

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 345**

**EMPLOYMENT AND ALTERNATIVES TO EMPLOYMENT SERVICES
FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES**

411-345-0010 Statement of Purpose

(Amended 7/1/2011)

These rules prescribe standards for providing employment and alternatives to employment services for individuals with developmental disabilities receiving residential services. These rules also prescribe the standards and procedures by which the Division certifies service providers to provide employment and alternatives to employment services.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0020 Definitions

(Amended 7/1/2011)

As used in these rules, the following definitions apply:

(1) "Abuse" means abuse of an adult as defined in OAR 407-045-0260.

(2) "Abuse Investigation and Protective Services" means reporting and investigation activities as required by OAR 407-045-0300 and any subsequent services or supports necessary to prevent further abuse as required in OAR 407-045-0310.

(3) "Administration of Medication" means the act of placing a medication in or on an individual's body by a staff member who is responsible for the individual's care.

(4) "Administrator" means the Administrators of the Department of Human Services, Seniors and People with Disabilities Division, or that person's designee.

(5) "Advocate" means a person other than paid staff who has been selected by the individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(6) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietician that maintains or enhances the individual's physical functioning.

(7) "Alternatives to Employment Services" mean any services, conducted away from an individual's residence that addresses the academic, recreational, social, or therapeutic needs of the individuals for whom it serves.

(8) "Annual Individual Support Plan (ISP) Meeting" means an annual meeting, facilitated by a services coordinator of the community developmental disability program and attended by the ISP team members and other persons, as appropriate. The purpose of the meeting is to determine needs, coordinate services and training, and develop an ISP.

(9) "Certificate" means a document issued by the Department to a provider of employment and alternatives to employment services that certifies that the service provider is eligible to receive state funds for the provision of these services.

(10) "Community Based Service" means any service or program providing opportunities for the majority of an individual's time to be spent in community participation or integration.

(11) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for the planning and delivery of services for individuals with developmental disabilities in a specific geographic service area of the state operated by or under a contract with the Department.

(12) "Complaint Investigation" means an investigation of any complaint that has been made to a proper authority that is not covered by an abuse investigation.

(13) "Controlled Substance" means any drug classified as Schedules 1 to 5 under the Federal Controlled Substance Act.

(14) "Department" means the Department of Human Services (DHS).

(15) "Developmental Disability" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation.

(16) "Director" means the person responsible for administration of the employment and alternatives to employment services and provision of support services for individuals.

(17) "Discovery" is a focused time-limited service engaging a participant in identifying their strengths, needs, and interests to prepare for integrated employment.

(18) "Division" means the Department of Human Services, Seniors and People with Disabilities Division (SPD).

(19) "Employment Services" means any service that has as its primary goal the employment of individuals, including job assessment, job development, training, and ongoing supports.

(20) "Entry" means admission to a Department-funded developmental disability service.

(21) "Exit" means either termination from a Department-funded developmental disability service provider or transfer from one Department-funded program or service to another.

(22) "Facility Based Service" means any service or program operated by a service provider that occurs in a location supporting more than eight individuals as a group.

(23) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority determination, based on the evidence, that there is reasonable cause to believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(24) "Important for an Individual" means the areas of life that relate to being healthy, safe, and a valued member of the community.

(25) "Important to an Individual" means the individual's perspective on the people, places, and things they like, personal values, spirituality, and a sense of self. This is learned by listening to what is being said by words or actions. When there is a conflict between words and actions, actions are considered first.

(26) "Incident Report" means a written report of any injury, accident, acts of physical aggression, or unusual incident involving an individual.

(27) "Independence" means the extent to which individuals exert control and choice over their own lives.

(28) "Individual" means a person with developmental disabilities for whom services are planned and provided.

(29) "Individual Support Plan (ISP) Action Plan" means the written documentation of the ISP team's commitment in supporting an individual to resolve or improve particular aspects of their life. An ISP Action Plan identifies the necessary measurable steps to be taken, who is accountable for assuring implementation, and timelines for completion.

(30) "Individual Support Plan (ISP) Team" means a team composed of the individual served, agency representatives who provide service to the individual (as appropriate), the guardian (if any), the services coordinator, and family or other persons requested to develop the ISP.

(31) "Integration" means the use by individuals of the same community resources used by and available to other persons in the community, including participation in community activities and having contact with persons in their community.

(32) "Job Development" means assistance and support for individuals to pursue employment and obtain job placement.

(33) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe an adult with developmental disabilities has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused an adult with developmental disabilities. Pursuant to ORS 430.765(2) psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(34) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(35) "OIS" means Oregon Intervention System.

(36) "Path to Employment" means a concept that identifies an individual's preferences in moving toward employment using principles of self-determination and a set of questions and strategies that assist the Individual Support Plan team when planning.

(37) "Person-Centered Planning" means:

(a) A process, either formal or informal, for gathering and organizing information that helps an individual:

(A) Determine and describe choices about employment or personal goals, activities, and lifestyle preferences; and

(B) Identify, use, and strengthen naturally occurring opportunities for support in the community.

(b) The methods for gathering information vary, but all are consistent with individual needs and preferences.

(38) "Person-Centered Process" means a practice of identifying what is important to and for an individual, and the supports necessary to address issues of health, safety, behavior, and financial support.

(39) "Physical Intervention" means the use of any physical action or any response to maintain the health and safety of an individual or others during a potentially dangerous situation or event.

(40) "Physical Restraint" means any manual physical holding of or contact with an individual that restricts the individual's freedom of movement.

(41) "Productivity" as defined in ORS 427.005 means:

(a) Engagement in income producing work by an individual that is measured through improvements in income level, employment status, or job advancement; or

(b) Engagement by an individual in work contributing to a household or community.

(42) "Protection" means the necessary actions taken as soon as possible to prevent subsequent abuse or exploitation of the individual, to prevent self-destructive acts, and to safeguard an individual's person, property, and funds.

(43) "Psychotropic Medication" means medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including but not limited to anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(44) "Self-Administration of Medication" means the individual manages and takes his or her own medication, identifies his or her own medication and the times and methods of administration, places the medication internally in or externally on his or her own body without staff assistance upon the written order of a physician, and safely maintains the medication without supervision.

(45) "Self-Determination" means for the purpose of these rules, a philosophy and process by which individuals are empowered to gain control over the selection of services that meet their needs. The basic principles of self-determination are:

(a) Freedom. The ability for an individual, together with freely chosen family, friends, and professionals, to plan for employment beyond the parameters of a predefined program;

(b) Authority. The ability for an individual, together with the Individual Support Plan team, to declare a chosen employment path and to plan supports accordingly.

(c) Autonomy. Planning for and accessing resources that support an individual to seek employment; and

(d) Responsibility. The acceptance of a valued role in an individual's community through employment, organizational affiliations, personal development, and general caring for others in the community, as well as accountability for spending public dollars in ways that are life-enhancing for individuals.

(46) "Service Provider" or "Service" means a public or private community agency or organization that provides recognized developmental disability services and is approved by the Division or other appropriate agency, to provide services under these rules.

(47) "Services Coordinator" means an employee of the community developmental disability program or other agency that contracts with the county or Department, who is selected to plan, procure, coordinate, and monitor Individual Support Plan services and to act as a proponent for individuals.

(48) "Staff" means a paid employee responsible for providing services to individuals and whose wages are paid in part or in full with funds contracted with the community developmental disability program or contracted directly through the Department.

