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RULES:

333-027-0060, 333-071-0400, 333-076-0160, 333-076-0940, 333-505-0033, 333-700-0115

AMEND: 333-027-0060

RULE TITLE: Administration of Home Health Agency

NOTICE FILED DATE: 07/29/2022

RULE SUMMARY: Amend OAR 333-027-0060 - Adds language pursuant to ORS 413.559 that requires a home health agency (HHA) to provide health care interpreter services to persons who prefer to communicate in a language other than English. An HHA must comply with OAR 333-002-0250.

RULE TEXT:

(1) An agency shall clearly set forth in writing the organization, services provided, administrative control, and lines of authority for the delegation of responsibility to the patient care level. An agency shall not delegate administrative and supervisory functions to another agency, individual, or organization.

(2) An agency shall ensure that:

(a) A clinical manager is employed who is responsible for the oversight of all patient care services and personnel and that the clinical manager is available during all operating hours;

(b) A professional policy-making committee is established in accordance with ORS 443.065; and

(c) All patient complaints are reviewed including documentation and resolution.

(3) If an agency chooses to provide professional students with a practicum in home health, the agency must ensure that:

(a) A contract between the agency and the accredited educational institution is in effect and includes at a minimum, a description of:

(A) Program objectives;

(B) Program coordination;

(C) Student supervision;

(D) Adherence to agency policy; and

(E) Conformance with applicable professional practice laws, rules, and regulations.

- (b) The governing body shall be informed about the contract specified in subsection (3)(a) prior to its implementation.
- (c) The agency maintains documentation of each practicum and the student's activities, supervision, and the evaluation of these activities.
- (d) The agency maintains documentation of patient care services provided by the student.
- (4) An agency's governing body shall assume full legal and fiscal responsibility for the agency's operation. The agency's governing body shall provide for effective communication with administration of the agency and the owner of the agency.
- (5) An agency's governing body shall:
 - (a) Employ a qualified administrator, unless exempted under ORS 443.025;
 - (b) Regularly monitor the performance of the administrator; and
 - (c) Ensure there is a quality assessment and performance improvement program established and maintained in accordance with OAR 333-027-0160.
- (6) The administrator shall identify a qualified alternate, designated in writing by the administrator and the governing body to assume responsibilities and obligations of the agency during the administrator's absence. The clinical manager may be designated to serve in this role.
- (7)(a) The agency shall develop personnel policies which must be appropriate to the agency, be documented, and include:
 - (A) Hours of work;
 - (B) Orientation that is appropriate to the classification of the employee;
 - (C) An inservice program that provides ongoing education to ensure that staff skills are maintained for the responsibilities assigned and ensures that staff are educated in their responsibility in infection control;
 - (D) Work performance evaluations;
 - (E) Employee health program;
 - (F) A tuberculosis infection control plan that includes provisions for employee assessment and screening for protecting patient and employees from tuberculosis in accordance with OAR 333-019-0041; and
 - (G) Provisions for the completion of criminal records checks in accordance with ORS 443.004 and OAR 333-027-0064.
- (b) Personnel records shall include job descriptions, personnel qualifications, evidence of any required licensure or certification, evidence of orientation and performance evaluations, evidence of a completed criminal records check and fitness determination.
- (8) An agency shall provide health care interpreter services to a patient who prefers to communicate in a language other than English in accordance with ORS 413.559 and OAR 333-002-0250.
- (9) An agency contracting with individual personnel or public or private entities for home health care services shall maintain written contracts and shall clearly designate:
 - (a) That patients are accepted for care only by the primary agency;
 - (b) The services to be provided;
 - (c) The rights and responsibilities of the contracting individual or entity in the coordination, supervision, and evaluation of the care or service provided;
 - (d) The obligation to comply with all applicable agency policies;
 - (e) The party with responsibility for development and revisions of the plan of care, patient assessment, progress reports, and patient care conferences, scheduling of visits or hours, and discharge planning;
 - (f) Appropriate documentation of services provided on record forms provided by the agency; and
 - (g) The terms of the agreement and basis for renewal or termination.
- (10) The professional policy-making committee appointed by the agency shall:
 - (a) Be composed of personnel associated with the agency and that meet the requirements in ORS 443.065.
 - (b) Establish in writing and review annually, the agency's policies governing scope of services, admission and discharge policies, medical supervision, plans of treatment, emergency care, clinical records, personnel qualifications, and quality assessment and performance improvement.

