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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED

08/31/2023 10:55 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Requirements for Qualified Entities and Persons to Train Caregivers, Service Plans and Physician Orders

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/25/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Public Health Division
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/20/2023

TIME: 2:00 PM

OFFICER: Staff

HEARING LOCATION

ADDRESS: Remote via Microsoft Teams, Video/teleconference call, Portland, OR 97232

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-277-2343

CONFERENCE ID: 128785530

SPECIAL INSTRUCTIONS:

This hearing is being held remotely via Microsoft Teams. To provide oral testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register and receive the link for the Microsoft Teams video conference. Alternatively, you may dial 971-277-2343, Phone Conference ID 128 785 530# for audio only.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

NEED FOR THE RULE(S)

The Oregon Health Authority, Public Health Division, Health Care Regulation and Quality Improvement Section is proposing to permanently amend Oregon Administrative Rules in chapter 333, division 536 relating to who can provide training to caregivers, service plan review requirements, and timeline for implementing orders from physicians located out-of-state. These changes have been proposed based on community input, feedback received from the Oregon Health Care Association, and legislation both proposed and passed during the 2023 legislative session. In-home care agencies (IHC) agencies are currently required to provide caregiver training from qualified individuals or qualified entities. Qualified entities are entities that provide on-line training and qualified individuals include persons licensed as a physician, nurse practitioner, naturopathic physician, registered nurse, licensed practical nurse, physician assistant or pharmacist. The proposed changes include allowing persons with two or more years of experience working with an IHC agency or a long-term care facility to provide caregiver training and may be a caregiver if the caregiver is current on all training requirements.

The proposed amendments address concerns that licensed IHC agencies are facing barriers when getting their caregivers trained by a qualified individual or qualified entity. Challenges with being trained by a qualified individual are exacerbated by the shortage of nurses currently being seen throughout the health care industry. Consequently, the nurses employed by IHC agencies prioritize nursing-specific tasks, which leaves less time to train caregivers. Challenges to obtaining training through a qualified entity included monetary barriers, although, one of the approved qualified entities offers their training free of charge. The proposed amendments will allow licensed IHC agencies to delegate individuals within their agency, and who meet the qualifications, to be qualified trainers. This will allow agencies to train their staff in-house.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- ORS chapter 443: https://www.oregonlegislature.gov/bills_laws/ors/ors443.html
- HB 2500 (2023) (proposed):
<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2500/A-Engrossed>
- SB 226 (2023): <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB226/Enrolled>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

In-home care agencies provide services to clients in their homes and these clients are often vulnerable individuals. The services provided by licensed IHC agencies are necessary to assist an individual in meeting their daily needs. These needs include: bathing, personal grooming, dressing, toileting, mobility, nutrition and feeding and medication reminding. Consequently, effective and appropriate training is necessary to ensure safe and effective care. The amendment to this rule will enable licensed IHC agencies who choose to do so, identify a "qualified trainer" within their agency. This "qualified trainer" will be able to provide much of the currently required caregiver training. It is anticipated that this will result in caregivers being able to obtain the training more quickly than they can under current rule which will lead to clients receiving timely needed care.

According to a presentation by Dr. Kezia Scales, Senior Director of Policy Research, "Strengthening and Stabilizing the Direct Care Workforce in Oregon" (pages 2, 5-8):

- The direct care workforce in Oregon includes 47,850 personal support workers, homecare workers, and personal care attendants, agency-employed home care aides, direct support professionals, residential care aides, and certified nursing assistants;
- 81% of direct care workers are women;
- Nearly one in four direct care workers in Oregon are age 55 and over;
- One in three direct care workers in Oregon are people of color; and

- One in six direct care workers in Oregon are immigrants.

Due to the aging population in Oregon, the demand for direct care workers is increasing and the need to ensure that training is adequate and quickly available is important. While it is uncertain whether this amendment will affect racial equity in Oregon, it does create a pathway for more trainers to train the workforce many of whom are persons of color.

FISCAL AND ECONOMIC IMPACT:

There are currently 184 licensed in-home care agencies in Oregon classified as follows:

- 143 comprehensive agencies that provide personal care services that includes medication reminding, medication assistance, medication administration and nursing services.
- 11 intermediate agencies that provide personal care services that may include medication reminding, medication assistance, and medication administration but does not including nursing services.
- 13 basic agencies that provide personal care services that may include medication reminding and medications assistance but does not provide medication administration or nursing services.
- 17 limited agencies that provide personal care services that may include medication reminding but does not provide other medication services or nursing services.

