Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority- Public Health Division — 333

Agency and Division — Administrative Rules Chapter Number

Certification Rules for Local School Dental Sealant Programs

Rule Caption

Statutory Authority: ORS 431A.725

Other Authority:

Stats. Implemented: ORS 431A.725

Need for the Rule(s):

The Oregon Health Authority (OHA), Public Health Division, Oral Health Program, is proposing permanent amendments to Oregon Administrative Rules in chapter 333, division 28, "Certification for Local School Dental Sealant Programs."

These rule changes are needed to update and clarify requirements for the certification of Local School Dental Sealant Programs. The infection prevention and control protocols referenced in OAR 333-028-0320(14) are being updated to align with current guidance and requirements from Oregon Occupational Safety and Health Administration (Oregon OSHA), the Oregon Board of Dentistry, and the U.S. Centers for Disease Control and Prevention (CDC).

Additional proposed amendments would clarify requirements for the Quality Monitoring and Evaluation Plan, update OHA site visit intervals, revise the verification review process for certified Local School Dental Sealant Programs, and strengthen compliance requirements. OHA is also proposing updates to quality assurance measures and further clarification of verification requirements for certified programs.

Documents Relied Upon, and where they are available:

- ORS chapter 431A: https://www.oregonlegislature.gov/bills_laws/ors/ors431A.html
- Senate Bill 660 (Oregon Laws 2015, chapter 791): https://olis.oregonlegislature.gov/liz/2015R1/Downloads/MeasureDocument/SB660/Enrolled
- Oregon OSHA, Division 2, General Occupational and Health Rules https://osha.oregon.gov/rules/final/Pages/division-2.aspx
- Oregon Board of Dentistry, Dental Practice Act, Division 12, 818-012-0040 and ORS 680.172 https://www.oregon.gov/dentistry/Pages/laws-rules.aspx
- CDC, Dental Infection Prevention and Control https://www.cdc.gov/dental-infection-control/site.html

Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in This State:
Senate Bill 660, passed by the Oregon State Legislature in 2015, requires local school dental sealant programs to be certified by the Oregon Health Authority (OHA) before dental sealants can be provided in a school setting. Oregon Administrative Rules (OARs) 333-028-0300 through 333-028-0350 establish the procedure and criteria OHA uses to certify, train, recertify, and monitor and collect data from local school dental sealant programs. The intent of the certification program is to provide schools and families/caregivers with assurance that a minimum set of standards will be met while delivering dental sealant services in the school environment.

Dental sealants are thin liquid coatings applied to the chewing surfaces of the back molar teeth to prevent tooth decay (cavities). The coating flows into the deep pits and grooves of the tooth "sealing out" bacteria and food debris that cause cavities. Throughout Oregon, certified local school dental sealant programs serve many elementary and middle school-aged students by screening students for cavities and placing sealants on teeth, as needed.

Oral health is essential to overall health, but oral health inequities exist for school-age children and adolescents based on race, ethnicity, geographic residence, household income, etc. Based on the 2017 Oregon Smile Survey for children in first, second and third grades (6-9 years old), children belonging to racially and ethnically diverse communities are more likely to have decay experience, untreated decay and rampant decay compared to white children. Hispanic and Native Hawaiian/Pacific Islander students had the highest cavity rates overall and also had the highest rates of untreated cavities[1]. These disparities persist because there is inequitable access to oral health services. Some of the barriers include lack of dental insurance, scarcity of dental providers in rural and frontier communities, and transportation difficulties. Based on preliminary 2022 Oregon Smile Screening data, children (6-9 years old) from counties in southeastern Oregon had higher cavity rates than the rest of the state.[2]

School-based dental sealant programs are highly effective since they can reach children from low-income families who are less likely to receive private dental care[3]. Oregon Administrative Rules 333-028 require school dental sealant programs to provide services first to elementary and middle schools where at least 40% of the students are eligible for the National School Lunch Program; or the school has been approved for the Community Eligibility Program (CEP); or the school is located in a dental care health professional shortage area (HPSA). The rules also require programs to offer dental sealant services to all students regardless of insurance status or ability to pay. Any child that has parent/guardian permission receives dental sealants.

