

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

**CHAPTER 411
DIVISION 346**

**FOSTER HOMES FOR CHILDREN WITH DEVELOPMENTAL
DISABILITIES**

411-346-0100 Purpose
(Amended 7/1/2010)

The rules in OAR chapter 411, division 346 prescribe the standards and procedures for the provision of care and services for children with developmental disabilities in child foster homes certified by the Department of Human Services, Senior and People with Disabilities Division, as a condition for certification and payment.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0110 Definitions
(Amended 7/1/2011)

(1) "Abuse" means:

(a) Abuse of a child under the age of 18 as defined in ORS 419B.005;
and

(b) Abuse of an adult as defined in OAR 407-045-0260 when an individual between the ages of 18 and 21 resides in a certified child foster home.

(2) "Alternate Caregiver" means any person 18 and older responsible for the care or supervision of a child in foster care.

(3) "Alternative Educational Plan (AEP)" means any school plan that does not occur within the physical school setting.

(4) "Appeal" means the process for a contested hearing under ORS chapter 183 that the foster provider may use to petition the suspension, denial, non-renewal, or revocation of their certificate or application.

(5) "Applicant" means a person who wants to become a child foster provider, lives at the residence where a child in foster care shall live, and is applying for a child foster home certificate or is renewing a child foster home certificate.

(6) "Assistant Director" means the assistant director of the Department, or that person's designee.

(7) "Aversive Stimuli" means the use of any natural or chemical product to alter a child's behavior such as the use of hot sauce or soap in the mouth and spraying ammonia or lemon water in the face of a child. Psychotropic medications are not considered aversive stimuli.

(8) "Behavior Supports" means a positive training plan used by the foster provider and alternate caregivers to help a child in foster care develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conduct themselves in a manner that is socially acceptable.

(9) "Case Plan" means the goal-oriented, time-limited, individualized plan of action for a child and the child's family developed by the child's family and the Department's Children, Adults, and Families Division for promotion of the child's safety, permanency, and well being.

(10) "Case Worker" means an employee of the Department's Children, Adults, and Families Division.

(11) "Certificate" means a document issued by the Department that notes approval to operate a child foster home for a period not to exceed two years.

(12) "Certifier" or "Certifying Agency" means the Department, Community Developmental Disability Program, or an agency approved by the Department who is authorized to gather required documentation to issue or maintain a child foster home certificate.

(13) "Child" means:

(a) An individual under the age of 18 who has a provisional eligibility determination of developmental disability by the Community Developmental Disability Program; or

(b) A young adult age 18 through 21 who is remaining in the same foster home for the purpose of completing their Individualized Education Plan, based on their Individual Support Plan team recommendation and an approved certification variance.

(14) "Child Foster Home (CFH)" means a home certified by the Department that is maintained and lived in by the person named on the foster home certificate.

(15) "Child Foster Home Contract" means an agreement between a provider and the Department that describes the responsibility of the foster care provider and the Department.

(16) "Child Placing Agency" means the Department, Community Developmental Disability Program, or the Oregon Youth Authority.

(17) "Commercial Basis" means providing and receiving compensation for the temporary care of individuals not identified as members of the household.

(18) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for 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 or a local mental health authority.

(19) "Denial" means the refusal of the certifying agency to issue a certificate of approval to operate a child foster home because the certifying agency has determined that the home or the applicant is not in compliance with one or more of these rules.

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

(21) "Developmental Disability (DD)" 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, and the disability:

(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18;

(b) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely;

(c) Constitutes a significant impairment in adaptive behavior; and

(d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder.

(22) "DHS-CW" means the child welfare program area within the Department's Children, Adults, and Families Division.

(23) "Direct Nursing Services" means the provision of individual-specific advice, plans, or interventions, based on nursing process as outlined by the Oregon State Board of Nursing, by a nurse at the home or facility. Direct nursing service differs from administrative nursing services. Administrative nursing services include non-individual-specific services, such as quality assurance reviews, authoring health related agency policies and procedures, or providing general training for the foster provider or alternate caregivers.

(24) "Discipline" for the purpose of these rules, discipline is synonymous with behavior supports.

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

(26) "Domestic Animals" mean any various animals domesticated so as to live and breed in a tame condition. Examples of domestic animals are dogs, cats, and domesticated farm stock.

(27) "Educational Surrogate" means a person who acts in place of a parent in safeguarding a child's rights in the special education decision-making process:

(a) When the parent cannot be identified or located after reasonable efforts;

(b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or

(c) At the request of a parent or adult student.

(28) "Emergency Certificate" means a foster home certificate issued for 30 days.

(29) "Foster Care" means a child is placed away from their parent or guardian in a certified child foster home.

(30) "Foster Provider" means the certified care provider who resides at the address listed on the foster home certificate. For the purpose of these rules, "foster provider" is synonymous with child foster parent or relative caregiver and is considered a private agency for purposes of mandatory reporting of abuse.

(31) "Founded Reports" means the Department's Children, Adults, and Families Division or Law Enforcement Authority (LEA) 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.

(32) "Guardian" means a parent for individuals less than 18 years of age or a person or agency appointed and authorized by an Oregon court to make decisions about services for an individual in foster care.

(33) "Health Care Provider" means a person or health care facility licensed, certified, or otherwise authorized or permitted by Oregon law to administer health care in the ordinary course of business or practice of a profession.

(34) "Home Inspection" means an on-site, physical review of the applicant's home to assure the applicant meets all health and safety requirements within these rules.

(35) "Home Study" means the assessment process used for the purpose of determining an applicant's abilities to care for a child in need of foster care placement.

(36) "Incident Report" means a written report of any unusual incident involving the child in foster care.

(37) "Individualized Education Plan (IEP)" means a written plan of instructional goals and objectives in conference with the teacher, parent or guardian, student, and a representative of the school district.

(38) "Individual Support Plan (ISP)" means the written details of the supports, activities, and resources required to meet the health, safety, financial, and personal goals of the child in foster care. The Individual Support Plan is the child's plan of care for Medicaid purposes.

(39) "Individual Support Plan (ISP) Team" means a team composed of:

(a) The child in foster care when appropriate;

(b) The foster provider;

(c) The guardian;

(d) The Community Developmental Disability Program services coordinator; and

(e) May include family or any other approved persons who are approved by the child and the child's guardian to develop the Individual Support Plan.

(40) "Licensed Medical Professional" means a person who meets the following:

(a) Holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician's assistant licensed to practice in Oregon; and

(b) Whose training, experience, and competence demonstrate expertise in children's mental health, the ability to conduct a mental health assessment, and provide psychotropic medication management for a child in foster care.

(41) "Mandatory Reporter" means any public or private official who:

(a) For the purposes of this rule, is a foster provider, staff, or volunteer working with individuals birth to 17 years of age, and comes in contact with and has reasonable cause to believe a child has suffered abuse, or comes in contact with any person whom the official has reasonable cause to believe abused a child, regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, clergyman, attorney, or guardian ad litem appointed under ORS 419B.231 shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

(b) For the purposes of this rule, is a foster provider, staff, or volunteer working with individuals 18 years and older, and 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.

(42) "Mechanical Restraint" means any mechanical device, material, object, or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the individual's body.

(43) "Member of the Household" means any adults and children living in the home, including any employees or volunteers assisting in the care provided to a child placed in the home. For the purpose of these rules, a child in foster care is not considered a member of the household.

(44) "Mental Health Assessment" means the determination of a child's need for mental health services by interviewing the child and obtaining all pertinent biopsychosocial information, as identified by the individual, family, and collateral sources that:

- (a) Addresses the current complaint or condition presented by the child;
- (b) Determines a diagnosis; and
- (c) Provides treatment direction and individualized services and supports.

(45) "Misuse of Funds" includes but is not limited to providers or their staff:

- (a) Borrowing from or loaning money to a child in foster care;
- (b) Witnessing a will in which the provider or a staff is a beneficiary;
- (c) Adding the provider's name to an individual's bank account or other titles for personal property without approval of the individual, when of age to give legal consent, or the individual's legal representative and authorization of the Individual Support Plan team;
- (d) Inappropriately expending or theft of an individual's personal funds;

(e) Using an individual's personal funds for the provider's or staff's own benefit; or

(f) Commingling an individual's funds with provider or another individual's funds.

(46) "Monitoring" means the observation by the Department, or designee, of a certified child foster home to determine continuing compliance with these rules.

(47) "Nurse" means a person who holds a current license from the Oregon Board of Nursing as a registered nurse (RN) or licensed practical nurse (LPN).

(48) "Nursing Care Plan" means a plan of care developed by a registered nurse that describes the medical, nursing, psychosocial, and other needs of the individual and how those needs shall be met. The Nursing Care Plan includes which tasks shall be taught or delegated to the foster provider and alternate caregivers.

(49) "Occupant" means any person having official residence in a certified child foster home.

(50) "Oregon Intervention System (OIS)" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The Oregon Intervention System is based on a proactive approach that includes methods of effective evasion, deflection, and escape from holding.

