

CHAPTER 233

AN ACT

SB 127

Relating to licensed health care providers; amending ORS 441.064, 441.098 and 659A.150 and section 1, chapter 63, Oregon Laws 2018.

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

SECTION 1. ORS 441.064 is amended to read:

441.064. (1) As used in this section:

(a) "Nurse practitioner" has the meaning given that term in ORS 678.010;

(b) "Physician" has the meaning given that term in ORS 677.010; and

(c) "Physician assistant" has the meaning given that term in ORS 677.495.

(2) The rules of any hospital in this state may grant privileges to nurse practitioners and physician assistants for purposes of patient care.

(3) Rules must be in writing and may include, but need not be limited to:

(a) Limitations on the scope of privileges;

(b) Monitoring and supervision of nurse practitioners and physician assistants in the hospital by physicians who are members of the medical staff;

(c) A requirement that a nurse practitioner or physician assistant co-admit patients with a physician who is a member of the medical staff; and

(d) Qualifications of nurse practitioners and physician assistants to be eligible for privileges including but not limited to requirements of prior clinical and hospital experience.

(4) The rules may:

(a) Regulate the credentialing and conduct of nurse practitioners and physician assistants while using the facilities of the hospital;

(b) Prescribe the procedures for suspension or termination of a nurse practitioner's or physician assistant's privileges;

(c) Allow the hospital to refuse privileges to a nurse practitioner, but only on the same basis that the hospital refuses privileges to other medical providers; and

(d) Allow the hospital to refuse privileges to a physician assistant based on the refusal of privileges to the physician assistant's supervising physician.

(5) Notwithstanding subsection (3) of this section, rules adopted by a hospital that grant privileges to licensed registered nurses who are certified by the Oregon State Board of Nursing as [*nurse midwife*] nurse practitioners **specializing in nurse midwifery** must:

(a) Include admitting privileges;

(b) Be consistent with the privileges of the other medical staff; and

(c) Permit the [*nurse midwife*] nurse practitioner **specializing in nurse midwifery** to exercise the voting rights of the other members of the medical staff.

(6) Rules described in this section are subject to hospital and medical staff bylaws and rules governing credentialing and staff privileges.

SECTION 2. ORS 441.098 is amended to read:

441.098. (1) As used in this section and ORS 441.099 and 441.991:

(a) "Facility" means a hospital, outpatient clinic owned by a hospital, ambulatory surgical center, freestanding birthing center or facility that receives Medicare reimbursement as an independent diagnostic testing facility.

(b) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(c)(A) "Health practitioner" means a physician, naturopathic physician licensed under ORS chapter 685, dentist, direct entry midwife, licensed registered nurse who is certified by the Oregon State Board of Nursing as a [*nurse midwife*] nurse practitioner **specializing in nurse midwifery**, certified nurse practitioner, licensed physician assistant or medical imaging licensee under ORS 688.405 to 688.605.

(B) "Health practitioner" does not include a provider in a health maintenance organization as defined in ORS 750.005.

(d) "Physician" has the meaning given that term in ORS 677.010.

(2) A health practitioner's decision to refer a patient to a facility for a diagnostic test or health care treatment or service shall be based on the patient's clinical needs and personal health choices.

(3) If a health practitioner refers a patient for a diagnostic test or health care treatment or service at a facility in which the health practitioner or an immediate family member of the health practitioner has a financial interest, the health practitioner or the practitioner's designee shall inform the patient orally and in writing of that interest at the time of the referral.

(4)(a) If a health practitioner refers a patient to a facility for a diagnostic test or health care treatment or service, the health practitioner or the practitioner's designee shall inform the patient, in the form and manner prescribed by the Oregon Health Authority by rule, that:

(A) The patient may receive the test, treatment or service at a different facility of the patient's choice; and

(B) If the patient chooses a different facility, the patient should contact the patient's insurer regarding the extent of coverage or the limitations on coverage for the test, treatment or service at the facility chosen by the patient.

(b) Rules concerning the form and manner for informing a patient as required by this subsection shall:

(A) Be designed to ensure that the information is conveyed in a timely and meaningful manner;

(B) Be administratively simple; and

(C) Accommodate a provider's adoption and use of electronic health record systems.

(5) A health practitioner may not deny, limit or withdraw a referral to a facility solely for the reason

that the patient chooses to obtain the test, treatment or service from a different facility.