(49) "Substantiated" means an abuse investigation has been completed by the Department or the Department's designee and the preponderance of the evidence establishes the abuse occurred.

(50) "Support" means assistance that individuals require, solely because of the affects of developmental disability, to maintain or increase independence, achieve community presence and participation, and improve productivity. Support is subject to change with time and circumstances.

(51) "Supported Employment" means the provision of situational assessment, job development, job training, and ongoing support necessary to place, maintain, or change the employment of an individual in an integrated work setting. The individual is compensated in accordance with the Fair Labor Standards Act.

(52) "These Rules" mean the rules in OAR chapter 411, division 345.

(53) "Transfer" means movement of an individual from one site to another site administered by the same service provider within the same county.

(54) "Unacceptable Background Check" means a background check as defined in OAR 407-007-0210 that precludes the service from being certified for the following reasons:

(a) The service or any person holding 5 percent or greater ownership interest in the agency has been disqualified under OAR 407-007-0275; or

(b) A background check and fitness determination have been conducted resulting in a "denied" status, as defined in OAR 407-007-0210.

(55) "Unit of Service" means the equivalent of an individual receiving services 25 hours per week, 52 weeks per year minus the following:

(a) Personal, vacation, or sick leave allowed by the service provider or employer;

(b) Holidays as recognized by the state of Oregon; and

(c) Up to 4 days for all-staff in-service training.

(56) "Unusual Incident" means incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

(57) "Volunteer" means any person providing services without pay to individuals receiving employment or alternatives to employment services.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0025 Services Provided

(Adopted 7/1/2011)

(1) Employment and alternatives to employment services must be designed to increase an individual's independence, integration, and productivity and offered to eligible adult individuals in accordance with OAR 411-345-0140.

(2) Employment is the preferred activity for individuals receiving services. Individuals must be provided opportunity to move forward on a path to employment.

(3) All services, with the exception of individual employment supports, must be provided in a non-residential setting. Employment and alternatives to employment businesses operating as a service provider from a facility base must provide training and skill-building for all individuals served.

(4) Service providers operating under these rules must provide one or more of the following services:

(a) Individual employment supports provided to assist an individual to:

(A) Maintain employment in the community; or

(B) Pursue self-employment.

(b) Support and supervision of two to eight individuals working in the community as a crew, enclave, or small business unit;

(c) Job development, when not available under the Rehabilitation Act of 1973 or P.L. 94-142 (Individuals with Disabilities Education Act);

(d) Facility-based sheltered employment programs providing training and skill development for individuals. Group employment of nine or more individuals in a crew or enclave is considered sheltered employment;

(e) Activities preparing individuals for employment, including discovery activities, volunteer positions, and work-experience positions; or

(f) Alternatives to employment services providing support for individuals to participate in:

(A) Community inclusion activities based upon individuals' interests;

(B) Volunteer positions; or

(C) Other non-paid activities.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0030 Certification

(Amended 7/1/2011)

(1) No person or governmental unit acting individually or jointly with any other person or governmental unit shall establish, conduct, maintain, manage, or operate an employment or alternative to employment service without being certified.

(2) Each certificate is issued only for the service and persons or governmental units named in the application. No certificate is transferable or assignable to any location, service, facility, agency, management agent, or ownership other than that indicated on the application and certificate.

(3) A certificate issued on or after February 1, 2008 shall be valid for a maximum of five years unless revoked or suspended.

(4) As part of the certificate renewal process the service provider must conduct a self-assessment based upon the requirements of these rules. The service provider must:

(a) Document the self-assessment on forms provided by the Division;

(b) Develop and implement a plan of improvement based upon the findings of the self-assessment; and

(c) Submit these documents to the local CDDP with a copy to the Division.

(5) The Division shall conduct a review of the service provider prior to the issuance of a certificate.

(6) APPLICATION FOR INITIAL CERTIFICATE AND CERTIFICATE RENEWAL. The application must be on a form provided by the Division and must include all information requested by the Division.

(a) The applicant's initial application must identify the number and types of units of service that shall be provided.

(b) To renew certification, the service provider must make application at least 30 days but not more than 120 days prior to the expiration date of the existing certificate. On renewal, no increase in the number of units of service shall be certified unless specifically approved by the Division.

(c) Filing of an application for renewal at least 30 days but not more than 120 days prior to the expiration date of the existing certificate extends the effective date until the Division or its designee takes action upon such application.

(d) Failure to disclose requested information on the application, or provision of incomplete or incorrect information on the application, may result in denial, revocation, or refusal to renew the certificate

(e) Prior to issuance or renewal of the certificate the applicant must demonstrate to the satisfaction of the Division that the applicant is capable of providing the types of services identified in a manner consistent with the requirements of these rules.

(f) Separate certificates are required when the service provider delivers services in multiple counties to the extent that contracts with each different county are required.

(7) EXPIRATION. Unless revoked or terminated earlier, each certificate to operate shall expire on the expiration date specified on the certificate.

(8) TERMINATION OF OPERATION. If the service provider discontinues operation of the certified service, the certificate terminates automatically.

(9) RETURN OF CERTIFICATE. Each certificate in the possession of the service must be returned to the Division immediately upon suspension or revocation of the certificate, or when operation is discontinued by the holder of the certificate.

(10) CHANGE OF OWNERSHIP, LEGAL ENTITY, LEGAL STATUS, OR MANAGEMENT CORPORATION.

(a) The service provider must notify the Division in writing of any pending change in the service provider's ownership or legal entity, legal status, or management corporation.

(b) A new certificate is required upon change in a service provider's ownership or legal entity, legal status, or management corporation. The service provider must submit a certificate application at least 30 days prior to change in ownership or legal entity, legal status, or management corporation.

(11) CERTIFICATE DENIAL, SUSPENSION, REVOCATION, OR REFUSAL TO RENEW. The Division may deny, revoke, or refuse to renew a certificate when the Division finds the service, or any person holding 5 percent or greater ownership interest in the service:

(a) Demonstrates substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized and the agency fails to correct the noncompliance within 30 calendar days of receipt of written notice of non-compliance;

(b) Has demonstrated during two inspections within a six year period a substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized. For the purpose of this subsection, "inspection" means an onsite review of the service site by the Division for the purpose of investigation or certification;

(c) Has demonstrated a failure to comply with applicable laws relating to safety from fire;

(d) Has been convicted of any crime that would have resulted in an unacceptable background check as defined in OAR 407-007-0210 upon hiring or authorization of service;

(e) Has been convicted of a misdemeanor associated with the operation of employment and alternatives to employment services;

(f) Falsifies information required by the Division to be maintained or submitted regarding care of individuals, employment and alternatives to employment services finances, or individuals' funds; or

(g) Has been found to have permitted, aided, or abetted any illegal act that has had significant adverse impact on individual health, safety, or welfare.

(12) NOTICE OF CERTIFICATE DENIAL, REVOCATION, OR REFUSAL TO RENEW. Following a Division finding that there is a substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized or that one or more of the events listed in section (11) of this rule has occurred, the Division may issue a notice of certificate revocation, denial, or refusal to renew.

(13) IMMEDIATE SUSPENSION OF CERTIFICATE. When the Division finds a serious and immediate threat to individual health and safety and sets forth the specific reasons for such findings, the Division may, by written notice to the certificate holder, immediately suspend a certificate

without a pre-suspension hearing and the service may not continue operation.