(51) "Oregon Youth Authority (OYA)" means an agency that has been given commitment and supervision responsibilities over those youth offenders, by order of the juvenile court under ORS 137.124 or other statute, until the time that a lawful release authority authorizes release or terminates the commitment or placement.

(52) "Permanent Foster Care" means a long term contractual agreement between the foster parent and the Department's Children, Adults, and Families Division, approved by the juvenile court that specifies the responsibilities and authority of the foster parent and the commitment by the permanent foster parent to raise a child until the age of majority or until

the court determines that permanent foster care is no longer the appropriate plan for the child.

(53) "Protected Health Information" means any oral or written health information that identifies the child and relates to the child's past, present, or future physical or mental health condition, health care treatment, or payment for health care treatment.

(54) "Protective Physical Intervention" means:

(a) Any manual physical holding of or contact with a child that restricts the child's freedom of movement; and

(b) The use of any physical action to maintain the health and safety of a child or others during a potentially dangerous situation or event.

(55) "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.

(56) "Qualified Mental Health Professional" means a person who meets both of the following:

(a) Holds at least one of the following educational degrees:

(A) Graduate degree in psychology;

(B) Bachelor's degree in nursing and licensed in Oregon;

(C) Graduate degree in social work;

(D) Graduate degree in a behavioral science field;

(E) Graduate degree in recreational, art, or music therapy;

(F) Bachelor's degree in occupational therapy and licensed in Oregon; and

(b) Whose education and experience demonstrates the competencies to:

(A) Identify precipitating events;

(B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;

(C) Assess family, social, and work relationships;

(D) Conduct a mental status examination;

(E) Document a multiaxial DSM diagnosis;

(F) Write and supervise a Treatment Plan;

(G) Conduct a mental health assessment; and

(H) Provide individual, family, or group therapy within the scope of his or her practice.

(57) "Respite" means intermittent services provided on a periodic basis, but not more than 14 consecutive days, for the relief of, or due to the temporary absence of, persons normally providing the supports to individuals unable to care for themselves.

(58) "Revocation" means the action taken by the certifying agency to rescind a child foster home certificate of approval after determining that the child foster home is not in compliance with one or more of these rules.

(59) "Services Coordinator" means an employee of the Community Developmental Disability Program or the Department, who is selected to plan, procure, coordinate, monitor Individual Support Plan services, and to act as a proponent for individuals with developmental disabilities.

(60) "Significant Medical Needs" means but is not limited to total assistance required for all activities of daily living such as access to food or fluids, daily hygiene which is not attributable to the child's chronological age, and

frequent medical interventions required by the care plan for health and safety of the child.

(61) "Specialized Diet" means that the amount, type of ingredients, or selection of food or drink items is limited, restricted, or otherwise regulated under a physician's order. Examples include but are not limited to low calorie, high fiber, diabetic, low salt, lactose free, or low fat diets.

(62) "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.

(63) "Suspension of Certificate" means a temporary withdrawal of the approval to operate a child foster home after the certifying agency determines that the child foster home is not in compliance with one or more of these rules.

(64) "These Rules" mean the rules in OAR chapter 411, division 346.

(65) "Unauthorized Absence" means any length of time when a child is absent from the foster home without prior approval as specified on the Individual Support Plan.

(66) "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, an act of physical aggression, or any incident requiring an abuse investigation.

(67) "Urgent Medical Need" means the onset of psychiatric symptoms requiring attention within 48 hours to prevent a serious deterioration in a child's mental or physical condition.

(68) "Variance" means a temporary exemption from a regulation or provision of these rules that may be granted by the Department upon written application by the certifying agency.

(69) "Volunteer" means any person assisting in a child foster home without pay to support the care provided to a child placed in the child foster home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0120 Certification Required
(Amended 7/1/2010)

(1) Any home that meets the definition of a child foster home must be certified by one of the following agencies:

- (a) The Division;
- (b) DHS-CW; or
- (c) The OYA.

(2) A child in foster care shall only be placed in a certified child foster home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0130 Indian Child Welfare Act
(Amended 7/1/2010)

The Indian Child Welfare Act (ICWA) gives federally recognized Indian tribes the authority to select homes for a child protected by the ICWA. Tribes and Alaskan Native Regional Corporations may license, approve, or specify a foster home for a child protected by the ICWA. The tribe is authorized to decide which of the following three preferences to use, or whether to request that the Division or DHS-CW certify the home. When the tribe requests the Division to certify the home, the Division shall use these rules for certification. Indian children placed in relative homes, whether licensed, certified, or selected by the tribe are eligible for foster care payments when DHS-CW has legal custody. Preference shall be given for placement with:

- (1) A member of the Indian child's extended family;
- (2) A foster home licensed, approved, or specified by the Indian child's tribe; or

(3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0140 Selection

(Amended 7/1/2010)

(1) The Division or the CDDP shall recruit foster providers who have the abilities and commitment to carry out the responsibilities set forth in these rules to meet the Division's specific need for homes. The Division shall determine which applicants shall be certified. The CDDP staff shall determine which home is best for a particular child.

(2) The foster provider must be a responsible, stable, emotionally mature adult who exercises sound judgment and has the capacity to meet the mental, physical, and emotional needs of a child placed in foster care.

(3) The foster provider must demonstrate the following traits:

- (a) Capacity to give and receive affection;
- (b) Kindness;
- (c) Flexibility;
- (d) A sense of humor; and
- (e) The ability to deal with frustration and conflict.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0150 General Requirements for Certification

(Amended 7/1/2011)

(1) The applicant or foster provider must participate in certification and certification renewal studies and in the ongoing monitoring of their homes.

(2) The applicant or foster provider must give the information required by the Department to verify compliance with all applicable rules, including change of address and change of number of persons in the household such as relatives, employees, or volunteers.

(3) The applicant seeking certification from the Department must complete the Department application forms. When two or more adults living in the home share foster provider responsibilities to any degree, they must be listed on the application as applicant and co-applicant.

(4) The applicant must disclose each state or territory they have lived in the last five years and for a longer period if requested by the certifier. The disclosure must include the address, city, state, and zip code of previous residences.

(5) Information provided by the applicants must include:

(a) Names and addresses of any agencies in the United States where any occupant of the home has been licensed or certified to provide care to children or adults and the status of such license or certification. This may include but is not limited to licenses or certificates for residential care, nurse, nurse's aide, and foster care;

(b) Proposed number, gender, age range, disability, and support needs of children to be served in foster care;

(c) School reports for any child of school age living in the home at the time of initial application. School reports for any child of school age living in the home within the last year may also be required;

(d) Names and addresses of at least four persons, three of whom are unrelated, who have known each applicant for two years or more and who can attest to their character and ability to care for children. The Department may contact schools, employers, adult children, and other sources as references;

(e) Reports of all criminal charges, arrests or convictions, the dates of offenses, and the resolution of those charges for all employees or volunteers and persons living in the home. If the applicant's minor

children shall be living in the home, the applicants must also list reports of all criminal or juvenile delinquency charges, arrests or convictions, the dates of offenses, and the resolution of those charges;

(f) Founded reports of child abuse or substantiated abuse, with dates, locations, and resolutions of those reports for all persons living in the home, as well as all applicant or provider employees, independent contractors, and volunteers;

(g) Demonstration, upon initial certification, of successful completion of 15 hours of pre-service training.

(h) Demonstration, upon initial certification, of income sufficient to meet the needs and to ensure the stability and financial security of the family independent of the foster care payment;

(i) All child support obligations in any state, whether the obligor is current with payments or in arrears, and whether any applicant's or foster provider's wages are being attached or garnished for any reason;

(j) A physician's statement, on a form provided by the Department, that each applicant is physically and mentally capable of providing care;

(k) A floor plan of the house showing the location of:

(A) Rooms, indicating the bedrooms for the child in foster care, caregiver, and other occupants of the home;

(B) Windows;

(C) Exit doors;

(D) Smoke detectors and fire extinguishers; and

(E) Wheel chair ramps, if applicable; and

(l) A diagram of the house and property showing safety devices for fire places, wood stoves, water features, outside structures, and fencing.

(6) Falsification or omission of any of the information for certification may be grounds for denial or revocation of the child foster home certification.

(7) Applicants must be at least 21 years of age. Applicants who are "Indian," as defined in the Indian Child Welfare Act, may be 18 years of age or older, if an Indian child to be placed is in the legal custody of DHS-CW.

(8) Applicants, providers, alternate caregivers, providers' employees or volunteers, other occupants in the home who are 18 years or older, and other adults having regular contact in the home with a child in foster care or any subject individual as described in OAR 407-007-0200 to 407-007-0370 must consent to a background check by the Department, in accordance with OAR 407-007-0200 to 407-007-0370 (Background Check Rules) and under ORS 181.534. The Department may require a background check as defined in OAR 407-007-0210 on members of the household under 18 if there is reason to believe that a member may pose a risk to a child placed in the home. All persons subject to a background check as defined in OAR 407-007-0210 are required to complete an Oregon background check and a national background check, as described in OAR 407-007-0200 to 407-007-0370, including the use of fingerprint cards.

