Birthing Center Rule COMMUNITY MEETING
November 15, 2024
10:00 a.m. via Zoom

ATTENDEES	
Cynthia Luxford	Nova Vida Midwives Freestanding Birth Center
Danielle Meyer	RAC member, Hospital Association of Oregon
Desiree LeFave	RAC member, Bella Vie Gentle Birth Center (Administrative)
Holly Jo Hodges	Moda Health
Kaylyn Anderson	RAC member, Consumer
Laura Weigand	Andaluz Birth Center
Mika Ingram	Oregon Advocacy Commission Office
Miriam Herrmann	Trillium Community Health
Rebeckah Orton	Astoria Birth Center
Sharron Fuchs	Public
Terrence Saunders	Oregon Advocacy Commission Office
Tierra Salmón	SMC Full Circle Doula; Birth Assistant @ Canyon Medical Center

OHA Staff	
Anna Davis	PHD-Health Facility Licensing & Certification
Brittany Hall	PHD-Policy and Partnership
Dana Selover	PHD-Health Care Regulation & Quality Improvement
Mellony Bernal	PHD-Health Care Regulation & Quality Improvement
Rebecca Long	PHD-Emergency Medical Services & Trauma Systems Program

Welcome, Housekeeping and Agenda

Mellony Bernal welcomed attendees to this community meeting to discuss how proposed Birthing Center administrative rules may impact health equity in Oregon. The following information was shared:

- Instructions on how to navigate the Zoom tool bar;
- Meeting procedures and expectations on use of the Chat;
- The meeting is being recorded and all information is considered a public record and may be disclosed; and
- Meeting notes from this meeting will be posted at http://www.healthoregon.org/hcrqirules under Rulemaking Advisory Committees in Progress.

The meeting agenda was reviewed.

Overview

Dana Selover welcomed everyone and provided a brief overview on the following:

- Birthing centers per statute are licensed for the primary purpose of performing low risk deliveries;
- Administrative rules are over 17 years old and out-of-date.
- The reason why we are obtaining input from the community in this manner versus through the Rule Advisory Committee (RAC) is due to passage of HB 2993 (2021 Oregon Laws, Chapter 463) which requires that a RAC include members of the community. Because the Birthing Center RAC had already met multiple times over a two-year period before the law became effective and has continued meeting since the law passed, through guidance from Department of Justice and discussions with leadership, a decision was made to convene a community meeting at the end of the RAC process to gather input.
- Initial rules were drafted modeling the criteria identified in the 2015 Health Evidence Review Commission's (HERC), Coverage Guidance for Planned Out-of-Hospital Birth. Over the course of multiple RAC meetings and revisions made to guidance received from HERC, as well as considering current Board of Direct Entry Midwifery (DEM) rules, the proposed rules were amended.
    - Health Evidence Review Commission – Serves Oregon citizens by ensuring that certain medical procedures, devices and tests paid for with Medicaid health care dollars are safe and proven to work. This includes not only birthing center births but home births as well and it was noted that prior authorization is required.

      Coverage Guidance: Planned Out-of-Hospital Birth (updated – 08/13/2020)
    - Board of Direct Entry Midwifery (DEM) – Oversees the practices of licensed direct entry midwives in the state. It was noted that there is overlap between HERC, DEM and Public Health Division (PHD) birthing center rules.

      OAR chapter 332, divisions 010-040 (unofficial copy – 06/29/2023)
    - Public Health Division, HCRQI - Regulates non-long term care facilities and agencies to ensure that facilities comply with all federal and state requirements to ensure the health and safety of clients or patients being served. The PHD looks primarily at health and safety requirements and does not oversee payment requirements or individual scope of practice.
- The Birthing Center RAC was initially convened in May 2019 and finished obtaining input in June 2024.
    - Meeting notes from the Birthing Center RAC meetings can be found at: http://www.healthoregon.org/hcrqirules under Rulemaking Advisory Committees in Progress.
- The purpose of convening this community meeting is to hear from racial, ethnic and immigrant communities, persons with lower incomes, and organizations that serve these communities, about their experiences and concerns and to get direct feedback on the proposed rules from those populations and communities.

- Our goal is to ensure that the rules are both equitable and provide for the health and safety of birthing persons and newborns in Oregon.

Orientation for Health Facility Licensing Rules

D. Selover reviewed the general structure of licensing rules for facilities. Rules generally begin with an applicability statement, definitions, and then proceed with the application process (submission, review, approval, denial, etc.) Following the application process are rules related to licensing requirements such as on-site surveys, complaints, and investigations. Enforcement requirements are found at the end including issuing statements of deficiencies, plans of correction, re-survey, suspension, revocation, civil monetary penalties, etc. The core of the rules, in terms of health and safety requirements, are the bulk of the rules.