The proposed amendments allow another option for training caregivers and allow agencies to use a “qualified trainer” to provide some of the required caregiver training. It is anticipated that the proposed amendments will save licensed IHC agencies both time and money when it comes to training their caregivers

There are currently five approved qualified entities for caregiver training and four approved qualified entities for medication services training.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The Oregon Health Authority, Public Health Division is not anticipating any increased costs as it is already responsible for licensing, surveying and conducting complaint investigations relating to in-home care agencies. There are no anticipated increased costs to local government or the public.

(2)(a) The Health Care Regulation and Quality Improvement section does not collect data on the number of staff each agency employs and therefore cannot estimate with accuracy how many agencies may be small businesses. It is assumed that several agencies may employ 50 or fewer persons and thus would be impacted by these rules.

(b) It is not anticipated that these rules will have any increased impact on reporting, record keeping or other administrative activity requirements.

(c) No additional equipment, supplies, labor or increased administration is anticipated to comply with these rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

In-home care agencies in rural areas, and other small agencies were invited to participate in the RAC. One small agency participated on the RAC as well as the Oregon Health Care Association whose members may also include small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

333-536-0005, 333-536-0007, 333-536-0065, 333-536-0070, 333-536-0075

AMEND: 333-536-0005

RULE SUMMARY: Amend 333-536-0005

New definitions were added for the terms "medication" and "qualified trainer." Amendments were made to provide more clarity or specificity to "medication administration," "medication assistance," and "professional experience."

CHANGES TO RULE:

333-536-0005

Definitions ¶¶

As used in OAR 333-536-0000 through 333-536-0125, the following definitions apply:¶¶

(1) "Abuse" means:¶¶

(a) "Abuse" as it applies to an "adult" as those terms are defined in ORS 430.735;¶¶

(b) "Abuse" as it applies to a "child" as those terms are defined in ORS 419B.005; or¶¶

(c) "Abuse" as it applies to an "elderly person" or a "person with a disability" as those terms are defined in ORS 124.005.¶¶

(2) "Activities of daily living" means self-care activities that must be accomplished by an individual to meet his or her daily needs, but do not necessarily occur on a daily basis.¶¶

(3) "Adverse event" means any accident or injury that affects a client's physical or emotional health, safety, or well-being.¶¶

(4) "Agency" means an in-home care agency.¶¶

(5) "Administrator's delegate" means an individual assigned by the agency administrator to assist with matters relating to the operation of the agency that does not require the individual to be qualified as that term is defined in OAR 333-536-0052.¶¶

(6) "Applicant" means a person, agency, corporation, or governmental unit, who applies for an in-home care agency license.¶¶

(7) "Authority" means the Oregon Health Authority, Public Health Division.¶¶

(8) "Branch office" means a location or site from which an in-home care agency provides services within a portion of the total geographic area served by the parent agency or subunit.¶¶

(9) "Caregiver" means a person who provides assistance with activities of daily living or assistance with personal care tasks, household and supportive services, or medication services as authorized by these rules.¶¶

(10) "Change of ownership (CHOW)" means adding or removing one or more owner(s) or a change of more than five percent interest in agency ownership.¶¶

(11) "Client representative" means:¶¶

(a) A parent, stepparent, foster parent, or other adult with primary caregiving responsibility for the client when the client is a child; or¶¶

(b) An individual, paid or unpaid, related or unrelated, who acts on behalf of, or cares for the client when the client is an adult.¶¶

(12) "Geographic service area" means 60 miles in any direction from the parent agency or subunit's physical location.¶¶

(13) "Home health agency" has the meaning given that term in ORS 443.014.¶¶

(14) "Hospice program" has the meaning given that term in ORS 443.850.¶¶

(15) "In-home care agency" means an agency primarily engaged in providing in-home care services for compensation to an individual in that individual's place of residence. "In-home care agency" does not include a home health agency or portion of an agency providing home health services as defined in ORS 443.014.¶¶

(16) "In-home care services" means personal care services furnished by an in-home care agency, or an individual under an arrangement or contract with an in-home care agency, that are necessary to assist an individual in meeting the individual's daily needs, but do not include curative or rehabilitative services.¶¶

(17) "Licensed" means that the person or agency for which the term applies is currently licensed, certified, or registered by the proper authority within the State of Oregon.¶¶

