Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Human Services, Office of Licensing and Regulatory Oversight	411
Agency and Division	Administrative Rules Chapter Number

Kimberly Colkitt-Hallman	500 Summer Street NE, E-48 Salem, OR 97301-1074	(503) 945-6067
Rules Coordinator	Address	Telephone

RULE CAPTION

Licensure of Adult Foster Homes for Adults who are Older or Adults with Physical Disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

May 15, 2015	2:30 PM	Human Services Building 500 Summer Street NE, Room 160 Salem, Oregon 97301	Staff
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

411-050-0600 through 411-050-0690

REPEAL:

411-050-0602(T); 411-050-0625(T); 411-050-0640(T); 411-050-0645(T); 411-050-0655(T); 411-050-0665(T)

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 410.010, 410.070, 410.090, 441.715, 443.725, 443.875

Other Auth.: HB 4151 (2014), 2014 Oregon Laws, chapter 104, sections 6 and 7

Stats. Implemented: ORS 124.050 – 412.095, 410.070, 410.090, 441.373

RULE SUMMARY

The Department of Human Services (Department) is proposing to amend the rules for adult foster homes in OAR chapter 411, division 050, to make permanent temporary rule changes that became effective January 1, 2015, that were implemented to comply with the 2014 legislative changes from HB 4151.

The Department is amending:

- 411-050-0655 to require the Department or AAA to notify the adult foster home, if known, that a person who is applying for admission to the home is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805;
- 411-050-0655 to allow a licensed provider to refuse to admit a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805; and
- 411-050-0645 to allow an involuntary move-out notice to be issued without reasonable advance notice when the licensed provider learns, after the resident's admission, the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

The Department is also amending OAR 411-050-0620 to be consistent with 2014 Oregon Laws, chapter 104, section 6, and OAR chapter 407, division 7 by adding:

- 411-050-0620 that background checks must be completed at least every two years.

The Department is also amending OAR 411-050-0602; 411-050-0610; 411-050-0615; 411-050-0620; 411-050-0625; 411-050-0635; 411-050-0640; 411-050-0645; 411-050-0650; 411-050-0655; 411-050-0660; and 411-050-0665 to clarify existing rules and to make housekeeping changes by fixing wording, formatting, grammar, punctuation, and updating or fixing incorrect rule references. The Department will do this by amending:

- 411-050-0602(31) to add a definition for Exclusion Lists to include the U.S. Office of Inspector General's Exclusion List and the U.S. General Services Administration's System for Award Management Exclusion List;
- 411-050-0602(34) to replace "husband or wife" with "spouses in a legally recognized marriage or domestic partnership" in the definition of "family member";
- 411-050-0602(76) to clarify the definition of "subject individual" by:
    - Referencing OAR 407-007-0210 in the Criminal Records Checks and Abuse Checks rules;

    - Specifying that volunteers “on the premises” who provide services for, or who have unsupervised access to, any resident or any resident’s funds, belongings, or confidential information are subject individuals; and
    - Specifying that persons under 16 years of age and persons who live or work in the home are not subject individuals.
- 411-050-0610(1) to state the Department “may” deny an incomplete application, instead of “shall” deny an incomplete application;
- 411-050-0615(1) to provide clarity that:
    - The local licensing authority must verify that applicants, licensees, and any owner or officer of the corporation, as applicable, are not listed on either of the Exclusion Lists; and
    - The Department shall not make payment for the date a resident moves from the home or any time period after that.
- 411-050-0620(1) to clarify that:
    - The background check process may not be used as a screening tool for hiring;
    - Licensees may obtain a portable background check;
    - Written verification of the background check may be sent electronically and must be readily available upon request; and
    - The licensee must self-report within 24 hours if any subject individual has a disqualifying or potentially disqualifying condition.
- 411-050-0625(1) to provide clarity that licensees must not be listed on either of the Exclusion Lists;
- 411-050-0625(2) to increase the period of time a licensee, resident manager, or shift caregiver may discontinue working in that capacity without having to take the current Ensuring Quality Care (EQC) basic training course;
- 411-050-0625(5) to correct an error in a rule reference;
- 411-050-0625(6) to correct an error in a rule reference;
- 411-050-0625(9) to provide clarity that licensees must confirm their floating resident manager, if applicable, is not listed on either of the Exclusion Lists;
- 411-050-0625(11) to provide clarity that:
    - Licensee, resident manager, floating resident manager, and shift caregivers must maintain “approved” CPR certification; and
    - Training credits may be granted for “approved” Ensuring Quality Care (EQC) refresher courses.
- 411-050-0635(1) to delete duplicate text in OAR 411-050-0645;
- 411-050-0635(6) to provide clarity that the local licensing authority must verify the applicant is not listed on either of the Exclusion Lists;
- 411-050-0640(4) to remove a duplicate rule contained within 411-050-0650(5) and eliminate confusion about when notice of structural changes to the home must be submitted to the local licensing authority;
- 411-050-0640(6) to clarify the local licensing authority shall investigate the renewal application information submitted, review the licensing records for the

applicant, conduct an inspection of the home, and specify a time frame for correction of any violations not to exceed 30 days;

- 411-050-0640(7) to clarify the Department may attach conditions to the license that limit, restrict, or specify other criteria for operation of the home, and that the licensee must visibly post any conditions;
- 411-050-0640(8) to state the Department “may” deny a renewal application if cited violations are not corrected within the specified time frame, instead of “shall” deny;
- 411-050-0640(9) to provide clarity that the local licensing authority must verify the licensee is not listed on either of the Exclusion Lists;
- 411-050-0645(1) to:
    - Reference the Oregon Fire Code, Appendix L;
    - Clarify the licensee may not employ or allow any caregiver to train or work in the home who is on either of the Exclusion Lists;
    - Clarify that the licensee must notify the local licensing authority if a shift caregiver is absent from the home for 10 days or more;
    - Clarify that if there is a change in primary caregiver or a shift caregiver, the licensee must notify the local licensing authority within 24 hours and identify who is providing care; and
    - Changed “sexual relations” to “sexual contact.”
- 411-050-0645(4) to clarify that special consideration must be given to a resident with chewing difficulties “or” other eating limitations;
- 411-050-0645(6) to provide clarity that facility records include verification that all caregivers are not listed on either of the Exclusion Lists;
- 411-050-0645(8) to correct an error in a rule reference;
- 411-050-0650(2) to incorporate a reference to section (5) of this rule;
- 411-050-0650(5) to:
    - Allow hazardous materials to be stored in their original container, or in a container manufactured for the type of product;
    - Identify the standards for medical sharps containers including type of container, storage, and disposal;
    - Clarify the final point of safety must be at least 50 feet away from the structure, and must:
        - Have direct access to a public sidewalk or street; or
        - Not be in the backyard of a home unless the backyard has direct access to a public street or sidewalk.
    - Clarify that ramps must comply with the U.S. Department of Justice’s 2010 Americans with Disabilities Act.
- 411-050-0655(1) to add clarification to the title of this section: “Pre-admission” Screening and Assessment;
- 411-050-0655(3) to provide clarity that the licensee must conduct the necessary elements of the pre-admission screening and assessment, and document those findings to:

    - Determine whether readmission to the home is appropriate for the classification;
    - Determine whether the licensee can continue to meet the resident's care and safety needs in addition to those of the other residents;
    - Demonstrate compliance with the rules; and
    - Demonstrate the basis for refusing the resident's re-admission to the home, if applicable.
- 411-050-0655(4) to clarify the licensee must review and update each resident's care plan every six months "and" when a resident's condition changes;
- 411-050-0655(5) to update three rule references;
- 411-050-0655(6) to:
    - Update two rule references;
    - Clarify the medication administration record must identify the dosage, route, and the date and the time each medication "and" supplement is to be given;
    - Clarify over-the-counter products may include medication, vitamins, and supplements;
    - Clarify that residents shall not have access to medications belonging to: licensee, caregivers, other household members, residents, or pets;
    - Reformat Documentation of Disposal section for clarity; and
    - Add reference to OAR 411-050-0650(5) for storage and disposal requirements of sharps, including, but not limited to, used needles and lancets.
- 411-050-0655(7) to update three rule references;
- 411-050-0662(10) to incorporate a reference to OAR 411-050-0650(5)(k);
- 411-050-0665(10) to clarify:
    - A Notification of Findings is issued upon a determination of substantiated abuse or a rule violation; and
    - That for nursing assistants, the notice shall state Department's intent to enter the finding of abuse into the Nursing Assistant Registry and the nursing assistant's rights according to OAR 411-089-0140.

The Agency requests public comment on whether other options should be considered for achieving the rules' substantive goals while reducing the negative economic impact of the rules on business.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.

Friday, May 29, 2015 at 5 p.m.
Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Signed Michael R. McCormick, Director, Aging and People with Disabilities 4/24/15
Signature Date

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Human Services, Office of Licensing and Regulatory Oversight 411

Agency and Division Administrative Rules Chapter Number

Licensure of Adult Foster Homes for Adults who are Older or Adults with Physical Disabilities

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of OAR 411-050-0600 through 411-050-0690; and repeal of temporary rules 411-050-0602(T); 411-050-0625(T); 411-050-0640(T); 411-050-0645(T); 411-050-0655(T); 411-050-0665(T) relating to adult foster homes.

Statutory Authority: ORS 410.010, 410.070, 410.090, 441.715, 443.725, 443.875

Other Authority: HB 4151 (2014), 2014 Oregon Laws, chapter 104, sections 6 and 7

Stats. Implemented: ORS 124.050 – 124.095, 410.070, 410.090, 441.373

Need for the Rule(s):

These rules make permanent the temporary rules that implemented the requirements of HB 4151 (2014) on January 1, 2015.

These rules help to streamline the criminal records and abuse check process according to 2014 Oregon Laws, chapter 104, section 6-7 and are consistent with the Department's Criminal Records Checks and Abuse Checks Rules, OAR chapter 407, division 7.

Licensees may refuse to admit a potential resident who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805; allows the licensee to issue an involuntary move-out notice without reasonable advance notice if, after the resident's admission, the licensee learns the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805; and requires the Department or Area Agency on Aging to notify the adult foster home, if known, that a person applying for admission to the home is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805.

Changes the minimum background check requirement for all subject individuals to every two years.

Documents Relied Upon, and where they are available:

HB 4151 (2014); 2014 Oregon Laws, chapter 104, sections 6 and 7 available at https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2014R1orLaw0104ss.pdf; and OAR chapter 407, division 7, available at http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_407/407_007.html.

Fiscal and Economic Impact:
Statement of Cost of Compliance:
1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The Department estimates that amending these rules will have the following fiscal and economic impact:

State Agencies: The DHS/OHA Background Check Unit will receive background check requests for all subject individuals a minimum of every two years instead of annually. This will save the Department about $192,500.00 annually based on approximately 3,500 fingerprint checks at $55 per check.

Units of Local Government: Local licensing offices workload would be significantly decreased because all subject individuals would require a background check every two years instead of annually. This positive fiscal impact is dependent on the number of adult foster homes, and the number of subject individuals in each of those homes within each licensing jurisdiction.

Individuals Receiving Services: The Department estimates there will be no fiscal or economic impact on individuals being served.

Providers: The Department estimates there will be no fiscal or economic impact on providers. The positive fiscal impact is dependent on the number of subject individuals in each provider's adult foster home who would require a background check every two years instead of every year.

Public: The Department estimates there will be no fiscal or economic impact on the public.

2. Cost of compliance effect on small business (ORS 183.336):
a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

There are currently 1,769 adult foster homes subject to this rule, most of which are small business as defined by ORS 183.310.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Administrative requirements of the licensed providers are reduced.

c. Equipment, supplies, labor and increased administration required for compliance:

Administrative requirements of the licensed providers are reduced.

How were small businesses involved in the development of this rule?

Most adult foster homes are small businesses and 12 licensed providers representing licensed providers in urban, suburban, and rural areas of the State participate on the AFH Rule Advisory Workgroup. All members of the Workgroup were provided copies of the proposed rules and invited to participate on the Rule Advisory Committee. In addition, on behalf of adult foster home providers, SEIU, and adult foster home provider associations were sent copies of the proposed rules and invited to participate on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?:

Yes, and changes were incorporated as a result of the Committee's input.

Signed Michael R. McCormick, Director, Aging and People with Disabilities 4/24/15

Signature Date

DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 50

ADULT FOSTER HOMES

Licensure of Adult Foster Homes for Adults who are Older or Adults with Physical Disabilities

411-050-0437 *(Repealed 1/1/2007)*

411-050-0441 *(Repealed 1/1/2007)*

411-050-0442 *(Repealed 1/1/2007)*

411-050-0490 *(Repealed 9/1/2013)*

411-050-0499 *(Repealed 1/1/2011)*

411-050-0600 Purpose

The purpose of the rules in OAR chapter 411, division 050 is to establish the minimum standards and procedures for adult foster homes that provide *care* and *services* for adults who are *older* or adults with physical disabilities in a *home-like* environment that is safe and secure. Adult foster homes provide necessary *care* and *services* through a cooperative relationship between the *resident* (or court-appointed guardian) and the resident's care providers that emphasizes the resident's independence. *Adult foster home care* and *services* are provided in a setting that protects and encourages *resident* dignity, choice, and decision-making while addressing the needs of the *resident* in a manner that supports and enables the residents to maximize their ability to function at the highest level of independence possible.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825,

443.875, & 443.991

411-050-0602 Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 050:

(1) "AAA" means an Area Agency on Aging, which is an established public agency within a planning and service area designated under Section 305 of the Older Americans Act that has responsibility for local administration of programs within the Department of Human Services. For the purpose of *these rules*, Type B AAAs contract with the Department to perform specific activities in relation to licensing adult foster homes, including processing applications, conducting inspections and investigations, issuing licenses, and making recommendations to the Department regarding *adult foster home* license denial, revocation, suspension, non-renewal, and civil penalties.

(2) "Abuse" means "abuse" as defined in OAR 411-020-0002 (Adult Protective Services).

(3) "Activities of Daily Living (ADL)" mean the personal, functional activities defined in OAR 411-015-0006 (Long-term Care Service Priorities for Individuals Served) required by an individual for continued well-being, which are essential for health and safety.

(4) "Adult Foster Home (AFH)" means any family home or other *facility* in which *residential care* is provided in a *home-like* environment for *compensation* to five or fewer adults who are not related to the *licensee*, *resident manager*, or *floating resident manager*, by blood, marriage, or adoption and who are 65 years of age or older or an adult with a physical *disability*. For the purpose of *these rules*, "adult foster home" does not include any house, institution, hotel, or other similar living situation that supplies room or board only, if no *resident* thereof requires any element of *care*. "Facility" and "Home" are synonymous with "Adult Foster Home".

(5) "Advance Directive" or "Advance Directive for Health Care" means the legal document signed by a *resident* that provides health care instructions in the event the *resident* is no longer able to give directions regarding his or her wishes. The directive gives the *resident* the means to control his or her

own health care in any circumstance. "Advance Directive for Health Care" does not include Physician Orders for Life-Sustaining Treatment (POLST).

(6) "Applicant" means a person who completes an application for an *adult foster home* license or who completes an application to become a *resident manager*, *floating resident manager*, or shift caregiver. "Applicant" is synonymous with "Co-applicant".

(7) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210 (Criminal Records and Abuse Check for Providers).

(8) "Back-Up Provider" means a *licensee*, approved *resident manager*, or approved *floating resident manager* who does not live in the *home*, who has agreed to oversee the operation of an adult foster *home*, of the same license *classification* or *level*, in the event of an emergency.

(9) "Behavioral Interventions" mean those interventions that modify a resident's behavior or a resident's environment.

(10) "Board of Nursing Rules" means the standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR chapter 851, division 047.

(11) "Care" means the provision of assistance with *activities of daily living* to promote a resident's maximum independence and enhance the resident's quality of life. "Care" includes, but is not limited to, assistance with bathing, dressing, grooming, eating, money management, recreation, and medication management excluding assistance with self-medication.

(12) "Caregiver" means any person responsible for providing *care* and *services* to residents, including the *licensee*, *resident manager*, *floating resident manager*, *shift caregivers*, and any temporary, substitute, or supplemental staff, or other person designated to provide *care* and *services* to residents.

(13) "Care Plan" means a licensee's written description of a resident's needs, preferences, and capabilities, including by whom, when, and how often *care* and *services* are to be provided.

(14) "Centers for Medicare and Medicaid Services (CMS)" means the federal agency within the United States Department of Health and Human Services responsible for the administration of Medicaid and the Health Insurance Portability and Accountability Act (HIPAA).

(15) "Classification" means a designation of license assigned to a *licensee* based on the qualifications of the *licensee*, *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable.

(16) "Co-Applicant" is synonymous with "Applicant" as defined in this rule.

(17) "Co-Licensee" is synonymous with "Licensee" as defined in this rule.