Health and safety requirement rule categories include:

- For all health facilities – generic: such as physical environment and emergency preparedness requirements.
- For all health facilities – special: such as medical records, lab and pharmacy services, equipment and supplies, infection control, quality assessment and performance improvement requirements.
- Client care for birthing centers – policies and procedures, client services, admission and discharge, client transfer, risk status assessment, newborn care, and screening.

D. Selover shared information related to the facilities' policies and procedures. An exhaustive list was not reviewed rather a subset for purposes of orienting attendees to the administrative rule requirements. Facility standard policies include, but are not limited to:

- Staff training requirements.
- Admission and discharge criteria.
- Client grievance procedures.
- Assessment of risk and consultation.
- Medical record content.
- Infection control requirements.
- Equipment storage, maintenance, and sterilization.
- Provision of life saving measures.
- Availability of emergency transportation.
- Orientation and education of clients and families.
- Performance of laboratory services.
- Procurement, storage, and administration of drugs.
- Procedures for notifying clients of any financial interest.
- Procedures for providing health care interpreter services to clients who prefer to communicate in a language other than English.

Highlights of client service requirements include:

- Receiving an orientation and written information about services to be provided and a statement of client rights.
- Disclosure requirements.

- Minimum services that must be provided including intrapartum and postpartum care.
- Risk status assessment throughout pregnancy, labor, and delivery to determine if receiving care at the birthing center is appropriate.
- Consultation with perinatal care or other specialty care providers.
- Provisions for the use of telemedicine through real-time communication.

Admission and discharge highlights:

- Admitting only clients for whom medical history, physical exam, laboratory screening and risk assessment do not exclude them from receiving care and services.
- Referral to appropriate providers or health care facility when clients meet certain risk factor criteria.
- Developing and communicating discharge plans including provisions for newborn screening follow-up care and whether a follow-up visit is necessary.

Client transfer highlights:

- Policies for essential lifesaving measures, stabilization and immediate transfer of a client or newborn to a hospital for medical care that exceeds the capability of the birthing center.
- Imminent fetal delivery may delay or preclude transfer prior to birth.

Risk status assessment and consultation highlights:

- A clinical provider at the birthing center must assess a client's risk status throughout pregnancy to determine whether the client may continue to receive care and services, including delivery, in a birthing center based on adopted risk factor tables.
- Risk factors identified in tables are not comprehensive and other conditions may arise that may require further consultation or transfer to a hospital.
- In-person risk assessment must be completed within the first 21 days after the first prenatal care visit. Risk assessments must be updated throughout the pregnancy, labor, and delivery.
- Appropriate referral to a hospital must be prompt if the client, fetus, or newborn meet any of the exclusion criteria identified in the relevant risk factor table.
- Based on the risk assessment findings and associated risk factor tables, a birthing center provider may be required to consult with a certified nurse midwife, licensed direct entry midwife, physician, physician associate, or nurse who has experience handling complications of the risk factor(s) found.
- The client must be present for the consultation or if the client is unavailable, the client must be notified about any findings and recommendations suggested by the consultant.
- Outcomes of the consultation and decisions made about the plan of care must be implemented and documented.
- Client who must be referred or transferred to higher level of care based on a risk assessment may continue to receive prenatal care at the birthing center if certain criteria are met.

Newborn care and screening highlights:

- Various newborn screenings that are required by other OHA rules are reiterated including:
  - Vitamin K
  - Metabolic disease screening
  - Newborn hearing screening
  - Gonococcal conjunctivitis evaluation and treatment

- Pulse oximeter screening

Open Forum Discussion

Participants that were not RAC members were asked to share their feedback on:

- How might the proposed rules impact services to communities?
- How might the proposed rules affect racial equity in Oregon?
- How might the proposed rules reduce barriers to health equity in birthing care?
- What changes can be made that would support more equitable birthing center services?

D. Selover reminded attendees that the purpose of this meeting is to gather input on how the rules may impact health equity in Oregon. An opportunity to provide feedback on the rules will occur after the OHA files a Notice of Proposed Rulemaking Hearing with the Secretary of State's Office. A public hearing will be scheduled where persons may provide oral testimony or written public comment about the rules. The public comment period for submission of written comments will be open for several days. The OHA will review the oral testimony and written comments, consider possible additional changes, and then will file permanent rules.

