

Chapter 240 Oregon Laws 2003

AN ACT

SB 401

Relating to newborn hearing screening tests; creating new provisions; and amending ORS 433.321 and 433.323.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 433.321 is amended to read:

433.321. (1) In all Oregon hospitals and birthing centers with more than 200 live births per year, each newborn child shall receive a newborn hearing screening test within one month of the date of birth. A hospital or birthing center shall attempt to conduct the test required under this subsection prior to the discharge of the child from the facility.

(2) All Oregon hospitals and birthing centers with [*less*] **fewer** than 200 live births per year shall provide the parent or guardian of a newborn child with the appropriate information furnished by the Department of Human Services concerning the importance of newborn hearing screening tests.

(3) All Oregon hospitals and birthing centers conducting newborn hearing screening tests shall, **within 10 days of the test:**

(a) [*Within 10 days of the test,*] Notify the parent or guardian and the health care provider for the newborn child of the test results;

(b) With the results of the test, provide names and contact information for diagnostic facilities in the community; and

[*(c) On an annual basis, report to the department the number of children tested and the number of children with abnormal results.*]

(c) Report to the department the results of the test for the newborn child and information identifying the newborn child.

(4) A diagnostic facility conducting newborn hearing tests shall report, within 10 days of the test, to the department the results of the test for the newborn child and information identifying the newborn child.

[(4)] **(5) Each public and private educational institution that provides early intervention services as defined in ORS 343.035 shall[, *on an annual basis, inform the department of the number of*] disclose to the department information identifying the children [*enrolled in the institution who have diagnosed hearing loss and who are receiving early intervention services.*] referred to the educational institution with diagnosed hearing loss and the enrollment status of the children. The institution may disclose to the department additional information regarding children with**

hearing loss who are receiving early intervention services if the educational institution has obtained consent to disclose the information.

[(5)] (6) The department, in collaboration with the Child Development and Rehabilitation Center [and] of the Oregon Health and Science University shall, on an annual basis, provide to all Oregon hospitals and birthing centers the following information:

- (a) A description of the responsibilities created by this section;
- (b) A list of appropriate screening devices and descriptions of training protocols to ensure that staff members are adequately trained in the use of screening equipment;
- (c) A list of newborn hearing screening testing and diagnostic facilities;
- (d) A list of public and private educational institutions that provide early intervention services and a description of the geographic area served by each institution; and
- (e) Other information related to newborn hearing screening tests that the department deems appropriate.

[(6)] (7) A hospital or birthing center directed to provide newborn hearing screening tests under this section is exempt from providing such services if the parent or guardian of the newborn child objects to the testing procedure on the grounds that the procedure conflicts with the religious tenets and practices of the parent or guardian. The parent or guardian must sign a statement that the newborn infant is being so reared.

[(7)] (8) No newborn child may be refused the procedure described in subsection (1) of this section because of an inability of the parent or guardian to pay for the procedure.

SECTION 2. ORS 433.323 is amended to read:

433.323. (1) As used in this section:

(a) “Newborn hearing screening test registry” means a listing of newborn children and information related to their newborn hearing screening tests.

(b) “Tracking and recall system” means a system attached to the newborn hearing screening test registry designed to contact the parent or guardian of a newborn child listed in the newborn hearing screening test registry for the purposes of assisting in testing and in enrollment of the newborn child in early intervention services in a timely manner.

(2) The Department of Human Services shall implement a newborn hearing screening test registry and tracking and recall system. The registry and system shall include, but are not limited to, the following:

(a) Information on the results of newborn hearing screening tests performed at Oregon hospitals, birthing centers and diagnostic facilities.

(b) Notification of the parent or guardian and the health care provider of a newborn child and of the local public health agency of the county in which the

parent or guardian resides when the system indicates that a newborn child has not received a newborn hearing screening test, has been referred to a diagnostic facility for a diagnostic evaluation but has not received the evaluation or has been diagnosed with hearing loss but has not been enrolled in an educational institution providing early intervention services.

(3) The department shall adopt rules:

(a) Implementing this section and ORS 433.321;

(b) Ensuring the privacy of individuals about whom information is collected pursuant to this section and ORS 433.321; and

(c) Specifying the forms to be used by hospitals, birthing centers, diagnostic facilities and educational institutions to provide the information required under this section and ORS 433.321.

[(1) The Department of Human Services shall collect information on newborn hearing screening tests from Oregon hospitals, birthing centers and educational institutions providing early intervention services as defined in ORS 343.035.]

[(2)] (4) The department shall analyze the information collected under *[subsection (1) of]* this section to determine the *[effectiveness of the testing requirements]* efficacy of this section and ORS 433.321 in identifying hearing loss in the newborn child population and enrolling newborn children in early intervention services.

[(3)] (5) The department shall issue an annual report detailing the results of *[the]* newborn hearing screening tests, diagnostic evaluations and participation in early intervention services.

(6) The department shall implement the newborn hearing screening test registry within existing resources. The department may accept contributions of funds and assistance from the United States Government or its agencies or from any other source, public or private, and agree to conditions not inconsistent with the purposes of the registry.

SECTION 3. A person may not maintain an action for damages against an Oregon hospital, birthing center, diagnostic facility or educational institution offering early intervention services as defined in ORS 343.035 or their employees for disclosures of information made in good faith in accordance with ORS 433.321 and 433.323.

SECTION 4. (1) The Director of Human Services shall appoint a Newborn Hearing Advisory Committee to:

(a) Advise the director on the implementation of the newborn hearing screening test registry and tracking and recall system; and

(b) Assist in the preparation of a report to the Seventy-third Legislative Assembly on the status of the newborn hearing screening test registry and tracking and recall system.

(2) The director shall prepare and submit a report to the Seventy-third Legislative Assembly on the status of the newborn hearing screening test registry and tracking and recall system. The report shall include recommendations on improving the registry and system, including but not limited to strategies to increase the rate of newborn hearing screening tests for children born in hospitals and birthing centers with fewer than 200 live births per year and children born at home.

(3) The director shall determine the representation, membership, terms of service and organization of the committee and shall appoint the members to the committee. Members of the committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the director for actual and necessary travel and other expenses incurred in the performance of their official duties in the manner and amount provided in ORS 292.495.

SECTION 5. The purpose of ORS 433.321 and 433.323 and sections 3 and 4 of this 2003 Act is to waive the requirement of authorization to disclose information from, or provide information to, the record of a newborn child in the newborn hearing screening test registry and to waive confidentiality in regard to this information. The waiver allows providers, the Department of Human Services and local health departments and their agents, parents or guardians and diagnostic facilities to share information from the newborn hearing screening test registry without violating confidentiality. The newborn hearing screening test registry and the associated tracking and recall system are designed to increase early and appropriate intervention to minimize delays in developing language skills by the children of this state.

Approved by the Governor June 6, 2003

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