(a) Effective July 28, 2009, public funds may not be used to support, in whole or in part, a person described in section (8) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(b) A person does not meet qualifications as described in this rule if the person has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(c) Section (8)(a) and (b) of this rule do not apply to employees hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(d) Any person as described in section (8) of this rule 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.

(9) The Department may not issue or renew a certificate if an applicant or member of the household:

(a) Has, after completing the Department's background check as defined in OAR 407-007-0210, a fitness determination of "denied."

(b) Has, at any time, been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Child abuse or neglect;

(B) Spousal abuse;

(C) Criminal activity against children, including child pornography; or

(D) Rape, sexual assault, or homicide.

(c) Has, within the past five years from the date the background check as defined in OAR 407-007-0210 was signed been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Physical assault or battery (other than against a spouse or child); or

(B) Any drug-related offense.

(d) Has been found to have abused or neglected a child or adult as defined in ORS 419B.005 or as listed in OAR 407-045-0260.

(e) Has, within the past five years from the date the child foster home application was signed, been found to have abused or neglected a child or adult in the United States as defined by that jurisdiction or any other jurisdiction.

(10) The applicant or foster provider may request to withdraw their application any time during the certification process by notifying the certifier

in writing. Written documentation by the certifier of verbal notice may substitute for written notification.

(11) The Department may not issue or renew a certificate for a minimum of five years if the applicant is found to have a license or certificate to provide care to children or adults, suspended, revoked, or not renewed by other than voluntary request. This shall be grounds for suspension and revocation of the certificate.

(12) The Department may not issue or renew a certificate based on an evaluation of any negative references, school reports, physician's statement, or previous licensing or certification reports from other agencies or states.

(13) A Department employee may be a foster provider, or an employee of an agency that contracts with the Department as a foster provider, if the employee's position with the Department does not influence referral, regulation, or funding of such activities. Prior to engaging in such activity, the employee must obtain written approval from the Assistant Director of the Department. The written approval must be on file with the Assistant Director of the Department and in the Department's certification file.

(14) An application is incomplete and void unless all supporting materials are submitted to the Department within 90 days from the date of the application.

(15) An application may not be considered complete until all required information is received and verified by the Department. Within 60 days upon receipt of the completed application, a decision shall be made by the Department to approve or deny certification.

(16) The Department shall determine compliance with these rules based on receipt of the completed application material, an investigation of information submitted, an inspection of the home, a completed home study, and a personal interview with the provider. A certificate issued on or after February 1, 2010 shall be valid for a maximum of two years, unless revoked or suspended.

(17) The Department may attach conditions to the certificate that limit, restrict, or specify other criteria for operation of the child foster home.

(18) A condition may be attached to the certificate that limits the provider to the care of a specific child. No other referrals shall be made to a provider with this limitation.

(19) A child foster home certificate is not transferable or applicable to any location or persons other than those specified on the certificate.

(20) The foster provider who cares for a child funded by the Department must enter into a contract with the Department and follow the Department rules governing reimbursement for services and refunds.

(21) The foster provider may not be the parent or legal guardian of any child placed in their home for foster care services funded by the Department.

(22) If the applicant or foster provider intends to provide care for a child with significant medical needs then at least one provider or applicant must have the following:

(a) An equivalent of one year of full-time experience in providing direct care to individuals;

(b) Health care professional qualifications.

(A) Such as a registered nurse (RN) or licensed practical nurse (LPN); or

(B) Has the equivalent of two additional years full-time experience providing care and support to an individual who has a medical condition that is serious and could be life-threatening;

(c) Copies of all current health related license or certificates and provide those documents to the certifying agent;

(d) Current certification in First Aid and Cardiopulmonary Resuscitation (CPR). The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the child served in the foster home;

(e) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver. The medical professional references serve as two of the four references in section (5)(d) of this rule; and

(f) Positive written recommendation from the Department's Medically Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the program or if the provider or applicant has historically received services through the program for a child in their family home or foster home.

(23) A foster provider may not accept a child with significant medical needs unless an initial care plan addressing the health and safety supports is in place at the time of placement.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0160 Renewal of Certificate *(Amended 7/1/2011)*

(1) At least 90 days prior to the expiration of a certificate, the Department shall send a reminder notice and application for renewal to the currently certified provider. Submittal of a renewal application prior to the expiration date keeps the certificate in effect until the Department takes action. If the renewal application is not submitted prior to the expiration date, the child foster home shall be treated as an uncertified home.

(2) The certification renewal process includes the renewal application and the same supporting documentation as required for a new certification. With the discretion of the certifier, a financial statement, physician statement, and floor plan may not be required.

(3) Copies of the services coordinator's monitoring check list or recommendations from the services coordinators who have had children in the home within the last year may be requested at time of certification renewal.

(4) School reports may not be required if the Department or the certifier reasonably assumes this information has not changed or is not necessary.

(5) The Department or the certifier may investigate any information in the renewal application and shall conduct a home inspection.

(6) The provider shall be given a copy of the inspection form documenting any deficiencies and a time frame to correct deficiencies. Deficiencies must be corrected no longer than 60 days from the date of inspection. If documented deficiencies are not corrected within the time frame specified, the renewal application shall be denied.

(7) Applicants, providers, providers' substitute caregivers, employees, volunteers, and any other occupants in the home 18 years of age and older must submit to an Oregon background check as defined in OAR 407-007-0210 and must continue to meet all certification standards as outlined in these rules.

(8) Each foster provider must provide documentation of a minimum of 10 hours of Department approved training per year prior to the renewal of the certificate. A mutually agreed upon training plan may be part of the re-certification process.

(9) When serving children with significant medical needs, the foster provider must have a minimum of six of the ten hours of annual training requirements in specific medical training beyond First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0165 Emergency Certification

(Amended 7/1/2011)

(1) An emergency certificate may be issued by the Department for up to 30 days, provided the following conditions are met:

(a) An Oregon background check as defined in OAR 407-007-0210 indicates no immediate need for fingerprinting for all persons living in the home;

(b) A DHS-CW background check identifies no founded reports of child abuse committed by persons living in the home;

(c) Applicant has no previous revocations or suspensions of any license or certificate by any issuing agency for a foster home, group home, or any other care or support services;

(d) A review of support enforcement obligations and public assistance cases identifies no substantial financial concerns;

(e) An application and two references are submitted;

(f) An abbreviated home study is done; and

(g) A satisfactory home inspection and a Health and Safety Checklist are completed.

(2) When a child with significant medical needs shall be living in the foster home, the following additional requirements must be met before an emergency certificate may be issued:

(a) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver; AND

(b) A positive written recommendation from the Department's Medically Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the program or has historically received services through the program for a child in their family home or foster home; AND

(c) Current certification in First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home; AND

(d) Copies of all current medical related licenses or certificates must be provided to the certifier; AND

(e) Six hours of medical training beyond CPR and First Aid training as appropriate to the ages of the children served in the foster home; OR

(f) Licensed as a registered nurse, licensed practical nurse, emergency medical technician, nurse practitioner, or physician's assistant.

(3) Emergency certificates may be issued if the renewal process is incomplete at the time of the renewal.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0170 Personal Qualifications of the Applicant and Foster Provider

(Amended 7/1/2010)

(1) The applicant and foster provider must:

(a) Be responsible, stable, emotionally mature adults who exercise sound judgment;

(b) Have the interest, motivation, and ability to nurture, support, and meet the mental, physical, developmental, and emotional needs of a child placed in the foster home;

(c) Be willing to receive training, and have the ability to learn and use effective child-rearing practices, to enable a child placed in the foster home to grow, develop, and build positive personal relationships and self esteem;

(d) Demonstrate that they have the knowledge and understanding of positive non-punitive discipline and ways of helping a child in foster care build positive personal relationships, self-control, and self esteem;

(e) Respect the child's relationship with his or her parents and siblings and be willing to work in partnership with family members, agencies, and schools involved with the child to attain the goals as listed in the IEP, ISP, and Case Plan;

(f) Respect the child's privacy in accordance with the child's age;

(g) Have supportive ties with others who might support, comfort, and advise them. Supportive ties include but are not limited to:

(A) Family;

(B) Friends;

(C) Neighborhood contacts;

(D) Churches; or

(E) Community groups;

(h) Demonstrate that they have lifestyles and personal habits free from abuse or misuse of alcohol or drugs;

(i) Be at least 21 years of age, unless otherwise specified through ICWA and requirements for placement of Indian children; and

(j) Be able to realistically evaluate which children they may accept, work with, and integrate into their family.

(2) HEALTH QUALIFICATIONS.

(a) The applicant and foster provider must provide the Division with the health history of each member of the household, including physical and mental health services and treatment received. Within one working day, the foster provider must inform the Division if any member of the household has or develops a serious communicable disease or other serious health condition that may affect the provider's ability to care for the child, or may affect the health and safety of the child.

(b) The applicant, foster provider, and other adults in the household caring for a child in foster care must be physically and mentally able to perform the duties of a foster provider as described in these rules.

(c) The applicant, foster provider, and others in the household must be free from abuse or misuse of alcohol or drugs. In the case of alcoholism or substance abuse, the applicant, foster provider, or others in the household must demonstrate that they have been substance-free and sober for at least two years prior to making application for certification.