(18) "Compensation" means monetary or in-kind payments by or on behalf of a *resident* to a *licensee* in exchange for room, board, *care*, and *services*. "Compensation" does not include the voluntary sharing of expenses between or among roommates.

(19) "Complaint" means an allegation of *abuse*, a violation of *these rules*, or an expression of dissatisfaction relating to a *resident* or the condition of an *adult foster home*.

(20) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the *licensee*.

(21) "Consumer" means an individual eligible for Medicaid services for whom case management services are provided by the Department.

(22) "Criminal Records and Abuse Check Rules" refers to OAR 407-007-0200 to 407-007-0370.

(23) "Day Care" means *care*, assistance, and supervision of an individual who does not stay overnight.

(24) "Delegation" means the process by which a registered nurse teaches and supervises a skilled nursing task.

(25) "Department" means the Department of Human Services.

(26) "Director" means the Director of the Department of Human Services or that person's designee.

(27) "Disability" means a physical, cognitive, or emotional impairment, which for an individual, constitutes or results in a functional limitation in one or more *activities of daily living*.

(28) "Disaster" means a sudden emergency occurrence beyond the control of the *licensee*, whether natural, technological, or man-made that renders the *licensee* unable to operate the *facility* or renders the *facility* uninhabitable on a temporary, extended, or permanent basis.

(29) "Emergency Preparedness Plan" means a written procedure that identifies a facility's response to an emergency or *disaster* for the purpose of minimizing loss of life, mitigating trauma, and to the extent possible, maintaining *services* for residents, and preventing or reducing property loss.

(30) "Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation.

(31) "Exclusion Lists" mean the following federal lists that exclude listed individuals from receiving federal awards, not limited to Medicaid and Medicare programs:

(a) The U.S.Office of Inspector General's Exclusion List at www.exclusions.oig.hhs.gov/; and

(b) The U.S. General Services Administration's System for Award Management Exclusion List at www.sam.gov.

(3~~1~~2) "Exempt Area" means a county where there is a county agency that provides similar programs for licensing and inspection of adult foster homes that the Director finds are equal or superior to the requirements of ORS 443.705 to 443.825 and that the Director has exempted from the license, inspection, and fee provisions of ORS 443.705 to 443.825. "Exempt area"

county licensing rules require review and approval by the Director prior to implementation.

(3~~2~~3) "Facility" is synonymous with "Adult Foster Home" as defined in this rule.

(3~~4~~3) "Family Member" means spouses in a legally recognized marriage or domestic partnership, natural parent, child, sibling, adopted child, adoptive parent, adoptive sibling, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(3~~5~~4) "Final Point of Safety" means a designated assembly area located on a public sidewalk or street not less than 50 feet away from an *adult foster home* where occupants of the *home* evacuate to in the event of an emergency.

(3~~6~~5) "Floating Resident Manager" means an employee of the *licensee*, approved by the *local licensing authority*, who under the direction of the *licensee*, is directly responsible for the *care* of residents in one or more adult foster homes owned by that *licensee*. A "floating resident manager" is not required to live in any one *adult foster home* owned by his or her employer, except on a temporary basis, as directed by the *licensee*, when the regularly scheduled *caregiver* is unavailable.

(3~~7~~6) "Home" means the physical structure in which residents live. "Home" is synonymous with "Adult Foster Home" as defined in this rule.

(3~~8~~7) "Home-like" means an environment that promotes the dignity, security, and comfort of residents through the provision of personalized *care* and *services*, and encourages independence, choice, and decision-making by the residents.

(3~~8~~9) "House Policies" means the written and posted statements addressing house activities in an *adult foster home*.

(40~~39~~) "Indirect Ownership Interest" means an *ownership interest* in an *entity* that has an *ownership interest* in the disclosing *entity*. "Indirect

ownership interest" includes an *ownership interest* in any *entity* that has an "indirect ownership interest" in the disclosing *entity*.

(4~~0~~1) "Initial Point of Safety" means a designated area that has unobstructed direct access to a public sidewalk or street located not less than 25 feet away from an *adult foster home* where occupants of the *home* evacuate to in the event of an emergency and for the purpose of conducting evacuation drills.

(4~~1~~2) "Investigative Authority" means the Office of Adult Abuse Prevention and Investigation, local Department offices, and Area Agencies on Aging that contract with the Department to provide adult protective services to adults who are *older* or adults with physical, mental, or developmental disabilities.

(43~~2~~) "Legal Representative" means a person who has the legal authority to act for a *resident*.

(a) For health care decisions, the "legal representative" is a court-appointed guardian, a health care representative under an *Advance Directive for Health Care*, or a power of attorney for health care.

(b) For financial decisions, the "legal representative" is a legal conservator, an agent under a power of attorney, or a representative payee.

(43) "Level" means the designation of *ventilator-assisted care* assigned to an *adult foster home* license based on the qualifications of the *licensee*, *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable.

(54) "Licensed Health Care Professional" means a person who possesses a professional medical license that is valid in Oregon. Examples include, but are not limited to, a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), respiratory therapist (RT), physical therapist (PT), physician assistant (PA), or occupational therapist (OT).

(65) "Licensee" means the person who was issued a license, whose name is on the license, and who is responsible for the operation of an *adult foster*

home. The "licensee" of the *adult foster home* does not include the owner or lessor of the building in which the *adult foster home* is situated unless the owner or lessor of the building is also the *operator*.

(4~~6~~7) "Limited Adult Foster Home" means a *home* that provides *care* and *services* for *compensation* to a specific individual who is unrelated to the *licensee* but with whom the *licensee* has an established relationship of no less than one year.

(4~~7~~8) "Liquid Resource" means cash or those assets that may readily be converted to cash, such as a life insurance policy that has a cash value, stock certificates, or a guaranteed line of credit from a financial institution.

(4~~8~~9) "Local Licensing Authority" means the local Department offices and Area Agencies on Aging that contract with the Department to perform specific functions of the *adult foster home* licensing process.

(50~~49~~) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of "nursing care" that are taught or delegated under specified conditions by a registered nurse to a person other than licensed nursing personnel, as governed by ORS chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(51~~0~~) "Occupant" means any person residing in or using the facilities of an *adult foster home*, including residents, licensees, *resident manager*, friends or family members, *day care* individuals, and *room and board* tenants. A *floating resident manager* who resides in an *adult foster home* on a temporary basis is considered an "occupant".

(52~~1~~) "Older" means any person at least 65 years of age.

(53~~2~~) "Ombudsman" means the Oregon Long-Term Care Ombudsman or a designee appointed by the Long-Term Care Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of *adult foster home* residents.

(5~~3~~4) "Operator" is synonymous with "Licensee" as defined in this rule.

(5~~4~~5) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an *adult foster home*. Persons with an ownership or control interest mean a person or corporation that:

(a) Has an "ownership interest" totaling ~~5~~five percent or more in a disclosing *entity*;

(b) Has an *indirect ownership interest* equal to ~~5~~five percent or more in a disclosing *entity*;

(c) Has a combination of direct and indirect ownership interests equal to ~~5~~five percent or more in a disclosing *entity*;

(d) Owns an interest of ~~5~~five percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing *entity* if that interest equals at least ~~5~~five percent of the value of the property or assets of the disclosing *entity*;

(e) Is an officer or director of a disclosing *entity* that is organized as a corporation; or

(f) Is a partner in a disclosing *entity* that is organized as a partnership.

(5~~5~~6) "Physical Restraint" means any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, a resident's body that the *resident* may not easily remove and that restricts freedom of movement or normal access to his or her body. Physical restraints include, but are not limited to, wrist or leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, and any chair that prevents rising (such as a Geri-chair). Side rails (bed rails) are considered restraints when they are used to prevent a *resident* from getting out of a bed. The side rail is not considered a restraint when a *resident* requests a side rail for the purpose of assistance with turning.

(5~~6~~7) "Prescribing Practitioner" means a physician, nurse practitioner, physician assistant, chiropractor, dentist, ophthalmologist, or other healthcare practitioner with prescribing authority.

(5~~7~~8) "Primary Caregiver" means a qualified *licensee* or *resident manager*, who lives in the *home*, personally provides *care* and *services*, and ensures

the health and safety of residents a minimum of five consecutive days per week. More than one person who meets this criterion may be considered a "primary caregiver" as specified below:

(a) Co-licensees working three and four consecutive days and nights per week;

(b) Two approved *resident* managers working three and four consecutive days and nights per week; or

(c) A *licensee* and an approved *resident manager* working three and four consecutive days and nights per week.

(5~~8~~9) "P.R.N. (pro re nata)" means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.

(~~59~~60) "Provider" means any person operating an *adult foster home* (i.e., *licensee*, *resident manager*, *floating resident manager*, or shift caregiver). "Provider" does not include substitute caregivers or the owner or lessor of the building in which the *adult foster home* is situated unless the owner or lessor is also the *operator* of the *adult foster home*.

(6~~0~~1) "Provisional License" means a 60-day license issued in an emergency situation when a licensed *provider* is no longer overseeing the operation of an *adult foster home*. A *provisional license* is issued to a qualified person who meets the standards of OAR 411-050-0625 and OAR 411-050-0630, except for completing the training and testing requirements. (See OAR 411-050-0635)

(6~~1~~2) "Psychoactive Medications" mean various medications used to alter mood, anxiety, behavior, or cognitive processes. For the purpose of *these rules*, "psychoactive medications" include, but are not limited to, antipsychotics, sedatives, hypnotics, and antianxiety medications.

(6~~2~~3) "Qualified Entity Initiator (QEI)" has the meaning set forth in OAR 407-007-0210 (Criminal Records and Abuse Checks for Providers).

(6~~3~~4) "Relative" means those persons identified as family members as defined in this rule.

(6~~4~~5) "Reside" means for a person to live in an *adult foster home* for a permanent or extended period of time. For the purpose of a *background check*, a person is considered to "reside" in a *home* if the person's visit is four weeks or greater.

(6~~5~~6) "Resident" means an adult who is *older* or an adult with a physical *disability* who is receiving *room and board* and *care* and *services* for *compensation* in an *adult foster home* on a 24-hour day basis.

(6~~7~~6) "Resident Manager" means an employee of the *licensee*, approved by the *local licensing authority*, who lives in the *adult foster home*, and is directly responsible for the *care* of the residents.

(6~~8~~7) "Resident Rights" or "Rights" means civil, legal, or human rights, including, but not limited to, those rights listed in the Adult Foster Home Residents' Bill of Rights. (See ORS 443.739 and OAR 411-050-0655)

(6~~9~~8) "Residential Care" means the provision of *care* on a 24-hour day basis.

(70~~69~~) "Room and Board" means receiving *compensation* for the provision of meals, a place to sleep, laundry, and housekeeping to adults who are *older* or adults with physical disabilities and who do not need assistance with *activities of daily living*. *Room and board* facilities for two or more persons are required to register with the Department under the rules in OAR chapter 411, division 068, unless registered with the local authority having jurisdiction. Adult foster homes with *room and board* tenants are not subject to OAR chapter 411, division 068.

(7~~0~~1) "Screening" means the evaluation process used to identify an individual’s ability to perform *activities of daily living* and address health and safety concerns.

(72~~1~~) "Self-Administration of Medication" means the act of a *resident* placing a medication in or on his or her own body. The *resident* identifies the medication, the time and manner of administration, and places the medication internally or externally on his or her own body without assistance.

(73~~2~~) "Self-Preservation" in relation to fire and life safety means the ability of a *resident* to respond to an alarm without additional cues and reach a point of safety without assistance.

(74~~3~~) "Services" mean activities that help the residents develop skills to increase or maintain their level of functioning or assist the residents to perform personal care, *activities of daily living*, or individual social activities.

(75~~4~~) "Shift Caregivers" mean caregivers who, by written *variance* of the *local licensing authority*, are responsible for providing *care* for regularly scheduled periods of time, such as 8 or 12 hours per day, in homes where there is no *licensee* or *resident manager* living in the *home*.

(76~~5~~) "Subject Individual" means "subject individual" as defined in OAR 407-007-0210, including:

(a) Any person 16 years of age or older, ~~including~~and:

(A) All licensed *adult foster home* providers and *provider* applicants;

(B) All persons intending to work in, or currently working in an *adult foster home*, including, but not limited to, ~~direct~~ caregivers and individuals in training;

(C) Volunteers on the home's premises who provide *services* for, or who have unsupervised access to any *resident*, or any resident's funds, belongings, or confidential information~~if allowed unsupervised access to residents~~; and

(D) Occupants, excluding residents, residing in or on the premises of ~~the~~a proposed or currently licensed *adult foster home*, including:

(i) Household members;

(ii) *Room and board* tenants; and

(iii) Persons staying in the *home* ~~visiting~~ for a period of four weeks or more.~~four- weeks period or greater.~~

(b) "Subject Individual" does not apply to:

(A) Persons under 16 years of age;

(B) Residents of the *adult foster home* or their ~~residents'~~ visitors;

(C~~B~~) Persons~~A person~~ who live~~s~~ or work~~s~~ in or on the *adult foster home* premises who do~~es~~ not:

(i) Have regular access to the *home* for meals; or

(ii) Have regular use of the adult foster home's appliances or facilities; or

(iii) Have unsupervised access to the residents or the residents' personal property.

(D~~C~~) A person providing *services* to the residents ~~that~~ who is employed by a private business not regulated by the Department.

(77~~6~~) "Substantial Compliance" means a level of compliance with *these rules* where any deficiencies pose no greater risk to *resident* health or safety than the potential for causing minor harm.

(78~~7~~) "Substitute Caregiver" means any person other than the *licensee*, *resident manager*, *floating resident manager*, or shift caregiver who provides *care* and *services* in an *adult foster home* under the jurisdiction of the Department.

(79~~8~~) "Tenant" means any individual who is residing in an *adult foster home* who receives *services*, such as meal preparation, laundry, and housekeeping.

(80~~79~~) "These Rules" mean the rules in OAR chapter 411, division 050.

(8~~0~~1) "Variance" means an exception from a regulation or provision of *these rules* in accordance with OAR 411-050-0642.

(821) "Ventilator-Assisted Care" means the provision of mechanical assistance to replace spontaneous breathing. Devices used include, but are not limited to, mechanical ventilators, manual ventilators, and positive airway pressure ventilators.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 106.010, 443.001-004, 443.705-825, 443.875, 443.991

411-050-0605 License Required

(1) Any *facility* that meets the definition of an *adult foster home* or *limited adult foster home* in OAR 411-050-0602 must first apply for and obtain a license from the *local licensing authority* or an *exempt area* county before providing *care* to any *resident* for *compensation*.

(2) A person or *entity* may not represent themselves as operating an *adult foster home* or accept placement of a *resident* without being licensed as an *adult foster home*.

(3) LIMITED ADULT FOSTER HOME. Any *home* that meets the definition of a *limited adult foster home* in OAR 411-050-0602 must first apply for and obtain a limited license from the *local licensing authority* before providing *care*. The license for a *limited adult foster home* is limited to the *care* of a specific *resident* and the *licensee* must make no other admissions. The *resident* receiving *care* is named on the license.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0610 Initial License Application and Fees

(1) The *applicant* must complete the Department's application form for the specific type of license requested and submit the application form to the *local licensing authority* with the non-refundable fee.

(a) The application is not complete until all of the required information is submitted to the *local licensing authority*. Incomplete applications are void after 60 calendar days from the date the *local licensing authority* receives the application form and non-refundable fee, and the Department ~~shall~~ may deny the application if not withdrawn.

(b) Failure to provide accurate information may result in the denial of the application.

(2) A separate application is required for each location where an *adult foster home* is to be operated.

(3) The license application must include:

(a) Complete contact information for the *applicant* including:

(A) A mailing address if different from the proposed *adult foster home*; and

(B) A business address for electronic mail.

(b) Verification of attendance at a Department-approved orientation program conducted by the *local licensing authority* responsible for the licensing of the proposed *adult foster home* and successful completion of the Department's Ensuring Quality Care Course and examination. (See OAR 411-050-0625);

(c) The maximum *resident* capacity requested;

(d) Identification of:

(A) Any relatives needing *care*;

(B) The maximum number of any *room and board* tenants;

(C) The maximum number of *day care* individuals; and

(D) The names of any other occupants in the *home*.

(e) The *classification* being requested with information and supporting documentation regarding qualifications, relevant work experience, and training of staff as required by the Department. To request a Class 3 license, the license application must include:

(A) Proof of at least three years of full--time experience providing direct *care* to adults who are *older* or adults with physical disabilities and who required full assistance in four or more of *activities of daily living*; and

(B) Current contact information from at least two licensed health care professionals who have direct knowledge of the applicant's abilities and past experience as a *caregiver*; or

(C) A copy of the applicant's current license as a health care professional in Oregon, if applicable.

(f) A Health History and Physician or Nurse Practitioner's Statement (form SDS 903) regarding the applicant's ability to provide *care*;

(g) FINANCIAL INFORMATION. A completed Financial Information Sheet (form SDS 448A).