- (18) "Licensed independent practitioner (LIP)" means a physician, nurse practitioner, or naturopathic physician.¶
- (19) "Licensed practical nurse" means a person licensed under ORS 678.010 to 678.448.¶
- (20) "Management experience" means experience in the administration, supervision or management of individuals in a health-related field including hiring, assigning, evaluating and taking disciplinary actions.¶
- (21) "~~Medication administration~~" means ~~administering medications to a client or directly supervising the client who is not able~~ means a drug as defined in ORS 689.005.¶
- (22) "Medication administration" means the direct application of a medication, whether by injection, inhalation, ingestion, or not willing to self-direct, but may be physically able to perform the task ~~she~~ means, to the body of a client by an individual legally authorized to do so. Medication administration includes but is not limited to taking the client's medications from original containers and putting the medications into closed secondary containers designed and manufactured for this purpose.¶
- (22~~3~~) "~~Medication assistance~~" means ~~helping the client who is able to self-direct with one or more steps in the process of taking medication, but does not mean medication administration as defined in these rules. Examples of medication assistance include, but are not limited to, opening the medication container, helping the client self-administer his or her medication, and assisting the client with one or more steps of medication administration at the client's direction. Medication assistance does not include assistance with self-administration of medication rendered by a non-practitioner to a client receiving in-home care services from an agency licensed under taking a medication from its original container and placing the medication into a closed secondary container designed and manufactured for this purpose~~ these rules and the client is able to self-direct in accordance with OAR 333-536-0045.¶
- (23~~4~~) "Medication reminding" means providing a client with an audio, visual or oral reminder to take his or her medication when a client is able to self-direct.¶
- (24~~5~~) "Medication services" means medication assistance or medication administration but does not include medication reminding.¶
- (25~~6~~) "Naturopathic physician" means a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685.¶
- (26~~7~~) "Nurse practitioner" means a registered nurse who has been licensed under ORS chapter 678 as qualified to practice in an expanded specialty role within the practice of nursing.¶
- (27~~8~~) "Nursing procedure" means a health-related procedure that is commonly taught in nursing education programs and normally performed by the registered nurse or licensed practical nurse when implementing the nursing plan of care.¶
- (28~~9~~) "Nursing services" means the provision of services that are deemed to be the practice of nursing as defined by ORS 678.010. These services include but are not limited to the delegation of specific nursing procedures to unlicensed persons in accordance with the Oregon State Board of Nursing administrative rules, chapter 851, division 047. Nursing services performed by an agency are not rehabilitative or curative; but are maintenance in nature.¶
- (29~~30~~) "Parent agency" means the in-home care agency that develops and maintains administrative controls of subunits or branch offices.¶
- (30~~1~~) "Personal care services" means the provision of or assistance with tasks intended to supplement a client's own personal abilities which are necessary to accomplish the client's activities of daily living or other activities as described but not limited to OAR 333-536-0045(1), and are preventive and maintaining in nature.¶
- (31~~2~~) "Pharmacist" means a person licensed under ORS chapter 689 to engage in the practice of pharmacy or to engage in the practice of clinical pharmacy.¶
- (32~~3~~) "Physician" means a person licensed under ORS chapter 677 to practice medicine or osteopathic medicine by the Oregon Medical Board.¶
- (33~~4~~) "Physician assistant" means a person licensed in accordance with ORS 677.505 to 677.525.¶
- (34~~5~~) "Professional experience" means having a nursing, certified nursing assistant, certified medication aide, medical, or therapeutic license, certificate, or degree used to work in a health-related field or program or completion of an ~~Authority approved training program~~ Oregon Health Authority (Authority) approved training program. The license or certificate must be current and in good standing.¶
- (35~~6~~) "Qualified entity" means an entity whose training program has been approved by the Authority.¶
- (36~~7~~) "Qualified individual" means an individual who:¶
- (a) Has completed an Authority approved training program; or¶
 - (b) Is currently an LIP, registered nurse, licensed practical nurse, physician assistant, or pharmacist; or¶
 - (c) Is another health care professional not listed in subsection (36~~7~~)(b) who has been approved by the Authority to conduct training.¶
- (37~~8~~) "Qualified trainer" means an individual who:¶
- (a) Has completed an Authority approved training program; or¶
 - (b) Is designated by an agency to conduct caregiver training on behalf of the agency, including but not limited to

agency specific orientation, initial caregiver training and annual caregiver training required by these rules, and meets the following criteria:

(A) Has two or more years of experience working with an agency, a long-term care facility as defined under ORS 442.015, a residential care facility as defined under ORS 443.400, or other health care setting; and

(B) If the designated individual is a caregiver, the individual must be current with the caregiver training requirements under these rules.