(14) HEARING. An applicant for a certificate or a certificate holder may request a hearing pursuant to the contested case provisions of ORS chapter 183 upon written notice from the Division of denial, suspension, revocation, or refusal to renew a certificate.

(a) The Division shall provide the certificate holder an opportunity for an informal conference within 10 calendar days from the date of the notice of denial, suspension, revocation, or refusal to renew issued pursuant to this rule.

(b) The applicant or certificate holder must request a hearing within 60 days of receipt of written notice by the Division of denial, suspension, revocation, or refusal to renew a certificate. The request for a hearing must include an admission or denial of each factual matter alleged by the Division and must affirmatively allege a short plain statement of each relevant affirmative defense the applicant or certificate holder may have.

(c) The issue at a hearing on certification denial, revocation, or refusal to renew a certificate is limited to whether the service was or is in compliance at the end of the 30-calendar days following written notice of non-compliance.

(d) In the event of a suspension of a certificate pursuant to section (13) of this rule and during the first 30 days after the suspension of a certificate, the certified service provider may submit a written request to the Division for an administrative review. The Division shall conduct the administrative review within 10 days after receipt of the request for an administrative review. Any administrative review requested after the end of the 30-day period following certificate suspension shall be treated as a request for hearing under this section of the rule.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0040 Application for Initial Certificate and Certificate Renewal

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0050 Reciprocal Compliance

(Amended 7/1/2011)

(1) The Division may accept compliance with other formally recognized standards as assurance of compliance with all or part of these rules.

(2) An employment or alternative to employment service seeking a certificate based on compliance with other standards must provide the Division with a copy of the complete detailed report from the reviewing group. Where there are differences between other standards and Oregon Administrative Rules, the Oregon Administrative Rules shall take precedence.

Stat. Auth.: ORS 409.050, 410.070

Stats. Implemented: ORS 430.610, 430.630 & 430.670

411-345-0060 Certification Expiration, Termination of Operations, Certificate Return

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0070 Change of Ownership, Legal Entity, Legal Status, Management Corporation

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0080 Inspections and Investigations

(Amended 7/1/2011)

(1) All services covered by these rules must allow the following types of investigations and inspections:

- (a) Quality assurance, certificate renewal, and on-site inspections;
- (b) Complaint investigations; and
- (c) Abuse investigations.

(2) The Department, the Department's designee, or proper authority shall perform all inspections and investigations.

- (3) Any inspection or investigation may be unannounced.
- (4) All documentation and written reports required by this rule must be:
- (a) Open to inspection and investigation by the Department, the Department's designee, or proper authority; and
 - (b) Submitted to or made available for review by the Department within the time allotted.
- (5) When abuse is alleged or death of an individual has occurred and a law enforcement agency, or the Department or the Department's designee, has determined to initiate an investigation, the service provider may not conduct an internal investigation without prior authorization from the Department. For the purposes of this section, an internal investigation is defined as:
- (a) Conducting interviews of the alleged victim, witness, the accused person, or any other persons who may have knowledge of the facts of the abuse allegation or related circumstances;
 - (b) Reviewing evidence relevant to the abuse allegation, other than the initial report; or
 - (c) Any other actions beyond the initial actions of determining:
 - (A) If there is reasonable cause to believe that abuse has occurred;
 - (B) If the alleged victim is in danger or in need of immediate protective services;
 - (C) If there is reason to believe that a crime has been committed; or
 - (D) What, if any, immediate personnel actions must be taken to assure individual safety.
- (6) When an abuse investigation has been initiated, the CDDP must provide notice to the service provider according to OAR 407-045-0290.

(7) The Department or the Department's designee shall conduct investigations as described in OAR 407-045-0250 to OAR 407-045-0360.

(8) When an abuse investigation has been completed, the CDDP must provide notice of the outcome of the Abuse Investigation and Protective Services Report according to OAR 407-045-0320.

(9) Upon completion of the abuse investigation by the Department, the Department's designee, or a law enforcement agency, the service provider may conduct an investigation to determine if any other personnel actions are necessary.

(10) Upon completion of the Abuse Investigation and Protective Services Report, according to OAR 407-045-0330 the sections of the report that are public records and not exempt from disclosure under the public records law must be provided to the appropriate service provider. The service provider must implement the actions necessary within the deadlines listed, to prevent further abuse as stated in the report.

(11) A plan of improvement must be submitted to the CDDP and the Division for any noncompliance found during an inspection under this rule.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0090 Variances

(Amended 7/1/2011)

(1) The Division may grant a variance to these rules based upon a demonstration by the service provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety, or rights of individuals.

(2) The service provider requesting a variance must submit, in writing, an application to the CDDP that contains the following:

(a) The section of the rule from which the variance is sought;

- (b) The reason for the proposed variance;
- (c) The alternative practice, service, method, concept, or procedure proposed; and
- (d) A plan and timetable for compliance with the section of the rule from which the variance is sought.

(3) The CDDP must forward signed documentation to the Division within 30 days of the receipt of the request for variance indicating the CDDP's position on the proposed variance.

(4) The Administrator for the Division shall approve or deny the request for a variance.

(5) The Division's decision shall be sent to the service provider and the CDDP and to all relevant Department programs or offices within 30 calendar days of the receipt of the variance request.

(6) The service provider may appeal the denial of a variance request by sending a written request to the Administrator, whose decision is final.

(7) The Division shall determine the duration of the variance.

(8) The service provider may implement a variance only after written approval from the Division.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0095 Provider Service Payment Limitation

(Adopted 7/1/2011)

(1) Effective July 1, 2011, monthly service rates, as authorized in Division payment and reporting systems for individuals enrolled in employment and alternatives to employment services and paid to certified service providers for delivering employment or alternatives to employment services as described in these rules, shall be limited to a maximum of \$1,728 per month.

(2) An exception to the provider service payment limitation, only for costs of directly supporting the individual served, may be granted by the Division if documentation supports the following criteria are met:

(a) The individual has a current behavior or health condition, as well as a documented history of such, posing a risk to the individual's health and welfare or that of others; AND

(b) The individual has a current service rate and ISP requiring at least 1:1 staffing for purposes of meeting behavioral or medical support needs; AND

(c) Steps have been taken to address the existing behavior or condition within the rate cap and there is continued risk to health and safety of self or others, regardless of setting.

(3) Special conditions shall be required in the service provider's contract. The Division or the Division's designee shall monitor services to assure their delivery and the continued need for additional funds.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0100 Management, Personnel Practices, and Staffing

(Amended 7/1/2011)

(1) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION. As stated in ORS 427.007, the service provider must have a written policy that states that each individual's ISP is developed to meet employment and activities that address each individual's level of independence, productivity, and integration into the local community.

(2) INDIVIDUAL AND FAMILY INVOLVEMENT. The service provider must have and implement a written policy that addresses:

(a) Opportunities for the individual to participate in decisions regarding the operations of the services;

(b) Opportunities for families, guardians, and significant others of the individuals served by the service provider to interact; or

(c) Opportunities for individuals, families, guardians, and significant others to participate on the Board or on committees of the service provider or to review policies of the services that directly affect the individuals supported by the service provider.

(3) DOCUMENTATION REQUIREMENTS. All documentation entries required by these rules, unless stated otherwise, must:

- (a) Be prepared at the time, or immediately following the event being recorded;
- (b) Be accurate and contain no willful falsifications;
- (c) Be legible, dated, and signed by the person making the entry; and
- (d) Be maintained for no less than five years.