(A) An *applicant* must have the financial ability and maintain sufficient liquid resources to pay the operating costs of an *adult foster home* for at least two months without solely relying on potential *resident* income.

(B) Documentation of two months of liquid resources must include:

(i) The Department's current Verification of Financial Resources form (SDS 0448F) completed and stamped or notarized by the applicant's financial institution; or

(ii) Documentation on letterhead of the applicant's financial institution, which includes:

(I) The last four digits of the applicant's account number;

(II) The name of the account holder and, if the account is not in the applicant's name, verification the *applicant* has access to the account's funds;

(III) The highest and lowest balances for each of the most recent three full months; and

(IV) The number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; or

(iii) Demonstration of cash on hand equal to a minimum of two months of operating expenses.

(C) If an *applicant* uses income from another *adult foster home* to document possession of at least two months of operating expenses, the *applicant* must demonstrate the financial ability and maintain sufficient liquid resources to pay the operating costs of each *home* for at least two months without solely relying on potential *resident* income.

(h) If the *home* is leased or rented, a copy of the completed lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) The signatures of the landlord and *applicant* and the date signed;

(i) If the *applicant* is purchasing or owns the *home*, verification of purchase or ownership;

(j) Documentation of the initiation of a *background check* or a copy of an approved *background check* for each *subject individual* as defined in OAR 411-050-0602;

(k) A current and accurate floor plan that indicates:

(A) The size of rooms;

(B) Which bedrooms are to be used by residents, the *licensee*, caregivers, for *day care*, and *room and board* tenants, as applicable;

(C) The location of all the exits on each level of the *home*, including emergency exits such as windows;

(D) The location of any wheelchair ramps;

(E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(F) The planned evacuation routes, *initial point of safety*, and *final point of safety*; and

(G) Any designated smoking areas in or on the *adult foster home* premises.

(l) If requesting a license to operate more than one *home*, a plan covering administrative responsibilities and staffing qualifications for each *home*;

(m) A $20 per bed non-refundable fee for each non-relative *resident*;

(n) Three personal references for the *applicant* who are not family members as defined in OAR 411-050-0602. Current or potential licensees and co-workers of current or potential licensees are not eligible as personal references;

(o) If the *applicant* intends to use a *resident manager*, *floating resident manager*, or *shift caregivers*, the Department's supplemental application (form SDS 448B) completed by the *applicant*, as appropriate; and

(p) Written information describing the operational plan for the *adult foster home* including:

(A) The use of substitute caregivers and other staff;

(B) A plan of coverage for the absence of the *primary caregiver*; and

(C) The name of a qualified *back-up provider*, approved *resident manager*, or approved *floating resident manager* who does not live in the *home* but has been oriented to the *home*. The *applicant* must also submit a signed agreement with the listed *back-up provider* and maintain a copy in the *facility* records.

(4) After receipt of the completed application materials including the non-refundable fee, the *local licensing authority* must investigate the information submitted including pertinent information received from outside sources, inspect the *home*, and conduct a personal interview with the *applicant*.

(5) The Department shall deny the issuance of a license if cited violations from the *home* inspection are not corrected within the time frames specified by the *local licensing authority*.

(6) The *applicant* may withdraw his or her application at any time during the application process by written notification to the *local licensing authority*.

(7) An *applicant* whose license has been revoked, non-renewed, voluntarily surrendered during a revocation or non-renewal process, or whose application for licensure has been denied, shall not be granted a new license by the *local licensing authority* for a period of not less than one year from the date the action was final, or for a longer period if specified in the final order.

(8) All moneys collected under ORS 443.725 to 443.825 are paid to the Quality Care Fund.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

411-050-0615 Provider Enrollment Agreements, Contracts, and Refunds

(1) MEDICAID PROVIDER ENROLLMENT AGREEMENT.

(a) An *applicant* or *licensee* who intends to care for residents who are or become eligible for Medicaid services must enter into a Medicaid Provider Enrollment Agreement with the Department, follow Department rules, and abide by the terms of the Agreement. The *local licensing authority* shall determine that the *applicant*, *licensee*, and any owner or officer of the corporation, as applicable, is not listed on either of the *Exclusion Lists* prior to approval of a Medicaid Provider Enrollment Agreement.~~the U.S. Office of Inspector General's or the U.S. General Services Administration's System for Award Management Exclusion Lists prior to approval of a Medicaid Provider Enrollment Agreement.~~

(b) An approved Medicaid Provider Enrollment Agreement does not guarantee the placement of individuals eligible for Medicaid services in the *adult foster home*.

(c) An approved Medicaid Provider Enrollment Agreement is valid for the length of the license unless earlier terminated by the *licensee* or the Department. A Medicaid Provider Enrollment Agreement must be completed, submitted, approved, and renewed with each licensing cycle.

(d) The rate of *compensation* established by the Department is considered payment in full. The *licensee* may not request or accept additional funds or in-kind payment from any source.

(e) An individual eligible for Medicaid services may not be admitted into an *adult foster home* unless and until:

(A) The Department has approved a Medicaid Provider Enrollment Agreement. The Department shall not issue a Medicaid payment to a *licensee* without a current license and an approved Medicaid Provider Enrollment Agreement in place;

(B) The individual eligible for Medicaid services has been screened according to OAR 411-050-0655; and

(C) The Department has authorized the placement. The authorization must be clearly documented in the resident's record with other required admission materials. (See OAR 411-050-0655)

(f) The Department shall not make payment for the date ~~of~~ a *resident*~~'s~~ moves ~~or~~ from the *home*, or for any time period thereafter.

(g) The *licensee* must enter into a written agreement with a *resident* who receives Medicaid services if the *licensee* charges for storage of belongings that remain in the *adult foster home* for more than 15 calendar days after the *resident* has left the *home*.

(A) The written agreement must be consistent with the licensee's policy with private-pay residents and entered into at the time of the resident's admission or at the time the *resident* becomes eligible for Medicaid services.

(B) The *licensee* must give written notice to the *resident* and the resident's family or other representatives 30 calendar days prior to any increases, additions, or other modifications to the charges for storage.

(h) A *licensee* who elects to provide *care* for individuals eligible for Medicaid services is not required to admit more than one *resident* eligible for Medicaid services. However, if the *licensee* has an approved Medicaid Provider Enrollment Agreement, private-pay residents who become eligible for Medicaid services may not be asked to leave solely on the basis of Medicaid eligibility.

(i) The *licensee* or the Department may terminate a Medicaid Provider Enrollment Agreement according to the terms of the Agreement.

(j) The Department may terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The *licensee* fails to maintain *substantial compliance* with all related federal, state, and local laws, ordinances, and regulations; or

(B) The license to operate the *adult foster home* has been voluntarily surrendered, revoked, or non-renewed.

(k) The Department must terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The *licensee* fails to permit access by the Department, the *local licensing authority*, or the Centers for Medicare and Medicaid Services to any *adult foster home* licensed to and operated by the *licensee*;

(B) The *licensee* submits false or inaccurate information;

(C) Any person with five percent or greater direct or *indirect ownership interest* in the *adult foster home* did not submit timely and accurate information on the Medicaid Provider Enrollment Agreement form or fails to submit fingerprints if required under the *criminal records and abuse check rules* in OAR 407-007-0200 to 407-007-0370;

(D) Any person with five percent or greater direct or *indirect ownership interest* in the *adult foster home* has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI programs in the last 10 years; or

(E) Any person with an ownership or control interest, or who is an agent or managing employee of the *adult foster home*, fails to submit timely and accurate information on the Medicaid Provider Enrollment Agreement form.

(l) If the *licensee* submits notice of termination of the Medicaid Provider Enrollment Agreement, the *licensee* must:

(A) Simultaneously issue the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901) to

each *resident* eligible for Medicaid services in the licensee's *adult foster home*;

(B) Simultaneously issue written notification to all residents who pay with private funds; and

(C) Immediately update the *house policies*.

(m) If either the *licensee* or the Department terminates a Medicaid Provider Enrollment Agreement, a new Medicaid Provider Enrollment Agreement shall not be approved by the *local licensing authority* for a period of not less than 180 days from the date the *licensee* or the Department terminated the Agreement.

(n) DEATH OF RESIDENT ELIGIBLE FOR MEDICAID SERVICES WITH NO SURVIVING SPOUSE. The *licensee* must forward all personal incidental funds (PIF) to the Estate Administration Unit, P. O. Box 14021, Salem, Oregon 97309-5024, within 10 business days of the death of a *resident* eligible for Medicaid services with no surviving spouse. (See Limits on Estate Claims, OAR 461-135-0835)

(2) PRIVATE CONTRACT. A *licensee* who cares for residents who pay with private funds or individuals receiving only *day care services* must enter into a written contract with the *resident* or person paying for the resident's *care*. The written contract is the admission agreement. The written contract must be signed by all parties prior to the admission of the *resident*. A copy of the contract is subject to review by the *local licensing authority* prior to licensure and prior to the implementation of any changes to the contract.

(a) The contract must include but not be limited to:

(A) *Services* to be provided and the rate to be charged. A payment range may not be used unless the contract plainly states when an increase in rate may be expected based on a resident's increased *care* or service needs;

(B) Conditions under which the rates may be changed;

(C) The home's refund policy in instances of a resident's hospitalization, death, transfer to a nursing facility or other care

facility, and voluntary or involuntary move. The refund policy must be in compliance with section (3) of this rule;

(D) A statement indicating that the *resident* is not liable for damages considered normal wear and tear on the *adult foster home* and the adult foster home's contents;

(E) The home's policies on voluntary moves and whether or not the *licensee* requires written notification of a resident's intent to not return; and

(F) Any charges for storage of belongings that remain in the *adult foster home* for more than 15 calendar days after the *resident* has left the *home*.

(b) The *licensee* may not charge or ask for application fees or non-refundable deposits. Fees to hold a bed are permissible.

(c) The *licensee* must give a copy of the signed contract to the *resident* or the resident's representative and must retain the original signed contract and any amendments on the premises available for review.

(d) The *licensee* may not include any illegal or unenforceable provision in a contract with a *resident* and may not ask or require a *resident* to waive any of the resident's *rights* or licensee's liability for negligence.

(e) The *licensee* must give written notice to a private-pay *resident* and the resident's family or other representatives 30 calendar days prior to any general rate increases, additions, or other modifications of the rates. The *licensee* is not required to give 30 day written notice if the rate change is due to the resident's increased *care* or service needs and the agreed upon rate schedule in the resident's contract has specified charges for those changes.

(3) REFUNDS.

(a) If a *resident* dies, the *licensee* may not retain or require payment for more than 15 calendar days after the date of the resident's death, or the time specified in the licensee's contract, whichever is less.

(b) If a *resident* leaves an *adult foster home* for medical reasons and the *resident* or the resident's representative indicates the resident's intent to not return, the *licensee* may not retain or require payment for more than 15 calendar days after the date the *licensee* receives notification from the *resident* or the resident's representative or the time specified in the licensee's contract, whichever is less.

(c) If a *resident* who has paid with private funds becomes eligible for Medicaid services, the *licensee* must accept payment from the Department from the date of eligibility forward as payment in full. The *licensee* must reimburse the *resident* or the resident's representative within 30 calendar days after the *licensee* receives payment from the Department for any private payment received after the *resident* became eligible for Medicaid services.

(d) The *licensee* must act in good faith to reduce the charge to a *resident* who has left the *home*, by seeking a new *resident* to fill the vacancy.

(e) The *licensee* must refund any unused advance payment to the *resident*, or the resident's representative as appropriate, within 30 calendar days after the *resident* dies or leaves the *home*.

(f) If the *adult foster home* closes or the *licensee* gives written notice for the *resident* to leave, the *licensee* waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.

(g) If a *resident* dies or leaves an *adult foster home* due to neglect or *abuse* at the *adult foster home* that is substantiated by a Department investigator, or due to conditions of imminent danger of life, health, or safety, the *licensee* may not charge the *resident* beyond the resident's last day in the *home*.

(h) The refund policies in *these rules* also apply to refunds for *resident* moves and transfers as described in OAR 411-050-0645.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.880, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0620 Background Check

(1) All subject individuals must have an approved *background check* prior to operating, working, training in, or living in a *home*. Licensees must maintain approval in accordance with *these rules* and the *criminal records and abuse check rules*, OAR 407-007-0200 to 407-007-0370.

(2) The *background check* may not to be used as a screening tool for hiring. New employees may be offered a position contingent upon passing the *background check*.~~:~~

(3) A new *background check* must be completed:

(a) Every two years.

(b) Prior to any subject individual's change in employment position.

(c) If the Department has reason to believe a new *background check* is needed.

~~(a) Annually;~~

~~(b) Prior to a subject individual's change in position (i.e., changing from substitute caregiver to resident manager); and~~

~~(c) Prior to working in another home, regardless of whether the employer was the same or not, unless section (2) of this rule applies.~~

(~~2~~4) PORTABILITY OF BACKGROUND CHECK APPROVAL.

A *subject individual*~~, excluding licensees,~~ may be approved to work in multiple homes in Oregon ~~within the jurisdiction of the local licensing authority~~ only when the *subject individual* is working in the same employment ~~role~~position.

(~~3~~5) On or after July 28, 2009, no *licensee*, *licensee applicant*, or employee of the *licensee* who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275 shall be approved by the Department to provide *care* and *services* in an *adult foster home*. This rule does not apply to:

(a) An employee of the *licensee* who was hired prior to July 28, 2009, who continues employment in the same position with the same *licensee*; or

(b) Any *subject individual* who is an *occupant* of the *home* but is neither a *licensee* nor a *caregiver*.

(6~~4~~) The *licensee* must have written verification from the *local licensing authority* that the required background checks have been completed and approved for all subject individuals. The written ~~(See OAR 411-050-0645)~~verification may include electronic correspondence, and shall be readily available upon request.

(7~~5~~) All subject individuals must self-report to the *licensee* any disqualifying condition as described in OAR 407-007-0275 and any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The *licensee* must notify the Department or *local licensing authority* within 24 hours if any *subject individual* has a disqualifying or potentially disqualifying condition. ~~of self-reported information within 24 hours.~~

(8~~6~~) The Department must provide for the expedited completion of a *background check* for the state of Oregon when requested by a licensed *provider* because of a demonstrated immediate staffing need.

Stat. Auth.: ORS 181.537, 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 181.537, 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0625 Qualification and Training Requirements

(1) APPLICANT AND LICENSEE QUALIFICATIONS. An *adult foster home applicant* and *licensee* must meet and maintain the requirements specified in this section. An *adult foster home applicant* and *licensee* must:

(a) Live in the *home* that is to be licensed at least five days and nights per week and function as the *primary caregiver* as defined in OAR 411-050-0602 unless:

(A) There is, or shall be upon licensure, an approved *resident manager* who lives in the *home* and works five consecutive days and nights per week as the *primary caregiver*; or

(B) There is, or shall be upon licensure, two approved primary caregivers who live in the *home* and work three and four consecutive days and nights per week respectively; or

(C) A *variance* for *shift caregivers* has been granted according to section (6) of this rule.

(b) Subsections (a)(A), (B), and (C) of this section are not intended to prohibit the occasional and temporary absence of the *primary caregiver* from the *adult foster home*;

(c) Be at least 21 years of age;

(d) Possess physical health, mental health, good judgment, and good personal character, including truthfulness, determined necessary by the Department to provide 24-hour *care* for adults who are *older* or adults with physical disabilities. An *applicant* and *licensee* must have a statement from a physician, nurse practitioner, or physician assistant indicating that the *applicant* or *licensee* is physically, cognitively, and emotionally capable of providing *care* to residents. An *applicant* or *licensee* with documented history or substantiated complaints of substance abuse or mental illness must provide evidence satisfactory to the Department of successful treatment, rehabilitation, or references regarding current condition;

(e) Have an approved *background check* ~~annually~~ in accordance with OAR 411-050-0620 and maintain that approval as required;

(f) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the residents and the residents' family members or representatives, emergency personnel (e.g., emergency operator, law enforcement, paramedics, and fire fighters), licensed health care professionals, case managers, Department and *local licensing authority* staff, and others involved in the *care* of the residents;

(g) Be able to respond appropriately to emergency situations at all times; and

(h) Have a clear understanding of his or her responsibilities, knowledge of the residents' care plans, and the ability to provide the *care* specified for each *resident*; and not be listed on either of the ~~Office of Inspector General's or General Services Administration's~~ *Exclusion Lists*.

(2) APPLICANT AND LICENSEE TRAINING REQUIREMENTS.

(a) Applicants and licensees must have the education, experience, and training to meet the requirements of the requested *classification* of the *home*. (~~S~~see OAR 411-050-0630)~~.~~

(b) A potential *applicant* or *applicant* must complete the following training requirements prior to obtaining a license:

(A) Attend a Department-approved orientation program conducted by the *local licensing authority* responsible for the licensing of the proposed *adult foster home*;

(B) Attend the Department's Ensuring Quality Care Course and pass the examination to meet application requirements for licensure;

(i) Potential applicants and applicants who fail the first examination may take the examination a second time~~,~~; however, successful completion of the examination must take place within 90 calendar days of the end of the Department's Ensuring Quality Care Course.