(d) When requested by the Division either during the application process or while certified, the applicant or foster provider must, at their expense and from a source acceptable to the Division, supply psychological, medical or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to the Division.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0180 Professional Responsibilities of the Foster Provider

(Amended 7/1/2010)

(1) TRAINING AND DEVELOPMENT.

(a) The foster provider must complete a minimum of 15 hours of pre-service training prior to certification, and 10 hours annually for certification renewal. The Division or the certifier may require additional hours of training based on the needs of the child served in the home.

(b) The foster provider must participate in training provided or approved by the Division or the certifier. Such training shall include educational opportunities designed to enhance the foster provider's awareness, understanding, and skills to meet the special needs of a child placed in their home.

(c) The foster provider must complete mandatory reporting training prior to initial certification and annually thereafter.

(d) Mandatory reporter training must be appropriate to the ages of the individuals living in the child foster home.

(2) RELATIONSHIP WITH THE CHILD PLACING AGENCY. The foster provider must:

(a) Take part in planning, preparation, pre-placement activities, and visitation for the child placed in their home;

(b) Participate as team members in developing and implementing the ISP when initiated by the CDDP services coordinator for the child placed in their home;

(c) In advance or within one working day, notify the certifier of changes likely to affect the life and circumstances of the foster family or the safety in the home including but not limited to the following:

(A) Foster family illness;

(B) Divorce, legal separation, or loss of a household member;

(C) Significant change in financial circumstances;

(D) New household members or placement of a child in foster care by another agency, including respite;

(E) Arrests or criminal involvement;

(F) The addition of hunting equipment and weapons;

(G) The addition of a swimming pool; or

(H) The addition of a pet.

(d) Immediately notify the child's CDDP services coordinator and guardian of a child's injury, illness, accidents, or any unusual incidents or circumstances that may have a serious effect on the health, safety, physical, or emotional well-being of the child in foster care;

(e) Notify the guardian and CDDP staff of any unauthorized absence of a child in foster care within 12 hours or other mutually agreed upon time as determined by the ISP team;

(f) Sign and abide by the responsibilities described in the Child Foster Home Contract;

(g) Allow the certifier and child placing agency reasonable access to their home and to the child placed in their care. This includes access by family members when placement is voluntary. For the purpose of these rules, reasonable access means with prior notice unless there is cause for not giving such notice;

(h) Allow the Division or certifying agency staff access to:

(A) Investigate reports of abuse, violations of a regulation, or provision of these rules;

(B) Inspect or examine the home, the child's records and accounts, and the physical premises including the buildings, grounds, equipment, and any vehicles; and

(C) Interview the child, adult, or alternate caregivers.

(i) Participate in interviews conducted by the Division or the certifier; and

(j) Authorize substitute caregivers to permit entrance by the Division or the certifier for the purpose of inspection and investigation.

(3) ACCEPTING CHILDREN FOR CARE.

(a) Except as described in section (3)(c) of this rule, a certified provider may not exceed the following maximum number of children in the foster home including the provider's biological children:

(A) A total of four children when one certified adult lives in the home; or

(B) A total of seven children when two certified adults live in the home.

(b) All homes are limited to two children under the age of three.

(c) Any providers certified prior to July 1, 2007 with a capacity greater than the numbers listed in section (3)(a) of this rule must meet the standard through attrition as children move out of the foster home.

(d) Any child foster home provider contracted by a proctor agency to provide proctor care services shall be limited to serving a total of two children in foster care.

(e) At the time of referral, the foster provider must be given available information about the child, including behavior, skill level, medical status, and other relevant information. The foster provider is obligated to decline the referral of any child based on the referral information, parameters of their certification, or if they feel their skill level may not safely or effectively support the child.

(f) A foster provider may provide respite in the provider's home for a child upon approval by the certifier or the Division.

(g) A foster provider must obtain approval from the certifier prior to accepting a child for placement.

(h) A child who turns 18 may continue to reside in their current certified child foster home when it has been determined by the ISP team it is in the best interest of the child to remain in the same home. When it has been determined by the ISP team a child who is turning 18 shall remain in their current certified child foster home the foster provider must:

(A) Submit a variance request to the Division in accordance with OAR 411-346-0210; and

(B) Submit to the Division and the certifier, a copy of the ISP addendum signed by the ISP team noting it is in the best interest of the child to remain in the current certified foster home.

(i) Any variance to sections (3)(a), through (3)(h) of this rule must take into consideration the maximum safe physical capacity of the home including:

- (A) Sleeping arrangements;
- (B) The ratio of adult to child;
- (C) The level of supervision available;
- (D) The skill level of the foster provider;
- (E) Individual plans for egress during fire;
- (F) The needs of the other children in placement; and
- (G) The desirability of keeping siblings placed together.

(j) The foster provider may not care for unrelated adults on a commercial basis in their own home or accept children for day care in their own home while currently certified as a foster provider.

(k) The foster provider may exit a child in foster care by giving 30 days written notice to the designated CDDP staff, except where undue delay shall jeopardize the health, safety, or well-being of the child or others.

(l) The foster provider must notify the Division prior to a voluntary closure of a child foster home, and give the child's guardian and the CDDP 30 days written notice, except in circumstances where undue delay might jeopardize the health, safety, or well-being of the child or foster provider.

(4) **RELATIONSHIP WITH THE CHILD'S FAMILY.** In accordance with the child's ISP and the guardian, the foster provider must:

(a) Support the child's relationship with the child's family members including siblings;

(b) Assist the CDDP staff and the guardian in planning visits with the child and the child's family members; and

(c) Provide the child reasonable opportunities to communicate with their family members.

(5) CONFIDENTIALITY.

(a) The foster provider and the provider's family must treat personal information about a child or a child's family in a confidential manner. Confidential information is to be disclosed on a need to know basis to law enforcement, certifying agency staff, CDDP staff, DHS-CW child protective services staff, DHS-CW case workers, and medical professionals who are treating or providing services to the child. The information shared shall be limited to the health, safety, and service needs of the child.

(b) In addition to the requirements in section (5)(a) of this rule, the foster provider and the provider's family must comply with the provisions of ORS 192.518 to 192.523 and therefore may use or disclose a child's protected health information only:

(A) To law enforcement, certifying agency staff, CDDP staff, and DHS-CW staff;

(B) As authorized by the child's personal representative or guardian appointed under ORS 125.305, 419B.370, 419C.481, or 419C.555;

(C) For purposes of obtaining health care treatment for the child;

(D) For purposes of obtaining payment for health care treatment; or

(E) As permitted or required by state or federal law or by order of a court.

(c) The foster provider must keep all written records for each child in a manner that ensures their confidentiality.

(6) MANDATORY REPORTING.

(a) The foster provider and their employees and volunteers are mandatory reporters of suspected abuse of any child as defined by ORS 419B.005. Upon reasonable cause to believe that abuse has occurred, all adult members of the household and any foster provider, employees, independent contractors, or volunteers must report pertinent information to DHS-CW or law enforcement.

(b) When the certified child foster provider, their employees, independent contractors, or volunteers are providing services to an individual 18 years or older and have reason to believe abuse as defined in OAR 407-045-0260 has occurred, they must report the pertinent information to the CDDP or law enforcement in accordance with ORS 430.737.

(c) Any protective physical intervention that results in an injury to the child, as defined in ORS 419B.005, must be reported by the foster provider. Same day verbal notification is required. The foster provider must notify DHS-CW and the child's CDDP services coordinator.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0190 Standards and Practices for Care and Services

(Amended 7/1/2011)

(1) The foster provider must:

(a) Provide structure and daily activities designed to promote the physical, social, intellectual, cultural, spiritual, and emotional development of the child in their home.

(b) Provide playthings and activities in the foster home, including games, recreational and educational materials, and books appropriate to the chronological age, culture, and developmental level of the child.

(c) In accordance with the ISP and if applicable as defined in the DHS-CW case plan, encourage the child to participate in community activities with family, friends, and on their own when appropriate.

(d) Promote the child's independence and self-sufficiency by encouraging and assisting the child to develop new skills and perform age-appropriate tasks.

(e) In accordance with the ISP and if applicable as defined in the DHS-CW case plan, ask the child in foster care to participate in household chores appropriate to the child's age and ability that commensurate with those expected of the provider's own children.

(f) Provide the child with reasonable access to a telephone and to writing materials.

(g) In accordance with the ISP and if applicable as defined in the DHS-CW Case Plan, permit and encourage the child to have visits with family and friends.

(h) Allow regular contacts and private visits or phone calls with the child's CDDP services coordinator and if applicable the DHS-CW case worker.

(i) Not allow a child in foster care to baby-sit in the foster home or elsewhere without permission of the child's CDDP services coordinator and the guardian.

(2) RELIGIOUS, ETHNIC, AND CULTURAL HERITAGE.

(a) The foster provider must recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity, and language of a child and the child's family.

(b) In accordance with the ISP and guardian preferences, the foster provider must participate with the ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from those of the provider.

(c) The foster provider may not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.