(39) "Registered nurse" or "RN" means a person licensed under ORS chapter 678.

(3840) "Schedule caregivers" means to plan appointments for caregivers to deliver specific in-home care services to clients; the times and dates of these appointments are set by the in-home care agency.

(3941) "Self-direct" means to be oriented and to know:

(a) The reason why each medication is taken, for example, for what condition;

(b) The amount or dose of medication that needs to be taken;

(c) The route the medication needs to be taken; and

(d) The time of day the medication needs to be taken.

(402) "Stable and predictable" means a situation where the client's clinical and behavioral state is known, not characterized by rapid changes, and does not require continuous reassessment and evaluation. Stable and predictable shall include clients with intermittent needs that are a predictable symptom or component of their underlying health condition.

(413) "Subunit" means an in-home care agency that provides services for a parent agency in a geographic area different from that of the parent agency and more than 60 miles from the location of the parent agency.

(424) "Survey" means an inspection of an applicant for an in-home care agency license or a licensed in-home care agency to determine the extent to which the applicant or in-home care agency is in compliance with state in-home care agency statutes and these rules.

(435) "These rules" means OAR 333-536-0000 through OAR 333-536-0125.

Statutory/Other Authority: ORS 443.340

Statutes/Other Implemented: ORS 443.305 - 443.355

AMEND: 333-536-0007

RULE SUMMARY: Amend 333-536-0007

The In-Home Care License Classification table (Table 1) has been amended clarifying the trainer requirements for both caregiver training and medication training based on licensed classification type.

CHANGES TO RULE:

333-536-0007

Classification ¶¶

(1) Agencies shall be classified according to the services provided (see Table 1). An agency shall be classified as:¶¶

(a) Limited: An agency that provides personal care services that may include medication reminding but does not provide medication assistance, medication administration, or nursing services;¶¶

(b) Basic: An agency that provides personal care services that may include medication reminding and medication assistance but does not provide medication administration or nursing services;¶¶

(c) Intermediate: An agency that provides personal care services that may include medication reminding, medication assistance and medication administration but does not provide nursing services; or¶¶

(d) Comprehensive: An agency that provides personal care services that may include medication reminding, medication assistance, medication administration and nursing services.¶¶

(2) Agencies licensed by the Authority Oregon Health Authority (Authority) must neither assume a descriptive title nor be held out under any descriptive title other than the classification title established by the Authority and under which the agency is licensed. No agency licensed by the Authority shall provide services or use a classification title in its advertising, publicity, or any other form of communication other than what the agency is licensed to provide.

Statutory/Other Authority: ORS 443.340

Statutes/Other Implemented: ORS 443.315

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

OAR 333-536-0007 Table 1: In-Home Care License Classification Table

License Classification	Limited	Basic	Intermediate	Comprehensive
Services Provided	Personal care services + Medication reminding	Personal care services + Medication reminding + Medication assistance	Personal care services + Medication Reminding + Medication assistance + Medication administration	Personal care services + Medication reminding + Medication assistance + Medication administration + Nursing <u>and Nurse taught and delegated</u> services
Caregiver Training Required	Yes	Yes	Yes	Yes
Trainer Requirement	Qualified individual/entity	Qualified individual/entity	Qualified individual/entity	Qualified individual/entity
Caregiver Trainer Requirement	<u>Qualified trainer, qualified individual or qualified entity</u>			
Medication Training Required	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
Medication Trainer Requirement	<u>N/A</u>	<u>Qualified individual or entity</u>		

Effective: [Insert effective date of rule]

<u>Licensed,</u> <u>Oregon On</u> <u>staffRegistered</u> <u>Nurse</u> <u>Employment</u> <u>Required</u>	No	No	Yes	Yes
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Effective: [Insert effective date of rule]

AMEND: 333-536-0065

RULE SUMMARY: Amend 333-536-0065

The rule was amended to clarify that each caregiver providing services to a client must acknowledge that they have reviewed each client's service plan prior to providing initial care.