(ii) Potential applicants and applicants who fail a second examination must retake the Department's Ensuring Quality Care Course prior to repeating the examination.

(C) Comply with the Department's January 1, 2015, student policies for the Department's Ensuring Quality Care Course; and

(D) Have current CPR and First Aid certification.

(i) Accepted CPR and First Aid courses must be provided or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(ii) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(3) FINANCIAL REQUIREMENTS. A *licensee applicant* and *licensee* must have the financial ability and maintain sufficient liquid resources to pay the operating costs of the *adult foster home* for at least two months without solely relying on potential *resident* income.

(a) If an initial license *applicant* is unable to demonstrate the financial ability and resources required by this section, the Department may require the *applicant* to furnish a financial guarantee, such as a line of credit or guaranteed loan, to fulfill the requirements of this rule.

(b) If at any time there is reason to believe an *applicant* or *licensee* may not have sufficient financial resources to operate the *home* in compliance with *these rules*, the *local licensing authority* may request additional documentation, which may include verification of the applicant's or licensee's ability to readily access the requested funds. Circumstances that may prompt the request of additional financial information include, but are not limited to, reports of insufficient food, inadequate heat, or failure to pay employees, utilities, rent, or

mortgage. Additional documentation of financial resources may include, but are not limited to:

(A) The Department's Verification of Financial Resources form (SDS 0448F) completed and stamped or notarized by the applicant's or licensee's financial institution;

(B) Documentation on letterhead of the applicant's or licensee's financial institution that includes:

(i) The last four digits of the applicant's or licensee's account number;

(ii) The name of the account holder, and if the account is not in the applicant's or licensee's name, verification the *applicant* or *licensee* has access to the account's funds;

(iii) The highest and lowest balances for each of the most recent three full months;

(iv) The number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; and

(v) Signature of the banking institution's representative completing the form and date~~; or~~.

(C) Demonstration of cash on hand equal to a minimum of two months of operating expenses.

(c) The *local licensing authority* must request the least information necessary to verify compliance with this section.

(4) RESIDENT MANAGER REQUIREMENTS. A *resident manager* must live in the *home* as specified in section (1)(a) of this rule and function as the *primary caregiver* under the licensee's supervision. A *resident manager* must meet and maintain the qualification and training requirements specified in sections (1)(a) through (2)(b)(D) of this rule. The *local licensing authority* shall verify all the requirements of *these rules* have been satisfied prior to approval of a *resident manager*.

(5) FLOATING RESIDENT MANAGER REQUIREMENTS.

(a) A *floating resident manager* must meet and maintain the qualification and training requirements specified in sections (1)(~~a~~c) through (2)(b)(D) of this rule, except as indicated in (5)(b) of this rule.

(b) If the *licensee* has one or more homes within the jurisdiction of more than one *local licensing authority*, a currently approved *floating resident manager* is not required to complete the Department-approved orientation in more than one licensing authority's jurisdiction. This exception does not prohibit the *local licensing authority* within an *exempt area* from requiring the *floating resident manager applicant* to attend the local licensing authority's orientation.

(c) The *floating resident manager* must be oriented to each *home* prior to providing *resident care* in each *home*. Documentation of orientation to every *home* the *floating resident manager* works in must be available within each *home* as stated in section (7)~~(a)-(j)~~ of this rule.

(d) *Facility* records in each of the homes a *floating resident manager* is assigned to work must maintain proof the *floating resident manager* has a current and approved *background check*.

(e) A *floating resident manager* may not be used in lieu of a shift caregiver, except on temporary basis, when the regular shift caregiver is unavailable due to circumstances, such as illness, vacation, or termination of employment.

(6) SHIFT CAREGIVER REQUIREMENTS.

(a) *Shift caregivers* may be used in lieu of a *resident manager* if granted a written *variance* by the *local licensing authority*. Use of *shift caregivers* detracts from the intent of a *home-like* environment, but may be allowed for specific *resident* populations. The type of residents served must be a specialized population with intense *care* needs, such as those with Alzheimer's disease, AIDS, or head injuries. If *shift caregivers* are used, each shift caregiver must meet or exceed the experience and training qualifications for the license *classification* requested.

(b) *Shift caregivers* must meet and maintain the qualification and training requirements specified in sections (1)(~~b~~c) through (2)(b)(D) of this rule. The *local licensing authority* shall verify all the requirements of *these rules* have been satisfied prior to approval of a shift caregiver.

(7) CAREGIVER ORIENTATION. Prior to providing *care* to any *resident*, a *resident manager*, *floating resident manager*, and shift caregiver must be oriented to the *home* and to the residents by the *licensee*. Orientation must be clearly documented in the *facility* records. Orientation includes, but is not limited to:

(a) Location of any fire extinguishers;

(b) Demonstration of evacuation procedures;

(c) Instruction of the *emergency preparedness plan*;

(d) Location of *resident* records;

(e) Location of telephone numbers for the residents' physicians, the *licensee*, and other emergency contacts;

(f) Location of medications and the key for the medication cabinet;

(g) Introduction to residents;

(h) Instructions for caring for each *resident*;

(i) *Delegation* by a registered nurse for nursing tasks, if applicable; and

(j) Policies and procedures related to Advance Directives. (See OAR 411-050-0645)

(8) EMPLOYMENT APPLICATION. An application for employment in any capacity in an *adult foster home* must include a question asking whether the person applying for employment has been found to have committed

abuse. Employment applications must be retained for at least three years. ~~(See OAR 411-050-0645)~~

(9) EXCLUSION VERIFICATION.

(a) A *licensee* must verify the *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable, are not listed on either of the *Exclusion Lists* prior to employment.

(b) ~~U.S. Office of Inspector General's (http://oig.hhs.gov) or the General Services Administration's () Exclusion Lists prior to the resident manager or shift caregivers working or training in the home.~~ Verification of checking the *Exclusion Lists* must be clearly documented in the *facility* records. ~~(See also 411-050-0625(11)(h))~~

(10) TRAINING WITHIN FIRST YEAR OF INITIAL LICENSING OR APPROVAL. Within the first year of obtaining an initial license or approval, the *licensee*, *resident manager*, *floating resident manager*, and *shift caregivers* must complete the Six Rights of Safe Medication Administration and a Fire and Life Safety training as available. The Department or *local licensing authority* and the Office of the State Fire Marshal or the local fire prevention authority may coordinate the Fire and Life Safety training program.

(11) ANNUAL TRAINING REQUIREMENTS.

(a) Each year after initial licensure, the *licensee*, *resident manager*, *floating resident manager*, and *shift caregivers* must complete at least 12 hours of Department-approved training related to the *care* of adults who are *older* or adults with physical disabilities in an *adult foster home* setting. Up to four of those hours may be related to the business operation of the *adult foster home*.

(b) A *licensee*, *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable, must maintain approved CPR certification.

(c) Registered nurse *delegation* or consultation, CPR certification and First Aid training, Ensuring Quality Care Course (not including approved EQC refresher courses), *adult foster home* orientation, Ventilator Assisted Care Course and skills competency checks, or

consultation with an accountant do not count toward the required 12 hours of annual training.

(12) SUBSTITUTE CAREGIVER REQUIREMENTS. A *substitute caregiver* left in charge of the residents for any period of time, may not be a *resident*, and must at a minimum, meet all of the following qualifications prior to working or training in the *home*:

(a) Be at least 18 years of age;.

(b) Have an approved *background check* ~~annually~~ in accordance with OAR 411-050-0620 and maintain that approval as required.;

(c) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the residents and the residents' family members and representatives, emergency personnel (e.g., emergency operator, law enforcement, paramedics, and fire fighters), licensed health care professionals, case managers, Department and *local licensing authority* staff, and others involved in the *care* of the residents.;

(d) Be able to respond appropriately to emergency situations at all times.;

(e) Have a clear understanding of his or her responsibilities, have knowledge of the residents' care plans, and be able to provide the *care* specified for each *resident*, including appropriate *delegation* or consultation by a registered nurse;

(f) Possess physical health, mental health, good judgment, and good personal character, including truthfulness, determined necessary by the Department to provide *care* for adults who are *older* or adults with physical disabilities, as determined by reference checks and other sources of information.;

(g) Have current CPR and First Aid certification within 30 calendar days of the start of employment.

(A) Accepted CPR and First Aid courses must be provided by or endorsed by the American Heart Association, the American

Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(B) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(h) Not be listed on either of the ~~Office of Inspector General's or General Services Administration's~~ *Exclusion Lists*.

(A) Licensees must verify the *substitute caregiver* is not listed on either of these *Exclusion Lists*~~.~~; and

(B) Clearly document that verification ~~the Office of Inspector General's (oig.hhs.gov) or the General Services Administration's (www.sam.gov) Exclusion Lists prior to the substitute caregiver working or training in the home. Verification must be clearly documented~~ in the facility's records.

(13) TRAINING REQUIREMENTS FOR SUBSTITUTE CAREGIVERS.

(a) A *substitute caregiver* must be oriented to the *home* and to the residents by the *licensee* or *resident manager* prior to the provision of *care* to any residents. Orientation includes, but is not limited to:

(A) Location of any fire extinguishers;

(B) Demonstration of evacuation procedures;

(C) Instruction of the *emergency preparedness plan*;

(D) Location of *resident* records;

(E) Location of telephone numbers for the residents' physicians, the *licensee*, and other emergency contacts;

(F) Location of medications and the key for the medication cabinet;

(G) Introduction to residents;

(H) Instructions for caring for each *resident*;

(I) *Delegation* by a registered nurse for nursing tasks if applicable; and

(J) Education on the policies and procedures related to Advance Directives. (See OAR 411-050-0645)

(b) A *substitute caregiver* must complete the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W) and receive instruction in specific *care* responsibilities from the *licensee*, *resident manager*, or *floating resident manager* prior to working or training in the *home*. The Workbook must be completed by the *substitute caregiver* without the help of any others. The Workbook is considered part of the required orientation to the *home* and residents.

(A) The *local licensing authority* may grant a *variance* to the Caregiver Preparatory Training Study Guide and Workbook requirement for a *substitute caregiver* who:

(i) Holds a current Oregon license as a health care professional, such as a physician, nurse practitioner, physician assistant, registered nurse, or licensed practical nurse; and

(ii) Who demonstrates the ability to provide adequate *care* to residents based on similar training or at least one year of experience providing direct *care* to adults who are *older* or adults with physical disabilities.

(B) A certified nursing assistant (CNA) or certified medical assistant (CMA) must complete the Caregiver Preparatory Training Study Guide and Workbook and have a certificate of completion signed by the *licensee*.

(c) A *substitute caregiver* routinely left in charge of an *adult foster home* for any period that exceeds 48 continuous hours is required to meet the education, experience, and training requirements of a *resident manager* as specified in this rule. A *licensee* may not leave a *substitute caregiver* or concurrent substitute caregivers routinely in charge of the *home* for any period that exceeds 48 continuous hours within one calendar week. This requirement is not intended to prevent a qualified *substitute caregiver* from providing relief *care* in the absence of the *primary caregiver*, such as for a one or two week vacation. In such an event, the *licensee* must arrange for the qualified *back-up provider* to be available as needed.

(14) If a *licensee* has demonstrated non-compliance with one or more of *these rules*, the Department may require, by *condition*, additional training in the deficient area.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

411-050-0630 Classification of Adult Foster Homes

(1) The *local licensing authority* shall issue a Class 1, Class 2, or Class 3 *adult foster home* license only if the qualifications of the *applicant*, *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable, fulfill the *classification* requirements of *these rules*.

(a) After receipt of the completed application materials, including the non-refundable fee, the *local licensing authority* must investigate the information submitted including any pertinent information received from outside sources.

(b) The *local licensing authority* shall not issue a license if unsatisfactory references or a history of substantial non-compliance of the *applicant* within the last 24 months is verified.

(c) The *local licensing authority* may issue a Class 1 license if the *applicant* and *resident manager*, as applicable, complete the training requirements outlined in OAR 411-050-0625;

(d) The *local licensing authority* may issue a Class 2 license if the *applicant*, *resident manager*, and *floating resident manager*, as applicable, complete the requirements outlined in OAR 411-050-0625. In addition, these caregivers must each have the equivalent of two years of full time experience providing direct *care* to adults who are *older* or adults with physical disabilities;

(e) The *local licensing authority* may issue a Class 3 license if the *applicant*, *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable, complete the training requirements outlined in OAR 411-050-0625 and have a current license as a health care professional in Oregon or possess the following qualifications:

(A) Have the equivalent of three years of full time experience providing direct *care* to adults who are *older* or adults with physical disabilities and who require full assistance in four or more *activities of daily living*; and

(B) Have references satisfactory to the Department. The *applicant* must submit current contact information from at least two licensed health care professionals who have direct knowledge of the applicant's ability and past experience as a *caregiver*.

(2) The Department may approve a *licensee* to *care* for residents requiring *ventilator-assisted care*. The *licensee*, *resident manager*, *floating resident manager*, or *shift caregivers*, as applicable, must meet the criteria for a Class 3 *home* according to section (1)(e) of this rule and comply with the additional requirements for adult foster homes serving residents requiring *ventilator assisted care* outlined in OAR 411-050-0660.

(3) To change the *classification* of a licensed *home*, the *licensee* must complete a new initial application and submit the application form to the *local licensing authority* as outlined in OAR 411-050-0610.

(4) A *licensee* may only admit or continue to *care* for residents whose impairment levels are within the *classification* of the licensed *home*.

(a) A *licensee* with a Class 1 license may only admit residents who require assistance in no more than four *activities of daily living*.

(b) A *licensee* with a Class 2 license may provide *care* for residents who require assistance in all *activities of daily living*, but require full assistance in no more than three *activities of daily living*.

(c) A *licensee* with a Class 3 license may provide *care* for residents who require full assistance in four or more *activities of daily living*, but only one *resident* who requires bed-care or full assistance with all *activities of daily living*.

(5) A *licensee* must request, in writing, a *variance* from the *local licensing authority* if:

(a) A new *resident* wishes to be admitted whose impairment level exceeds the license *classification*;

(b) A current *resident* becomes more impaired, exceeding the license *classification*; or

(c) There is more than one *resident* in the *home* who requires full bed-care or full assistance with all *activities of daily living* not including cognition or behavior.

(6) The *local licensing authority* may grant a *variance* that allows the *resident* to be admitted or remain in the *adult foster home*. The *local licensing authority* must respond in writing within 30 calendar days after receipt of the licensee's written *variance* request. The *licensee* must prove the following criteria are met by clear and convincing evidence that:

(a) It is the choice of the *resident* to *reside* in the *home*;

(b) The *licensee* is able to provide appropriate *care* and *service* to the *resident* in addition to meeting the *care* and service needs of the other residents;

(c) Additional staff is hired to meet the additional *care* requirements of all residents in the *home* as necessary;

(d) Outside resources are available and obtained to meet the resident's *care* needs;

(e) The *variance* shall not jeopardize the *care*, health, safety, or welfare of the residents; and

(f) The *licensee* is able to demonstrate how all occupants shall be safely evacuated in three minutes or less.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705-443.825, 443.875, 443.991

411-050-0632 Capacity

(1) Residents must be limited to five adults who require *care* and are unrelated to the *licensee* and *resident manager* by blood, marriage, or adoption.

(2) The number of residents permitted to *reside* in an *adult foster home* is determined by the ability of the staff to meet the *care* needs of the residents, the fire and life safety standards for evacuation, and compliance with the *facility* standards of *these rules*.

(3) The *licensee* must demonstrate, to the local licensing authority’s satisfaction, the ability to meet the needs of the residents in addition to caring for any children or relatives beyond the license capacity of the *adult foster home*.

(4) The local licensing authority's determination of maximum capacity must ensure:

(a) The ratio of at least one *caregiver* per five residents, including any *day care* individuals and others requiring *care* or supervision except as allowed under section (5) of this rule;

(b) Children over the age of five have a bedroom available that is separate from their parents;

(c) The well-being of the household, including any children or other family members, shall not be jeopardized; and

(d) The *care* needs of *day care* individuals shall be met.

(5) When a *family member* requires *care* in a *home* in which the *licensee* is the primary, live-in *caregiver*, a maximum capacity of five unrelated residents are allowed if the following criteria are met:

(a) The *licensee* must be able to demonstrate the ability to evacuate all occupants from the *adult foster home* within three minutes or less (See OAR 411-050-0650);

(b) The *licensee* must have sufficient, qualified staff and demonstrate the ability to provide appropriate *care* for all residents (See OAR 411-050-0645);

(c) There must be an additional 40 square feet of common living space for each person above the five residents (See OAR 411-050-0650);

(d) Bathrooms and bedrooms must meet the requirements of OAR 411-050-0650;

(e) The *care* needs of *day care* individuals must be within the *classification* of the license and any conditions imposed on the license; and

(f) The well-being of the household, including any children or other family members, shall not be jeopardized.

