

DATE: July 29, 2024

TO: Hearing Attendees and Commenters –  
OAR chapter 333, division 28, “Certification Rules for Local School Dental Sealant Programs”

FROM: Brittany Hall, Hearing Officer

cc: Cate Wilcox, Manager  
Maternal and Child Health Section  
Oral Health Program

SUBJECT: Presiding Hearing Officer’s Report on Rulemaking Hearing and Public Comment Period

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### Hearing Officer Report

**Date of Hearing:** June 24, 2024, via Microsoft Teams

**Purpose of Hearing:** To receive testimony regarding the Oregon Health Authority (OHA), Public Health Division’s proposed permanent amendments to Oregon Administrative Rules (OARs) in chapter 333, division 28 pertaining to local school dental sealant programs.

In response to the end of the federal COVID-19 public health emergency, the certification rules for school dental sealant programs (SDSPs) must be modified to remove any COVID-19 certification requirements. Additionally, OHA is proposing to update quality assurance measures and clarify the verification process for certified school dental sealant programs.

**Hearing Officer:** Brittany Hall

**Testimony Received:** No oral testimony was received on this matter during the hearing.

**Other Comments:** One individual or organization submitted written comments to OHA prior to the end of the public comment period, which closed on June 24, 2024, at 5 P.M. PDT. These written comments are briefly summarized below and are attached to this report as **EXHIBIT 1**.

OHA heard in written comments appreciation for the agency’s proposed “move away from requiring an 80 percent average one-year sealant retention rate for certification and move toward a self-monitoring evaluation plan.” A request was made to “expedite removal of this sealant reporting requirement for the upcoming 2024-25 school year.”

OHA heard in written comments the request for the self-monitoring quality plan to offer “the flexibility to include measures of program engagement” that “are the key performance indicators for program success, including reporting on:

- Percentage/number of assigned schools served;
- Percentage/number of enrolled students for whom preventive oral health service consent forms are returned; and
- Percentage/number of enrolled students who received a dental screening.”

The request also included “the flexibility to include at least one care coordination referral metric.”

OHA heard in written comments support for the agency’s proposal “to reduce its annual site requirements to once every three years (or when clinical leadership changes or a site visit is requested by the program).”

OHA heard in written comments support for “the transition to twice-annual reporting on program metrics.” Citing the administrative and financial costs of regulatory changes on data collection, comments requested that “OHA solicit program feedback in advance regarding future proposed changes to data collection, and that the OHA continuously weighs the potential value of new data elements against the added administrative costs that programs required to produce the data incur.”

Citing issues with health care workforce shortages in Oregon and nationwide, OHA heard in written comments the request to consider future rule changes “that would offer greater flexibility to allow expanded function dental assistants (EFDAs) who are trained and certified to place dental sealants within the confines of the school-based dental sealant program.”

**Agency response to comments:**

These amended rule changes will be effective before the beginning of the 2024-25 school year. Local school dental sealant programs (SDSPs) will be required to submit an annual self-monitoring evaluation plan instead of conducting retention checks for quality assurance. OHA will provide SDSPs with a self-monitoring guidance document in August 2024. Each SDSP will have the flexibility to create their own self-monitoring evaluation plan and select the performance indicators and metrics that work best for that program. Some SDSPs may continue to conduct retention checks as part of their self-monitoring evaluation plan, but this would not be a requirement from OHA.

OHA has amended OAR 333-028-0340(2) to clarify and simplify the in-person on-site verification review process for certified local SDSPs. OHA anticipates these new requirements will reduce the burden on SDSPs as they prepare for on-site reviews. Most currently certified SDSPs will move to a three-year cycle versus annually.

Since the inception of the certification program for local SDSPs during the 2016-17 school year, OHA has changed the format and timing of data submissions several times. OHA is continually looking at its processes to determine the most effective and efficient way to obtain accurate data from certified SDSPs and aggregate the data for statewide reporting. It is challenging to find a format (e.g., Adobe versus Microsoft) that works for every SDSP since each program has its own system (paper or electronic) for collecting data. OHA recognizes that these changes are a burden for SDSPs and will strive to solicit SDSP feedback whenever possible before making significant changes to the data submission process.

OHA recognizes the workforce challenges that local SDSPs are currently experiencing, but OHA does not have the ability to change the scope of practice of an expanded function dental assistant (EFDA) as determined by the Oregon Board of Dentistry in OAR 818-042-0090 "Additional Functions of EFDAs". If the Oregon Board of Dentistry changed the OARs for EFDAs allowing more flexibility of utilizing EFDAs in SDSPs, then OHA would consider conducting rulemaking and updating its certification requirements for local SDSPs.

Based on OAR 818-042-0090, expanded practice dental hygienists (EPDHs) may act as the licensee in determining the need for the dental sealant and checking the sealant before dismissing the student after sealant placement. Some currently certified SDSPs utilize EFDAs by operating more than one patient chair with one EPDH and multiple sealant certified EFDAs. The EPDH determines the need for sealants, the EFDAs place the sealants with an assistant, and then the EPDH checks the sealants prior to dismissal. As outlined in OAR 333-028-0320(11)(c), the assistant does not have to be a dental professional.