CHANGES TO RULE:

333-536-0065

Service Plan ¶¶

- (1) For clients receiving any service(s) described in OAR 333-536-0045, the service(s) provided shall be in accordance with a written service plan developed in collaboration with a client or the client's representative based on the client's or the client's representative's request and an agency evaluation of the client. The service plan must be consistent with the agency's capabilities.¶¶
 - (2) The agency administrator, administrator's designee or administrator's delegate shall conduct and document an initial evaluation of the client including but not limited to the client's physical, mental and emotional needs. The evaluation must be dated, and signed by the individual who conducted the evaluation, and maintained in the client's agency record.¶¶
 - (3) The agency administrator, administrator's designee, or administrator's delegate, in collaboration with the client or the client's representative, shall complete a written service plan within seven days after the initiation of services. The service plan:¶¶
 - (a) May be developed and maintained in electronic form;-¶¶
 - (b) Shall include a list of individuals participating in the development of the plan; and¶¶
 - (c) Shall be signed and dated when it is complete and acceptable to all individuals participating in the development of the plan.¶¶
 - (4) The completed service plan shall be client-directed or client representative-directed and include at least the following:¶¶
 - (a) A comprehensive list of client information including but not limited to:¶¶
 - (A) Client's name, address, and telephone number;¶¶
 - (B) The client's medical condition(s);¶¶
 - (C) The types of services being received, including but not limited to:-¶¶
 - (i) Medication services - include the tasks to be performed and who will perform the tasks; and¶¶
 - (ii) Nursing services - include current identification of the delegated specific nursing procedures to be provided and specify the caregivers to whom the task(s) have been delegated.¶¶
 - (D) The name of the client's primary care provider;¶¶
 - (E) Any special instructions or notations pertinent to providing services including, but not limited to, allergies;¶¶
 - (b) The schedule for the provision of services specifying a range of hours for services per month;¶¶
 - (c) The services to be provided, specifying the tasks to be conducted; and¶¶
 - (d) Pertinent information about the client's needs in relation to the services to be provided to ensure the provision of safe and appropriate care.¶¶
 - (5) The administrator, the administrator designee or administrator's delegate must review the client's service plan with each caregiver before the initial delivery of client care. ¶¶
 - (a) Each caregiver providing in-home care services to the client must confirm that the service plan was reviewed prior to providing client care. ¶¶
 - (b) The date of the review(s), the signature or a unique electronic identifier such as an individual's log-in and password into a computer program or an electronic stamp of the agency administrator, administrator's designee, or administrator's delegate and ~~the~~each caregiver must be documented in the client's record. ¶¶
 - (c) A list of assigned caregivers must be documented in the client's record. ¶¶
- (6) A client or a client's representative may request changes in the service plan. All changes must be reviewed and approved by the agency and must be communicated to the caregiver(s) and documented in the client's record.¶¶
- (7) An agency shall maintain the original service plan and all updated service plans in each client's agency record. Complete and legible copies of the service plan(s) shall be given to the client or client's representative upon request.

Statutory/Other Authority: ORS 443.340

Statutes/Other Implemented: ORS 443.340

AMEND: 333-536-0070

RULE SUMMARY: Amend 333-536-0070

The rule was amended to allow caregiving training to be conducted by a qualified trainer as that is defined in OAR 333-536-0005 and modifies documentation requirements accordingly. It removes requirement that information on the qualifications of the trainer be maintained in the caregiver's personnel record and allows the agency to maintain that information and documentation elsewhere. The rule specifies that a qualified trainer may provide the annual six hours of education training. Terms have been updated for clarity and rules with dates that are no longer applicable were removed.

CHANGES TO RULE:

333-536-0070

Caregiver Qualifications and Requirements ¶¶

- (1) The services and care provided by an agency shall be rendered by qualified and trained employees under the supervision of the administrator or administrator's designee.¶¶
- (2) All caregivers must receive all training necessary to ensure the caregiver is able to competently provide the level of care they will be assigned to provide, which may include training to the level of classification type if the caregiver provides that level of care. The services shall be provided as requested by the client or client's representatives in accordance with these rules and the service plan.¶¶
- (3) The agency owner or administrator shall ensure that the agency has qualified and trained employees sufficient in number to meet the needs of all clients receiving services.¶¶
- (4) Caregivers must be at least 18 years of age and shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with clients and other agency staff.¶¶
- (5) Caregivers shall complete an agency-specific orientation, conducted by the agency administrator, administrator's designee, or administrator's delegate before independently providing services to clients. The orientation shall be a minimum of four hours, obtained online or in person, and include, but not be limited to, the following subject areas:¶¶
 - (a) Caregivers' job description and requirements;¶¶
 - (b) Clients' rights;¶¶
 - (c) Ethics, including confidentiality of client information;¶¶
 - (d) An overview of the agency's policies and procedures as specified in OAR 333-536-0051, with specific emphasis on the following:¶¶
 - (A) Requirements for traveling with a client, including reporting requirements if a client's condition changes while traveling outside geographic service area;¶¶
 - (B) Client care practices including personal care services provided;¶¶
 - (C) Client notification requirements;¶¶
 - (D) Infection control;¶¶
 - (E) Medical and non-medical emergency response; and¶¶
 - (F) Medication reminding, medication assistance and medication administration.¶¶
 - (e) A description of the services provided by the agency;¶¶
 - (f) Assignment and supervision of services;¶¶
 - (g) Documentation of clients' needs and services provided;¶¶
 - (h) The roles of, and coordination with, other community service providers;¶¶
 - (i) Information about what constitutes medication reminding and its specific limitations; and¶¶
 - (j) Other appropriate subject matter based on the needs of the special populations served by the agency.¶¶
- (6) Caregivers shall complete appropriate caregiver training from a qualified individual, qualified entity, or qualified trainer and must have their competency evaluated and documented by the administrator or administrator's designee before independently providing services to clients. The competency evaluation shall include a combination of both direct observation and written or oral testing.¶¶
- (7) A caregiver shall receive a minimum of eight hours of initial caregiver training:¶¶
 - (a) Two hours of initial caregiver training must be obtained before providing services;¶¶
 - (b) Six hours of initial caregiver training may be completed before providing services or after initiation of service through on-the-job training or other methodology within 120 days of hire;¶¶
 - (c) A maximum of one hour of competency evaluation may be used towards satisfying the minimum of eight hours of initial training;¶¶
 - (d) The initial caregiver training shall be based on the services provided by the agency, including, as applicable, but

not limited to the following topics:¶

- (A) Caregivers' duties and responsibilities;¶
 - (B) Recognizing and responding to medical emergencies;¶
 - (C) Dealing with adverse behaviors;¶
 - (D) Nutrition and hydration, including special diets and meal preparation and service;¶
 - (E) Appropriate and safe techniques in personal care tasks, including the tasks specified in OAR 333-536-0045;¶
 - (F) Methods and techniques to prevent skin breakdown, contractures, and falls;¶
 - (G) Hand washing and infection control;¶
 - (H) Body mechanics;¶
 - (I) Maintenance of a clean and safe environment;¶
 - (J) Fire safety and non-medical emergency procedures;¶
 - (K) Assisting clients with self-directed or client representative-directed non-injectable medication administration;¶
 - (L) Cultural competence. For purposes of the rule, cultural competence means an understanding of how institutions and individuals can respond respectfully and effectively to people from all cultures, economic statuses, language backgrounds, races, ethnic backgrounds, disabilities, spiritual beliefs, ages, tribal affiliations, national origins, genders, gender identifications, sexual orientations, gender expressions, marital statuses, immigration or refugee statuses, veteran statuses and other characteristics in a manner that recognizes, affirms and values the worth, and preserves the dignity, of individuals, families and communities. Cultural competence is an on-going process;¶
 - (M) Abdominal thrust and first aid. CPR is recommended but not required. For purposes of this rule, first aid means care or treatment given to an ill or injured person before regular medical aid can be obtained in an emergency; and¶
 - (N) Other appropriate subject matter based on the needs of the special populations served, such as taking vital signs and proper use and maintenance of medical devices used in the home, such as catheter care, Hoyer Lift, and oxygen use.-¶
- (8) Caregivers assigned to provide medication services must obtain a minimum of four hours of basic non-injectable medication training before providing the services.¶
- (a) The medication training shall include at least the following areas:¶
 - (A) Medication abbreviations;¶
 - (B) Reading medication orders and directions;¶
 - (C) Reading medication labels and packages, including pill packs provided by a pharmacy;¶
 - (D) For agencies classified as intermediate or comprehensive, setting up medication labels and packages into secondary containers (medication set-up);¶
 - (E) Administering non-injectable medications:¶
 - (i) Pill forms, including identification of pills that cannot be crushed;¶
 - (ii) Non-injectable liquid forms, including those administered by syringe or dropper and eye and ear drops;¶
 - (iii) Suppository forms; and¶
 - (iv) Topical forms.¶
 - (F) Identifying and reporting adverse medication reactions, interactions, contraindications and side effects;¶
 - (G) Infection control related to medication administration; and¶
 - (H) Techniques and methods to ensure safe and accurate medication administration.¶
 - (b) Medication services training for caregivers employed by an agency classified as basic, intermediate or comprehensive shall be provided by a qualified individual or entity.¶
 - (c) Prior to providing medication services, caregivers shall demonstrate appropriate and safe techniques in the provision of medication tasks described in this rule and that must be evaluated by a qualified individual through a successful return demonstration.-¶
- (9) The training required in sections (5) through (8) of this rule shall be clearly documented and maintained in each caregiver's personnel record and shall include the following information, if applicable:¶
- (a) Content of the training for each topic;¶
 - (b) The date(s), times(s) and training topics covered;¶
 - (c) The names (s) and signature(s) of the agency-specific orientation instructor, qualified individual(s) ~~or~~, qualified entity ~~conducting the training~~;¶
 - (~~d~~) ~~Sufficient information to determine that the individual is qualified as, or qualified trainer conducting that term is defined in OAR 333-536-0000e~~ training;¶
 - (~~e~~) For medication services:¶
 - (A) Evidence of successful return demonstrations; and¶
 - (B) A statement from the qualified individual that the caregiver has been evaluated to be competent to provide the medication services described in section (8) of this rule.¶