(6) If *day care* individuals are in the *home*, the *licensee* must have arrangements for the *day care* individuals to sleep in areas other than a resident's bed, a resident's private room, or space designated as common use, in accordance with OAR 411-050-0650.

(7) If *room and board* tenants are in the *home*, each *tenant* must have:

(a) An approved ~~annual~~ *background check* in accordance with OAR 407-070-0200 to 407-007-0370 (*Criminal Records and Abuse Check Rules*);

(b) A tenancy agreement as defined in OAR 411-068-0040 (Room and Board Facilities); and

(c) A copy of the current *house policies* signed and dated by the *tenant*.

(8) To change the capacity of a licensed *home*, the *licensee* must complete a new initial application and submit the application to the *local licensing authority* according to OAR 411-050-0610.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0635 Issuance

(1) The *local licensing authority* must issue a license within 60 calendar days after the completed application materials have been received if the *home* and *applicant* are in compliance with *these rules*.

(~~a~~2) The license specifies the type of license and includes:

(~~A~~a) The name of the *licensee* and the name of the *resident manager* or *shift caregivers* as applicable, who have met the requirements to operate the *adult foster home*;

(~~B~~b) The address of the premises to which the license applies;

(c~~C~~) The license *classification* and *level* if applicable;

(d~~D~~) The maximum number of residents; and

(~~E~~e) The expiration date.

~~(b) The license must be posted in a prominent place in the home and be available for inspection at all times. (See OAR 411-050-0645)~~

(~~2~~3) The *licensee* must be given a copy of the Department's inspection report form as follows:

(a) INITIAL LICENSE. Form SDS 516 identifying any areas of non-compliance and a time frame for correction.

(b) RENEWAL LICENSE. Form SDS 517A and, if applicable, form SDS 517B citing any violations. The SDS 517B must specify a time frame for correction of each violation. The time frame for correction may not exceed 30 calendar days from the date of inspection.

(~~3~~4) The *licensee* must post the most recent inspection reports in the entry of the *home* or an equally prominent place and must, upon request, provide a copy of the reports to each *resident*, person applying for admission to the *home*, or the *legal representative*, guardian, or conservator of a *resident*.

(~~4~~5) The Department may attach conditions to the license that limit, restrict, or specify other criteria for operation of the *home*. The conditions must be visibly posted with the license ~~(See OAR 411-050-0686)~~.

(~~5~~6) The *local licensing authority* shall not issue an initial license unless:

(a) The *applicant* and *adult foster home* are in compliance with ORS 443.705 to 443.825 and *these rules*;

(b) The *applicant* currently operates, or has operated, any other *facility* licensed by the *applicant* in *substantial compliance* with ORS 443.705 to 443.825;

(c) The *local licensing authority* has completed an inspection of the *adult foster home* that demonstrates the *home* is in compliance with *these rules*;

(d) The Department has completed a *background check* in accordance with OAR 411-050-0620;

(e) The *local licensing authority* has reviewed the record of sanctions available from the local licensing authority's files;

(f) The *local licensing authority* has determined that the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the *applicant* or any nursing assistant employed by the *applicant* has been responsible for *abuse*;

(g) The *local licensing authority* has verified the *applicant* is not listed on either of the *Exclusion Lists*~~.~~; and
~~the Office of Inspector General's and General Services Administration's Exclusion Lists; and~~

(h) The *applicant* has demonstrated to the *local licensing authority* the financial ability and resources necessary to operate an *adult foster home*.

(~~6~~7) A license is valid for one year unless revoked or suspended by the Department.

(~~7~~8) In seeking an initial license, the burden of proof to establish compliance with ORS 443.705 to 443.825 and *these rules* is upon the *applicant* of the *adult foster home*.

(~~8~~9) The *local licensing authority* shall not issue a license to operate an additional *adult foster home* to a *licensee* who has failed to achieve and maintain *substantial compliance* with the rules and regulations while operating his or her existing *home* or homes.

(~~9~~10) PROVISIONAL LICENSE. Notwithstanding any other provision of this rule or ORS 443.725 or 443.738, the *local licensing authority* may issue a 60-day *provisional license* to a qualified person.

(a) A *provisional license* may be issued if the *local licensing authority* determines:

(A) An emergency situation exists after receiving notification that a licensed *provider* is no longer overseeing the operation of an *adult foster home*; or

(B) A new *applicant* has submitted an application and bed fee for a license to operate a currently licensed *home* and the *applicant* has demonstrated a good faith effort to submit a timely and complete application; ~~and~~

(C) The application process cannot be completed prior to the expiration date of the current license; and

(D) It is in the best interests of the residents currently residing in the *home*.

(b) A person is considered qualified for a *provisional license* if he or she:

(A) Is at least 21 years of age;

(B) Has the necessary experience working with adults who are *older* or adults with physical disabilities to potentially qualify for the license *classification* of the *home*;

(C) Fully understands and has the ability to meet the residents' *care* needs; and

(D) Meets the requirements of a *substitute caregiver* as described in OAR 411-050-0625.

(c) A *provisional license* may be extended one time for a period of 30 calendar days if an *applicant* has demonstrated a good faith effort to complete the application process and obtain the required qualifications and trainings.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0640 Renewal Application and Fees

(1) At least 60 calendar days prior to the expiration of a license, the *local licensing authority* must send a reminder notice and renewal application to

the licensed *provider*. The *local licensing authority* must investigate any information in the renewal application and conduct an unannounced inspection of the *adult foster home* prior to the license renewal.

(2) A separate application is required for each location where an *adult foster home* is to be operated.

(3) RENEWAL APPLICATION REQUIREMENTS. To renew an *adult foster home* license, the *licensee* must complete the Department's Renewal Application form (SDS 448C) and submit the form to the *local licensing authority* with the non-refundable fee prior to the expiration date of the current license. Timely submission of the renewal application and non-refundable fee shall keep the license in effect until the *local licensing authority* or the Department takes action.

(a) The renewal application is not complete until all of the required application information is submitted to the *local licensing authority*.

(b) A renewal application remaining incomplete at the time of license expiration or failure to provide accurate information on the renewal application shall result in the denial of the application.

(4) The license renewal application must include:

(a) Complete contact information for the *licensee*, including:

(A) A mailing address if different from the *adult foster home*; and

(B) A business address for electronic mail, if applicable.

(b) The maximum *resident* capacity;

(c) Identification of:

(A) Any relatives needing *care*;

(B) The maximum number of any *room and board* tenants;

(C) The maximum number of *day care* individuals; and

(D) The names of any other occupants in the *home*.

(d) A Health History and Physician or Nurse Practitioners' Statement (form SDS 0903). The Health History and Physician or Nurse Practitioners' Statement must be updated every third year or sooner if there is reasonable cause for health concerns;

(e) FINANCIAL INFORMATION FOR THE HOME'S FIRST LICENSE RENEWAL. A completed Financial Information Worksheet (form SDS 0448A) demonstrating the financial ability to maintain sufficient liquid resources to pay the home's operating costs for at least two months;

(f) If the *home* is leased or rented, a copy of the current signed and dated lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) Signatures and date signed by the landlord and *applicant*, as applicable;

(g) Documentation of a current approved *background check* for each *subject individual* as described in OAR 411-050-0620;

(h) A $20 per bed non-refundable fee for each non-relative *resident*;

(i) If the *licensee* intends to use a *resident manager*, *floating resident manager*, or *shift caregivers*, the Department's supplemental application (form SDS 448B) completed by the *applicant* or applicants, as appropriate;

(j) Written information describing the operational plan for the *adult foster home*, including:

(A) The use of *substitute caregivers* and other staff;

(B) A plan of coverage for the absence of the *resident manager* or the *shift caregivers*, if applicable; and

(C) The name of a qualified back-up *licensee*, approved *resident manager*, or *floating resident manager* who does not live in the *home* but has been oriented to the *home*. The *licensee* must submit a signed agreement with the listed *back-up provider* annually and maintain a copy in the *facility* records.

(k) Proof of required continuing education credits as specified in OAR 411-050-0625.

(5) LATE RENEWAL REQUIREMENTS (UNLICENSED ADULT FOSTER HOME). The *home* shall be treated as an unlicensed *facility*, subject to civil penalties, if the required renewal information and fee are not submitted to the *local licensing authority* prior to the license expiration date and residents remain in the *home*. (See OAR 411-050-0685)

(6) The *local licensing authority* shall investigate the information submitted, review the licensing records for the *applicant*, conduct an inspection of the *home*, and provide the *licensee* a copy of the Department's inspection report (form SDS 517A and, if applicable, form SDS 517B) citing any violations and specifying a time frame for correction not to exceed 30 days.

(7) The Department may attach conditions to the license that limit, restrict, or specify other criteria for operation of the *home*. The *licensee* must visibly post the conditions, if applicable, with the license according to OAR 411-050-0645.
~~The time frame for correction of violations may not exceed 30 calendar days from the date of inspection.~~

(~~7~~8) The Department ~~shall~~ may deny a renewal application if cited violations are not corrected within the time frame specified by the *local licensing authority*.

(~~8~~9) The *local licensing authority* shall not renew a license unless the following requirements are met:

(a) The *applicant* and the *adult foster home* are in compliance with ORS 443.705 to 443.825 and *these rules*, including any applicable conditions and other final orders of the Department;

(b) The *local licensing authority* has completed an inspection of the *adult foster home*;

(c) The Department has completed a *background check* in accordance with OAR 411-050-0620;

(d) The *local licensing authority* has reviewed the record of sanctions available from the local licensing authority's files;

(e) The *local licensing authority* has determined the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the *licensee* or any nursing assistant employed by the *licensee* has been responsible for *abuse*; and

(f) The *local licensing authority* has determined the *licensee* is not listed on either of the *Exclusion Lists*.
~~the Office of Inspector General's and General Services Administration's Exclusion Lists.~~

(~~9~~10) In seeking the renewal of a license when an *adult foster home* has been licensed for less than 24 months, the burden of proof to establish compliance with ORS 443.705 to 443.825 and *these rules* is upon the *licensee*.

(1~~0~~1) In seeking the renewal of a license when an *adult foster home* has been licensed for 24 or more continuous months, the burden of proof to establish noncompliance with ORS 443.705 to 443.825 and *these rules* is upon the Department.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

411-050-0642 Variances

(1) An *applicant* or *licensee* may request a *variance* to the provisions of *these rules*. The *variance* request must be in writing and must include clear and convincing evidence that:

(a) The requested *variance* does not jeopardize the care, health, welfare, or safety of the residents and all of the residents' needs shall be met; and

(b) All residents, in addition to other occupants in the *home*, may be evacuated in three minutes or less.

(2) VARIANCES NOT ALLOWED. Notwithstanding section (1) of this rule, no *variance* shall be granted by the *local licensing authority* from a regulation or provision of *these rules* pertaining to:

(a) *Resident* capacity as described in OAR 411-050-0632;

(b) Minimum age of *licensee* and any caregivers as described in OAR 411-050-0625;

(c) The training requirements of a *licensee* and all other caregivers except as allowed for provisional licenses as described in OAR 411-050-0635, or when a *substitute caregiver* holds an Oregon health care professional license as described in OAR 411-050-0625;

(d) Standards and practices for *care* and *services* as described in OAR 411-050-0655);

(e) Inspections of the *facility* as described in OAR 411-050-0670; or

(f) Background checks as described in OAR 411-050-0620.

(3) The *local licensing authority* shall not grant a *variance* request to any rule that is inconsistent with Oregon Revised Statutes.

(4) The *local licensing authority* shall not grant a *variance* request related to fire and life safety without prior consultation with the Department.

(5) In making a determination to grant a *variance*, the *local licensing authority* must consider the licensee's history of compliance with rules

governing adult foster homes or other long-term care facilities for adults who are *older* or adults with physical disabilities in Oregon and any other jurisdiction, if appropriate. The *local licensing authority* must determine that the *variance* is consistent with the intent and purpose of *these rules* prior to granting the *variance*. (See OAR 411-050-0600) The *local licensing authority* must respond in writing within 30 days of receiving a request for a *variance*. The written response must include the frequency of renewal.

(6) A *variance* is not effective until granted in writing by the *local licensing authority*. Variances are reviewed pursuant to *these rules*. If applicable, the *licensee* must re-apply for a *variance* at the time of license renewal or more often if determined necessary by the *local licensing authority*.

(7) In seeking a *variance*, the burden of proof that the requirements of *these rules* have been met is upon the *applicant* or *licensee*.

(8) If a *variance* to any provision of *these rules* is denied, the *applicant* or *licensee* may request a meeting with the *local licensing authority*.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

411-050-0645 Operational Standards

(1) GENERAL PRACTICES.

(a) A *licensee* must own, rent, or lease the *home* to be licensed, however, the *local licensing authority* may grant a *variance* to churches, hospitals, non-profit associations, or similar organizations. If a *licensee* rents or leases the premises where the *adult foster home* is located, the *licensee* may not enter into a contract that requires anything other than a flat rate for the lease or rental. A licensed *provider* of a building in which an *adult foster home* is located may not allow the owner, landlord, or lessor to interfere with the admission, transfer, or voluntary or involuntary move of any *resident* in the *adult foster home* unless the owner, landlord, or lessor is named on the license.

(b) Each *adult foster home* must meet:

(A) All applicable local business license, zoning, building, and housing codes;

(B) The Fair Housing Act; and

(C) State and local fire and safety regulations for a single-family residence, and Oregon Fire Code, Appendix L. ~~and the 2010 Oregon Fire Code, Appendix L.~~

(c) ZONING. Adult foster homes are subject to applicable sections of ORS 197.660 to 197.670.

(d) COOPERATION AND ACCESS. The *licensee* must cooperate with the Department, Centers for Medicare and Medicaid Services (CMS), and local licensing and investigative personnel in inspections, *complaint* investigations, planning for *resident care*, application procedures, and other necessary activities.

(A) Department, CMS, local licensing, and investigative personnel must be provided access to all *resident* and *facility* records and may conduct private interviews with residents.

(B) The State Long-Term Care Ombudsman must be provided access to all *resident* and *facility* records. Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to *facility* records and, with written permission from the *resident* or the resident's *legal representative*, may have access to *resident* records. (See OAR 114-005-0030)

(e) CONFIDENTIALITY. Information related to residents must be kept confidential, except as may be necessary in the planning or provision of *care* or medical treatment, or related to an inspection, investigation, or sanction action under *these rules*.

(f) TRANSPORTATION. A *licensee* must arrange for or provide appropriate transportation for residents when needed.

(g) STAFFING STANDARDS. The *licensee* must have qualified caregivers, including awake caregivers as necessary, sufficient in

number to meet the 24-hour needs of each *resident* in addition to caring for any children or relatives beyond the license capacity of the *adult foster home*. In addition, the *licensee* must comply with the following standards:

(A) A *licensee* may not employ a *resident manager*, *floating resident manager*, or shift caregiver who does not meet or exceed the qualifications, training, and *classification* standards for the *adult foster home* as described in OAR 411-050-0625 and 411-050-0630.~~; and~~

(B) A *licensee* may not employ or allow any *caregiver* to train or work in the *home* who is on either of the *Exclusion Lists*.~~on the Office of Inspector General's or General Services Administration's)Exclusion Lists.~~

(h) ABSENCE OF A PRIMARY CAREGIVER. If a *primary caregiver* or a shift caregiver is absent from the *home* for 10 days or more, the *licensee* must notify the *local licensing authority* in writing at least seven days prior to the primary caregiver's absence or immediately upon knowing of the absence. Notification must state the reason for and anticipated length of the absence. The *licensee* must also submit a staffing plan to the *local licensing authority*, signed by the *back-up provider*, demonstrating coverage that meets the needs of the residents during the primary caregiver's absence.

(i) CHANGE OF PRIMARY CAREGIVER. If a *primary caregiver* or a shift caregiver changes during the period the license covers, the *licensee* must notify the *local licensing authority* within 24 hours and identify who is providing *care*.

(A) If a *licensee* assumes the role as the *primary caregiver* or shift caregiver when there has been a change in *primary caregiver*, the *licensee* must submit an updated plan of 24-hour coverage to the *local licensing authority* within seven days.

(B) If a *resident manager*, *floating resident manager*, or shift caregiver changes, the *licensee* must submit a request for a change of *resident manager*, *floating resident manager*, or shift

caregiver, as applicable, to the *local licensing authority* along with:

(i) The Department's supplemental application form (SDS 448B) completed by the *resident manager applicant*, *floating resident manager applicant*, or shift caregiver *applicant*;

(ii) A completed Health History and Physician or Nurse Practitioner's Statement (form SDS 903) for the new *applicant*;

(iii) Documentation of the initiation of or a copy of an approved *background check*; and

(iv) A $10 non-refundable fee.