(c) Meet as needed to advise the agency on other professional issues.

(d) Participate with the agency staff in the annual evaluation of the agency's program.

(11) The agency shall document the professional-policy making committee's systematic involvement and effective communication with the governing body and the management of the agency.

STATUTORY/OTHER AUTHORITY: ORS 443.085

STATUTES/OTHER IMPLEMENTED: ORS 443.014, 443.055, 443.065, 443.085, ORS 413.559, 413.561

AMEND: 333-071-0400

RULE TITLE: Organization Policies

NOTICE FILED DATE: 07/29/2022

RULE SUMMARY: Amend OAR 333-071-0400 – Adds language pursuant to ORS 413.559 that requires a special inpatient care facility (SICF) to provide health care interpreter services to persons who prefer to communicate in a language other than English. An SICF must comply with OAR 333-002-0250.

RULE TEXT:

- (1) An SICF's internal organization shall be structured to include appropriate departments and services consistent with the needs of its defined community.
- (2) An SICF shall adopt and maintain clearly written definitions of its organization, authority, responsibility, relationships and scope of services offered.
- (3) An SICF shall adopt, maintain and follow written patient care policies that include but are not limited to:
 - (a) Admission and transfer policies that address:
 - (A) Types of clinical conditions not acceptable for admission;
 - (B) Constraints imposed by limitations of services, staff coverage or physical facilities. No patient shall be admitted to a bed in any room, other than one regularly designated as a bedroom or ward;
 - (C) Emergency admissions;
 - (D) Requirements for informed consent signed by the patient or legal representative of the patient for diagnostic and treatment procedures; such policies and procedures shall address informed consent of minors in accordance with provisions in ORS 109.610, 109.640, 109.670, and 109.675;
 - (E) Requirements for identifying persons responsible for obtaining informed consent and other appropriate disclosures and ensuring that the information provided is accurate and documented appropriately in accordance with these rules and ORS 441.098; and
 - (F) A process for the internal transfer of patients from one level or type of care to another, if applicable;
 - (b) Discharge planning and termination of services in accordance with OAR 333-505-0055;
 - (c) Patient rights;
 - (d) Housekeeping;
 - (e) All patient care services provided by the facility;
 - (f) Preventive maintenance program for all aspects of the facility's physical plant, operations, and equipment used in patient care and patient environment;
 - (g) Treatment or referral of acute sexual assault patients in accordance with ORS 147.403;
 - (h) Identification of patients who could benefit from palliative care in order to provide information and facilitate access to appropriate palliative care in accordance with ORS 413.273; and
 - (i) Procedures for ensuring that an ASC provides health care interpreter services to a patient who prefers to communicate in a language other than English in accordance with ORS 413.559 and OAR 333-002-0250.
- (4) In addition to the policies described in section (3) of this rule, an SICF shall, in accordance with the Patient Self-Determination Act, 42 CFR 489.102, adopt policies and procedures that require (applicable to all capable individuals 18 years of age or older who are receiving health care in the facility):
 - (a) Providing to each adult patient, including emancipated minors, not later than five days after an individual is admitted as an inpatient, but in any event before discharge, the following in written form, without recommendation:
 - (A) Information on the rights of the individual under Oregon law to make health care decisions, including the right to accept or refuse medical treatment and the right to execute directives and powers of attorney for health care;
 - (B) Information on the policies of the facility with respect to the implementation of the rights of the individual under Oregon law to make health care decisions;
 - (C) A copy of the advance directive form set forth in 2018 Oregon Laws, chapter 36; and
 - (D) The name of a person who can provide additional information concerning the forms for directives.