(10) An agency shall maintain sufficient information or documentation to demonstrate that the individual(s) or entity providing the training under this rule is a qualified individual, qualified entity or qualified trainer as those terms are defined under OAR 333-536-0005. ¶

(11) Caregivers moving from one subunit to another in the same agency are not subject to additional training requirements, if previous training is current and documented. ¶

(12) Caregivers who have completed training previously and are current with training requirements, and have documentation of that training, shall have their competency evaluated by the administrator, administrator's designee or administrator's delegate, and any potential training may be limited to areas requiring improvement after the evaluation. ¶

(13) A caregiver with proof of a current Oregon health-care related license or certificate is exempt from in-home caregiver training. ¶

(14) A caregiver shall receive a minimum of six hours of education from a qualified trainer, qualified individual or qualified entity related to caregiver duties annually. If a caregiver provides medication administrationservices to a client, one additional hour of education shall be required annually related to providing medication administrationservices. ¶

(15) The skills of a caregiver must be matched with the care needs of a client. The administrator, administrator's designee, or administrator's delegate must assign caregivers to specific clients based on the care needs of the clients and the skills of the caregivers. ¶

~~(15) The training requirements described in sections (5), (7) and (8) of this rule are effective as of July 1, 2021. Agencies must ensure that caregivers satisfy these requirements and documentation that the requirements are satisfied for each caregiver by no later than January 1, 2022. An agency must ensure that a caregiver meets the training standards that were in effect prior to July 1, 2021 while working towards satisfying the new requirements that go into effect on January 1, 2022.~~

Statutory/Other Authority: ORS 443.340, ORS 443.011

Statutes/Other Implemented: ORS 443.340, ORS 443.011

AMEND: 333-536-0075

RULE SUMMARY: Amend 333-536-0075

In response to passage of SB 226 (Oregon Laws 2023, chapter 275), this rule was amended to allow an Oregon licensed registered nurse to implement orders from a physician licensed in another state for up to 90 days from the date the client was added to the in-home care agency's clientele.

CHANGES TO RULE:

333-536-0075

Medication Services ¶¶

(1) To provide non-injectable medication services, an agency must:¶¶

(a) Be classified as basic, intermediate or comprehensive;¶¶

(b) Provide medication assistance or medication administration by persons who meet the requirements of section (5) of this rule; and¶¶

(c) Provide medication services as requested by the client or client's representative in accordance with these rules, accepted standards of medication practice, and the service plan.¶¶

(d) Medication services does not include medication reminding.¶¶

(2) A client representative or family member may perform the task of filling secondary non-injectable medication containers from which an agency caregiver is to provide medication services. The agency shall obtain a signed agreement from the client representative or family member that identifies their obligation to:¶¶

(a) Provide a list of the client's medication and a physical description of each medication (a photograph may be used in lieu of a physical description), possible side effects, and any special instructions. The list must be updated when changes to the client's medication regimen are made;¶¶