(C) When there is a change in *primary caregiver*, an approved *floating resident manager* may assume the responsibilities of the live-in, *primary caregiver* until a new *primary caregiver* is employed. If a new *primary caregiver* is not employed within 60 calendar days, the *floating resident manager* must be designated as the home's *resident manager* and the *licensee* must notify the *local licensing authority* of the change in status.

(D) The *local licensing authority* shall issue a revised license when there is a change in a *primary caregiver* who is identified on the license.

(j) UNEXPECTED AND URGENT STAFFING NEED. If the *local licensing authority* determines an unexpected and urgent staffing need exists, the *local licensing authority* may authorize a person who has not completed the Department's current Ensuring Quality Care Course and passed the current examination to act as a *resident manager* or shift caregiver until training and testing are completed, or for 60 calendar days, whichever period is shorter. The *licensee* must notify the *local licensing authority* of the unexpected and urgent staffing need in writing and satisfactorily demonstrate:

(A) The licensee's inability to live in the *home* and act as the *primary caregiver*;

(B) The licensee's inability to find a qualified *resident manager* or shift caregiver, as applicable; and

(C) The proposed staff person is 21 years of age and meets the requirements of a *substitute caregiver* for the *adult foster home* as described in OAR 411-050-0625 and 411-050-0630.

(k) RESPONSIBILITY. A *licensee* is responsible for the supervision, training, and overall conduct of all caregivers, family members, and friends when acting within the scope of their employment, duties, or when present in the *home*.

(l) SEXUAL CONTACT. Sexual contact between residents and any *licensee*, employee or volunteer of the *adult foster home*, or any member of the licensee's, employee's or volunteer's household or family is prohibited unless a pre-existing relationship existed. ~~RELATIONS. Sexual relations between residents and any employee of the adult foster home, licensee, or any member of the licensee's household or family is prohibited unless a pre-existing relationship existed.~~

(m) COMMUNICATION.

(A) Applicants for an initial license must obtain and provide to the *local licensing authority* a current, active business address for electronic mail prior to obtaining a license.

(B) A *licensee* must notify the *local licensing authority* within 24 hours upon a change in the home's business address for electronic mail;

(C) A *licensee* must notify the *local licensing authority*, the residents and the resident's family members, legal representatives, and case managers, as applicable, of any change in the telephone number for the *licensee* or the *adult foster home* within 24 hours of the change.

(D) A *licensee* must notify the *local licensing authority* in writing prior to any change of the licensee's residence or mailing address.

(2) SALE OR LEASE OF EXISTING ADULT FOSTER HOMES AND TRANSFER OF LICENSES.

(a) A license is not transferable and does not apply to any location or person other than the location and person indicated on the license obtained from the *local licensing authority*.

(b) The *licensee* must inform real estate agents, prospective buyers, lessees, and transferees in all written communication, including advertising and disclosure statements, that the license to operate the *adult foster home* is not transferable and the *licensee* must refer them to the *local licensing authority* for information about licensing.

(c) When a *home* is to be sold or otherwise transferred or conveyed to another person who intends to operate the *home* as an *adult foster home*, that person must apply for and obtain a license from the *local licensing authority* prior to the transfer of operation of the *home*.

(d) The *licensee* must promptly notify the *local licensing authority* in writing about the licensee's intent to close or convey the *adult foster home* to another person. The *licensee* must provide written notice to the residents and the residents' representatives and case managers, as applicable, according to section (13)~~(a)~~ of this rule.

(e) The *licensee* must inform a person intending to assume operation of an existing *adult foster home* that the residents currently residing in the *home* must be given at least 30 calendar days' written notice of the licensee's intent to close the *adult foster home* for the purpose of conveying the *home* to another person.

(f) The *licensee* must remain licensed and responsible for the operation of the *home* and *care* of the residents in accordance with *these rules* until the *home* is closed and the residents have been relocated, or the *home* is conveyed to a new *licensee* who is licensed by the *local licensing authority* at a level appropriate to the *care* needs of the residents in the *home*.

(3) FORECLOSURE.

(a) A *licensee* must provide written notification to the *local licensing authority* within 10 calendar days after receipt of any notice of default, or any notice of potential default, with respect to a real estate contract, trust deed, mortgage, or other security interest affecting any property occupied or used by the *licensee*.

(b) The *licensee* must provide a copy of the notice of default or warning of potential default to the *local licensing authority*.

(c) The *licensee* must provide written updates to the *local licensing authority* at least every 30 days until the default or warning of potential default has been resolved and no additional defaults or potential defaults have been declared and no additional warnings have been issued. Written updates must include:

(A) The current status on what action has been or is about to be taken by the *licensee* with respect to the notice received;

(B) The action demanded or threatened by the holder of the security interest; and

(C) Any other information reasonably requested by the *local licensing authority*.

(d) The *licensee* must provide written notification within 24 hours to the *local licensing authority* upon final resolution of the matters leading up to or encompassed by the notice of default or the notice warning of potential default.

(e) If the subject default property is licensed as an *adult foster home*, the *licensee* must provide written notification of the following within 24 hours to the *local licensing authority*, and all the residents and the residents' representatives, if applicable, regarding:

(A) The filing of any litigation regarding such security interest, including the filing of a bankruptcy petition by or against the

licensee or an *entity* owning any property occupied or used by the *licensee*;

(B) The entry of any judgment with respect to such litigation;

(C) The passing of the date 40 days prior to any sale scheduled pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the *licensee*; and

(D) The sale, pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the *licensee*.

(4) MEALS.

(a) Three nutritious meals must be served daily at times consistent with those in the community. Each meal must include food from the basic food groups according to the United States Department of Agriculture (USDA's) My Plate and include fresh fruit and vegetables when in season.

(b) Meals must reflect consideration of a resident's preferences and cultural and ethnic background. This does not mean the *licensee* must prepare multiple, unique meals for the residents at the same time.

(c) A schedule of meal times and menus for the coming week must be prepared and posted weekly in a location accessible to residents and families.

(A) Meal substitutions for scheduled menu items in compliance with section (4)(a) of this rule are acceptable and must be documented on, or attached to, the weekly menu.

(B) The *licensee* must maintain the weekly menus for a minimum of the 12 most recent months during which the *home* has conducted business.

(d) There must be no more than a 14-hour span between the evening and morning meals. Snacks do not substitute for a meal in determining the 14-hour span. Nutritious snacks and liquids must be offered to fulfill each resident's nutritional requirements.

(e) Food may not be used as an inducement to control the behavior of a *resident*.

(f) Home-canned foods must be processed according to the guidelines of the Oregon State University Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

(g) Special consideration must be given to a *resident* with chewing difficulties ~~and~~or other eating limitations. Special diets must be followed, as prescribed in writing, by the resident's physician, nurse practitioner, or physician assistant.

(h) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Storage and food preparation areas must be free from food that is spoiled or expired.

(i) The household utensils, dishes, glassware, and household food may not be stored in bedrooms, bathrooms, or living areas.

(j) Meals must be prepared and served in the *home* where the residents live. Payment for meals eaten away from the *home* for the convenience of the *licensee* (e.g., restaurants, senior meal sites) is the responsibility of the *licensee*. Meals and snacks, as part of an individual recreational outing by choice, are the responsibility of the *resident*.

(k) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with a sani-cycle is recommended.

(l) Food preparation areas and equipment, including utensils and appliances, must be clean, free of offensive odors, and in good repair.

(5) TELEPHONE.

(a) The *home* must have a working landline and corded telephone with a listed number that is separate from any other number the *home* has, such as, but not limited to, internet or fax lines, unless the system includes features that notify the *caregiver* of an incoming call, or automatically switches to the appropriate mode. If a *licensee* has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. A *licensee* may have only one phone line as long as the phone line complies with the requirements of *these rules*. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in place of a landline.

(b) The *licensee* must make a telephone that is in good working order available and accessible for the residents use with reasonable accommodation for privacy during telephone conversations. A *resident* with a hearing impairment, to the extent the *resident* may not hear a normal telephone conversation, must be provided with a telephone that is amplified with a volume control or a telephone that is hearing aid compatible.

(c) Restrictions on the use of the telephone by the residents must be specified in the written *house policies* and may not violate the residents' *rights*. Individual restrictions must be well documented in the resident's *care plan*.

(6) FACILITY RECORDS.

(a) *Facility* records must be kept current, maintained in the *adult foster home*, and made available for review upon request. *Facility* records include, but are not limited to:

(A) Proof the *licensee* and all subject individuals have a *background check* approved by the Department as required by OAR 411-050-0620;

(B) Proof the *licensee* and all other caregivers have met and maintained the minimum qualifications as required by OAR 411-050-0625, including:

(i) Proof of required continuing education. Documentation must include the date of each training, subject matter, name of agency or organization providing the training, and number of Department-approved classroom hours;

(ii) Completed certificates to document the substitute caregivers' completion of the Department's Caregiver Preparatory Training Study Guide and Workbook and to document the *resident manager*, *floating resident manager*, and *shift caregivers*, as applicable, completion and passing of the Department's Ensuring Quality Care Course and examination;

(iii) Documentation of orientation to the *adult foster home* for the *resident manager*, *floating resident manager*, *shift caregivers*, and substitute caregivers, as applicable;

(iv) Employment applications and the names, addresses, and telephone numbers of all caregivers employed or used by the *licensee*; and

(v) Verification that all caregivers are not listed on either of the *Exclusion Lists*~~Office of Inspector General's or General Services Administration's~~ .

(C) Copies of notices sent to the *local licensing authority* pertaining to changes in the *resident manager*, *floating resident manager*, shift caregiver, or other *primary caregiver*;

(D) Proof of required vaccinations for animals on the premises;

(E) Well water tests, if required, according to OAR 411-050-0650. Test records must be retained for a minimum of three years;

(F) Agreements and specialized contracts with the Department, copies of the adult foster home's private-pay contracts, any contracts with residents eligible for Medicaid services, such as an agreement pertaining to storage fees after leaving the *home*, and any other contracts, such as contracts with *room and board* tenants or individuals receiving *day care services*; and

(G) Records of evacuation drills according to OAR 411-050-0650, including the date, time of day, evacuation route, length of time for evacuation of all occupants, names of all residents and occupants, and which residents and occupants required assistance. The records must be kept at least three years.

(b) REQUIRED POSTED ITEMS. The following items must be posted in one location in the entryway or other equally prominent place in the *home* where residents, visitors, and others may easily read them:

(A) The *adult foster home* license;

(B) Conditions attached to the license, if any;

(C) A copy of a current floor plan meeting the requirements of OAR 411-050-0650;

(D) The Residents' Bill of Rights;

(E) The home's current *house policies* that have been reviewed and approved by the *local licensing authority*;

(F) The Department's procedure for making complaints;

(G) The Long-Term Care Ombudsman poster;

(H) The Department's inspection forms (form SDS 517A; and, if applicable, form SDS 517B), including how corrections were made since the last annual inspection;

(I) The Department's notice pertaining to the use of any intercoms, monitoring devices, and video cameras that may be used in the *adult foster home*; and

(J) A weekly menu according to section (4) of this rule.

(c) POST BY PHONE. Emergency telephone numbers, including the contact number for at least one *back-up provider* who has agreed to respond in person in the event of an emergency and an emergency contact number for the *licensee* must be readily visible and posted by a central telephone in the *adult foster home*.

(7) RESIDENT RECORDS.

(a) An individual *resident* record must be developed, kept current, and readily accessible on the premises of the *home* for each individual admitted to the *adult foster home*. The record must be legible and kept in an organized manner so as to be utilized by staff. The record must contain the following information:

(A) A complete initial *screening* assessment and general information form (SDS 902) as described in OAR 411-050-0655;

(B) Documentation on form SDS 913 that the *licensee* has informed private-pay residents of the availability of a long-term care assessment;

(C) Documentation that the *licensee* has informed all residents of the right to formulate an *Advance Directive*;

(D) FINANCIAL INFORMATION:

(i) Detailed records and receipts if the *licensee* manages or handles a resident's money. The Resident Account Record (form SDS 713) or other expenditure forms may be used if the *licensee* manages or handles a resident's money. The record must show amounts and sources of funds received and issued to, or on behalf of, the *resident* and be initialed by the person making the entry. Receipts must document all deposits and purchases of $5 or more made on behalf of a *resident*.

(ii) Contracts signed by residents or the residents' representatives may be kept in a separate file but must be made available for inspection by the *local licensing authority*.

(E) Medical and legal information, including, but not limited to:

(i) Medical history, if available;

(ii) Current *prescribing practitioner* orders;

(iii) Nursing instructions, delegations, and assessments, as applicable;

(iv) Completed medication administration records retained for at least the last six months or from the date of admission, whichever is less. (Older records may be stored separately); and

(v) Copies of Guardianship, Conservatorship, *Advance Directive for Health Care*, ~~Health Care~~ Power of Attorney, and Physician's Order for Life Sustaining Treatment (POLST) documents, as applicable.

(F) A complete, accurate, and current *care plan*;

(G) A copy of the current *house policies* and the current Residents' Bill of Rights, signed and dated by the *resident* or the resident's representative;

(H) SIGNIFICANT EVENTS. A written report (using form SDS 344 or its equivalent) of all significant incidents relating to the health or safety of the *resident*, including how and when the incident occurred, who was involved, what action was taken by the *licensee* and staff, as applicable, and the outcome to the *resident*;

(I) NARRATIVE OF RESIDENT'S PROGRESS. Narrative entries describing each resident's progress must be documented at least weekly and maintained in each resident's

individual record. All entries must be signed and dated by the person writing them; and

(J) Non-confidential information or correspondence pertaining to the *care* needs of the *resident*.

(b) ACCESS TO RESIDENT RECORDS.

(A) *Resident* records must be readily available at the *adult foster home* to residents, the residents' authorized representatives or other legally authorized persons, all caregivers working in the *home*, and the Department, the *local licensing authority*, the *investigative authority*, case managers, and the Centers for Medicare and Medicaid Services (CMS) for the purpose of conducting inspections or investigations.

(B) The State Long-Term Care Ombudsman must be provided access to all *resident* and *facility* records. A Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to *facility* records relevant to caregiving and *resident* records with written permission from the *resident* or the resident's *legal representative*. (See OAR 114-005-0030)

(c) RECORD RETENTION. Records, including any financial records for residents, must be kept for a period of three years from the date the *resident* left the *home*.

(d) CONFIDENTIALITY. In all other matters pertaining to confidential records and release of information, licensees must be guided by the principles and definitions described in OAR chapter 411, division 005 (Privacy of Protected Information).

(8) HOUSE POLICIES. *House policies* must be in writing and a copy given to the *resident* and the resident’s family or representative at the time of admission and at the time the *screening* and assessment is conducted. A signed copy of the *house policies* must be obtained at the time of admission and placed in the resident’s record. *House policies* must be consistent with the practices of the *licensee*, staff, occupants, and visitors of the *home*. *House policies* established by the *licensee* must:

(a) Include any restrictions the *adult foster home* may have on the use of alcohol, tobacco, pets, visiting hours, dietary restrictions, or religious preferences;

(b) Indicate the home's policy regarding the presence and use of legal marijuana on the premises;

(c) Include a schedule of meal times;

(d) Include the home's policy regarding refunds for residents eligible for Medicaid services, including pro-rating partial months and if the *room and board* is refundable;

(e) Include a clear and precise statement of any limitation to the implementation of Advance Directives on the basis of conscience. This rule does not apply to medical professional or hospice orders for administration of medications. The statement must include:

(A) A description of conscientious objections as they apply to all occupants of the *adult foster home*;

(B) The legal authority permitting such objections under ORS 127.505 to 127.660; and

(C) Description of the range of medical conditions or procedures affected by the conscientious objection. (See OAR 411-050-0655)

(f) Not be in conflict with the Residents' Bill of Rights, the family atmosphere of the *home*, or any of *these rules*;

(g) Be reviewed and approved by the *local licensing authority* prior to the issuance of a license and prior to implementing any changes; and

(h) Be posted with the required posted items, in a location where they are easily seen and read by residents and visitors as described in section (~~7~~6) of this rule.

(9) RESIDENT MOVES AND TRANSFERS. The Department encourages licensees to support a resident's choice to remain in his or her living

environment while recognizing that some residents may no longer be appropriate for the adult foster care setting due to safety and medical limitations.

(a) If a *resident* moves out of an *adult foster home* for any reason, the *licensee* must submit copies of pertinent information from the resident's record to the resident's new place of residence at the time of move. Pertinent information must include at a minimum:

(A) Copies of current prescribing medical practitioner's orders for medications, current medication sheets, and an updated *care plan*; and

(B) Documentation of actions taken by the *adult foster home* staff, *resident*, or the resident's representative pertaining to the move or transfer.