The proposed amendments may have a positive equity impact by clearly identifying specific federal and state anti-discrimination laws that Local School Dental Sealant Programs (SDSPs) must follow. Previously, the rule referenced general nondiscrimination requirements. By explicitly naming laws such as Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, and Oregon

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[1] Oregon Health Authority, Oregon Smile Survey Data Brief: Oral Health Among Oregon's Children. Accessed March 28, 2024 at https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/ORALHEALTH/Documents/2017%20Smile%20Survey%20Data%20Brief.pdf

[2] The Oral Health Program is working with the Department of Education to finalize demographic data for the 2022 Oregon Smile and Healthy Growth Screening. Final data is anticipated to be released in the fall of 2026.

[3] Centers for Disease Control and Prevention. Vital signs: dental sealant use and untreated tooth decay among U.S. school-aged children. MMWR. 2016;65(41):1141–1145. Accessed March 28, 2024 at https://www.cdc.gov/mmwr/volumes/65/wr/mm6541e1.htm?s_cid=mm6541e1_w

Revised Statutes Chapter 659A, the rule provides greater clarity about the protections that apply to students and families. This clarification may help ensure that school dental sealant services are delivered in a manner that is accessible, inclusive, and free from discrimination based on race, color, national origin, sex, disability, or other protected characteristics.

Requiring Local School Dental Sealant Programs (SDSPs) to consult with the Oregon Health Authority before terminating services to a school helps promote health equity by reducing the risk that schools serving high-need populations lose access to preventive dental services without appropriate planning or coordination. School dental sealant programs often serve students who may otherwise have limited access to dental care, including children from low-income families, rural communities, or communities of color. Requiring consultation with the Oregon Health Authority allows the agency to work with the SDSP and community partners, including Coordinated Care Organizations, to identify potential solutions or alternative providers to help ensure continuity of services for students.

Fiscal and Economic Impact:
There is a minimal fiscal and economic impact for currently certified local school dental sealant programs or those that want to operate a school dental sealant program. See below for further explanation.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
There is no cost of compliance impact to state agencies or the public as a result of the proposed rule amendments. There is no cost of compliance impact to units of local government unless they choose to operate a new School Dental Sealant Program (SDSP). The proposed amendments do not introduce new requirements that would result in additional costs beyond current program operations for local governments that already operate SDSPs.

2. Cost of compliance effect on small business (ORS 183.336): ORS 183.310(10) defines small business as "a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees."

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
A small number of small businesses would be subject to the proposed rule amendments. Most local SDSPs are operated by larger organizations such as dental care networks, federally qualified health centers, and non-profits. Private practice dentists or dental hygienists that operate a local SDSP would be considered a small business. OHA is currently only aware of one private practice dental hygienist operating a local SDSP. OHA cannot estimate with accuracy exactly how many there are, but there is the potential for more private practice dentists and dental hygienists to operate a local SDSP and therefore need to comply with the certification requirements and proposed rule amendments.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
No additional reporting, recordkeeping, professional services or other administrative activities will be required for compliance with the proposed rule amendments.

c. Equipment, supplies, labor and increased administration required for compliance:

There is minimal impact on small businesses if they currently operate or want to operate a SDSP. Local SDSPs may incur minimal costs to meet updated infection prevention and control protocols in the proposed amended certification requirement OAR 333-028-0320(14).

How were small businesses involved in the development of this rule?
Representatives of small businesses participated on the rule advisory committee and reviewed and provided input on the Statement of Need and Fiscal Impact form and the proposed rule text.

Administrative Rule Advisory Committee consulted?:
A Rules Advisory Committee (RAC) was established. The committee included 14 representatives from organizations and stakeholder groups that would be impacted by the rules, including community-based organizations, certified local school dental sealant programs, coordinated care organizations (CCOs), dental care organizations and subcontractors, professional associations, dental education programs, and public health professionals. Representatives were affiliated with organizations such as Konnect Dental Kare, the Oregon Dental Association, PacificSource Community Solutions, Rogue Community College, Neighborhood Health Center, Kaiser Permanente, Arrow Dental, Capitol Dental Care, Advantage Dental – Everybody Brush!, and Community Health Centers of Benton and Linn Counties.

If not, why?:

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