



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PH 21-2021

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Minor consent for COVID-19 vaccinations

EFFECTIVE DATE: 05/27/2021 THROUGH 11/22/2021

AGENCY APPROVED DATE: 05/26/2021

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NEED FOR THE RULE(S):

It is vital to the public's health and safety that as many individuals who can get a COVID-19 vaccine, receive a COVID-19 vaccine. COVID-19 vaccines have been authorized by the U.S. Food and Drug Administration as safe and effective under an Emergency Use Authorization, and the Pfizer vaccine is authorized for individuals ages 12 and older. At the time these rules are filed nearly 200,000 Oregonians have been infected with COVID-19 and over 2,600 Oregonians have died. Schools have been closed to in-person learning because of the COVID-19 pandemic. Widespread vaccinations are essential to controlling the COVID-19 pandemic. Under Oregon law, ORS 109.640, minors age 15-17 can consent to treatment by physicians, naturopathic physicians, dentists, physician assistants, nurse practitioners and optometrists and anyone acting under the authority of, or at the direction of such practitioners. These rules will ensure a minor can exercise their right to consent to a COVID-19 vaccine, without a practitioner or government official imposing a parent or guardian consent requirement. Imposing a parental or guardian consent requirement when a minor can consent may reduce the number of minors who get vaccinated.

These temporary rules prohibit health care providers who are authorized under ORS 109.640 to treat minors age 15 to 17 with a minor's consent, from also requiring parental or guardian consent. Civil penalties of up to \$500 per day per violation may be imposed against a provider or person operating a COVID-19 vaccine administration site who denies a COVID-19 vaccine to a minor age 15-17 because the minor does not have parental or guardian consent. The rules also apply to any individual administering a COVID-19 vaccine under the authority of or at the direction of a provider who is authorized to treat minors age 15-17 under ORS 109.640, and to vaccine administration sites.

OAR 333-047-2000 also requires a person or entity receiving state-supplied COVID-19 vaccine to comply with the Oregon Health Authority's COVID-19 Vaccine Administration Site and Provider Guidance:

<https://sharedsystems.dhsosha.state.or.us/DHSForms/Served/le3659.pdf>

JUSTIFICATION OF TEMPORARY FILING:

The Oregon Health Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and minors age 15-17 who have the authority under state law to consent to treatment, including COVID-19

vaccine. These rules need to be adopted promptly so that minors age 15-17 are empowered to get a COVID-19 vaccine without unnecessary barriers. Without these rules minors who want to receive a COVID-19 vaccine in order to protect themselves, their families and their community, who may not be able to get parental or guardian consent for a variety of reasons, may be blocked from getting vaccinated.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

RULES:

333-003-5000, 333-047-2000

ADOPT: 333-003-5000

RULE TITLE: COVID-19 Related Requirements: Consent to Vaccination

RULE SUMMARY: Adopt OAR 333-003-5000: OAR 333-003-5000:

- A health care provider may not require parental or guardian consent for a minor age 15-17 who is exercising their right to consent under ORS 109.640.
- A COVID-19 vaccination site may not require a provider to require parental or guardian consent for a minor age 15-17 who is exercising their right to consent under ORS 109.640.
- "Health care provider" is defined to mean any health care practitioner described in ORS 109.640 (physicians, naturopathic physicians, dentists, physician assistants, nurse practitioners and optometrists) and anyone acting under the authority of, or at the direction of such a practitioner.
- COVID-19 vaccine administration site means any location COVID-19 vaccines are administered.
- Civil penalties of up to \$500 per day per violation may be imposed on a person or governmental entity operating a vaccine site or on a health care provider.
- Each instance where a minor who consents is denied vaccine because they don't have parental or guardian consent is a new violation.
- Civil penalties are imposed in accordance with ORS chapter 183.

RULE TEXT:

- (1) A healthcare provider administering COVID-19 vaccinations may not require parental or guardian consent for a minor age 15-17 who is exercising their right to consent to treatment under ORS 109.640.
- (2) A COVID-19 vaccine administration site may not require a healthcare provider to require parental or guardian consent for a minor age 15-17 who is exercising their right to consent to treatment under ORS 109.640.
- (3) For the purposes of this rule:
 - (a) "Healthcare provider" means any health practitioner described in ORS 109.640 who is authorized to order COVID-19 vaccinations, or any individual administering a COVID-19 vaccine who is acting under the authority of a practitioner described in ORS 109.640 or at the direction of a practitioner described in ORS 109.640.
 - (b) "COVID-19 vaccine administration site" means any location where COVID-19 vaccines are administered.
- (4) The Authority may impose civil penalties up to \$500 per day per violation on person or governmental entity operating a COVID-19 vaccine administration site or a healthcare provider for violating this rule.
- (5) Each instance of a minor, age 15-17 who is exercising their right to consent to treatment under ORS 109.640 who is denied a COVID-19 vaccine or for whom consent from a parent or guardian was required is a separate violation of this rule.
- (6) Any civil penalties imposed by the Authority shall be imposed in accordance with ORS chapter 183.745.

Note: Copies of the Executive Orders are available at: <https://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 433.004, ORS 433.441, ORS 433.443, ORS 431A.005, ORS 431A.010, ORS 431A.015, ORS 433.110, Governor's Executive Order 21-10

STATUTES/OTHER IMPLEMENTED: ORS 431A.005, ORS 431A.010, ORS 431A.015, Governor's Executive Order 21-10, ORS 433.443

ADOPT: 333-047-2000

RULE TITLE: COVID-19 Vaccine Guidance and Consent Requirements

RULE SUMMARY: Adopt OAR 333-047-2000:

- A person or entity receiving state-supplied COVID-19 vaccine must comply with the Oregon Health Authority's COVID-19 Vaccine Administration Site and Provider Guidance:

<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le3659.pdf>; and comply with OAR 333-003-5000

RULE TEXT:

(1) A person or entity receiving state-supplied COVID-19 vaccine must comply with:

(a) The Authority's COVID-19 Vaccine Administration Site and Provider Guidance:

<https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le3659.pdf>, incorporated by reference; and

(b) OAR 333-003-5000.

(2) A person or entity who violates any provision of this rule is subject to a civil penalty of \$500 per day per violation.

STATUTORY/OTHER AUTHORITY: ORS 433.103, ORS 431A.010

STATUTES/OTHER IMPLEMENTED: ORS 433.103, ORS 431A.010