- (b) Documenting in a prominent place in the individual's medical record whether the individual has executed a directive.
- (c) Compliance with ORS chapter 127 relating to directives for health care.
- (d) Educating the staff and the community on issues relating to directives.
- (5) An SICF's transfer agreements or contracts shall clearly delineate the responsibilities of parties involved.
- (6) Patient care policies shall be evaluated triennially and rewritten as needed, and presented to the governing body or a designated administrative body for approval triennially. Documentation of the evaluation is required.
- (7) An SICF shall have a system, described in writing, for the periodic evaluation of programs and services, including contracted services.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 147.401, 413.273, 441.025, 441.196, 441.198, 413.559, 413.561

AMEND: 333-076-0160

RULE TITLE: Care of ASC Patients

NOTICE FILED DATE: 07/29/2022

RULE SUMMARY: Amend OAR 333-076-0160 - Adds language pursuant to ORS 413.559 that requires an ambulatory surgery center (ASC) to provide health care interpreter services to persons who prefer to communicate in a language other than English. An ASC must comply with OAR 333-002-0250.

RULE TEXT:

- (1) Each patient shall be evaluated for all risk factors before a surgical procedure may be performed in accordance with 42 CFR 416.42 and 416.52.
- (2) Each patient shall be observed for post-operative complications under the direct supervision of a licensed registered nurse. Patients shall be observed for post-procedure complications until their conditions are stable.
- (3) No medications or treatments shall be given without the order of a physician or other individual authorized within the scope of their license.
- (4) At the time of discharge from the ASC, each patient must be evaluated by a physician, or by an anesthetist as defined by 45 CFR 410.69(b) for proper anesthesia recovery.
- (5) Written instruction shall be given to patients on discharge covering signs and symptoms of complications as well as any necessary follow-up instructions for routine or emergency care.
- (6) Each facility shall adopt and observe written patient care policies.
- (7) Patient care policies shall be evaluated annually and rewritten as needed. Documentation of the evaluation is required.
- (8) A patient who prefers to communicate in a language other than English shall be provided health care interpreter services in accordance with ORS 413.559 and OAR 333-002-0250.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025, 441.086, ORS 413.559, 413.561

AMEND: 333-076-0940

RULE TITLE: ESC Admission Criteria, Patient Care and Discharge

NOTICE FILED DATE: 07/29/2022

RULE SUMMARY: Amend OAR 333-076-0940 - Adds language pursuant to ORS 413.559 that requires an extended stay center (ESC) to provide health care interpreter services to persons who prefer to communicate in a language other than English. An ESC must comply with OAR 333-002-0250. The interpreter must be provided by the ESC and not the associated ASC.

RULE TEXT:

- (1) A patient may only be admitted to an ESC if the patient:
 - (a) Was discharged from the affiliated ASC where the procedure was performed in accordance with these rules;
 - (b) Will require a stay of not more than 48 hours from the time the patient was admitted to the affiliated ASC;
 - (c) Falls within the American Society of Anesthesiologists, Physical Status Classification System: ASA I or ASA II, or ASA III with only mild to moderate systematic disease but medically stable; and
 - (d) Is physiologically stable at the time of admission and has experienced no intraoperative or postoperative complications that would cause the patient to be ineligible for admission based on these rules.
- (2) After admission to the ESC, if a patient is no longer physiologically stable, the patient shall be transferred to a local hospital.
- (3) A patient is not eligible for admission to an ESC if the patient requires:
 - (a) Intensive care services, coronary care services or critical services;
 - (b) Administration of blood;
 - (c) Continuous monitoring due to instability of vital signs;
 - (d) Continuous IV pain medications; or
 - (e) Has an active or acute infectious condition.
- (4) The following must be entered into a patient's ESC medical record at the time of admission:
 - (a) A current medical history and physical examination performed or approved by a member of the ESC medical staff;
 - (b) Patient diagnosis;
 - (c) A discharge summary from the affiliated ASC including the surgical procedure performed, type of anesthesia used, medications given, recovery events and any other pertinent information regarding the patient's status;
 - (d) Physician orders;
 - (e) Documentation concerning advance directives; and
 - (f) Any other underlying medical condition that could be relevant to the patient's care.
- (5) A patient may only be admitted to an ESC by a physician who has clinical privileges at the ESC.
- (6) Each patient shall be observed for post-operative complications under the direct supervision of a licensed registered nurse. Patients shall be observed for post-procedure complications until their conditions are stable.
- (7) No medications or treatments shall be given without the order of a physician or other individual authorized to give such an order within the scope of their license.
- (8) A physician must evaluate each patient for discharge from the ESC and must sign a discharge order.
- (9) Each patient shall be given written instructions upon discharge covering signs and symptoms of complications as well as any necessary follow-up instructions for routine or emergency care.
- (10) A patient must be discharged from the ESC within 48 hours from the time of admission to the affiliated ASC.
- (11) A patient who prefers to communicate in a language other than English shall be provided health care interpreter services in accordance with ORS 413.559 and OAR 333-002-0250.

STATUTORY/OTHER AUTHORITY: ORS 441.025, 441.026

STATUTES/OTHER IMPLEMENTED: ORS 441.025, 441.026, ORS 413.559, 413.561

AMEND: 333-505-0033

RULE TITLE: Patient Rights

NOTICE FILED DATE: 07/29/2022

RULE SUMMARY: OAR 333-505-0033 - Adds language pursuant to ORS 413.559 that requires a hospital to provide health care interpreter services to persons who prefer to communicate in a language other than English. A hospital must comply with OAR 333-002-0250.

RULE TEXT:

- (1) A hospital shall comply with the requirements for patients' rights as set forth in 42 CFR 482.13.
- (2) As used in sections (3) through (9) of this rule:
 - (a) "Patient" means a patient admitted to a hospital or seeking medical evaluation and care in an emergency department who needs assistance to effectively communicate with hospital staff, make health care decisions, understand health care information, or engage in activities of daily living due to a disability, including but not limited to:
 - (A) A physical, intellectual, behavioral or cognitive impairment;
 - (B) Deafness, being hard of hearing or other communication barrier;
 - (C) Blindness;
 - (D) Autism; or
 - (E) Dementia;
 - (b) "Support care conference" means a meeting in person, by telephone, or electronic media, that includes a representative from the patient's hospital care team, the patient, the patient's legal representative (if applicable), and the patient's designated support person(s). The support care conference must include discussion of denial and any parameters for permitting a support person to be physically present with the patient including but not limited to any limitations, restrictions, or additional precautions that may be implemented for the safety of the patient, support person, and hospital staff.
 - (c) "Support person" means a family member, guardian, personal care assistant or other paid or unpaid attendant selected by the patient to physically or emotionally assist the patient or ensure effective communication with the patient.
- (3) A patient has the right, and a hospital must allow a patient, to designate at least three support persons and to have at least one support person physically present with the patient at all times in the emergency department and during the patient's stay at the hospital if necessary to facilitate the patient's care including but not limited to when the patient:
 - (a) Has a cognitive, intellectual or mental health disability that affects the patient's ability to make or communicate medical decisions or understand medical advice;
 - (b) Needs assistance with activities of daily living and the hospital staff are unable to provide the same level of care or are less effective at providing the assistance;
 - (c) Is deaf, is hard of hearing or has other communication barriers and requires the assistance of a support person to ensure effective communication with hospital staff; or
 - (d) Has behavioral health needs that the support person can address more effectively than the hospital staff.
- (4) Unless a patient requests otherwise, a hospital must ensure that a support person designated by the patient, or patient's legal representative, is physically present for any discussion in which the patient is asked to:
 - (a) Elect hospice care;
 - (b) Sign an advance directive; or
 - (c) Sign any other document allowing the withholding or withdrawing of life-sustaining procedures or artificially administered nutrition or hydration.
- (5) A hospital shall develop and implement a policy regarding a patient's rights and the hospital's obligations in sections (3) and (4) of this rule. The policy shall recognize at a minimum:
 - (a) The notification requirements described in sections (6) and (7) of this rule;
 - (b) That either the patient or a patient's legal representative in collaboration with the patient, may designate support

persons;

