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## PERMANENT ADMINISTRATIVE ORDER

### PH 4-2023

CHAPTER 333

OREGON HEALTH AUTHORITY

PUBLIC HEALTH DIVISION

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FILING CAPTION: Hospital Requirements during Emergency Impacting Standards of Care

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ADOPT: 333-505-0036

REPEAL: Temporary 333-505-0036 from PH 166-2022

NOTICE FILED DATE: 11/10/2022

RULE SUMMARY: OAR 333-505-0036 –

Requires that when a hospital is experiencing an emergency and therefore has to make triage decisions for patient care, it must do the following:

- Provide notice to the Oregon Health Authority that it has an emergency that is resulting in it having to make triage decisions.
- Inform the public by, at a minimum, posting information on its website and at the hospital in conspicuous locations that there is an emergency and triage decisions are being made. Information must be posted in the five most common spoken languages in the county where the hospital is located.
- Post the crisis standard of care that the hospital is using to make triage decisions on its website in the five most common spoken languages in the county where the hospital is located.
- For each patient that is subject to a triage decision, communicate the outcome of the triage decision to the 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, including how the triage decision was made, and immediately provide a copy of the crisis standard of care used to make the triage decision.
- Document specific information for each patient subject to a triage decision.
- Provide the documentation of triage decisions to the Oregon Health Authority upon request.

Amendments are being made to the temporary rule adopted on July 29, 2022 to make protections applicable to all situations when crisis standards of care are implemented by a hospital. Definition for emergency was added. Definitions for crisis standard of care and triage decision were amended. Special inpatient care facilities were removed from definition of hospital. Requires a hospital to post crisis standard of care on website in five common spoken languages and make crisis standard of care immediately available to each patient subject to a triage decision.

CHANGES TO RULE:

333-505-0036

Hospital Requirements During Emergency Impacting Standard of Care

(1) This rule does not circumvent or supersede Centers for Medicare and Medicaid Services (CMS) requirements to meet the needs of the facility and care of patients.¶

(2) For purposes of this rule:¶

(a) "Crisis standards of care" means policies or standards adopted by a hospital to be implemented during an emergency to make triage decisions, such as but not limited to Oregon Health Authority adopted crisis standards of care and related tools.¶

(b) "Emergency" includes but is not limited to a federal emergency declaration, Governor's declared emergency, a determination by the state Public Health Director under ORS 431A.015(1), an epidemic as that is defined in ORS 431A.005, or any other unforeseen event that results in an increased need for scarce hospital resources or a significant reduction of health care staff.¶

(c) "Hospital" has the meaning given that term in ORS 442.015, but does not include a Special Inpatient Care Facility as that term is defined under OAR 333-071-0205.¶

(d) "Support person" has the meaning given that term in OAR 333-505-0033.¶

(e) "Triage decisions" means the decisions necessary to provide equitable prioritization of critical care resources for patients during an emergency.¶

(3) When a hospital is making triage decisions because of an emergency the hospital must:¶

(a) Within 24 hours provide notice to the Oregon Health Authority at [mailbox.hclc@odhsoha.oregon.gov](mailto:mailbox.hclc@odhsoha.oregon.gov), or in another manner as directed by the Authority.¶

(b) Within 24 hours inform the public by at a minimum posting information on its website and at the hospital in multiple conspicuous locations that the hospital is making triage decisions because of an emergency. The information must be posted in the five most common spoken languages in the county where the hospital is located. This information is accessible on the Secretary of State's website:

<https://www.oregon.gov/languages/Pages/common-language-county.aspx>.¶

(c) Post the crisis standard of care the hospital is using to make triage decisions on its website in the five most common spoken languages in the county where the hospital is located.¶

(d) For each patient that is subject to a triage decision, communicate the outcome of the triage decision to the patient, their support person, or the individual legally authorized to act on behalf of the patient, in an accessible format, language they understand and in a culturally responsive manner to the extent possible, including how the triage decision was made, and immediately provide a copy of the crisis standard of care used to make the triage decision.¶

(e) Document for each patient that is subject to a triage decision:¶

(A) The patient's medical record number.¶

(B) The hospital's name and location.¶

(C) The patient's date of birth.¶

(D) The patient's sexual orientation and gender identity, if known.¶

(E) The patient's race, ethnicity, language and disability, in accordance with OAR chapter 943, division 70.¶

(F) Whether, at the time of presentation at the hospital, the patient was using a personal ventilator or other personal medical treatment equipment or resources.¶

(G) The patient's home address, whether they are unhoused, or whether their housing status is unknown.¶

(H) The patient's care preferences, as documented in an advanced directive, portable orders for life-sustaining treatment (POLST), or as communicated by a health care representative, support person, or a family member.¶

(I) The patient's triage prioritization and clinical outcome.¶

(4) A hospital must provide the documentation required in section (3) of this rule to the Authority upon request.¶

Note: The Oregon Health Authority's Interim Crises Care Tool can be found at [www.healthoregon.org/hflc](http://www.healthoregon.org/hflc).

Statutory/Other Authority: ORS 413.042, ORS 441.025

Statutes/Other Implemented: ORS 441.025