(4) DISSOLUTION OF SERVICE. Prior to the dissolution of a service, a representative of the governing body or owner of the service must notify the Division in writing 30 days in advance and make appropriate arrangements for the transfer of individual records.

(5) NONDISCRIMINATION. The service provider must comply with all applicable state and federal statutes, rules, and regulations in regard to nondiscrimination in employment practices.

(6) STAFFING REQUIREMENTS.

(a) Each service provider must provide direct service staff appropriate to the number and level of individuals served as follows:

(A) Supported employment and community based service providers must provide adequate direct services staff to ensure initial service and site development, training, and ongoing support to ensure that individual's rights, basic health, and safety are met. A staff member must contact individual's receiving services through supported employment or community based sites two times per month at minimum.

(B) Facility based service providers must provide adequate direct services staff to ensure that individual's rights, basic health, and safety are met. When individuals are present, the service must provide and document that there are staff trained in the following areas:

(i) At least one staff member on duty with CPR certification at all times;

(ii) At least one staff member on duty with current First Aid certification at all times;

(iii) At least one staff member on duty with training to meet other specific medical needs as determined through the ISP process; and

(iv) At least one staff member on duty with training to meet other specific behavior intervention needs as determined through the ISP process.

(b) Each service provider must meet all additional requirements for direct service staff ratios and specialized training as specified by contract requirements.

(7) BASIC PERSONNEL POLICIES AND PROCEDURES. The service provider must have in place and implement personnel policies and procedures that address suspension, increased supervision, or other appropriate disciplinary employment procedures when a staff member has been identified as an accused person in an abuse investigation or when the allegation of abuse has been substantiated.

(8) MANDATORY ABUSE REPORTING. Any employee of a private agency that contracts with a CDDP is a mandatory reporter. Notification of mandatory reporting status must be made at least annually to all employees on forms provided by the Department. All employees must be provided with a Department-produced card regarding abuse reporting status and abuse reporting.

(9) PROHIBITION AGAINST RETALIATION. A community program or service provider may not retaliate against any staff that reports in good faith

suspected abuse or retaliate against the individual with respect to any report. An accused person may not self-report solely for the purpose of claiming retaliation.

(a) Any community facility, community program, or person that retaliates against any person because of a report of suspected abuse or neglect shall be liable according to ORS 430.755, in a private action to that person for actual damages and, in addition, shall be subject to a penalty up to \$1000, notwithstanding any other remedy provided by law.

(b) Any adverse action is evidence of retaliation if taken within 90 days of a report of abuse. For purposes of this subsection, "adverse action" means any action arising solely from the filing of an abuse report taken by a community facility, community program, or person involved in a report against the person making the report or against the individual because of the report and includes but is not limited to:

(A) Discharge or transfer from the community program or service, except for clinical reasons;

(B) Discharge from or termination of employment;

(C) Demotion or reduction in remuneration for services; or

(D) Restriction or prohibition of access to the community program or service or the individuals served by the program or service.

(10) APPLICATION FOR EMPLOYMENT. An application for employment at the service must inquire whether an applicant has had any founded reports of child abuse or substantiated abuse.

(11) BACKGROUND CHECKS. Any employee, volunteer, advisor, or any subject individual defined by OAR 407-007-0200 to 407-007-0370, who has or will have contact with an individual of the service, must have an approved background check in accordance with OAR 407-007-0200 to 407-007-0370 and under ORS 181.534.

(a) Effective July 28, 2009, the service provider may not use public funds to support, in whole or in part, any person as described in section (9) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(b) Subsection (a) of this section does not apply to employees of the service provider who were hired prior to July 28, 2009 and remain in the current position for which the employee was hired.

(c) Any employee, volunteer, advisor, or any subject individual as defined by OAR 407-007-0200 to 407-007-0370 must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The person must notify the Department or designee within 24 hours.

(12) DIRECTOR QUALIFICATIONS. The service must be operated under the supervision of a director who has a minimum of a bachelor's degree and two years of experience, including supervision, in developmental disabilities, social services, mental health, or a related field. Six years of experience, including supervision, in the field of developmental disabilities, social services, or mental health field may be substituted for a degree.

(13) GENERAL STAFF QUALIFICATIONS. Any staff supervising individuals must:

(a) Be at least 18 years of age;

(b) Be capable of performing the duties of the job as described in a current job description which he or she has signed and dated; and

(c) If hired on or after July 28, 2009, not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(14) PERSONNEL FILES. The service provider must maintain a personnel file available to the Department or the Department's designee for inspection that includes written documentation of the following for each employee:

(a) Written documentation that references and qualifications were checked;

(b) Written documentation of six hours of pre-service training prior to supervising individuals including mandatory abuse reporting training, training to work with individuals with developmental disabilities, and training on the support needs of the individual to whom they will provide support;

(c) Documentation that CPR and first-aid certification were obtained from a recognized training agency within three months of employment and kept current if needed to meet the staffing requirements as described in section (4) of this rule;

(d) Written documentation of 12 hours of annual job-related in-service training;

(e) Written documentation of employees' notification of mandatory reporter status;

(f) Written documentation of any founded report of child abuse or substantiated abuse;

(g) Written documentation of an approved Department background check per OAR 407-007-0200 to 407-007-0370; and

(h) Written documentation of any complaints filed against the staff person and the results of the complaint process, including, if any, disciplinary action.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0110 Individual Rights

(Amended 7/1/2011)

(1) ABUSE. Any individual as defined in OAR 411-345-0020 must not be abused nor shall abuse be tolerated by any employee, staff, or volunteer of the service provider.

(2) PROTECTION AND WELLBEING.

(a) The service provider must have and implement written policies and procedures that protect individuals' rights during the hours the individual is receiving services. The service provider must encourage and assist individuals to understand and exercise their rights. The policies and procedures must at a minimum provide for:

- (A) Assurance that each individual has the same civil and human rights accorded to other citizens;
- (B) Adherence to all applicable state and federal labor rules and regulations;
- (C) Opportunities for individuals to be productive;
- (D) Services that promote independence and that are appropriate to the age and preferences of the individual;
- (E) Confidentiality of personal information regarding the individual;
- (F) Adequate medical and health care, supportive services, and training;
- (G) Opportunities for visits to legal and medical professionals when necessary;
- (H) Private communication, including personal mail and access to a telephone, consistent with the service provider's policies for all employees;
- (I) Fostering of personal control and freedom regarding personal property;
- (J) Protection from abuse and neglect, including freedom from unauthorized training, treatment, and chemical or mechanical restraints;
- (K) Freedom from unauthorized personal restraints; and

(L) Transfer of individuals within a service as described in OAR 411-345-0140.

(b) At entry to service and in a timely manner as changes occur, the service provider must inform each individual and parent, guardian, or advocate orally and in writing of the service provider's policy and procedures and a description of how the individual may exercise their rights.

(3) CONFIDENTIALITY OF RECORDS. All individuals' records are confidential except as otherwise provided by applicable rule or laws.

(a) For the purpose of disclosure from individual medical records under this rule, service providers under these rules are considered a "public provider" as defined in ORS 179.505.