(6) The authority may not impose additional restrictions or limitations on any referral described in this section that are in addition to the requirements specified in subsections (3) and (4) of this section.

(7) In obtaining informed consent for a diagnostic test or health care treatment or service that will take place at a facility, a health practitioner shall disclose the manner in which care will be provided in the event that complications occur that require health services beyond what the facility has the capability to provide.

(8) Subsections (3) to (5) of this section do not apply to a referral for a diagnostic test or health care treatment or service:

(a) For a patient who is receiving inpatient hospital services or services in an emergency department if the referral is for a diagnostic test or health care treatment or service to be performed while the patient is in the hospital or emergency department;

(b) Made to a particular facility after the initial referral of the patient to that facility; or

(c) Made by the facility or provider to whom a patient was referred.

SECTION 3. ORS 659A.150 is amended to read: 659A.150. As used in ORS 659A.150 to 659A.186:

(1) "Covered employer" means an employer described in ORS 659A.153.

(2) "Eligible employee" means any employee of a covered employer other than those employees exempted under the provisions of ORS 659A.156.

(3) "Family leave" means a leave of absence described in ORS 659A.159, except that "family leave" does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.

(4) "Family member" means the spouse of an employee, the biological, adoptive or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in loco parentis.

(5) "Health care provider" means:

(a) A person who is primarily responsible for providing health care to an eligible employee or a family member of an eligible employee, who is performing within the scope of the person's professional license or certificate and who is:

(A) A physician licensed under ORS chapter 677;

(B) A physician assistant licensed under ORS 677.505 to 677.525;

(C) A dentist licensed under ORS 679.090;

(D) A psychologist licensed under ORS 675.030;

(E) An optometrist licensed under ORS 683.070;

(F) A naturopath licensed under ORS 685.080;

(G) A registered nurse licensed under ORS 678.050;

(H) A nurse practitioner certified under ORS 678.375;

(I) A direct entry midwife licensed under ORS 687.420;

(J) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a [*nurse midwife*] nurse practitioner **specializing in nurse midwifery**;

(K) A regulated social worker authorized to practice regulated social work under ORS 675.510 to 675.600; or

(L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays.

(b) A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.

(6) "Serious health condition" means:

(a) An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility;

(b) An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care; or

(c) Any period of disability due to pregnancy, or period of absence for prenatal care.

SECTION 4. Section 1, chapter 63, Oregon Laws 2018, is amended to read:

Sec. 1. (1) As used in this section:

(a) "Maternal mortality" means the pregnancy-related death of a person within 365 days after the end of the pregnancy.

(b) "Severe maternal morbidity" includes pregnancy-related outcomes that result in significant short-term or long-term consequences to a person's health.

(2) The Maternal Mortality and Morbidity Review Committee is established in the Oregon Health Authority to conduct studies and reviews of the incidence of maternal mortality and severe maternal morbidity and to make policy and budget recommendations to reduce the incidence of maternal mortality and severe maternal morbidity in this state.

(3) The committee shall consist of at least 11 but not more than 15 members appointed by the Governor. The Governor shall consider for membership the following individuals:

(a) A physician licensed under ORS chapter 677 who specializes in family medicine and whose practice includes maternity care and delivery;

(b) A physician licensed under ORS chapter 677 who specializes in obstetrics and gynecology;

(c) A physician licensed under ORS chapter 677 who specializes in maternal fetal medicine;

(d) A licensed registered nurse who specializes in labor and delivery;

(e) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a [*nurse*

midwife] nurse practitioner **specializing in nurse midwifery**;

(f) A direct entry midwife licensed under ORS 687.405 to 687.495;

(g) An individual who meets criteria for a doula adopted by the authority in accordance with ORS 414.665;

(h) A traditional health worker;

(i) An individual who represents a community-based organization that represents communities of color and focuses on reducing racial and ethnic health disparities;

(j) An individual who represents a community-based organization that focuses on treatment of mental health;

(k) An individual who represents the authority with an expertise in the field of maternal and child health;

(L) An individual who is an expert in the field of public health; and

(m) A medical examiner.

(4) In appointing members under subsection (3) of this section, the Governor shall consider whether the composition of the committee is reasonably representative of this state's geographic, ethnic and economic diversity.

(5) Members of the committee shall serve for terms of four years each. The Governor shall fill a vacancy on the committee by making an appointment to become immediately effective for the unexpired term. The Governor shall assign the initial terms of office to members so that the terms expire at staggered intervals.