(b) A *licensee* must immediately document voluntary and involuntary moves or transfers from the *adult foster home* in the resident's record as events take place. (See sections (11) and (12) of this rule)

(10) VOLUNTARY MOVES AND TRANSFERS.

(a) If a *resident* eligible for Medicaid services or the resident's representative gives notice of the resident's intent to leave the *adult foster home*, or the *resident* leaves the *home* abruptly, the *licensee* must promptly notify the resident's case manager.

(b) A *licensee* must obtain prior authorization from the *resident*, the resident's *legal representative*, and case manager, as applicable, prior to the resident's:

(A) Voluntary move from one bedroom to another in the *adult foster home*;

(B) Voluntary transfer from one *adult foster home* to another *home* that has a license issued to the same person; or

(C) Voluntary move to any other location.

(c) Notifications and authorizations of voluntary moves and transfers must be documented and available in the resident's record.

(d) The *licensee* remains responsible for the provision of *care* and *services* until the *resident* has moved from the *home*.

(11) INVOLUNTARY MOVES AND TRANSFERS.

(a) A *resident* may only be moved involuntarily to another room within the *adult foster home*, transferred to another *adult foster home* operated by the same *licensee* for a temporary or permanent stay, or moved from the *adult foster home* for the following reasons:

(A) Medical reasons. The *resident* has a medical or nursing condition that is complex, unstable, or unpredictable that exceeds the level of *care* and *services* the *facility* provides;

(B) The *adult foster home* is unable to accomplish evacuation of the *adult foster home* in accordance with OAR 411-050-0650;

(C) Welfare of the *resident* or other residents;

(i) The *resident* exhibits behavior that poses an imminent danger to self or others, including acts that result in the resident's arrest or detention;

(ii) The *resident* engages in behavior or action that repeatedly and substantially interfere with the *rights*, health, or safety of the residents or others; or

(iii) The *resident* engages in illegal drug use or commits a criminal act that causes potential harm to the *resident* or others.

(D) Failure to make payment for *care* or failure to make payment for *room and board*;

(E) The *adult foster home* has had its license revoked, not renewed, or the license was voluntarily surrendered by the *licensee*;

(F) The *home* was not notified prior to the resident's admission, or learns following the resident's admission, that the *resident* is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

(G) The licensee's Medicaid Provider Enrollment Agreement or specialized contract is terminated (pertains only to residents eligible for Medicaid); or

(H) The *resident* engages in the use of medical marijuana in violation of the home's written policies or contrary to Oregon Law under the Oregon Medical Marijuana Act, ORS 475.300 to 475.346.

(b) MANDATORY WRITTEN NOTICE. A *resident* may not be moved involuntarily from the *adult foster home*, or to another room within the *adult foster home*, or transferred to another *adult foster home* for a temporary or permanent stay without a minimum of 30 calendar days' written notice. The notice must be delivered in person to the *resident* and must be delivered in person or sent by registered or certified mail to the resident's *legal representative*, guardian, or conservator, and a copy must be immediately submitted to the resident's case manager, as applicable. Where a *resident* lacks capacity and there is no *legal representative*, a copy of the notice must be immediately submitted to the State Long Term Care Ombudsman. The written notice must:

(A) Be on the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901);

(B) Be completed by the *licensee*; and

(C) Include the following information:

(i) The resident's name;

(ii) The reason for the proposed move or transfer, including the specific reasons the *facility* is unable to meet the resident's needs;

(iii) The date of the proposed change;

(iv) The location to which the *resident* is going, if known;

(v) A notice of the right to hold an informal conference and hearing;

(vi) The name, address, and telephone number of the person giving the notice; and

(vii) The date the notice is issued.

(c) LESS THAN 30 DAYS' WRITTEN NOTICE. A *licensee* may give less than 30 calendar days' written notice in specific circumstances as identified in paragraphs (A) to(C) below, but must do so as soon as possible using the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901). The notice must be given in person to the *resident*, the resident's representative, guardian, conservator, and a copy must be immediately submitted to the resident's case manager, as applicable. The reasons for the notice must be fully documented in the resident's record. The *licensee* remains responsible for the provision of *care* and *services* until the *resident* has moved from the *home*. A *licensee* may give less than 30 calendar days' notice ~~ONLY~~ only if:

(A) Undue delay in moving the *resident* would jeopardize the health, safety, or well-being of the *resident*, including:

(i) The *resident* has a medical emergency that requires the immediate *care* of a *level* or type the *adult foster home* is unable to provide.

(ii) The *resident* exhibits behavior that poses an immediate danger to self or others.

(B) The *resident* is hospitalized or is temporarily out of the *home* and the *licensee* determines he or she is no longer able to meet the needs of the *resident*; or

(C) The *home* was not notified prior to the resident's admission, or learns following the resident's admission, the *resident* is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

(i) In the event a *resident* is given notice of an involuntary move due to (11)(c)(C) of this rule, the notice may be given without reasonable advance notice.

(ii) The *resident* shall be given the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901) as stated in (11) of this rule.

(12) RESIDENT HEARING RIGHTS. A *resident*, who has been given formal notice of an involuntary move or refused the right of return or re-admission, is entitled to an informal conference and hearing prior to the involuntary move or transfer as follows:

(a) INFORMAL CONFERENCE. The *local licensing authority* must hold an informal conference as promptly as possible after the request is received. The *local licensing authority* must send written notice of the time and place of the conference to the *licensee* and all persons entitled to the notice. Participants may include the *resident* and at the resident's request a *family member*, case manager, Ombudsman, *legal representative* of the *resident*, the *licensee*, and a representative from an *adult foster home* association or SEIU if requested by the *licensee*. The purpose of the informal conference is to resolve the matter without an administrative hearing. If a resolution is reached at the informal conference, the *local licensing authority* must document the outcome in writing and no administrative hearing is needed.

(b) ADMINISTRATIVE HEARING. If a resolution is not reached as a result of the informal conference, the *resident* or the resident's representative may request an administrative hearing. If the *resident* is being moved or transferred with less than 30 calendar days' notice according to section (11)(c) of this rule, the hearing must be held within seven business days of the move or transfer. The *licensee* must hold a space available for the *resident* pending receipt of an administrative order. These administrative rules and ORS 441.605(4)

governing transfer notices and hearings for residents of long-term care facilities apply to adult foster homes.

(13) CLOSURE OF ADULT FOSTER HOMES.

(a) A *licensee* must notify the *local licensing authority* prior to the voluntary closure, proposed sale, or transfer of ownership of the *home*, and give the residents and the residents' families, representatives, and case managers, as appropriate, a minimum of 30 calendar days' written notice on the Department's form (SDS 901) according to section (11) of this rule.

(b) In circumstances where undue delay might jeopardize the health, safety, or well-being of residents, licensees, or staff, written notice must be given as soon as possible, according to section (11)(c).

(c) A *licensee* must surrender the physical license to operate an *adult foster home* to the *local licensing authority* at the time of the adult foster home's closure.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705-795, 443.880
Stats. Implemented: ORS 197.660-670, 441.373, 443.001-004, 443.705-825, 443.875, 443.991

411-050-0650 Facility and Safety Standards

In order to qualify for or maintain a license, an *adult foster home* must comply with the following provisions:

(1) GENERAL CONDITIONS.

(a) INTERIOR AND EXTERIOR PREMISES. The building and furnishings, patios, decks, and walkways, as applicable, must be clean and in good repair. The interior and exterior premises must be well maintained and accessible according to the individual needs of the residents. There must be no accumulation of garbage, debris, rubbish, or offensive odors. Walls, ceilings, and floors must be of such character to permit washing, cleaning, or painting, as appropriate.

(b) ADDRESS. The address numbers of the *adult foster home* must be placed on the *home* in a position that is legible and clearly visible from the street or road fronting the property. Address numbers must be a minimum of 4 inches in height, made of reflective material, and contrast with their background.

(c) LIGHTING. Adequate lighting, based on the needs of the occupants, must be provided in each room, stairway, and exit way. Incandescent light bulbs and florescent tubes must be protected with appropriate covers.

(d) TEMPERATURE. The heating system must be in working order. Areas of the *home* used by the residents must be maintained at a comfortable temperature. Minimum temperatures during the day must be not less than 68 degrees, no greater than 85 degrees, and not less than 60 degrees during sleeping hours. Variations from the requirements of this rule must be based on *resident care* needs or preferences and must be addressed in each resident's *care plan*.

> (A) During times of extreme summer heat, the *licensee* must make reasonable effort to keep the residents comfortable using ventilation, fans, or air conditioning. Precautions must be taken to prevent *resident* exposure to stale, non-circulating air.
>
> (B) If the *facility* is air-conditioned, the system must be functional and the filters must be cleaned or changed as needed to ensure proper maintenance.
>
> (C) If the *licensee* is unable to maintain a comfortable temperature for the residents during times of extreme summer heat, air conditioning or another cooling system may be required.

(e) COMMON USE AREAS. Common use areas for the residents must be accessible to all residents. There must be at least 150 square feet of common living space and sufficient furniture in the *home* to accommodate the recreational and socialization needs of all the occupants at one time. Common space may not be located in an unfinished basement or garage unless such space was constructed for that purpose or has otherwise been legalized under permit. There

may be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space is required for each *day care* individual, *room and board tenant*, or *relative* receiving *care* for remuneration that exceeds the limit of five.

(f) VIDEO MONITORS. Use of video monitors detracts from a *home-like* environment and the *licensee* may not use video monitors in any area of the *home* that would violate a resident's privacy unless requested by the *resident* or the resident's *legal representative*. The *licensee* may not ask the *resident* or the resident's *legal representative* to waive the resident's right to privacy as a condition of admission to the *home*.

(2) SANITATION AND PRECAUTIONS.

(a) NON-MUNICIPAL WATER SOURCE. A public water supply must be utilized if available. If a non-municipal water source is used, the licensor, a sanitarian, or a technician from a certified water-testing laboratory must collect a sample annually or as required by the Department. The water sample must be tested for coliform bacteria. Water testing and any necessary corrective action to ensure water is suitable for drinking must be completed at the licensee's expense. Water testing records must be retained for three years.

(b) Septic tanks or other non-municipal sewage disposal systems must be in good working order.

(c) COMMODES AND INCONTINENCE GARMENTS. Commodes used by residents must be emptied frequently and cleaned daily, or more frequently if necessary. Incontinence garments must be disposed of in closed containers.

(d) WATER TEMPERATURE. A *resident* who is unable to safely regulate the water temperature must be supervised.

(e) LAUNDRY. Prior to laundering, soiled linens and clothing must be stored in closed containers in an area that is separate from food storage, kitchen, and dining areas. Pre-wash attention must be given to soiled and wet bed linens. Sheets and pillowcases must be laundered at least weekly and more often if soiled.

(f) Garbage and refuse must be suitably stored in readily cleanable, rodent-proof, covered containers, pending weekly removal.

(g) VENTILATION. All doors and windows that are used for ventilation must have screens in good condition.

(h) INFECTION CONTROL. Standard precautions for infection control must be followed in *resident care*. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.

(i) DISPOSAL OF SHARPS. Precautions must be taken to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. ~~After use, disposable syringes and needles, scalpel blades, and other sharp items must be placed in a puncture-resistant, red container for disposal.~~ The puncture-resistant container must be located as close as practical to the use area. Disposal must be made according to local regulations as stated in section (5) of this rule. ~~and resources~~ (See ~~ORS~~ 459.386 to 459.405)~~.~~

(j) FIRST AID. Current, basic first-aid supplies and a first-aid manual must be readily available in the *home*.

(k) PESTS. Reasonable precautions must be taken to prevent pests (e.g., ants, cockroaches, other insects, and rodents).

(l) PETS OR OTHER ANIMALS. Sanitation for household pets and other domestic animals on the premises must be adequate to prevent health hazards. Proof of rabies vaccinations and any other vaccinations that are required for the pet by a licensed veterinarian must be maintained on the premises. Pets not confined in enclosures must be under control and not present a danger to the residents or guests.

(m) SAFETY BARRIERS. Patios, decks, walkways, swimming pools, hot tubs, spas, saunas, water features, and stairways, as appropriate, must be equipped with safety barriers designed to prevent injury.

Resident access to or use of swimming or other pools, hot tubs, spas, or saunas on the premises must be supervised.

(3) BATHROOMS. Bathrooms must:

(a) Provide individual privacy and have a finished interior with a door that opens to a hall or common-use room. If a bedroom includes a private bathroom, the door for the private bathroom must open to the bedroom. No person must have to walk through another person's bedroom to access a bathroom;

(b) Be large enough to accommodate the individual needs of the residents and any equipment that may be necessary;

(c) Have a mirror, a window that opens or other means of ventilation, and a window covering for privacy;

(d) Be clean and free of objectionable odors;

(e) Have bathtubs, showers, toilets, and sinks in good repair. A sink must be located near each toilet and a toilet and sink must be available for the resident’s use on each floor with *resident* rooms. There must be at least one toilet, one sink, and one bathtub or shower for each six household occupants (including residents, *day care* individuals, *room and board* tenants, the *licensee*, and the licensee’s family);

(f) Have hot and cold water at each bathtub, shower, and sink in sufficient supply to meet the needs of the residents;

(g) Have nonporous surfaces for shower enclosures. Glass shower doors, if applicable, must be tempered safety glass, otherwise, shower curtains must be clean and in good condition;

(h) Have non-slip floor surfaces in bathtubs and showers;

(i) Have grab bars for each toilet, bathtub, and shower to be used by the residents for safety;

(j) Have barrier-free access to toilet and bathing facilities; and

(k) Have adequate supplies of toilet paper and soap supplied by the *licensee*. Residents must be provided with individual towels and washcloths that are laundered in hot water at least weekly or more often if necessary. Residents must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, roller-dispensed hand towels or paper towels in a dispenser must be provided for the residents' use.

(4) BEDROOMS.

(a) Bedrooms for all household occupants must:

(A) Have been constructed as a bedroom when the *home* was built, or remodeled under permit;

(B) Be finished with walls or partitions of standard construction that go from floor to ceiling;

(C) Have a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom. The bedroom door must be large enough to accommodate the *occupant* of the room and any mobility equipment that may be needed by the *resident*;

(D) Be adequately ventilated, heated, and lighted with at least one window that opens and meets the requirements in section (5)(e) of this rule;

(E) Be at least 70 square feet of usable floor space for one *resident* or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright; and

(F) Have no more than two occupants per room. (See also OAR 411-050-0632 pertaining to a child’s bedroom.) This rule is not intended to prohibit a child five years of age or younger from occupying their parent’s bedroom.

(b) The *licensee*, any other caregivers, and family members may not sleep in areas designated as living areas or share a bedroom with a *resident*. This rule is not intended to prohibit a *caregiver* or other person of the resident's choosing from temporarily staying in the resident's room when required by the resident's condition.

(c) There must be a bed at least 36 inches wide for each *resident* consisting of a mattress and springs, or equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used for residents. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Waterproof mattress covers must be used for incontinent residents. *Day care* individuals may use a cot or rollaway bed if bedroom space is available that meets the requirements of section (4)(a) of this rule. A resident's bed may not be used by a *day care* individual.

(d) Each resident's bedroom must have separate, private dresser and closet space sufficient for the resident's clothing and personal effects including hygiene and grooming supplies. A *resident* must be provided private, secure storage space to keep and use reasonable amounts of personal belongings. A *licensee* may not use a resident's bedroom for storage of items, supplies, devices, or appliances that do not belong to the *resident*.

(e) Drapes or shades for bedroom windows must be in good condition and allow privacy for the residents.

(f) A *resident* who is non-ambulatory, has impaired mobility, or is cognitively impaired must have a bedroom with a safe, second exit at ground level. A *resident* with a bedroom above or below the ground floor must demonstrate their capability for *self-preservation*.

(g) *Resident* bedrooms must be in close enough proximity to the *licensee* or *caregiver* in charge to alert the *licensee* or *caregiver* in charge to *resident* nighttime needs or emergencies, or the bedrooms must be equipped with a functional call bell or intercom within the residents' abilities to operate. Intercoms may not violate the resident's

right to privacy and must have the capability of being turned off by the *resident* or at the resident's request.

(h) Bedrooms used by the *licensee*, *resident manager*, shift caregiver, and *substitute caregiver*, as applicable, must be located in the *adult foster home* and must have direct access to the residents through an interior hallway or common use room.

(5) SAFETY.

(a) FIRE AND LIFE SAFETY. Buildings must meet all applicable state and local building, mechanical, and housing codes for fire and life safety. The *home* may be inspected for fire safety by the State Fire Marshal's Office, or the State Fire Marshal's designee, at the request of the *local licensing authority* or the Department using the standards in *these rules*, as appropriate.

(b) HEAT SOURCES. All heating equipment~~,~~ including, but not limited to, wood stoves, pellet stoves, and fireplaces must be installed in accordance with all applicable state and local building and mechanical codes. Heating equipment must be in good repair, used properly, and maintained according to the manufacturer's or a qualified inspector's recommendations.