(b) For the purpose of disclosure from non-medical individual records, all or portions of the information contained in those records may be exempt from public inspection under the personal privacy information exemption to the public records law set forth in ORS 192.502.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0120 Rights: Confidentiality of Records

(Repealed 7/1/2011 – Language moved to OAR 411-345-0110)

411-345-0130 Grievances

(Amended 7/1/2011)

(1) The service provider must implement written policies and procedures for individuals' grievances. These policies and procedures must at a minimum provide for:

(a) Receipt of grievances from an individual or others acting on behalf of the individual. If the grievance is associated in any way with abuse or the violation of the individual's rights, the recipient of the grievance must immediately report the issue to the service provider's director or designee and the CDDP;

(b) Investigation of the facts supporting or disproving the grievance;
and

(c) Taking appropriate actions on grievances within five working days following receipt of the grievance.

(2) The service provider's director or designee must provide a formal written response to the grievant within 15 days of receipt of the grievance unless the grievance is informally resolved to the satisfaction of the grievant prior to that time.

(3) If the grievance is not resolved by the service provider's director, the grievance may be submitted to the CDDP for review. The CDDP must complete a review and provide a written response to the grievant and service provider within 30 days.

(4) If the grievance is not resolved by the CDDP, it may be submitted to the Administrator of the Division for review. The Administrator shall complete the review and provide a written response within 45 days of submission. The decision of the Administrator or designee is final.

(5) The service provider must document each grievance and the resolution in the grievant's record. If a grievance resulted in disciplinary action against a staff member, the documentation must include a statement that disciplinary action was taken.

(6) At entry to service and as changes occur, the service provider must inform each individual and parent, guardian, or advocate orally and in writing of the service provider's grievance policy and procedures and a description of how to utilize them.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0140 Entry, Exit, and Transfer

(Amended 7/1/2011)

(1) QUALIFICATIONS. All individuals considered for Division-funded services must:

- (a) Be referred by the CDDP;
- (b) Be determined to have a developmental disability by the Division or the Division's designee;
- (c) Not be discriminated against because of race, color, creed, age, disability, national origin, gender, religion, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law;
- (d) Be 18 years of age or older and not eligible to receive public education services under Public Law 94-142;
- (e) Be an individual also receiving residential services that are paid or regulated by the Division including but not limited to:
 - (A) Comprehensive residential services regulated by OAR chapter 411, division 325;
 - (B) An adult foster home regulated by OAR chapter 411, division 360;
 - (C) A supported living program regulated by OAR chapter 411, division 328; or
 - (D) An individual's own or family home when the individual receives comprehensive in-home support services that are provided according to OAR chapter 411, division 330.

(2) ENTRY. An entry ISP team meeting must be conducted prior to the initiation of services to the individual.

- (a) The service provider must acquire the following information prior to an entry ISP team meeting:
 - (A) Written documentation the individual has been determined to have a developmental disability;

(B) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device;

(C) A brief written history of any behavioral challenges;

(D) Documentation of the individual's current physical condition, including any physical limitations that would affect employment;

(E) Documentation of any guardian or conservator, or any other legal restriction on the rights of the individual, if applicable; and

(F) A copy of the individual's most recent ISP, if applicable.

(b) The findings of the entry meeting must be recorded in the individual's file and include at a minimum:

(A) The name of the individual proposed for services;

(B) The date of the meeting;

(C) The date determined to be the date of entry;

(D) Documentation of the participants at the meeting;

(E) Documentation as required by OAR 411-345-0190 and 411-345-0200;

(F) Documentation of the pre-entry information required by subsection (a) of this section;

(G) Documentation of the proposed transition plan as defined in OAR 411-320-0020 (CDDP) for services to be provided;

(H) Documentation of any deviation from the unit of service

(I) Documentation of the type of employment or alternatives to employment service the individual will receive; and

(J) Documentation of the decision to serve or not serve the individual requesting service, with reasons.

(3) EXIT.

(a) Each individual considered for exit must have a meeting by the ISP team before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

(A) The name of the individual considered for exit;

(B) The date of the meeting;

(C) Documentation of the participants included in the meeting;

(D) Documentation of the circumstances leading to the proposed exit;

(E) Documentation of the discussion of the strategies to prevent an exit from service (unless the individual is requesting exit);

(F) Documentation of the decision regarding exit including verification of a majority agreement of the meeting participants regarding the decision; and

(G) Documentation of the proposed plan for services to the individual after the exit.

(b) Requirements for an exit meeting may be waived if an individual is immediately removed from the service under the following conditions:

(A) The individual and the individual's guardian requests an immediate removal from the service; or

(B) The individual is removed by a legal authority acting pursuant to civil or criminal proceedings.

(4) TRANSFER. A decision to transfer an individual within a service provider may be made by the ISP team. Findings of the ISP team must be recorded in the individual's file and include at a minimum:

- (a) The name of the individual considered for transfer;
- (b) The date of the meeting or telephone call;
- (c) Documentation of the participants included in the meeting or telephone call;
- (d) Documentation of the circumstances leading to the proposed transfer;
- (e) Documentation of the alternatives considered, including transfer;
- (f) Documentation of the reasons why any preferences of the individual, legal representative, or family members cannot be honored;
- (g) Documentation of a majority agreement of the participants regarding the decision; and
- (h) The written plan for services to the individual after transfer.

(5) APPEAL. Any member of the ISP team may file an appeal in cases where the individual and the individual's parent, guardian, or advocate object to, or the ISP team cannot reach majority agreement regarding an admission refusal, a request to exit the service, or a transfer within a service. In the case of a request to exit or transfer, the individual shall continue to receive the same services received prior to the appeal until the appeal is resolved.

- (a) All appeals must be made in writing to the CDDP Director or designee for decision using the county's appeal process. The CDDP Director must make a decision within 30 working days of receipt of the appeal and notify the appellant of the decision in writing.
- (b) The decision of the CDDP Director may be appealed by the individual, the individual's parent, guardian, advocate, or the service

provider by notifying the Division in writing within 10 working days of receipt of the county's decision.

(A) The Administrator of the Division shall appoint a committee composed of a Division representative, a service representative, and a Services Coordinator.

(B) In case of a conflict of interest, as determined by the Administrator, alternative representatives shall be temporarily appointed by the Administrator to the committee.

(C) The committee must review the appealed decision and make a written recommendation to the Administrator within 45 working days of receipt of the notice of appeal.

(D) The Administrator shall make a decision on the appeal within 10 working days after receipt of the recommendation from the committee.

(E) If the decision is for admission or continued placement and the service refuses admission or continued placement, the funding for that unit of service may be withdrawn by the contractor.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0150 Entry, Exit and Transfer: Appeal Process

(Repealed 7/1/2011 – Language moved to OAR 411-345-0140)

411-345-0160 Individual Support Plan

(Amended 7/1/2011)

The ISP is an annual agreement made between an individual receiving services and the team of people supporting the individual that describes what is important to and for the individual receiving services, The ISP explains the balance of, and any conflicts between, what is important to and for the individual and documents commitments made by service providers and other team members to support the individual working toward their goals.