(3) EDUCATION. The foster provider:

(a) Must enroll each child of school age in public school, within five school days of the placement, and arrange for transportation.

(b) Must comply with any Alternative Educational Plan described in the child's IEP.

(c) Must be actively involved in the child's school program and must participate in the development of the child's IEP. The foster provider may apply to be the child's educational surrogate if requested by the parent or guardian.

(d) Must consult with school personnel when there are issues with the child in school and report to the guardian and CDDP services coordinator any serious situations that may require Department involvement.

(e) Must support the child in his or her school or educational placement.

(f) Must assure the child regularly attends school or educational placement and monitor the child's educational progress.

(g) May sign consent to the following school related activities:

(A) School field trips within the state of Oregon;

(B) Routine social events;

(C) Sporting events;

(D) Cultural events; and

(E) School pictures for personal use only unless prohibited by the court or legal guardian.

(4) ALTERNATE CAREGIVERS.

(a) The foster provider must arrange for safe and responsible alternate care.

(b) A Child Care Plan for a child in foster care must be approved by the Department, the CDDP, or DHS-CW before it is implemented. When a child is cared for by a child care provider or child care center, the provider or center must be certified as required by the State Child Care Division (ORS 657A.280) or be a certified foster provider.

(c) The foster provider must have a Respite Plan approved by the certifier or the Department when using alternate caregivers.

(d) The foster provider must assure the alternate caregivers, consultants, and volunteers are:

(A) 18 years of age or older;

(B) Capable of assuming foster care responsibilities;

(C) Present in the home;

(D) Physically and mentally capable to perform the duties of the foster provider as described in these rules;

(E) Cleared by a background check as described in OAR 411-346-0150(8) including a DHS-CW background check;

(F) Able to communicate with the child, individuals, agencies providing care to the child, CDDP services coordinator, and appropriate others;

(G) Trained on fire safety and emergency procedures;

(H) Trained on the child's ISP, Behavior Support Plan, and any related protocols and able to provide the care needed for the child;

(I) Trained on the required documentation for health, safety, and behavioral needs of the child;

(J) A licensed driver and with vehicle insurance in compliance with the Oregon DMV laws when transporting children by motorized vehicle; and

(K) Not be a person who requires care in a foster care or group home.

(e) When the foster provider uses an alternate caregiver and the child shall be staying at the alternate caregiver's home, the foster provider must assure the alternate caregiver's home meets the necessary health, safety, and environmental needs of the child.

(f) When the foster provider arranges for social activities of the child for less than 24 hours, including an overnight arrangement, the foster provider must assure that the person shall be responsible and capable of assuming child care responsibilities and be present at all times. The foster provider still maintains primary responsibility for the child.

(5) FOOD AND NUTRITION.

(a) The foster provider must offer three nutritious meals daily at times consistent with those in the community.

(A) Daily meals must include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a physician or physician assistant.

(B) There must be no more than a 14-hour span between the evening meal and breakfast unless snacks and liquids are served as supplements.

(C) Consideration must be given to cultural and ethnic background in food preparation.

(b) Any home canned food used must be processed according to current guidelines of Oregon State University extension services (<http://extension.oregonstate.edu/fch/food-preservation>).

(c) All food items must be used prior to the item's expiration date.

(d) The foster provider must implement specialized diets only as prescribed in writing by the child's physician or physician assistant.

(e) The foster provider must prepare and serve meals in the foster home where the child lives. Payment for meals eaten away from the foster home (e.g. restaurants) for the convenience of the foster provider is the responsibility of the foster provider.

(f) The foster provider, when serving milk, must only use pasteurized liquid or powdered milk for consumption by a child in foster care.

(g) A child who must be bottle-fed and cannot hold the bottle, or is 11 months or younger, must be held during bottle-feeding.

(6) CLOTHING AND PERSONAL BELONGINGS.

(a) The foster provider must assure that each child has his or her own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, individual needs, and comparable to the community standards.

(b) A school-age child must participate in choosing their own clothing whenever possible.

(c) The foster provider must allow a child to bring and acquire appropriate personal belongings.

(d) The foster provider must assure that when a child leaves the child foster home, the child's belongings including all personal funds, medications, and personal items remain with the child. This includes all items brought with the child and obtained while living in the home.

(7) BEHAVIOR SUPPORT AND DISCIPLINE PRACTICES.

(a) The foster provider must teach and discipline a child with respect, kindness, and understanding, using positive behavior management techniques. Unacceptable practices include but are not limited to:

(A) Physical force, spanking, or threat of physical force inflicted in any manner upon the child;

(B) Verbal abuse, including derogatory remarks about the child or the child's family that undermine a child's self-respect;

(C) Denial of food, clothing, or shelter;

(D) Denial of visits or contacts with family members, except when otherwise indicated in the ISP or if applicable the DHS-CW case plan;

(E) Assignment of extremely strenuous exercise or work;

(F) Threatened or unauthorized use of physical interventions;

(G) Threatened or unauthorized use of mechanical restraints;

(H) Punishment for bed-wetting or punishment related to toilet training;

(I) Delegating or permitting punishment of a child by another child;

(J) Threat of removal from the foster home as a punishment;

(K) Use of shower or aversive stimuli as punishment; and

(L) Group discipline for misbehavior of one child.

(b) The foster provider must set clear expectations, limits, and consequences of behavior in a non-punitive manner.

(c) If time-out separation from others is used to manage behavior, it must be included on the child's ISP and the foster provider must provide it in an unlocked, lighted, well-ventilated room of at least 50

square feet. The ISP must include whether the child needs to be within hearing distance or within sight of an adult during the time-out. The time limit must take into consideration the child's chronological age, emotional condition, and developmental level. Time-out is to be used for short duration and frequency as approved by ISP team.

(d) No child in foster care or other child in a foster home shall be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury, or threats of harm as defined in ORS 419B.005 and OAR 407-045-0260.

(e) BEHAVIOR SUPPORT PLAN (BSP). For a child who has demonstrated a serious threat to self, others, or property and for whom it has been decided a BSP is needed, the BSP must be developed with the approval of the ISP team.

(f) PROTECTIVE PHYSICAL INTERVENTION. A protective physical intervention must be used only for health and safety reasons and under the following conditions:

(A) As part of the child's ISP team approved BSP.

(i) When protective physical intervention shall be employed as part of the BSP, the foster provider and alternate caregivers must complete OIS training prior to the implementation of the BSP.

(ii) The use of any modified OIS protective physical intervention must have approval from the OIS Steering Committee in writing prior to their implementation. Documentation of the approval must be maintained in the child's records.

(B) As in a health-related protection prescribed by a physician or qualified health care provider, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for protection during the time that a medical condition exists.

(C) As an emergency measure if absolutely necessary to protect the child or others from immediate injury and only until the child is no longer an immediate threat to self or others.

(g) MECHANICAL RESTRAINT.

(A) The foster provider may not use mechanical restraints on a child in foster care other than car seat belts or normally acceptable infant safety products unless ordered by a physician or health care provider and with an agreement of the ISP team.

(B) The foster provider must maintain the original order in the child's records and forward a copy to the CDDP services coordinator and guardian.

(h) DOCUMENTATION AND NOTIFICATION OF USE OF PROTECTIVE PHYSICAL INTERVENTION.

(A) The foster provider must document the use of all protective physical interventions or mechanical restraints in an incident report. A copy of the incident report must be provided to the CDDP services coordinator and guardian.

(B) If an approved protective physical intervention is used, the foster provider must send a copy of the incident report within five working days to the services coordinator and guardian.

(C) If an emergency or non ISP team approved protective physical intervention is used, the foster provider must send a copy of the incident report within 24 hours to the services coordinator and guardian. The foster provider must make verbal notification to the CDDP services coordinator and guardian no later than the next working day.

(D) The original incident report must be on file with the foster provider in the child's records.

(E) The incident report must include:

- (i) The name of the child to whom the protective physical intervention was applied;
- (ii) The date, location, type, and duration of entire incident and protective physical intervention;
- (iii) The name of the provider and witnesses or persons involved in applying the protective physical intervention;
- (iv) The name and position of the person notified regarding the use of the protective physical intervention; and
- (v) A description of the incident, including precipitating factors, preventive techniques applied, description of the environment, description of any physical injury resulting from the incident, and follow-up recommendations.

(8) MEDICAL AND DENTAL CARE. The foster provider must:

- (a) Provide care and services, as appropriate to the child's chronological age, developmental level, and condition of the child, and as identified in the ISP.
- (b) Assure that physician or qualified health care provider orders and those of other licensed medical professionals are implemented as written.
- (c) Inform the child's physicians or qualified health care providers of current medications and changes in health status and if the child refuses care, treatments, or medications.
- (d) Inform the guardian and CDDP services coordinator of any changes in the child's health status except as otherwise indicated in the DHS-CW Permanent Foster Care contract agreement and as agreed upon in the child's ISP.
- (e) Obtain the necessary medical, dental, therapies, and other treatments of care including but not limited to:

- (A) Making appointments;
- (B) Arranging for or providing transportation to appointments;
and
- (C) Obtaining emergency medical care.