(c) That the hospital shall post the hospital's policy on its website and post a summary of the policy, with instructions on how to obtain the full policy, at entry points to the hospital. The posting at each entry shall be clearly visible to the public and the full policy will include contact information for a person, position, or a department at the hospital where the policy may be requested in an alternate format; and

(d) That the hospital may not condition the provision of treatment to a patient in accordance with ORS 441.048.

(6) A hospital shall provide all patients orally and in writing notice of their right to support persons as described in section (3) of this rule. In addition:

(a) Notice to patients shall include that treatment cannot be conditioned upon having an advance directive, POLST, or an order withdrawing or withholding life support such as a Do Not Resuscitate order.

(b) Notice must be made available in alternate formats at the request of the patient or the patient's legal representative.

(7) As specified in section (3) of this rule, a hospital must allow at least one support person to be physically present with a patient at all times in the emergency department and during the patient's stay at the hospital. This includes, but is not limited to, an operating room, a procedure room, or other area where generally only patients and hospital staff are allowed.

(a) Consistent with other state and federal requirements, a hospital may impose conditions for any support person(s) present at the hospital to ensure the safety of the patient, support person(s) and staff as specified in ORS 441.049.

(b) If a hospital denies a patient's request for a support person's physical presence with the patient, or a portion of such a request, the hospital shall:

(A) Immediately notify the patient and the patient's designated support person(s) orally and in writing of the opportunity to request a support care conference to discuss the denial and any parameters for permitting a support person to be physically present.

(B) Upon request for a support care conference, conduct a support care conference as soon as possible but not later than 24 hours after admission or prior to a procedure or operation.

(C) Following a support care conference, the hospital shall document the decision and any reasons for the limitation, restriction, additional precautions or prohibition in the treatment plan. If a support care conference does not occur, the hospital shall document in the treatment plan why the support care conference did not occur.

(8)(a) A hospital may refuse to allow the presence of a designated support person who refuses or fails to comply with conditions imposed by the hospital or remove a designated support person from a procedure room, operating room, or other area where generally only patients and hospital staff are allowed, if necessary to ensure the safety of the patient, support person or staff.

(b) The hospital shall ensure that another designated support person is permitted to be physically present with the patient if otherwise consistent with this rule.

(9) If a patient, or a patient's legal representative does not designate a support person(s) and a hospital determines that a patient has a communication barrier or other disability, the hospital shall take reasonable steps to further communicate the patient's right to support persons to the patient, patient's family or patient's legal representative.

(10) A hospital shall provide health care interpretive services to a patient who prefers to communicate in a language other than English in accordance with ORS 413.559 and OAR 333-002-0250.

STATUTORY/OTHER AUTHORITY: ORS 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025, 441.049, ORS 413.559, 413.561

AMEND: 333-700-0115

RULE TITLE: Patients' Rights, Responsibilities and Family Education

NOTICE FILED DATE: 07/29/2022

RULE SUMMARY: OAR 333-700-0115 - Adds language pursuant to ORS 413.559 that requires an outpatient renal dialysis facility (ORDF) to provide health care interpreter services to persons who prefer to communicate in a language other than English. An ORDF must comply with OAR 333-002-0250.

RULE TEXT:

(1) The governing body of the facility shall adopt written policies regarding the rights and responsibilities of patients and, through the chief executive officer, shall be responsible for development of, and adherence to, procedures implementing such policies.