- (1) An individual has the right to participate in their ISP meeting and must be afforded every opportunity to develop their ISP with the ISP team.
- (2) The ISP must be implemented and a copy of each individual's ISP must be available at the service site within 60 days of entry and updated at least annually or as changes occur.
- (3) The service provider must:
 - (a) Assign a staff member to participate as a team member in the development of an ISP for each individual served;
 - (b) Follow any required process and format as described in this rule;
 - (c) Train staff to understand each individual's ISP and supporting documents and to provide individual services; and
 - (d) Comply with Department or Division rules and policies regarding the ISP.
- (4) A face-to-face meeting must be conducted annually with all ISP team members. An exception is made when the individual chooses not to participate in the meeting.
- (5) In preparation for the ISP meeting, the service provider must:
 - (a) Gather person-centered information regarding preferences, interests, and desires of the individual supported;
 - (b) Review the current ISP to determine the ongoing appropriateness and adequacy of the services and supports identified in the plan; and
 - (c) Share all materials drafted in preparation for the ISP meeting with all team members one week in advance of the ISP meeting.
- (6) The ISP must:
 - (a) Address an individual's interest in pursuing a path to employment;

(b) Include action plans that further an individual's achievement of employment or their goals for other types of day activities;

(c) Reflect decisions and agreements made by the team during planning;

(d) Include documentation of the commitments made by team members to support the individual's accomplishment of personal goals;

(e) Identify the type of services needed, how services are delivered, and the frequency of provided services;

(f) Identify timeframes for completion of goals or activities: and

(g) Contain signature of all ISP team members.

(7) The format for the ISP is based on the residential service being provided.

(a) For adults residing in 24-hour residential services, the ISP must be in accordance with OAR 411-325-0430 and this rule.

(b) For adults residing in foster care, the ISP must be in accordance with OAR 411-360-0170 and this rule.

(c) For adults residing in supported living services, the ISP must be in accordance with OAR 411-328-0750, 411-320-0120, and this rule.

(d) For adults residing in in-home comprehensive services, the ISP must be in accordance with OAR 411-330-0050 and this rule.

(8) Any deviation from the unit of service must be agreed to and documented by the ISP team.

(9) To meet the changing needs of the individual throughout the authorized ISP period:

(a) The ISP and supporting documents must be amended with ISP team approval; and

(b) The documentation must be kept current and be available for review by the individual, guardian, CDDP, and Department representatives.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0170 Behavior Support

(Amended 7/1/2011)

(1) The service provider must have and implement a written policy for behavior support utilizing individualized positive support techniques and prohibiting abusive practices.

(2) The service provider must inform the individual and the individual's legal guardian of the behavior support policy, and any applicable procedures, at the time of entry to services and as changes to the behavior policy occur.

(3) Prior to the development of a Behavior Support Plan, the service provider must conduct a functional behavioral assessment of the behavior, which must be based upon information provided by one or more persons who know the individual. The functional behavioral assessment must include:

(a) A clear, measurable description of the behavior that includes (as applicable) frequency, duration, and intensity of the behavior;

(b) A clear description and justification of the need to alter the behavior;

(c) An assessment of the meaning of the behavior that includes the possibility that the behavior is one or more of the following:

(A) An effort to communicate;

(B) The result of medical conditions;

(C) The result of psychiatric conditions; and

(D) The result of environmental causes or other factors.

(d) A description of the context in which the behavior occurs; and

(e) A description of what currently maintains the behavior.

(4) The Behavior Support Plan must include:

(a) An individualized summary of the individual's needs, preferences, and relationships;

(b) A summary of the functions of the behavior, as derived from the functional behavioral assessment;

(c) Strategies that are related to the functions of the behavior and are expected to be effective in reducing problem behaviors;

(d) Prevention strategies including environmental modifications and arrangements;

(e) Early warning signals or predictors that may indicate a potential behavioral episode and a clearly defined plan of response;

(f) A general crisis response plan that is consistent with OIS;

(g) A plan to address post crisis issues;

(h) A procedure for evaluating the effectiveness of the Behavior Support Plan that includes a method of collecting and reviewing data on frequency, duration, and intensity of the behavior;

(i) Specific instructions for staff who provide support to follow regarding the implementation of the Behavior Support Plan; and

(j) Positive behavior supports that includes the least intrusive intervention possible.

(5) Service providers must maintain the following additional documentation for implementation of Behavior Support Plans:

(a) Written evidence that the individual, the individual's parent (if applicable), guardian or legal representative (if applicable), and the ISP team are aware of the development of the Behavior Support Plan and any objections or concerns;

(b) Written evidence of the ISP team decision for approval of the implementation of the Behavior Support Plan; and

(c) Written evidence of all informal and positive strategies used to develop an alternative behavior.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0180 Physical Intervention

(Amended 7/1/2011)

(1) The service provider must only employ physical intervention techniques that are included in the approved OIS curriculum or as approved by the OIS Steering Committee. Physical intervention techniques must only be applied:

(a) When the health and safety of the individual and others are at risk and the ISP team has authorized the procedures in a documented ISP team decision that is included in the ISP and uses procedures that are intended to lead to less restrictive intervention strategies;

(b) As an emergency measure, if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health related protection ordered by a physician if absolutely necessary during the conduct of a specific medical or surgical procedure, or for the individual's protection during the time that a medical condition exists.

(2) Staff supporting an individual must be trained by an instructor certified in OIS when the individual has a history of behavior requiring physical intervention and the ISP team has determined there is probable cause for future application of physical intervention. Documentation verifying OIS training for staff must be maintained in their personnel file.

(3) The service provider must obtain the approval of the OIS Steering Committee for any modification of standard OIS physical intervention techniques. The request for modification of physical intervention techniques must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the individual's record.

(4) Use of physical intervention techniques in emergency situations that are not part of an approved Behavior Support Plan must:

(a) Be reviewed by the services director or designee within one hour of application;

(b) Be used only until the individual is no longer an immediate threat to self or others;

(c) Be documented as an incident report and submitted to the services coordinator, or other Department designee (if applicable), and the individual's legal guardian (if applicable), no later than one working day after the incident has occurred; and

(d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Any use of physical interventions must be documented in an incident report excluding circumstances defined in section (8) of this rule. The incident report must include:

(a) The name of the individual to whom the physical intervention was applied;

(b) The date, type, and length of time the physical intervention was applied;

(c) A description of the incident precipitating the need for the use of the physical intervention;

(d) Documentation of any injury;

(e) The name and position of the staff member applying the physical intervention;

(f) The name and position of the staff witnessing the physical intervention;

(g) The name and position of the person providing the initial review of the use of the physical intervention; and

(h) Documentation of an administrative review that includes the follow-up to be taken to prevent a recurrence of the incident by the director or designee who is knowledgeable in OIS, as evident by a job description that reflects this responsibility.

(6) The service provider must forward a copy of the incident report within five working days of the incident, to the services coordinator and when applicable to the individual's legal guardian.

(a) The services coordinator, or when applicable the Department designee, shall receive complete copies of incident reports.

(b) Copies of incident reports may not be provided to a legal guardian or other service provider when the report is part of an abuse or neglect investigation.

(c) Copies provided to a legal guardian or other service provider must have confidential information about other individuals removed or redacted as required by federal and state privacy laws.

(7) All interventions resulting in injuries must be documented in an incident report and forwarded to the services coordinator, or other Department designee (if applicable), within one working day of the incident.

(8) The service provider may substitute a behavior data summary in lieu of individual incident reports when:

(a) There is no injury to the individual or others;

(b) The intervention utilized is not a physical restraint;

(c) There is a formal written functional assessment and a written Behavior Support Plan;

(d) The individual's Behavior Support Plan defines and documents the parameters of the baseline level of behavior;

(e) The physical intervention techniques and the behaviors for which they are applied remain within the parameters outlined in the individual's Behavior Support Plan and the OIS curriculum;

(f) The behavior data collection system for recording observation, intervention, and other support information critical to the analysis of the efficacy of the Behavior Support Plan, is also designed to record items as required in section (5) of this rule; and

(g) There is written documentation of an ISP team decision that a behavior data summary had been authorized for substitution in lieu of incident reports.