(b) Keep the original labeled medication containers in the home for verification should the caregiver have questions; and¶¶

(c) Use closed non-injectable medication secondary containers designed and manufactured for that purpose that meet the labeling requirements of paragraph (4)(a)(D) of this rule.¶¶

(3) Medication administration is a medication service that allows a caregiver to administer non-injectable medications to the client. In order to provide medication administration, an agency must:¶¶

(a) Be classified as intermediate or comprehensive;¶¶

(b) Employ a registered nurse licensed under ORS chapter 678;¶¶

(c) Develop and implement safe and appropriate medication administration delivery systems and policies and procedures that include, but are not limited to, provisions to ensure:¶¶

(A) The right client receives the right medication, in the right amount, by the right route, and at the right time in accordance with the licensed independent practitioner's (LIP) order;¶¶

(B) Medication is administered by qualified and trained employees under the supervision of the agency's registered nurse;¶¶

(C) Sufficient number of registered nurses licensed under ORS chapter 678 are employed to meet the needs of medication administration services offered to clients and provide necessary oversight;¶¶

(D) Caregivers are informed about the potential adverse reactions, side effects, drug-to-drug interactions and food-to-drug interactions, and contraindications associated with each client's medication regimen;¶¶

(E) Caregivers promptly report problems or discrepancies related to each client's medication regimen to the caregivers' supervisor, agency registered nurse, administrator, administrator designee, or assigned agency representative. The report must be documented and maintained in a separate file from the client or caregiver records;¶¶

(F) Storage of medication at appropriate temperatures based on the manufacturer's recommendations while the caregiver is present and providing care; and¶¶

(G) The security and integrity of narcotics and controlled substances while the caregiver is present and providing care, and disposal of any such substances.¶¶

(d) Ensure agency staff obtain written or telephone orders from an LIP for all medications managed or administered by an agency under this rule and for any changes to those medications.¶¶

(A) Written orders shall be signed by an LIP. Electronic signatures are acceptable.¶¶

(B) Telephone orders shall be immediately recorded, dated, and signed by the agency's registered nurse, and transmitted within 72 hours to the LIP for signature. The orders that have been signed by the LIP shall be incorporated into the client's record within 30 days.¶¶

(e) Ensure visits by a registered nurse or licensed practical nurse are conducted and documented every 90 days to

evaluate each client's medication regimen and the provision of services. Documentation shall include the evaluation process, impact, outcome and summation.¶¶

(f) Ensure the medication tasks to be performed are documented in the service plan in accordance with OAR 333-536-0065.¶¶

(g) Maintain records for medication administration that include, but are not limited to, the name of each medication, physical description of the medication, the dosage to be administered, the route of administration, the frequency of administration, client medication allergies and sensitivities, client specific indicators for administration of as needed medications and other special instructions necessary for safe and appropriate administration.¶¶

(4) An agency that provides any form of medication service shall ensure:¶¶

(a) Medication packaging and labeling meet the following requirements:¶¶

(A) Prescription medications shall be in the original pharmacy containers and clearly labeled with the pharmacists' labels, unless in the secondary container as specified in this rule.¶¶

(B) Samples of medications received from the LIP shall be in the original containers and have the original manufacturers' labels.¶¶

(C) Over-the-counter medications shall be in the original containers and have the original manufacturers' labels.¶¶

(D) Secondary containers and all removable compartments must be labeled with the client's name, the specific time the medications in each compartment are to be administered, the date and time the secondary container was filled, and the name of the individual who filled the container.¶¶

(E) Liquid and non-pill medications that cannot be put in secondary containers shall be appropriately labeled.¶¶

(b) Medication tasks are documented by the individuals performing the tasks. The documentation shall include the tasks completed, the date and signature of the individual(s) performing the task(s), and shall be maintained in accordance with agency policies and procedures.¶¶

(5) Agency caregivers assigned to provide medication services must complete the necessary training described in OAR 333-536-0070 prior to providing medication services.¶¶

(6) Effective January 1, 2024, any order issued for the care or treatment of a client by a physician that is licensed in another state may be executed by an Oregon licensed registered nurse employed by an agency for no more than 90 days from the time the client was added to the agency's clientele.

Statutory/Other Authority: ORS 443.340, ORS 443.011

Statutes/Other Implemented: ORS 443.340, ORS 443.315, ORS 443.011, OL 2023, ch. 275