(6) The committee shall elect one of its members to serve as chairperson. A majority of the members of the committee constitutes a quorum.

(7) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.

(8) The committee shall convene in closed, non-public meetings.

(9) A member of the committee is not entitled to compensation, but in the discretion of the authority may be reimbursed from funds available to the authority for actual and necessary travel and other expenses incurred by the member in the performance of the member's official duties in the manner and amount provided in ORS 292.495.

(10) The authority may adopt rules necessary for the operation of the committee.

(11) The committee shall:

(a) Study and review information relating to the incidence of maternal mortality and severe maternal morbidity in this state.

(b) Examine whether social determinants of health are contributing factors to the incidence of maternal mortality and severe maternal morbidity including, but not limited to:

(A) Race and ethnicity;

(B) Socioeconomic status;

(C) Domestic abuse or violence;

(D) Access to affordable housing;

(E) Access to primary and preventive health care services, oral health care services and behavioral health services for a person who is of reproductive age; and

(F) Gaps in insurance coverage postpartum or following pregnancy.

(12)(a) Upon request by the division of the authority that is charged with public health functions, the following shall make available to the committee information relating to the incidence of maternal mortality and severe maternal morbidity in this state:

(A) Health care providers;

(B) Providers of social services;

(C) Health care facilities;

(D) The authority;

(E) The Department of Human Services;

(F) Law enforcement agencies;

(G) Medical examiners; and

(H) Any other state and local agency deemed relevant by the committee.

(b) Information made available to the committee may include, but need not be limited to, the following:

(A) Medical records;

(B) Autopsy reports;

(C) Birth records;

(D) Death records;

(E) Social services files;

(F) Information obtained during any family interviews; and

(G) Any other data or information the committee may deem relevant in connection with maternal mortality and severe maternal morbidity.

(c) A person may not charge or collect a fee for providing information to the committee pursuant to this subsection.

(13) Notwithstanding any other law relating to sharing confidential information, all agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of duties of the committee and shall furnish information and advice as deemed necessary by the members of the committee.

(14)(a) All meetings and activities of the committee are exempt from the requirements of ORS 192.610 to 192.690.

(b) All information obtained, created or maintained by the committee is:

(A) Confidential and exempt from disclosure under ORS 192.311 to 192.478; and

(B) Not admissible in evidence in a judicial, administrative, arbitration or mediation proceeding.

(c) Committee members may not be:

(A) Examined as to any communications to or from the committee or as to any information obtained or maintained by the committee; or

(B) Subject to an action for civil damages for affirmative actions or statements made in good faith.

(d) This subsection does not limit the discoverability or admissibility of any information that is available from any source other than the

committee in a judicial, administrative, arbitration or mediation proceeding.

(15) A person who acts in good faith in making information available to the committee under subsection (12) or (13) of this section:

(a) Has immunity:

(A) From any civil or criminal liability that might otherwise be incurred or imposed with respect to releasing the information;

(B) From disciplinary action taken by the person's employer with respect to releasing the information; and

(C) With respect to participating in any judicial proceeding resulting from or involving the release of information; and

(b) May not be examined as to any communications to or from the committee or as to any information obtained, created or maintained by the committee.

(16) Nothing in subsection (14) or (15) of this section may be construed to limit or restrict the discoverability or admissibility of any information that is available from any person or any other source independent of the meetings or activities of the committee in a civil or criminal proceeding.

(17)(a) The committee shall submit a biennial report in the manner provided in ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly re-

lated to health care. The report submitted under this subsection must include, but is not limited to, the following:

(A) A summary of the committee's conclusions and findings relating to maternal mortality;

(B) Aggregated data related to the cases of maternal mortality in this state that is not individually identifiable;

(C) A description of actions that are necessary to implement any recommendations of the committee to prevent occurrences of maternal mortality in this state; and

(D) Recommendations for allocating state resources to decrease the rate of maternal mortality in this state.

(b) A biennial report submitted after January 2, 2021, in addition to providing the information described in paragraph (a) of this subsection, must describe how the information relates to severe maternal morbidity.

(18) The committee shall provide the report required under subsection (17) of this section to health care providers and facilities, relevant state agencies and any others as the committee deems necessary to reduce the incidence of maternal mortality and severe maternal morbidity.

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