(9) A copy of the behavior data summary must be forwarded every 30 days to the services coordinator or other Department designee (if applicable), and the individual's legal guardian (if applicable).

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0190 Medical Services

(Amended 7/1/2011)

(1) All individuals' records must be kept confidential as described in OAR 411-345-0100.

(2) The service provider must have and implement written policies and procedures that describe the medical management system including medication administration, early detection and prevention of infectious disease, self-administration of medication, drug disposal, emergency medical procedures including the handling of bodily fluids, and confidentiality of medical records.

(3) Individuals must receive care that promotes their health and well being, as follows:

(a) The service provider must observe the health and physical condition of individuals and take action in a timely manner in response to identified changes in condition that could lead to deterioration or harm;

(b) The service provider must assist individuals with the use and maintenance of prosthetic devices as necessary for the activities of the service;

(c) The service provider, with the individual's knowledge, must share information regarding medical conditions with the individual's residential contact and the Services Coordinator; and

(d) The service provider must provide rest and lunch periods at least as required by applicable law unless the individual's needs dictate additional time.

(4) The service provider must maintain records on each individual to aid physicians, medical professionals, and the service provider in understanding the individual's medical history and current treatment program. These records must be kept current and organized in a manner that permits staff and medical persons to follow easily the individual's course of treatment. Such documentation must include:

(a) A medical history obtained prior to entry to services including where available:

(A) A copy of a record of immunizations; and

(B) A list of known communicable diseases and allergies.

(b) A record of the individual's current medical condition including:

(A) A copy of all current orders for medication administered, maintained at the service provider's site;

(B) A list of all current medications; and

(C) A record of visits to medical professionals, consultants, or therapists if facilitated or provided by the service provider.

(5) The administration of medication at the service site must be avoided whenever possible. When medications, treatments, equipment, or special diets must be administered or monitored for self-administration, the service provider must:

(a) Obtain a copy of a written order, signed by a physician, physician's designee, or a medical practitioner prescribing the medication, treatment, special diet, equipment or other medical service; and

(b) Follow written orders.

(6) PRN orders are not accepted for psychotropic medication.

(7) All medications administered or monitored in the case of self-administration must be:

(a) Kept in their original containers;

(b) Labeled by the dispensing pharmacy, product manufacturer, or physician, as specified per the physician's or licensed health care practitioner's written order;

(c) Kept in a secured locked container and stored as indicated by the product manufacturer; and

(d) Recorded on an individualized Medication Administration Record (MAR), including treatments and PRN orders.

(8) The MAR must include:

(a) The name of the individual;

(b) The brand or generic name of the medication including the prescribed dosage and frequency of administration as contained on physician order and medication;

(c) For topical medications and basic first aid treatments utilized without a physician's order, a transcription of the printed instructions from the package or the description of the basic first aid treatment provided;

(d) Times and dates of administration or self-administration of the medication;

(e) The signature of the staff administering the medication or monitoring the self-administration of the medication;

(f) Method of administration;

(g) Documentation of any known allergies or adverse reactions to a medication;

(h) Documentation and an explanation of why a PRN medication was administered and the results of such administration; and

(i) An explanation of any medication administration irregularity with documentation of administrative review by the service provider's executive director or designee.

(9) Safeguards to prevent adverse medication reactions shall be utilized to include:

(a) Maintaining information about each prescribed medication's effects and side-effects;

(b) Communicating any concerns regarding any medication usage, effectiveness, or effects to the residential contact and the services coordinator; and

(c) Prohibiting the use of one individual's medications by another.

(10) The service site or service provider may not keep unused, discontinued, outdated, or recalled drugs, or drug containers with worn, illegible, or missing labels. All unused, discontinued, outdated, or recalled drugs, or drug containers with worn, illegible, or missing labels must be promptly disposed of in a manner consistent with federal statutes and designed to prevent illegal diversion of the substances into the possession of people other than for whom it was prescribed. A written record must be maintained by the service provider of all disposed drugs and must include:

- (a) Date of disposal;
- (b) A description of the medication including amount;
- (c) The individual for whom the medication was prescribed;
- (d) The reason for disposal;
- (e) The method of disposal;
- (f) Signature of staff disposing; and
- (g) For controlled medications, the signature of a witness to the disposal.

(11) For any individual who is self-administering medication the service provider must:

- (a) Have documentation that a training program was initiated with approval of the individual's ISP team or that training for the individual is unnecessary;
- (b) If necessary, have a training program that is consistent with the self-administration training program in place at the individual's residence;
- (c) If necessary, have a training program that provides for retraining when there is a change in dosage, medication, or time of delivery;
- (d) Have specific supports identified and documented for the individual when training has been deemed unnecessary; and

(e) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program or when training for the individual has been deemed necessary by the ISP team.

(12) The service provider must ensure that individuals able to self-administer medications keep them secured, unavailable to any other person, and stored as recommended by the product manufacturer.

(13) The service provider must immediately contact the services coordinator when the individual's medical, behavioral, or physical needs change to a point that the individual's needs may not be met by the service provider. The ISP team must determine alternative placement or arrangement if necessary.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0200 Individual Summary Sheets and Emergency Information
(Amended 7/1/2011)

(1) INDIVIDUAL SUMMARY SHEETS. A current one to two page summary sheet record must be maintained at the service provider's primary place of business for each individual receiving services. The record must include:

(a) The individual's name, current address, telephone number, date of entry into services, date of birth, gender, preferred hospital, medical prime and private insurance number where applicable, guardianship status; and

(b) The name, address, and telephone number of:

(A) The individual's legal representative, family, advocate, and other significant person;

(B) The individual's preferred physician, secondary physician, and clinic;

(C) The individual's preferred dentist;

(D) The individual's services coordinator; and

(E) Other agencies and representatives providing services and supports to the individual.

(2) EMERGENCY INFORMATION. A service provider must maintain emergency information for each individual receiving supports and services from the service provider in addition to an individual summary sheet identified in section (1) of this rule.

(a) The emergency information must be kept current and must include:

(A) The individual's name;

(B) The service provider's name, address, and telephone number;

(C) The address and telephone number of the residence where the individual lives;

(D) The individual's physical description, which may include a picture and the date it was taken, and identification of:

(i) The individual's race, gender, height, weight range, hair, and eye color; and

(ii) Any other identifying characteristics that may assist in identifying the individual may the need arise, such as marks or scars, tattoos, or body piercing.

(E) Information on the individual's abilities and characteristics including:

(i) How the individual communicates;

(ii) The language the individual uses or understands;

(iii) The ability of the individual to know and take care of bodily functions; and

(iv) Any additional information that may assist a person not familiar with the individual to understand what the individual may do for him or herself.

(F) The individual's health support needs including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person would need to know when taking care of the individual;

(iv) Special dietary or nutritional needs such as requirements around the textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;

(vi) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(vii) Physical limitations that may affect the individual's ability to communicate, respond to instructions, or follow directions; and

(viii) Specialized equipment needed for mobility, positioning, or other health related needs.

(G) The individual's emotional and behavioral support needs including:

(i) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(ii) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(H) Any court ordered or guardian authorized contacts or limitations;

(I) The individual's supervision requirements and why; and

(J) Any additional pertinent information the service provider has that may assist in the care and support of the individual in the event of a natural or man-made disaster.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0210 Health and Safety: Personnel

(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0220 Health and Safety: Staffing Requirements

(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0230 Incident Reports and Emergency Notifications

(Amended 7/1/2011)

(1) A written incident report describing any injury, accident, act of physical aggression, or unusual incident involving an individual must be placed in the individual's record. Such description must include:

(a) Conditions prior to or leading to the incident;

(b) A description of the incident;

(c) Staff response at the time; and

(d) Administrative review and follow-up to be taken to prevent a recurrence of the injury, accident, physical aggression, or unusual incident.

