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# Where are we now?

## Current state

Reproductive Health Coordinators' Meeting  
Monday, October 21<sup>st</sup>



PUBLIC HEALTH DIVISION  
Reproductive Health Program

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Two years of change!

RHEA

Certification  
Requirements

PE 41

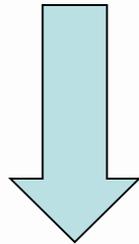
Title X

PE 46

RH GF

# RHEA: kickstarted the changes

- Passage of RHEA – August 2017
- Implementation of abortion coverage – January 2018
- Implementation of new RH Program structure – April 2018



Created certification requirements  
Braided three funding sources  
Developed single, streamlined enrollment form

# And then there was last year...

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- To celebrate our success with program integration, we were rewarded with looming storms and a lot of what ifs:
  - Title X and Notice of Proposed Rule Making
  - Possible new Governor
  - Ballot Measure 106, restricting state funding for abortions
- There were some wins and a pretty big loss

# Title X

9<sup>th</sup> Circuit of Appeals

Stays

District Court

Relinquishment

Preliminary injunction

Termination

# POLL QUESTIONS:

When we talk about Title X and Oregon's decision to terminate the grant:

1. Do you know what we are talking about?
2. Do you have an understanding of why Oregon made the decision it made?
3. Have you received questions from others about the state's decision?

# Title X rule: a review

- Notice of Proposed Rulemaking (NPRM) published, June 2018
  - Oregon submitted public comment letter opposing content of rule
- Draft rule published, February 2019
- Final rule published, March 2019
- Oregon, as lead plaintiff with 19 other states, DC, Planned Parenthood Federation of America, and American Medical Association, files lawsuit challenging the rule, March 2019

# Title X rule: a review, cont.

- Four district courts grant preliminary injunctions against enforcement of rule, April 2019
- US Ninth Circuit Court of Appeals issues a stay of preliminary injunctions, June 2019
- Office of Population Affairs issues guidance regarding rule effective date, July 15, 2019
- **Oregon ceases using Title X funds, July 15, 2019**

# Title X rule: a review, cont.

- Oregon submits letter to OPA with plan of non-compliance, August 19, 2019
  - OPA rejects Oregon's plan and directs Oregon to withdraw from Title X, August 23, 2019
  - **Oregon submits notice of withdrawal to OPA, August 26, 2019**
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- US Ninth Circuit Court of Appeals hears oral argument for appeal of preliminary injunction, September 23<sup>rd</sup>
    - Unclear when court will issue decision

# Key provisions of Title X rule

- **Undermines standards of care**
  - Eliminates “medically approved” from definition of broad range of methods
  - Projects not required to provide broad range of methods
- **Restricts pregnancy options care/counseling**
  - Eliminates pregnancy options counseling as a requirement
  - Restricts pregnancy options counseling to doctors and advance practice providers only
  - Prohibits abortion referral, even upon patient’s request

# Key provisions of Title X, cont.

- **Imposes physical and financial separation requirements on grantees and subrecipients**
  - Includes EHRs, websites, waiting rooms, separate office entrances/exits
  - Separation requirements apply to *any* abortion related activity, including counseling and referral
- **Undermines confidentiality and trust**
  - Requires providers to encourage family participation for *all* patients, including adults

# Key provisions of Title X, cont.

- **Gives HHS substantial oversight and requires grantees and subrecipients to submit information about referral partners to HHS**



# Considerations in state's decision

- In opposition to Oregon's longstanding commitment to ensuring access to comprehensive reproductive health care
- Conflicts with key sections of state law

**2017 ORS 659.880<sup>1</sup>**  
**Prohibitions relating to termination of patient's pregnancy**

Text News Annotations Related Statutes

A public body as defined in ORS **174.109 ("Public body" defined)** or, except as provided in ORS **435.225 (Refusal by employee to offer services)**, an officer, employee or agent of a public body may not:

- (1) Deprive a consenting individual of the choice of terminating the individual's pregnancy;
- (2) Interfere with or restrict, in the regulation or provision of benefits, facilities, services or information, the choice of a consenting individual to terminate the individual's pregnancy;
- (3) Prohibit a health care provider, who is acting within the scope of the health care provider's license, from terminating or assisting in the termination of a patient's pregnancy; **or**
- (4) Interfere with or restrict, in the regulation or provision of benefits, facilities, services or information, the choice of a health care provider, who is acting within the scope of the health care provider's license, to terminate or assist in the termination of a patient's pregnancy.

[2017 c.721 §8]

# Considerations in state's decision, cont.

- Oregon Health Authority, as the state's Title X grantee, funds abortion services through both OHP and RH Program. Achieving physical and financial separation at the state level would be prohibitively costly.
- Conflicts with RH Program's standards of high-quality, evidence-based standards of care

# POLL QUESTIONS:

1. Do you feel like you have a better understanding of the state's decision to withdraw from Title X?
2. Could you explain the state's decision if you received questions?