(f) Have prior consent from the guardian for medical treatment that is not routine, including surgery and anesthesia except in cases where a DHS-CW Permanent Foster Care contract agreement exists.

(g) Keep current medical records. The records must include, when applicable:

- (A) Any history of physical, emotional, and medical problems, illnesses, or mental health status;

- (B) Current orders for all medications, treatments, therapies, use of protective physical intervention, specialized diets, adaptive equipment, and any known food or medication allergies;

- (C) Completed medication administration record (MAR) from previous months;

- (D) Pertinent medical and behavioral information such as hospitalizations, accidents, immunization records including Hepatitis B status and previous TB tests, and incidents or injuries affecting the health, safety, or emotional well-being of the child;

- (E) Documentation or other notations of guardian consent for medical treatment that is not routine including surgery and anesthesia;

- (F) Record of medical appointments;

- (G) Medical appointment follow-up reports provided to the foster provider; and

(H) Copies of previous mental health assessments, assessment updates including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services.

(h) Provide, when requested, copies of medical records and medication administration records to the child's legal guardian, services coordinator, and DHS-CW caseworker.

(i) Provide copies, as applicable, of the medical records described in section (8)(g)(H) above to the licensed medical professional prior to the medical appointment or no later than the time of the appointment with the licensed medical professional.

(9) MEDICATIONS AND PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER ORDERS.

(a) There must be authorization by a physician or qualified health care provider in the child's file prior to the usage of or implementation of any of the following:

(A) All prescription medications;

(B) Non prescription medications except over the counter topicals;

(C) Treatments other than basic first aid;

(D) Therapies and use of mechanical restraint as a health and safety related protection;

(E) Modified or specialized diets;

(F) Prescribed adaptive equipment; and

(G) Aids to physical functioning.

(b) The foster provider must have:

(A) A copy of an authorization in the format of a written order signed by a physician or a qualified health care provider; or

(B) Documentation of a telephone order by a physician or qualified health care provider with changes clearly documented on the MAR, including the name of the person giving the order, the date and time, and the name of the person receiving the telephone order; or

(C) A current pharmacist prescription or manufacturer's label as specified by the physician's order on file with the pharmacy.

(c) A provider or alternate caregiver must carry out orders as prescribed by a physician or a qualified health care provider. Changes may not be made without a physician or a qualified health care provider's authorization.

(d) Each child's medication, including refrigerated medication, must be clearly labeled with the pharmacist's label, or in the manufacturer's originally labeled container, and kept in a locked location, or stored in a manner that prevents access by children.

(e) Unused, outdated, or recalled medications may not be kept in the foster home and must be disposed of in a manner that shall prevent illegal diversion into the possession of people other than for which it was prescribed.

(f) The foster provider must keep a MAR for each child. The MAR must be kept for all medications administered by the foster provider or alternate caregiver to that child, including over the counter medications and medications ordered by physicians or qualified health care providers and administered as needed (PRN) for the child.

(g) The MAR must include:

(A) The name of the child in foster care;

(B) A transcription of the written physician's or licensed health practitioner's order including the brand or generic name of the

medication, prescribed dosage, frequency, and method of administration;

(C) A transcription of the printed instructions from the package for topical medications and treatments without a physician's order;

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

(E) Signature of the person administering the medication or the person monitoring the self-administration of the medication;

(F) Method of administration;

(G) An explanation of why a PRN medication was administered;

(H) Documented effectiveness of any PRN medication administration;

(I) An explanation of all medication administration or documentation irregularities; and

(J) Any known allergy or adverse drug reactions and procedures that maintain and protect the physical health of the child placed in the foster home.

(h) Any errors in the MAR must be corrected by circling the error and then writing on the back of the MAR what the error was and why.

(i) Treatments, medication, therapies, and specialized diets must be documented on the MAR when not used or applied according to the order.

(j) **SELF-ADMINISTRATION OF MEDICATION.** For any child who is self-administering medication, the foster provider must:

(A) Have documentation that a training program was initiated with approval of the child's ISP team or that training for the child was unnecessary;

(B) Have a training program that provides for retraining when there is a change in dosage, medication, and time of delivery;

(C) Provide for an annual review, at a minimum as part of the ISP process, upon completion of the training program;

(D) Assure that the child is able to handle his or her own medication regime;

(E) Keep medications stored in a locked area inaccessible to others; and

(F) Maintain written documentation of all training in the child's medical record.

(k) The foster provider may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a licensed medical professional.

(l) Any medication that is used with the intent to alter behavior of a child with a developmental disability must be documented on the ISP.

(m) **BALANCING TEST.** When a psychotropic medication is first prescribed and annually thereafter, the foster provider must obtain a signed balancing test from the prescribing health care provider using the Department's Balancing Test Form. Foster providers must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed as well as any side effects observed.

(n) PRN prescribed psychotropic medication is prohibited.

(o) A mental health assessment by a qualified mental health professional or licensed medical professional must be completed, except as noted in subsection (A) of this section, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in foster care.

(A) A mental health assessment is not required in the following situations:

- (i) In a case of urgent medical need;
- (ii) For a substitution of a current medication within the same class; or
- (iii) A medication order given prior to a medical procedure; or

(B) When a mental health assessment is required, the foster provider:

- (i) Must notify the DHS-CW caseworker when the child is in legal custody of DHS-CW worker; or
- (ii) Shall arrange for a mental health assessment when the child is a voluntary care placement.

(C) The mental health assessment:

- (i) Must have been completed within three months prior to the prescription; or
- (ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(D) Whenever possible, information from the mental health assessment must be communicated to the licensed medical professional prior to the issuance of a prescription for psychotropic medication.

(p) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for the child in foster care, the foster provider must notify:

(A) The child's parent when the parent retains legal guardianship;

(B) The child's family member or the person who has legal guardianship; or

(C) DHS-CW when DHS-CW is the legal guardian of the child; and

(D) The CDDP services coordinator.

(q) The notification from the foster provider to the legal guardian and the CDDP services coordinator must contain:

(A) The name of the prescribing physician, or qualified health care provider;

(B) The name of the medication;

(C) The dosage, any change of dosage or suspension, or discontinuation of the current psychotropic medication;

(D) The dosage administration schedule prescribed; and

(E) The reason the medication was prescribed.

(r) The foster provider must get a written informed consent prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need from DHS-CW when DHS-CW is the legal guardian.

(s) The foster provider shall cooperate as requested, when a review of psychotropic medications is indicated.

(10) DIRECT NURSING SERVICES.

(a) When direct nursing services are provided to a child the foster provider must:

(A) Coordinate with the nurse and the ISP team to ensure that the services being provided are sufficient to meet the child's health needs; and

(B) Implement the Nursing Care Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(b) When nursing tasks are delegated, they must be delegated by a licensed registered nurse in accordance with OAR chapter 851, division 047.

(11) CHILD RECORDS.

(a) GENERAL INFORMATION OR SUMMARY RECORD. The provider must maintain a record for each child in the home. The record must include:

(A) The child's name, date of entry into the foster home, date of birth, gender, religious preference, and guardianship status;

(B) The names, addresses, and telephone numbers of the child's guardian, family, advocate, or other significant person;

(C) The name, address, and telephone number of the child's preferred primary health provider, designated back up health care provider and clinic, dentist, preferred hospital, medical card number and any private insurance information, and Oregon Health Plan choice;

(D) The name, address, and telephone number of the child's school program; and

(E) The name, address, and telephone number of the CDDP services coordinator and representatives of other agencies providing services to the child.

(b) EMERGENCY INFORMATION. The foster provider must maintain emergency information for each child receiving foster care services in the child foster home. The emergency information must be kept current and must include:

(A) The child's name;

(B) The child's address and telephone number;

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

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

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

(D) Information on the child's abilities and characteristics including:

(i) How the child communicates;

(ii) The language the child uses or understands;

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

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

(E) The child'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 child;

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

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

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

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

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

(ix) The child's emotional and behavioral support needs including:

(I) Mental health or behavioral diagnosis and the behaviors displayed by the child; and

(II) Approaches to use when supporting the child to minimize emotional and physical outbursts.

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

(xi) The child's supervisions requirements and why; and

(xii) Any additional pertinent information the provider has that may assist in the care and support of the child should a natural or man-made disaster occur.

(c) **EMERGENCY PLANNING.** The foster provider must post emergency telephone numbers in close proximity to all phones utilized by the foster provider or substitute caregivers. The posted emergency telephone numbers must include:

(A) 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 any emergency physician and additional persons to be contacted in the case of an emergency.

(d) WRITTEN EMERGENCY PLAN.

(A) Foster providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all children in foster care in the event of an emergency or disaster. The Emergency Plan must:

(i) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the provider's and alternative caregiver's responsibilities.

(ii) Consider the needs of the child and address all natural and human-caused events identified as a significant risk for the home such as a pandemic or an earthquake.

(iii) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three days under the following conditions:

(I) Extended utility outage;

(II) No running water;

(III) Inability to replace food supplies; and

(IV) Alternative caregiver is unable provide respite or additional support and care.