(2) These policies and procedures shall be made available to patients and any guardians, next of kin, the Division, and to the public. The staff of the facility must be trained in and involved in the execution of such policies and procedures. The patients' rights policies and procedures must ensure all patients in the facility:

- (a) Are informed of these rights and responsibilities, and of all rules and regulations governing patient conduct and responsibilities;
 - (b) Are informed of services available in the facility and of related charges;
 - (c) Are informed by a physician of their medical conditions unless medically contraindicated (as documented in their medical records);
 - (d) Are provided health care interpreter services in accordance with ORS 413.559 and OAR 333-002-0250 if the patient prefers to communicate in a language other than English;
 - (e) Are afforded the opportunity to participate in the planning of their medical care (either through direct involvement or if the patient chooses, through family or a representative);
 - (f) Are afforded the opportunity to refuse to participate in experimental research;
 - (g) Are transferred or discharged only for medical reasons, for their own welfare or that of other patients or for nonpayment of fees. Patients discharged for these reasons shall be given a written notice prior to transfer or discharge. A patient exhibiting violent, abusive, or threatening behavior may be discharged immediately if necessary to protect themselves, other patients, or employees. A written notice shall be given to these patients within ten days of transfer or discharge;
 - (h) Are informed about the effects and potential hazards of receiving dialysis and related treatments;
 - (i) Are treated with consideration, respect and full recognition of their individual and their personal needs, including maintenance of confidentiality;
 - (j) Are informed regarding the facility's reuse of dialysis supplies, including hemodialyzers. If printed materials such as brochures are utilized to describe a facility and its services, they must contain a statement with respect to reuse. Patients have the right to refuse the use of reprocessed dialyzers; and
 - (k) Are informed of all choices of dialysis treatment including peritoneal, self-care, home dialysis, in-center dialysis, no treatment, hospice, and transplantation. If the patient is not considered to be a candidate for transplantation, this information shall be made available to the patient or the patient's family member in writing and include the reason(s).
- (3) The facility shall have written documentation from the patient that they have had their rights and responsibilities explained.
- (4) The facility shall provide the patient and the patient's family with the opportunity for education including, but not limited to the following topics:
- (a) Physical orientation of the dialysis center;
 - (b) Policy for scheduling patient treatment times;
 - (c) Policies on violent or disruptive behavior;
 - (d) Duties of members of the dialysis team;
 - (e) Team member qualifications and duties;

- (f) Boundary issues between staff and patient;
 - (g) Importance of dialysis adequacy and lab values;
 - (h) Dietary needs and fluid balance;
 - (i) Medications;
 - (j) Benefits of exercise;
 - (k) Disaster planning for situations in which the facility is unable to operate;
 - (l) Infection control procedures;
 - (m) Water purification;
 - (n) Handling of hazardous substances;
 - (o) Quality control process;
 - (p) Medical records including contents and confidentiality issues; and
 - (q) The right of patients and families to request private conversations with a member(s) of the multidisciplinary team at a time of their convenience.
- (5) Grievance mechanism: The facility must inform patients (or their representatives) of the facility's grievance process and the procedures for appeal. All patients are encouraged and assisted to understand and exercise their rights. Grievances and recommended changes in policies and services may be addressed to facility staff, administration, the Network, and agencies or regulatory bodies with jurisdiction over the facility, through any representative of the patient's choice, without restraint or interference, and without fear of discrimination or reprisal.
- (6) The facility's grievance process must:
- (a) Include a record of each grievance made by a patient, a patient's representative or family member;
 - (b) Include documentation of the facility's investigation of each grievance, including the resolution;
 - (c) Include the method and phone number for submitting grievances that cannot be resolved at the facility level, such as the facility's corporate office, the Network, and the Division;
 - (d) Include evidence that the person expressing the grievance is notified in writing of the outcome of the grievance investigation; and
 - (e) Include evidence the facility has responded to the grievance within 30 days.

STATUTORY/OTHER AUTHORITY: ORS 441.015, 441.025

STATUTES/OTHER IMPLEMENTED: ORS 441.025, ORS 413.559, 413.561