**Additional changes to rule text:**

OHA made several grammatical changes to the OARs during the public comment period to align with OHA rulemaking standards. None of these revisions change the intent and substance of the rules.

- Amended OAR 333-028-0300(2): Changed OAR 333-028-0395 to 333-028-0350 since OAR 333-028-0395 "COVID-19 Certification Requirements" was eliminated with the end of the federal COVID-19 public health emergency.
- Amended OAR 333-028-0320(5): Provided the full term for the acronym CCO.
- Amended OAR 333-028-0320(6): Eliminated the full term for the acronym CCO since it is spelled out earlier in section (5).
- Amended OAR 333-028-0320(11)(c): Provided the full term for the acronym IPC.
- Amended OAR 333-028-0320(14): Eliminated the full term for the acronym IPC since it is spelled out earlier in section (11)(c).
- Amended OAR 333-028-0320(18): Provided the full term for the acronym QI/QA in the first sentence. Changed the second sentence to include only the acronym for QI/QA since it is spelled out earlier in the first sentence.
- Amended OAR 333-028-0340(2) subsections (a), (b) and (c): Changed the periods to semicolons to match the numbering convention of the rules.



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Re. Oregon Administrative Rules; Oregon Health Authority, Public Health  
Division Chapter 333, Division 28: School-Based Health Programs

June 24, 2024

To whom it may concern,

As a certified school-based dental program serving K-8 schools in the Portland tri-county area, All Smiles Community Oral Health appreciates the opportunity to offer comment on the revised rules governing school-based dental sealant programs. The following is a summary of All Smiles' feedback on the proposed rules.

*333-028-0320 Local School Dental Sealant Programs: Certification Requirements*

*All Smiles Supports Ending the 80% Sealant Retention Benchmark*

With programs now using glass ionomer-based sealant materials, we appreciate that the Oregon Health Authority (OHA) is proposing to move away from requiring an 80 percent average one-year sealant retention rate for certification and move toward a self-monitoring evaluation plan. We wonder whether it would be possible to expedite removal of this sealant reporting requirement for the upcoming 2024-25 school year, as the measure's value has been limited by use of new sealant materials.

We ask that the self-monitoring quality plan offers the flexibility to include measures of program engagement that the All Smiles Board of Directors thinks are the key performance indicators for program success, including reporting on:

- percentage/number of assigned schools served;
- percentage/number of enrolled students for whom preventive oral health service consent forms are returned; and
- percentage/number of enrolled students who received a dental screening.

Additionally, All Smiles seeks the flexibility to include at least one care coordination referral metric — for example the number/percentage of students who we could not

confirm received follow-up care after a referral compared to the number/percentage who received timely follow-up care.

### *All Smiles Supports Ending of Annual Site Visit Requirement for Certification*

Successfully scheduling and serving all assigned K-8 schools for services is challenging at baseline, and scheduling an annual OHA regulatory site visit on top of that is an added source of administrative burden.

We appreciate that OHA proposes to reduce its annual site requirements to once every three years (or when clinical leadership changes or a site visit is requested by the program). Annual site visits feel like 'overkill' when our clinical leadership and core processes have not changed year-over-year. Besides being difficult to schedule, actionable feedback from these events has been limited.

### *Feedback on Data Collection & Reporting*

All Smiles supports the transition to twice-annual reporting on program metrics. Certified programs like All Smiles have experienced several regulatory changes on data collection in the past few years, including changes to data reporting frequency, newly required reporting on students served per grade level, and the addition (and subsequent removal) of requirements for reporting on individual schools using a PDF format.

We appreciate that the grade-level data has value, and we also want to remind our colleagues at OHA that data reporting changes like these incur significant administrative and financial costs to programs like ours and require difficult tradeoffs for other pressing program priorities. We ask that the OHA solicit program feedback in advance regarding future proposed changes to data collection, and that the OHA continuously weighs the potential value of new data elements against the added administrative costs that programs required to produce the data incur.

### *Consideration for Future Scope-of-Practice Changes*

Oregon has a rich history of allowing a broad scope of practice for its licensed health care professionals, including enacting a scope of practice for expanded practice dental hygienists (EPDHs) that allows for remote supervision by an overseeing dentist for certain key clinical tasks.

As health care workforce shortages have worsened in Oregon and nationwide, hiring EPDHs and dental assistants to staff school-based dental programs has proven

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increasingly difficult. We would ask that in the future OHA consider rule changes that would offer greater flexibility to allow expanded function dental assistants (EFDAs) who are trained and certified to place dental sealants within the confines of the school-based dental sealant program. All Smiles currently employes two EFDAs who are trained and certified to place sealants, but we have been unable to navigate the regulatory barriers – especially related to professional oversight and the required use of the four-handed method – that could in the future allow EFDAs to place sealants within the school-based program. All Smiles thinks the required use of the four-handed technique should be scrutinized closely and possibly removed in future iterations of these rules.

We appreciate the collaborative process that you utilized to revise these rules and thank you again for the opportunity to offer our feedback. I am available to answer any questions at [rmoody@allsmilescoh.org](mailto:rmoody@allsmilescoh.org).

Sincerely,

A handwritten signature in black ink that reads "Robin J. Moody". The signature is written in a cursive, flowing style.

Robin Moody, Executive Director, All Smiles Community Oral Health

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