# So, where are we now?

- Permission to use state general funds allocated for reproductive health to fill funding gap left by Title X
  - All expenses previously funded through Title X now covered through general funds
    - Includes FFS reimbursement, PE 46, corrections mini-grants, state program administration/staffing
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- Efforts to solidify ongoing, flexible funding

# So, where are we now?

- **All** current RH Program Certification Requirements remain in effect, including:
  - All clients of reproductive capacity must be assessed on the sliding fee scale (which slides to zero)
  - Clients who decline to complete the RH Program Enrollment Form may not be denied services based on inability to pay
  - CVR data must be submitted for all clients, regardless of coverage source

**REMINDER: Participation in the RH Program  
is about more than just funding**

# What else could possibly be coming our way

- ?
- ?
- ?
- **Public Charge**
- ?
- ?
- **SUPREME COURT DECISIONS**
- ?
- Reinstatement of Preliminary Injunction

# A note about public charge

- New public charge rule was scheduled to go into effect October 15th
- Multiple district courts issued preliminary injunctions preventing the rule from going into effect
- OHA webpage on public charge:  
<https://www.oregon.gov/OHA/ERD/Pages/public-charge.aspx>

# Public charge key messages

**The new federal Public Charge Rule has been temporarily blocked and did NOT start on Oct. 15, 2019.**

- The Public Charge Rule does **not** apply to every immigrant.
- Many public benefits **don't** count towards Public Charge
- Public benefits your children or other family members get **don't** count against you in the Public Charge Test.
- Just getting public benefits alone does **not** make you a Public Charge.
- Stay informed. Things could change.
- You're not alone. There's help.
  - Visit [oregonimmigrationresource.org](http://oregonimmigrationresource.org) to find an attorney
  - Call the Oregon Law Center-Legal Aid Services of Oregon Public Benefits Hotline at 1-800-520-5292

# RH Program Certification Requirements



**Oregon Reproductive Health Program**  
**Certification Requirements for Reproductive Health Services**  
**Version 1.2**

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**Introduction**

The Oregon Reproductive Health (RH) Program oversees a statewide network of certified health care providers to ensure access to a suite of reproductive health services (preventive reproductive health care, preconception, and contraception). These services are provided to all individuals regardless of race, color, national origin, immigration status, sex, sexual orientation, gender identity, age, or disability.

This document outlines the minimum requirements service 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 comprehensive client-centered, culturally-responsive preventive care. The Certification Requirements are based on the following:

- Nationally Recognized Standards (e.g., US Preventive Services Task Force, US Medical Eligibility Criteria)
- 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

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**Background**

In 1999, Oregon applied for and received a Medicaid 1115 waiver for family planning which allowed for an expansion of Medicaid coverage to include more people. This program eventually became Oregon ContraceptiveCare or CCare. As a Medicaid program, clients must be either a U.S. citizen or hold eligible immigration status to receive services under CCare.

In 2017, the Oregon Legislature passed the Reproductive Health Equity Act (HB 3391) in response to community partners advocating for the necessity for all women to receive the full array of reproductive health services without cost sharing.

The Reproductive Health Program also receives state general funds to support the provision of high-quality reproductive health services.

# RH Program Certification Requirements, Version 1

Based on:

- Federal Program Requirements for Title X Funded Family Planning Projects
- Oregon Contraceptive Care Standards of Care and Oregon Administrative Rules
- National standards of care
- Input from RH Program providers, stakeholders, and community partners

# RH Program Certification Requirements, Version 1 Sections:

## A. Certification Process

- Examples: how to get apply, the processes for certification and recertification

### **Section A: Certification Process for Reproductive Health Services**

#### A.1 Application, Certification, and Renewal Process for Reproductive Health Services

- a. An agency must submit an Application for Certification for Reproductive Health 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)).

# RH Program Certification Requirements, Version 1 Sections:

## B. Administrative Requirements

- Examples: administrative policies, informed consent, confidentiality, linguistic and cultural responsiveness, required trainings

### **Section B: Administrative Requirements for Reproductive Health Services**

#### B.1 Administrative Policies

- a. Agencies must follow written administrative policies approved by the RH Program. A complete set of sample policies is available on the RH Program's website ([healthoregon.org/rh](http://healthoregon.org/rh)).

# RH Program Certification Requirements, Version 1 Sections:

## C. Clinical Requirements

- Examples: collaborative agreements and partnerships, clinical protocols, medical emergencies, education and counseling services

### **Section C: Clinical Requirements for Reproductive Health Services**

#### C.1 Collaborative Agreements and Partnerships

- a. The agency must maintain current collaborative agreements or partnerships with relevant agencies to facilitate client access to clinics, such as: Women, Infant, and Children (WIC), Oregon Health Plan (OHP) enrollment assisters, and transportation providers.

# RH Program Certification Requirements, Version 1 Sections:

## D. Fiscal and Billing Requirements

- Examples: compliance with federal, state, and local requirements, payment

**Section D: Fiscal and Billing Requirements for Reproductive Health Services**

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D.1 Compliance with Federal, State, and Local Requirements

- a. The agency must comply with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-profit Organizations".

# RH Program Certification Requirements, Version 1 Sections:

## E. Data Collection and Reporting

- Examples: collection of client and encounter data, annual request for information

**Section E: Data Collection and Reporting Requirements for Reproductive Health Services**

E.1 Collection of Client Enrollment and Encounter Data

# Questions to ponder

1. What are the hallmarks or foundations of the RH Program?
2. What is challenging or difficult about the RH Program?

Over the next two days, write your responses on the white flip charts on the wall