.

- a. An agency may not use federal funds for abortion services.
- b. Agencies that receive federal funds and provide abortion services must have clear policies regarding the separation of federal funds from other funds.

#### B.5 Designation of Reproductive Health Coordinator (RHC)

- a. The agency will designate an individual as the RHC to be the key point of contact in accordance with OAR 333-004-2070(4)(f). The RHC is responsible for:
  - 1. Having an understanding of relevant aspects of the RH Program and how it is operationalized within all clinic sites, including client enrollment, clinical services, billing and data submission;
  - 2. Ensuring program compliance at all clinic sites;
  - 3. Responding to requests for information from the RH Program in a timely manner; and

4. Attending the annual Reproductive Health Coordinators' Meeting, and other required trainings and meetings provided by the RH Program.

#### B.6 Required Training

- a. Orientation to relevant aspects of the RH Program is provided to all new agencies by RH Program staff within three months of becoming a certified agency of abortion services.
- b. The designated RHC at each agency is responsible for coordinating subsequent staff orientation and training.

#### B.7 Client Informational and Educational Materials

- a. All educational material provided to clients who receive abortion services must be:
  1. Factually correct;
  2. Suitable for the population or community receiving the information;
  3. Culturally and linguistically appropriate; and
  4. Provided at the client's level of understanding.

#### B.8 Compliance with Federal, State, and Local Laws and Regulations

- a. Agencies must maintain appropriate level of Clinical Laboratory Improvement Amendments (CLIA) certification.
- b. Agencies must maintain appropriate licensure/certification based on facility type, as needed.
- c. Agencies must apply for and maintain appropriate licensure from the Oregon Board of Pharmacy, as applicable.

#### B.9 Access to Care

- a. All services must be provided in a manner which protects the dignity of the client.
- b. All services must be provided to clients without regard to race, color, national origin, immigration status, sex, sexual orientation, gender identity, age, or disability in accordance with applicable laws, including Title VI of the Civil Rights Act of 1964, section 1557 of the ACA, the Americans with Disabilities Act (ADA) of 1990, section 504 of the Rehabilitation Act of 1973, and Oregon Revised Statutes chapter 659A.
- c. The agency's clinic facility(s) must be compliant with ADA requirements.
- d. Clients must be offered information about where to access free- or low- cost primary care services.

## **Section C: Clinical Requirements for Abortion Services**

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#### C.1 Clinical Services

- a. Clinical services must operate under the direction of a physician.

- b. The agency must follow practices related to abortion services based on evidence-based, national standards of care (e.g. The American College of Obstetricians and Gynecologists, the National Abortion Federation, Society of Family Planning, etc.).
- c. Clients must be informed of where and how to obtain 24-hour emergency care services.
- d. Appointments for clients must be available within a reasonable time period, based upon their needs and preferably within a week of initial contact. Clients for whom the clinic cannot meet their desired timeframe must be given the option to be referred to another contracted RH Program agency, preferably within close proximity.
- e. Core services must be offered to clients, as appropriate. Core services are defined as:
  - 1. Abortion services, including medication abortion (MAB) and therapeutic abortion (TAB) procedures occurring in an outpatient setting.
    - A. If the agency is unable to provide both of the above services, the agency must have a referral system in place. Clients must be notified, prior to their appointment, of the agency's inability to offer both services and be referred to another contracted RH Program agency, preferably within close proximity.
  - 2. Contraceptive drugs, devices, and supplies provided immediately following abortion services.
- f. Clients in need of additional medical or psychosocial services beyond the scope of the agency must be provided information about available local resources, including domestic violence and substance abuse related services.

## C.2 Education and Counseling Services

- a. The general advantages and disadvantages of medication and therapeutic abortion should be explained early in the counseling process.
- b. Education and counseling services must be provided using a client-centered approach that helps the client clarify their needs and wants, promotes personal choice and risk reduction, and takes into account diverse cultural and socioeconomic factors of the client and psychosocial aspects of reproductive health and abortion services.
- c. Prior to a medication or therapeutic abortion, clients should also be offered client-centered counseling and education on the following:
  - 1. Contraceptives
  - 2. STI risk reduction
    - A. Assessment
    - B. Prevention methods
  - 3. Resisting sexual coercion
    - A. Relationship safety
    - B. Intimate partner violence
    - C. Human trafficking

- d. Agency staff must make referrals for additional counseling, as needed.

### C.3 Pharmacy / Contraceptive Drugs, Devices, and Supplies

- a. The agency must offer a broad range of acceptable and effective approved family planning methods and services, including emergency contraception, available at the clinic site.
  - 1. If the agency is unable to dispense or administer contraception onsite, the agency must have a referral system in place for the provision of contraceptive methods. Referrals should preferably be made to another agency within close proximity.
    - A. Clients must be notified, prior to a medication or therapeutic abortion, of the agency's ability to dispense or administer contraception onsite.
- b. An agency dispensing birth control methods on-site must follow Oregon Board of Pharmacy rules (OAR 855-043-0700 through 855-043-0750).
- c. The agency must follow written policies and procedures for drug management, including security, acquisition, storage, dispensing and drug delivery, disposal and record keeping.
- d. The agency must establish procedures to ensure training and continued competencies in the dispensing of drugs by RNs, if applicable.

### C.4 Laboratory

- a. Testing must be available on-site following CLIA rules and regulations.
- b. The agency must have the ability to collect specimens and samples. Samples may be sent off-site to a CLIA-certified laboratory.
- c. An agency must have and maintain written policies and procedures for laboratory testing following CLIA regulations. Staff proficiency testing must be included in the policies.
- d. An agency must have and maintain written policies and procedures for Infection Control following CDC recommendations.

### C.5 Medical Emergencies

- a. The agency must have and maintain a current plan for medical emergencies.

## **Section D: Fiscal and Billing Requirements for Abortion Services**

### D.1 Billing Requirements (refer to OAR 333-004-2080 for additional information)

- a. The agency must be able to submit claims to the RH Program claims processing vendor (currently Ahlers and Associates).
- b. The agency has a legal obligation to seek third party reimbursement if applicable. The agency:
  - 1. Must be enrolled with and be able to bill the Oregon Health Plan (OHP);

2. Must be credentialed with and able to bill private insurance companies, per client's preference; and
  3. Must provide assurance of confidentiality, when indicated.
- c. Agencies may not request a deposit from the client in advance of services covered by the RH Program.

#### D.2 Payment

- a. Reimbursement from the RH Program for services defined in OAR 333-004-2040(3)(b) must be accepted as payment in full with no charge to the client.
- b. Clients can be billed for services that are outside of the scope of services defined in OAR 333-004-2040(3)(b).
- c. The agency must notify clients prior to the visit that they may be billed for services not included under OAR 333-004-2040(3)(b).
- d. The agency may accept voluntary donations.

### **Section E: Data Collection and Reporting Requirements for Abortion Services**

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#### E.1 Collection of Client Enrollment and Encounter Data

- a. The agency must assure that all required client enrollment data is collected using the RH Program Enrollment Form and must have the capability to enter such data into the web-based RH Program Eligibility Database.
- b. The agency must assure that all required visit/encounter data variables are being collected using the RH Program Client Visit Record (CVR) and must have the capability to submit data and billing information to the RH Program data collection vendor (currently Ahlers and Associates).