(2) Copies of all unusual incident (as defined by OAR 411-345-0020) reports must be sent to the Services Coordinator within five working days of the incident.

(3) The program must notify the CDDP immediately of an incident or allegation of abuse falling within the scope of OAR 407-045-0260.

(4) In the case of an unusual incident requiring emergency response, the service must immediately notify:

(a) The individual's legal guardian or conservator, parent, next of kin, designated contact person, and other significant person;

(b) The CDDP;

(c) The individual's residential contact; and

(d) Any other agency responsible for the individual.

(5) In the case of an individual who is missing or absent without supervision beyond the time frames established by the ISP team, the service must immediately notify:

(a) The individual's designated contact person;

(b) The individual's guardian, if any, or nearest responsible relative;

(c) The individual's residential contact;

(d) The local police department; and

(e) The CDDP.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0240 Emergency Plan and Safety Review
(Amended 7/1/2011)

(1) Service providers must develop, keep current, and implement a written emergency plan for the protection of all individuals in the event of an emergency or disaster.

(a) The emergency plan must:

(A) Be practiced at least annually.

(B) Consider the needs of the individuals being supported and address all natural and human-caused events identified as a potential significant risk to the individuals such as a pandemic or an earthquake.

(C) Coordinate with each residential provider or residential contact to address the possibility of emergency or disaster resulting in the following:

(i) Extended utility outage;

(ii) No running water;

(iii) Inability to provide food or supplies; and

(iv) Staff unable to report as scheduled.

(D) Include provisions for evacuation and relocation that identifies:

(i) The duties of staff during evacuation, transport, and housing of individuals;

(ii) The requirement for staff to notify the Division and the local CDDP office of the plan to evacuate or the evacuation of the facility, as soon as the emergency or disaster reasonably allows;

(iii) The method and source of transportation;

(iv) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals;

(v) A method that provides persons unknown to the individual the ability to identify each individual by the individual's name and to identify the name of the individual's supporting provider; and

(vi) A method for tracking and reporting to the Division, local CDDP office, or designee, the physical location of each individual until a different entity resumes responsibility for the individual,

(E) Address the needs of the individual including medical needs.

(F) Be submitted to the Division as a summary, per Division format, at least annually and upon revision and change of ownership.

(2) Service providers must post the following emergency telephone numbers in close proximity to all phones used by staff:

(a) The telephone numbers of the local fire, police department, and ambulance service, if not served by a 911 emergency services; and

(b) The telephone number of the service provider's executive director and additional persons to be contacted in the case of an emergency.

(3) If an individual regularly accesses the community independently, the service provider must provide to the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(4) A documented safety review must be conducted quarterly to ensure the service site is free of hazards. The service provider must keep the quarterly safety review reports for five years and must make them available upon request by the CDDP or the Department.

Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0250 Evacuation
(Amended 7/1/2011)

(1) The service provider must train all individuals immediately upon entry to each service site to leave the site in response to an alarm or other emergency signal to exit.

(2) The service provider must document the level of assistance needed by each individual to safely evacuate and such documentation must be maintained in the individual's entry records.

(3) Facility-based service providers must conduct unannounced evacuation drills one per quarter each year when individuals are present, unless required more often by the Oregon Occupational Safety and Health Division.

(a) Drills must occur at different times of the day.

(b) Exit routes must vary based on the location of a simulated emergency.

(c) Any individual failing to evacuate the service site unassisted within three minutes, or an amount of time set by the local fire authority for the site, must be provided specialized training and support in evacuation procedures.

(4) Facility-based service providers must make written documentation at the time of each drill and keep the documentation for at least two years following the drill. Documentation must include:

(a) The date and time of the drill;

(b) The location of the simulated emergency and exit route;

(c) The last names of all individuals and staff present in the service area at the time of the drill;

(d) The type of evacuation assistance provided by staff to individuals' that need more than three minutes to evacuate as specified in an individual's safety plan;

(e) The amount of time required by each individual to evacuate if the individual needs more than three minutes to evacuate;

(f) The amount of time for all individuals to evacuate exclusive of individuals with specialized support per section (3)(c) of this rule; and

(g) The signature of the staff conducting the drill.

(5) The service provider must develop a written safety plan for individuals who are unable to evacuate the site within the required evacuation time or who, with concurrence of the ISP team, request not to participate in evacuation drills. The safety plan must include:

(a) Documentation of the risk to the individual's medical, physical condition, and behavioral status;

(b) Identification of how the individual must evacuate the site including level of support needed;

(c) The routes to be used to evacuate the individual to a point of safety;

(d) Identification of assistive devices required for evacuation;

(e) The frequency the plan shall be practiced and reviewed by the individual and staff;

(f) The alternative practices;

(g) Approval of the plan by the individual's guardian, services coordinator, and the service provider's director; and

(h) A plan to encourage future participation in evacuation drills.

(6) The service provider must provide necessary adaptations or accommodations to ensure evacuation safety for individuals with sensory and physically impairments.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0260 Physical Environment

(Amended 7/1/2011)

(1) All supported employment and community based services must ensure that the service site has no known health or safety hazards in its immediate environment and that individuals are trained to avoid recognizable hazards.

(2) The service provider must assure that at least once every five years a health and safety inspection is conducted of owned, leased, or rented buildings and property.

(a) The inspection must cover all areas and buildings where services are delivered to individuals, administrative offices, and storage areas.

(b) The inspection may be performed by:

(A) Oregon Occupational Safety and Health Division;

(B) The service's workers compensation insurance carrier; or

(C) An appropriate expert such as a licensed safety engineer or consultant approved by the Division; and

(D) The Oregon Public Health Division, when necessary.

(c) The inspection must cover:

(A) Hazardous material handling and storage;

(B) Machinery and equipment used by the service;

(C) Safety equipment;

(D) Physical environment; and

(E) Food handling, when necessary.

(d) The documented results of the inspection, including recommended modifications or changes, and documentation of any resulting action taken must be kept by the service provider for five years.

(3) The service provider must ensure buildings and property at each owned, leased, or rented service site has annual fire and life safety inspections performed by the local fire authority or a Deputy State Fire Marshal. The documented results of the inspection, including documentation of recommended modifications or changes, and documentation of any resulting action taken must be kept by the service provider for five years.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0270 Vehicles and Drivers

(Amended 7/1/2011)

(1) Services that own or operate vehicles that transport individuals must:

(a) Maintain the vehicles in safe operating condition;

(b) Comply with Oregon Driver and Motor Vehicle Services Division laws;

(c) Maintain insurance coverage; and

(d) Carry a first-aid kit in vehicles.

(2) Drivers operating vehicles to transport individuals must meet applicable Oregon Driver and Motor Vehicle Services Division requirements.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630, & 430.670

411-345-0280 Individual/Family Involvement

(Repealed 7/1/2011 – Language moved to OAR 411-345-0100)

411-345-0290 Certificate Denial, Suspension, Revocation, Refusal to Renew

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)

411-345-0300 Hearings

(Repealed 7/1/2011 – Language moved to OAR 411-345-0030)