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

(I) The duties of the alternative caregivers during evacuation, transporting, and housing of the child including instructions to notify the child's parent or legal guardian, the Department or designee, the CDDP services coordinator, and DHS-CW as applicable, of the plan to evacuate or the evacuation of the home as soon as the emergency or disaster reasonably allows;

(II) The method and source of transportation;

(III) Planned relocation sites that are reasonably anticipated to meet the needs of the child;

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

(V) A method for tracking and reporting to the Department or the Department's designee and the local CDDP, the physical location of each child in foster care until a different entity resumes responsibility for the child,

(v) Address the needs of the child including provisions to provide:

(I) Immediate and continued access to medical treatment, information necessary to obtain care, treatment, food, and fluids for the child, during and after an evacuation and relocation;

(II) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(III) Behavior support needs anticipated during an emergency; and

(IV) The supports needed to meet the life-sustaining and safety needs of the child.

(B) The foster provider must provide and document all training to alternative caregivers regarding their responsibilities for implementing the emergency plan.

(C) The foster provider must re-evaluate and revise the Emergency Plan at least annually or when there is a significant change in the home.

(D) The foster provider must complete the Emergency Plan Summary, on the form supplied by the Department, and must send it to the Department annually and upon change of licensee or location of the child foster home.

(e) **INDIVIDUAL SUPPORT PLAN (ISP).** Within 60 days of placement, the child's ISP must be prepared by the ISP team and, at a minimum, updated annually.

(A) The foster provider must participate with the ISP team in the development and implementation of the ISP to address each child's behavior, medical, social, financial, safety, and other support needs.

(B) Prior to or upon entry to or exit from the foster home, the foster provider must participate in the development and implementation of a Transition Plan for the child.

(i) The Transition Plan must include a summary of the services necessary to facilitate the adjustment of the child to the foster home or after care plan; and

(ii) Identify the supports necessary to ensure health, safety, and any assessments and consultations needed for ISP development.

(f) **FINANCIAL RECORDS.**

(A) The foster provider must maintain a separate financial record for each child. Errors must be corrected with a single strike through and initialed by the person making the correction. The financial record must include:

(i) The date, amount, and source of all income received on behalf of the child;

(ii) The room and board fee that is paid to the provider at the beginning of each month;

(iii) The date, amounts, and purpose of funds disbursed on behalf of the child; and

(iv) The signature of the person making the entry.

(B) Any single transaction over \$25 purchased with the child's personal funds, unless otherwise indicated in the child's ISP, must be documented including receipts in the child's financial record.

(C) The child's ISP team may address how the child's personal spending money shall be managed.

(D) If the child has a separate commercial bank account, records from that account must be maintained with the financial record.

(E) The child's personal funds must be maintained in a safe manner and separate from other members of the household funds.

(F) Misuse of funds may be cause for suspension, revocation, or denial of renewal of the child foster home certificate.

(g) PERSONAL PROPERTY RECORD.

(A) The foster provider must maintain a written record of each child's property of monetary value of more than \$25 or that has significant personal value to the child, parent, or guardian, or as

determined by the ISP team. Errors must be corrected with a single strike through and initialed by the person making the correction.

(B) Personal property records are not required for children who have a court approved Permanent Foster Care contract agreement unless requested by the child's guardian.

(C) The personal property record must include:

- (i) The description and identifying number, if any;
- (ii) The date when the child brought in the personal property or made a new purchase;
- (iii) The date and reason for the removal from the record; and
- (iv) The signature of the person making the entry.

(h) EDUCATIONAL RECORDS. The foster provider must maintain the following educational records when available:

- (A) The child's report cards;
- (B) Any reports received from the teacher or the school;
- (C) Any evaluations received as a result of educational testing or assessment; and
- (D) Disciplinary reports regarding the child.

(i) Child records must be available to representatives of the Department, the certifier, and DHS-CW conducting inspections or investigations, as well as to the child, if appropriate, and the guardian, or other legally authorized persons.

(j) Child records must be kept for a period of three years. If a child moves or the foster home closes, copies of pertinent information must be transferred to the child's new home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0200 Environmental Standards

(Amended 7/1/2011)

(1) GENERAL CONDITIONS.

- (a) The buildings and furnishings must be clean and in good repair and grounds must be maintained.
- (b) Walls, ceilings, windows, and floors must be of such character to permit frequent washing, cleaning, or painting.
- (c) There must be no accumulation of garbage, debris, or rubbish.
- (d) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by the child in foster care must be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer heat, the provider must make reasonable effort to make the child comfortable using available ventilation, fans, or air-conditioning.

(2) EXTERIOR ENVIRONMENT.

- (a) The premises must be free from objects, materials, and conditions that constitute a danger to the occupants.
- (b) Swimming pools, wading pools, ponds, hot tubs, and trampolines must be maintained to assure safety, kept in clean condition, equipped with sufficient safety barriers or devices to prevent injury, and used by a child in foster care only under direct supervision by the provider or approved alternate caregiver.
- (c) The home must have a safe outdoor play area on the property or within reasonable walking distance.

(3) INTERIOR ENVIRONMENT.

(a) KITCHEN.

(A) Equipment necessary for the safe preparation, storage, serving, and cleanup of meals must be available and kept in working and sanitary condition.

(B) Meals must be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness.

(C) If the washer and dryer are located in the kitchen or dining room area, soiled linens and clothing must be stored in containers in an area separate from food and food storage prior to laundering.

(b) DINING AREA. The home must have a dining area so the child in foster care may eat together with the foster family.

(c) LIVING OR FAMILY ROOM. The home must have sufficient living or family room space that is furnished and accessible to all members of the family including the child in foster care.

(d) BEDROOMS. Bedrooms used by the child in foster care must:

(A) Have adequate space for the age, size, and specific needs of each child;

(B) Be finished and attached to the house, have walls or partitions of standard construction that go from floor to ceiling, and have a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;

(C) Have windows that open and provide sufficient natural light and ventilation with window coverings provided that take into consideration the safety, care needs, and privacy of the child;

(D) Have no more than four children to a bedroom;

(E) Have safe, age appropriate furnishings that are in good repair, provided for each child including:

(i) A bed or crib with a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, and a water proof mattress cover if the child is incontinent;

(ii) A private dresser or similar storage area for personal belongings that is readily accessible to the child;

(iii) A closet or similar storage area for clothing that is readily accessible to the child; and

(iv) An adequate supply of clean bed linens, blankets, and pillows. Bed linens are to be properly fitting and provided for each child's bed.

(F) Be on the ground level for a child who is non-ambulatory or has impaired mobility;

(G) Provide flexibility in the decoration for the personal tastes and expressions of the child placed in the provider's home;

(H) Be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies, or be equipped with a working monitor;

(I) Have doors that do not lock;

(J) Have no three-tier bunk beds in bedrooms occupied by a child in foster care; and

(K) Not be located on the third floor or higher from the ground level.

(e) A child of the foster provider may not be required to sleep in a room also used for another purpose in order to accommodate a child in foster care.

(f) The foster provider may not permit the following sleeping arrangements for a child placed in their home:

(A) Children of different sexes in the same room when either child is over the age of five years of age; and

(B) Children over the age of 12 months sharing a room with an adult.

(g) BATHROOMS.

(A) Must have tubs or showers, toilets, and sinks operable and in good repair with hot and cold water.

(B) A sink must be located near each toilet.

(C) There must be at least one toilet, one sink, and one tub or shower for each six household occupants including the provider and family.

(D) Must have hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing and cleaning areas that are accessible by the child in foster care may not exceed 120 degrees F.

(E) Must have grab bars and non-slip floor surfaces for toilets, tubs, or showers for the child's safety as necessary for the child's care needs.

(F) Must have barrier-free access to toilet and bathing facilities with appropriate fixtures for a child who utilizes a wheel chair or other mechanical equipment for ambulation. Barrier free must be appropriate for the non-ambulatory child's needs for maintaining good personal hygiene.

(G) The foster provider must provide each child with the appropriate personal hygiene and grooming items that meet each child's specific needs and minimize the spread of communicable disease.

(H) Window coverings in bathrooms must take into consideration the safety, care needs, and privacy of the child.

(4) GENERAL SAFETY.

(a) The foster provider must protect the child from safety hazards.

(b) Stairways must be equipped with handrails.

(c) A functioning light must be provided in each room and stairway.

(d) In homes with a child in foster care age three or under, or a child with impaired mobility, the stairways must be protected with a gate or door.

(e) Hot water heaters must be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

(f) Adequate safeguards must be taken to protect a child who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices.

(g) The foster home must have operable phone service at all times available to all persons in the foster home including when there are power outages. The home must have emergency phone numbers readily accessible and in close proximity to the phone.

(h) The foster provider must store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by a child.

(i) The foster provider must restrict a child's access to potentially dangerous animals. Only domestic animals must be kept as pets. Pets must be properly cared for and supervised.

(j) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by local ordinances must be made available to the Department upon request.

(k) The foster provider must take appropriate measures to keep the house and premises free of rodents and insects.

(l) To protect the safety of a child in foster care, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the child.

(m) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults.

