

Date: January 11, 2022

TO: Interested Parties

FROM: Dana Selover, Section Manager  
Health Care Regulation and Quality Improvement

RE: Notice of Temporary Rulemaking: [OAR 333-505-0035](#) - "Hospital requirements when making decisions about allocation of care during constrained periods"

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The Oregon Health Authority (Authority) is continuing to respond to the COVID-19 pandemic and the highly transmissible Omicron variant that is surging through this state at record levels. During the week of December 27, 2021 through January 2, 2022, the Authority recorded 16,791 new cases of COVID-19, a 140% increase over the previous week and hospitalizations increased by 57% over the previous week. Hospitals are having to address the surging rates of hospitalization and consider making triage decisions regarding allocation of patient care.

This temporary rule, [OAR 333-505-0035](#), requires that when a hospital is experiencing a resource constrained period and has to make triage decisions for patient care, it must do the following:

- Provide notice to the Oregon Health Authority that it is making triage decisions.
- Inform the public by at a minimum posting information on its website and at the hospital in conspicuous locations that triage decisions are being made.
- Make available upon request, the triage decision-making tool, protocol or standard that the hospital is using to make triage decisions.
- Communicate a triage decision to a patient, their support person, or the individual legally authorized to act on behalf of the patient, in a language they understand and in a culturally responsive manner to the extent possible given the emergency, including how the triage decision was made.
- Document specific information for each patient undergoing consideration and triage for scarce resource allocation.
- Provide patients information about how to contact the hospital's Americans with Disability Act coordinator or patient advocate.
- Provide the documentation of triage decision to the Oregon Health Authority upon request.

**This temporary rule is effective January 17, 2022 through July 15, 2022.**

For more details, please see the Temporary Administrative Order including the Statement of Need and Justification and the full text of the temporary rule at: [www.healthoregon.org/hcrqirules](http://www.healthoregon.org/hcrqirules).

A copy of Oregon's Interim Crisis Care tool is available at:  
<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/HEALTHCAREPROVIDERS/FACILITIES/HEALTHCAREHEALTHCAREREGULATIONQUALITYIMPROVEMENT/Documents/OARPermanentRule3335050035InterimCrisisCareTool.pdf>

If you have any questions or would prefer a hardcopy be sent, please e-mail [mellony.c.bernal@dhs.oha.state.or.us](mailto:mellony.c.bernal@dhs.oha.state.or.us).