It was further noted that RAC members will have an opportunity to comment on the Statement of Need and Fiscal Impact prior to the Notice of Proposed Rulemaking Hearing being filed.

Comments:

- Attendee asked that the OHA consider data obtained from the Strong Start for Mothers and Newborns initiative funded by the Centers for Medicare and Medicaid Services (CMS) and how birth outcomes were impacted as well as how it impacted reduced racial inequities with care at birth centers. This initiative identified reduced cost, reduced stress, reduced c-sections, client's 'being heard, understood and respected.'

  https://www.cms.gov/priorities/innovation/innovation-models/strong-start#:~:text=Two%20Strong%20Start%20Strategies&text=Building%20on%20the%20work%20of,Learn%20more...

  Dana asked attendee to identify anything specific in the Strong Start study that can be called out for purposes of the proposed rules that will ensure health equity in Oregon. Attendee indicated that they will consider further.

- Attendee asked how many midwives or staff members of color are in the virtual meeting right now. Staff responded that this information is not collected. Attendee further questioned how and to whom notice was sent. Staff shared that they worked with the Public Health Division's, Community Engagement Team on sending out the flyer. Additionally, staff reached out directly to the following communities:
  - Asian Pacific American Network of Oregon
  - Coalition of Communities of Color
  - Community Care Organizations
  - Community Doula Program
  - Every Mother Counts
  - Forward Together – Birth Justice Committee
  - Healthy Birth Initiatives
  - Oregon Latino Health Coalition
  - Oregon Perinatal Collaborative

- Health Care Coalition of Southern Oregon
- Southern Oregon Perinatal Task Force
- Oregon Health Equity Alliance
- Oregon Advocacy Commission Office

It was noted that there were several persons/organizations that had registered to attend today's meeting, including persons representing the above groups, but are not on the call.

Attendee further inquired what is the deadline to receive feedback. Staff indicated that comments on the specific equity questions may be sent to mellony.c.bernal@oha.oregon.gov and the deadline to receive comments is by 5 p.m. December 2, 2024. It was further noted that these comments will help inform the health equity impact statement that is part of the Statement of Need and Fiscal impact which RAC members will have an opportunity to review.

- Attendee inquired whether the OHA would be reading through all the proposed rules changes during this meeting. D. Selover responded no. The PowerPoint just shared and related material on the webpage summarizes the rules and activities to date. The full rule set was linked in the materials sent in advance of the meeting.
- Attendee inquired about the 21-day assessment requirement in the rules and what if any exceptions can be considered. D. Selover asked for clarification whether they believed the 21-day assessment may impact health equity and attendee responded yes. Another attendee via Chat indicated that that there are military families or others moving that want to meet with birthing centers and establish care to make sure they can find care when they arrive which is sometimes late in pregnancy. **Follow-up – The 21-day assessment is required following the initial prenatal care visit. The 21-days was suggested by RAC members in lieu of 14 days initially suggested. Reference BC RAC meeting notes dated July 21, 2021.**
- D. Selover remarked that should attendees have additional suggestions on who the OHA should seek input from relating to health equity to share information with mellony.c.bernal@oha.oregon.gov. Attendee inquired whether the heath equity questions, and the proposed rules can be shared with national organizations including the AABC and CABC. Staff responded yes. Post community meeting information will be added to the HCRQI rules webpage.
- Attendee stated that they came unprepared as they thought the rules would be reviewed section by section and will review more thoroughly to respond to the questions and invited other members of the OABC to participate.
- Attendee stated via Chat, "We know by the Strong Start data that black and brown people are statistically much safer in birth centers. Any rule that limits people from coming to birth centers has the potential to affect safety for those most at risk in birth (black and brown people)."
- Attendee expressed appreciation for comments previously shared about other programs responsible for reimbursement and payment. Attendee stated there is a continuing crisis of people dying during birth, it was strongly encouraged that all agencies work on making reimbursement sustainable for birth centers and being able to provide more access to Medicaid clients for better outcomes.
- Attendee asked for clarification on where to access the documents. Staff walked attendees through the webpage to identify where documents can be found.

Wrap-Up
Staff shared that the goal is have final draft rule language submitted mid-December 2024 to hold a public hearing in mid-January 2025. OHA policy does not allow PHD programs to hold public hearings during legislative session. If a public hearing does not occur in January, the earliest it could happen would be June or July 2025. Depending on comments received about health equity and possible changes needed to rule, the program may need to delay filing.

Community meeting adjourned at: 11:21 a.m.