(n) There must be emergency access to any room that has a lock.

(o) An operable flashlight, at least one per floor, must be readily available in case of emergency.

(p) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles.

(q) Use of video monitors must only be used as indicated in the ISP or Behavior Support Plan.

(5) FIRE SAFETY.

(a) Smoke detectors must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.

(A) Smoke detectors must be installed in each bedroom, adjacent hallways leading to the bedrooms, common living areas, basements, and at the top of every stairway in multi-story homes.

(B) Ceiling placement of smoke detectors is recommended. If wall-mounted, the smoke detectors must be between 6" and 12" from the ceiling and not within 12" of a corner.

(b) At least one fire extinguisher, minimally rated 2:A:10:B:C, must be visible and readily accessible on each floor, including basements. A qualified professional who is well versed in fire extinguisher

maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing must be completed by a qualified entity properly trained and equipped for this purpose.

(c) Use of space heaters must be limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. No extension cords must be used with such heaters. No freestanding kerosene, propane, or liquid fuel space heaters must be used in the foster home.

(d) An Emergency Evacuation Plan must be developed, posted, and rehearsed at least once every 90 days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other staff must be familiar with the emergency evacuation plan and a new child placed in foster care must be familiar with the Emergency Evacuation Plan within 24 hours. Fire drill records must be retained for one year.

(A) Fire drill evacuation rehearsal must document the date, time for full evacuation, location of proposed fire, and names of all persons participating in the evacuation rehearsal.

(B) The foster provider must be able to demonstrate the ability to evacuate all children in foster care from the home within three minutes.

(e) Foster homes must have two unrestricted exits in case of fire. A sliding door or window that may be used to evacuate a child may be considered a usable exit.

(f) Barred windows or doors used for possible exit in case of fire must be fitted with operable quick release mechanisms.

(g) Every bedroom used by a child in foster care must have at least one operable window, of a size that allows safe rescue, with safe and direct exit to the ground, or a door for secondary means of escape or rescue.

(h) All external and inside doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the

home. A home with a child that is known to leave their place of residence without permission must have a functional and activated alarm system to alert the foster provider.

(i) Fireplaces and wood stoves must include secure barriers to keep a child safe from potential injury and away from exposed heat sources.

(j) Solid or other fuel-burning appliances, stoves, or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable. All applicants applying for a new child foster home certificate after July 1, 2007 must have at least one carbon monoxide sensor installed in the home in accordance with manufactures instructions if the home has solid or other fuel-burning appliances, stoves, or fireplaces. All foster providers certified prior to July 1, 2007 and moving to a new location that uses solid or other fuel-burning appliances, stoves, or fireplaces, must install a carbon monoxide sensor in the home in accordance with manufactures instructions prior to being certified at the new location.

(k) Chimneys must be inspected at the time of initial certification and if necessary the chimney must be cleaned. Chimneys must be inspected annually, unless the fireplace and or solid fuel-burning appliance was not used through the certification period and may not be used in the future. Required annual chimney inspections are to be made available to the certifier during certification renewal processes.

(l) A signed statement by the foster provider and certifier assuring that the fireplace and or solid fuel-burning appliance may not be in use must be submitted to the Department with the renewal application if a chimney inspection may not be completed.

(m) Flammable and combustible materials must be stored away from any heat source.

(6) SANITATION AND HEALTH.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, it must be tested for coliform bacteria by a certified agent yearly and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) All plumbing must be kept in good working order. If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and removed weekly.

(d) SMOKING.

(A) The foster provider may not provide tobacco products in any form to a child under the age of 18 placed in their home.

(B) A child in foster care may not be exposed to second hand smoke in the foster home or when being transported.

(7) TRANSPORTATION SAFETY.

(a) The foster provider must ensure that safe transportation is available for children to access schools, recreation, churches, scheduled medical care, community facilities, and urgent care.

(b) If there is not a licensed driver and vehicle at all times there must be a plan for urgent and routine transportation.

(c) The foster provider must maintain all vehicles used to transport a child in a safe operating condition and must ensure that a first aid kit is in each vehicle.

(d) All motor vehicles owned by the foster provider and used for transporting a child must be insured to include liability.

(e) Only licensed adult drivers must transport a child in foster care in a motor vehicle. The motor vehicle must be insured to include liability.

(f) When transporting a child in foster care, the driver must ensure that the child uses seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting a child in accordance with the Department of Transportation under ORS 815.055.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0210 Variance
(Amended 7/1/2010)

(1) The Division may grant a variance to these rules based upon demonstration by the foster 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 the child.

(2) The foster provider requesting a variance must submit to the certifier, a Division variance request form 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) If the variance applies to a child's services, evidence that the variance is consistent with a currently approved ISP.

(3) The certifier shall forward the signed variance request form to the Division within 30 days of receipt of the request indicating the certifier's position on the proposed variance.

(4) The Assistant Director of the Division may approve or deny the request for a variance.

(5) The Division shall notify the foster provider and the certifier of the decision. The Division shall send this notice within 30 calendar days of receipt of the request with a copy to other relevant Department programs or offices.

(6) Any grievance of a denial for a variance request must be made in writing within 30 days to the Assistant Director of the Division with a copy sent to the certifier. The Assistant Director's decision shall be final.

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

(8) Granting a variance does not set a precedent that must be followed by the child placing agency when evaluating subsequent requests for variances.

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

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835

Stats. Implemented: ORS 443.830 & 443.835

411-346-0220 Inactive Referral Status, Denial, Suspension, Revocation, Refusal to Renew

(Amended 7/1/2011)

(1) INACTIVE REFERRAL STATUS. The Department may require that a foster provider go on inactive referral status. Inactive referral status is a period, not to exceed 24 months or beyond the duration of the foster provider's current certificate, when during that time no agency shall refer additional children to the home and the provider may not accept additional children. The foster provider may request to be placed on inactive referral status. The certifier may recommend that the Department initiate inactive referral status.

(a) The Department may place a foster provider on inactive referral status for reasons including but not limited to the following:

(A) The Department or DHS-CW is currently assessing an allegation of abuse in the home.

(B) The special needs of the child currently in the home require so much of the foster provider's care and attention that additional children may not be placed in the home.

(C) The foster provider has failed to meet individualized training requirements or the Department has asked the foster provider to obtain additional training to enhance his or her skill in caring for the child placed in the home.

(D) The family or members of the household are experiencing significant family or life stress or changes in physical or mental health conditions that may be impairing their ability to provide care. Examples include but are not limited to:

(i) Separation or divorce and relationship conflicts;

(ii) Marriage;

(iii) Death;

(iv) Birth of a child;

(v) Adoption;

(vi) Employment difficulties;

(vii) Relocation;

(viii) Law violation; or

(ix) Significant changes in the care needs of their own family members (children or adults).

(b) The Department shall notify the foster provider immediately upon placing them on inactive referral.

(c) Within 30 days of initiating inactive referral status, the Department shall send a letter to the foster provider that confirms the inactive status, states the reason for the status, and the length of inactive referral status.

(d) When the foster provider initiates inactive referral status, the inactive status ends at the request of the foster provider and when the Department has determined the conditions that warranted the inactive referral status have been resolved.

(A) There must be no conditions in the home that compromise the safety of the child already placed in the home.

(B) If applicable, a mutually agreed upon plan must be developed to address the issues prior to resuming active status.

(C) The foster provider must be in compliance with all certification rules, including training requirements, prior to a return to active status.

(2) DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW.

(a) The Department shall deny, suspend, revoke, or refuse to renew a child foster care certificate where it finds there has been substantial failure to comply with these rules.

(b) Failure to disclose requested information on the application or providing falsified, incomplete, or incorrect information on the application shall constitute grounds for denial or revocation of the certificate.

(c) The Department shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider fails to submit a plan of correction, implement a plan of correction, or comply with a final order of the Department.

(d) Failure to comply with OAR 411-346-0200(5) may constitute grounds for denial, revocation, or refusal to renew.

(e) The Department may deny, suspend, revoke, or refuse to renew the child foster home certificate where imminent danger to health or safety of a child exists, including any founded report or substantiated abuse.

(f) The Department shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider has been convicted of any crime that would have resulted in an unacceptable background check as defined in OAR 407-007-0210 upon certification.

(g) Suspension shall result in the removal of a child placed in the foster home and no placements shall be made during the period of suspension.

(h) The applicant or foster provider whose certificate has been denied or revoked may not reapply for certification for five years after the date of denial or revocation.

(i) The Department shall provide the applicant or the foster provider a written notice of denial, suspension, or revocation that states the reason for such action.

(j) Such revocation, suspension, or denial shall be done in accordance with the rules of the Department and ORS chapter 183 that govern contested cases.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0230 Appeals
(Amended 7/1/2010)

(1) Upon written notice of denial, suspension, revocation, or non-renewal of a certificate from the Division, an applicant, or foster provider may request a contested case hearing to appeal the decision pursuant to ORS 183.413 to 183.470.

(2) The written request must be submitted within 10 days of the denial, suspension, revocation, or non-renewal notification date and must specifically state the reasons for the appeal.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835