(A) A *licensee* who does not have a permit verifying proper installation of an existing woodstove, pellet stove, or gas fireplace must have it inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth, Patio, and Barbeque Association member and follow their recommended maintenance schedule.

(B) Fireplaces must have approved and listed protective glass screens or metal mesh screens anchored to the top and bottom of the fireplace opening.

(C) The *local licensing authority* may require the installation of a non-combustible, heat-resistant, safety barrier 36 inches around a woodstove to prevent residents with ambulation or confusion problems from coming in contact with the stove.

(D) Unvented, portable oil, gas, or kerosene heaters are prohibited. Sealed electric transfer heaters or electric space heaters with tip-over, shut-off capability may be used when approved by the State Fire Marshal or the State Fire Marshal's designee. A heater must be directly connected to an electrical outlet and may not be connected to an extension cord.

(c) EXTENSION CORDS AND ADAPTORS. Extension cord wiring and multi-plug adaptors may not be used in place of permanent wiring. UL-approved, re-locatable power taps (RPTs) with circuit breaker protection and no more than six electrical sockets are permitted for indoor use only and must be installed and used in accordance with the manufacturer’s instructions. If RPTs are used, the RPT must be directly connected to an electrical outlet, never connected to another RPT (known as daisy-chaining or piggy-backing), and never connected to an extension cord.

(d) LOCKS AND ALARMS. Hardware for all exit doors and interior doors must be readily visible, have simple hardware that may not be locked against exit, and have an obvious method of operation. Hasps, sliding bolts, hooks and eyes, slide chain locks, and double key deadbolts are not permitted. If a *home* has a *resident* with impaired judgment who is known to wander away, the *home* must have an activated alarm system to alert a *caregiver* of the resident's unsupervised exit.

(e) WINDOWS. Bedrooms must have at least one window or exterior door that leads directly outside, readily opens from the inside without special tools, and provides a clear opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 24 inches in height or 20 inches in width. If the interior sill height of the window is more than 44 inches from the floor level, approved steps or other aids to the window exit that the occupants are capable of using must be provided. Windows with a clear opening of not less than 5.0 square feet or 720 square inches with interior sill heights of no more than 48 inches above the floor may be accepted when approved by the State Fire Marshal or the State Fire Marshal's designee.

(f) CONSTRUCTION. Interior and exterior doorways must be wide enough to accommodate the mobility equipment used by the

residents such as wheelchairs and walkers. All interior and exterior stairways must be unobstructed, equipped with handrails on both sides, and appropriate to the condition of the residents. (See also section (5)(q) of this rule)

(A) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread index of finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(i) MANUFACTURED HOMES. A manufactured home (formerly mobile homes) must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured home must have a manufacturer's label permanently affixed on the unit itself that states the manufactured home meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(ii) If such a label is not evident and the *licensee* believes the manufactured home meets the required specifications, the *licensee* must take the necessary steps

to secure and provide verification of compliance from the home's manufacturer.

(iii) Manufactured homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(B) STRUCTURAL CHANGES. The *licensee* must notify the *local licensing authority* in writing at least 15 calendar days prior to any remodeling, renovations, or structural changes in the *home* that require a building permit. Such activity must comply with local building, sanitation, utility, and fire code requirements applicable to a single-family dwelling (see ORS 443.760(1)). The *licensee* must forward all required permits and inspections, an evacuation plan as described in section (5)(~~k~~l) of this rule, and a revised floor plan as described in section (5)(o) of this rule to the *local licensing authority* within 30 calendar days of completion.

(g) FIRE EXTINGUISHERS. At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a location visible and readily accessible to any *occupant* of the *home* on each floor, including basements. Fire extinguishers must be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose.

(h) CARBON MONOXIDE AND SMOKE ALARMS.

(A) CARBON MONOXIDE ALARMS. Carbon monoxide alarms must be listed as complying with ANSI/UL 2034 and must be installed and maintained in accordance with the manufacturer's instructions. Carbon monoxide alarms must be installed within 15 feet of each bedroom at the height recommended by the manufacturer.

(i) If bedrooms are located in multi-level homes, carbon monoxide alarms must be installed on each level including the basement.

(ii) Carbon monoxide alarms may be hard-wired, plug-in, or battery operated. Hard wired and plug-in alarms must be equipped with a battery back-up. Battery operated carbon monoxide alarms must be equipped with a device that warns of a low battery.

(iii) A bedroom used by a hearing-impaired *occupant* who may not hear the sound of a regular carbon monoxide alarm must be equipped with an additional carbon monoxide alarm that has visual or vibrating capacity.

(B) SMOKE ALARMS. Smoke alarms must be installed in accordance with the manufacturer's instructions in each bedroom, in hallways or access areas that adjoin bedrooms, the family room or main living area where occupants congregate, any interior designated smoking area, and in basements. In addition, smoke alarms must be installed at the top of all stairways in multi-level homes.

(i) Ceiling placement of smoke alarms is recommended.

(ii) Battery operated smoke alarms or hard-wired smoke alarms with a battery backup must be equipped with a device that warns of a low battery.

(iii) A bedroom used by a hearing-impaired *occupant* who may not hear the sound of a regular smoke alarm must be equipped with an additional smoke alarm that has visual or vibrating capacity.

(C) All carbon monoxide alarms and smoke alarms must contain a sounding device or be interconnected to other alarms to provide, when actuated, an alarm that is audible in all sleeping rooms. The alarms must be loud enough to wake occupants when all bedroom doors are closed. Intercoms and room monitors may not be used to amplify alarms.

(D) The *licensee* must test all carbon monoxide alarms and smoke alarms in accordance with the manufacturer’s

instructions at least monthly (per NFPA 72). Testing must be documented in the *facility* records. The *licensee* must maintain carbon monoxide alarms, smoke alarms, and fire extinguishers in functional condition. If there are more than two violations in maintaining battery operated alarms in working condition, the Department may require the *licensee* to hard wire the alarms into the electrical system.

(i) COMBUSTIBLES AND FIREARMS. Flammables, combustible liquids, and other combustible materials must be safely and properly stored in their original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals.

(A) Oxygen and other gas cylinders in service or in storage must be adequately secured to prevent the cylinders from falling or being knocked over;

(B) No smoking signs must be visibly posted where oxygen cylinders are present;

(C) Firearms must be stored, unloaded, in a locked cabinet. The firearms cabinet must be located in an area of the *home* that is not accessible to the residents; and

(D) Ammunition must be secured in a locked area separate from the firearms.

(j) HAZARDOUS MATERIALS. Cleaning supplies, ~~medical sharps containers,~~ poisons, insecticides, and other hazardous materials must be properly stored in their original ~~,~~ container, or in a container manufactured for the type of product. The containers must be properly labeled ~~containers~~ and kept in a safe area that is not accessible to residents, ~~or~~ or near food preparation areas, ~~or~~ food storage areas, dining areas, or medications.

(k) MEDICAL SHARPS. All sharps, including but not limited to needles and lancets, must be disposed of in approved sharps containers. Sharps containers must:

(A) Be puncture-resistant;

(B) Be leak-proof;

(C) Be labeled or color-coded red to warn that the contents are hazardous;

(D) Have a lid, flap, door, or other means of closing the container and inhibits the ability to remove sharps from the container;

(E) Not be overfilled;

(F) Be stored in an upright position in a secure location that is not accessible to residents and not close to any food preparation or food storage area; and

(G) Must be closed immediately once full and properly disposed of within ten days, according to the home's waste management company's or pharmacy's instructions.

(l~~k~~) EVACUATION PLAN. An emergency evacuation plan must be developed and revised as necessary to reflect the current condition of the residents in the *home*. The evacuation plan must be rehearsed with all occupants.

(~~l~~m) ORIENTATION TO EMERGENCY PROCEDURES. Within 24 hours of arrival, any new *resident* or *caregiver* must be shown how to respond to a smoke alarm, shown how to participate in an emergency evacuation drill, and receive an orientation to basic fire safety. New caregivers must also be oriented in how to conduct an evacuation.

(~~m~~n) EVACUATION DRILL. An evacuation drill must be held at least once every 90 calendar days, with at least one evacuation drill per year conducted during sleeping hours. The evacuation drill must be clearly documented, signed by the *caregiver* conducting the drill, and maintained according to OAR 411-050-0645.

(A) The *licensee* and all other caregivers must:

(i) Be able to demonstrate the ability to evacuate all occupants from the *facility* to the *initial point of safety* within three minutes or less. The *initial point of safety* must:

(I) Be exterior to and a minimum of 25 feet away from the structure;

(II) Have direct access to a public sidewalk or street; and

(III) Not be in the backyard of a *home* unless ~~the~~the backyard has direct~~ly~~ access~~es~~ to a public street or sidewalk.

(ii) Be able to demonstrate the ability to further evacuate all occupants from the *initial point of safety* to the *final point of safety* within two minutes or less. The *final point of safety* must be ~~:~~

~~(I) Be~~ a minimum of 50 feet away from the structure~~;~~, and: ~~and~~

(I~~I~~) ~~Located on a public sidewalk or street~~ Have direct access to a public sidewalk or street; or

(II) Not be in the backyard of a *home* unless the backyard has direct access to a public street or sidewalk.~~;~~

(B) Conditions may be applied to a license if the *licensee* or caregivers demonstrate the inability to meet the evacuation times described in this section. Conditions may include, but are not limited to, reduced capacity of residents, additional staffing, or increased fire protection. Continued problems are grounds for revocation or non-renewal of the license.

(~~n~~o) FLOOR PLAN. The *licensee* must develop a current and accurate floor plan that indicates:

(A) The size of rooms;

(B) Which bedrooms are to be used by residents, the *licensee*, caregivers, for *day care*, and *room and board* tenants, as applicable;

(C) The location of all the exits on each level of the *home*, including emergency exits such as windows;

(D) The location of wheelchair ramps;

(E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(F) The planned evacuation routes, *initial point of safety*, and *final point of safety*; and

(G) Any designated smoking areas in or on the adult foster home's premises.

(~~o~~p) RESIDENT PLACEMENT. A *resident*, who is unable to walk without assistance or not capable of *self-preservation*, may not be placed in a bedroom on a floor without a second ground level exit. (See also section (4)(f) of this rule)

(~~p~~q) STAIRS. Stairs must have a riser height of between 6 to 8 inches and tread width of between 8 to 10.5 inches. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs. (See also section (5)(f) of this rule)

(~~q~~r) EXIT WAYS. All exit ways must be barrier free and the corridors and hallways must be a minimum of 36 inches wide or as approved by the State Fire Marshal or the State Fire Marshal's designee. Interior doorways used by the residents must be wide enough to accommodate wheelchairs and walkers if used by residents and beds if used for evacuation purposes. Any bedroom window or door identified as an exit must remain free of obstacles that would interfere with evacuation.

(~~r~~s) RAMPS. There must be at least one wheelchair ramp from a minimum of one exterior door if an *occupant* of the *home* is non-ambulatory. Wheelchair ramps must comply with the U.S. Department of Justice's 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design (http://www.ada.gov/2010ADAstandards_index.htm, Chapter 4, Accessible Routes, Section 405, Ramps).

~~(A) Have the least possible slope with a maximum slope of 1 inch rise in each 12 inches of distance;~~

~~(B) Have a maximum rise for any run of 30 inches;~~

~~(C) Have a minimum clear width of 36 inches;~~

~~(D) Have landings with a minimum clear length of 60 inches at the top and bottom of each ramp and each ramp run;~~

~~(E) Have handrails on both sides of the ramp if the ramp has a rise of 6 inches or more or a run of 72 inches or more. Handrails must:~~

~~(i) Be continuous or must extend 12 inches beyond the top and bottom of the ramp segment;~~

~~(ii) Have a clear space of 1 1/2 inches between the handrail and the wall;~~

~~(iii) Mounted between 34 and 38 inches above the ramp surface; and~~

~~(iv) Rounded at the ends or returned smoothly to the floor, wall, or post.~~

~~(F) Have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp if the ramp or landing has a drop off. Curbs must be a minimum of 2 inches high;~~

~~(G) Be designed so water does not accumulate on walking surfaces; and~~

~~(H) Have non-skid surfaces.~~

(~~s~~t) EMERGENCY EXITS. There must be a second safe means of exit from all sleeping rooms. A *provider* whose sleeping room is above the first floor may be required to demonstrate at the time of licensure, renewal, or inspection, an evacuation drill from the provider's sleeping room using the secondary exit.

(u~~t~~) FLASHLIGHT. There must be at least one plug-in, rechargeable flashlight in good functional condition available on each floor of the *home* for emergency lighting.

(~~u~~v) SMOKING. If smoking is allowed in a *home*, the *licensee* must adopt *house policies* that restrict smoking to designated areas.

(A) Smoking is prohibited in:

(i) Any bedroom including that of the residents, *licensee*, *resident manager*, any other *caregiver*, *occupant*, or visitor;

(ii) Any room where oxygen is used; and

(iii) Anywhere flammable materials are stored.

(B) Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted.

(~~v~~w) EMERGENCY PREPAREDNESS PLAN. A *licensee* must develop and maintain a written *emergency preparedness plan* for the protection of all occupants in the *home* in the event of an emergency or *disaster*.

(A) The written emergency plan must:

(i) Include an evaluation of potential emergency hazards including, but not limited to:

(I) Prolonged power failure or water or sewer loss;

(II) Fire, smoke, or explosion;

(III) Structural damage;

(IV) Hurricane, tornado, tsunami, volcanic eruption, flood, or earthquake;

(V) Chemical spill or leak; and

(VI) Pandemic.

(ii) Include an outline of the caregiver's duties during an evacuation;

(iii) Consider the needs of all occupants of the *home* including, but not limited to:

(I) Access to medical records necessary to provide *services* and treatment;

(II) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation; and

(III) Behavioral support needs.

(iv) Include provisions and supplies sufficient to shelter in place for a minimum of three days without electricity, running water, or replacement staff; and

(v) Planned relocation sites.

(B) The *licensee* must notify the Department or the *local licensing authority* of the home's status in the event of an emergency that requires evacuation and during any emergent situation when requested.

(C) The *licensee* must re-evaluate the *emergency preparedness plan* at least annually and whenever there is a significant change in the *home*.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

411-050-0655 Standards and Practices for Care and Services

(1) PRE-ADMISSION SCREENING AND ASSESSMENT.

(a) Prior to admission, the *licensee* must conduct and document a *screening* to determine if a prospective resident's *care* needs exceed the license *classification* of the *home*. The *screening* must:

(A) Evaluate the ability of the prospective *resident* to evacuate the *home* within three minutes along with all the occupants of the *home*;

(B) Determine if the *licensee* and caregivers are able to meet the prospective resident's needs in addition to meeting the needs of the other residents of the *home*; and

(C) Include medical diagnoses, medications, personal care needs, *nursing care* needs, cognitive needs, communication needs, night care needs, nutritional needs, activities, lifestyle preferences, and other information, as needed, to assure the prospective resident's *care* needs shall be met.

(b) The *screening* process must include interviews with the prospective *resident* and the prospective resident's family, prior care providers, and case manager, as appropriate. The *licensee* must also interview, as necessary, any physician, nurse practitioner, physician assistant, registered nurse, pharmacist, therapist, or mental health or other *licensed health care professional* involved in the *care* of the prospective *resident*. A copy of the *screening* document must be:

(A) Given to the prospective *resident* or the prospective resident's *legal representative*; and

(B) Placed in the resident's record if admitted to the *home*; or

(C) Maintained for a minimum of three years if the prospective *resident* is not admitted to the *home*.

(c) If the Department or AAA knows that a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805 is applying for admission to an *adult foster home*, the Department or AAA shall notify the *home* of the person's status as a sex offender.

(d) The *licensee* may refuse to admit a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805.

(e) REQUIRED DISCLOSURES. The *licensee* must disclose the home's policies and practices to a prospective *resident* or the prospective resident's *legal representative*, as applicable, including:

(A) HOUSE POLICIES. The *licensee* must provide a copy of the *house policies* and disclose any policies that may limit the prospective resident's activities or preferences while living in the *adult foster home*. Examples include, but are not limited to, the use of tobacco or alcohol, pets, religious practices, dietary restrictions, and the use of intercoms and monitors. The *licensee* must disclose the home's policy regarding the legal presence and use of medical marijuana. (See OAR 411-050-0645);

(B) CONTRACT. The *licensee* must provide a copy of any contract a prospective *resident* or the prospective resident's *legal representative* may be asked to sign;

(C) MEDICAID ENROLLMENT STATUS. The *licensee* must inform a prospective *resident* or the prospective resident's representative if the *home* serves individuals eligible for Medicaid services; and

(D) LONG-TERM CARE ASSESSMENT. The *licensee* must inform a prospective private-pay *resident* or the prospective resident's representative, if appropriate, of the availability of long-term care assessment services provided through the

Department or a certified assessment program. The *licensee* must document on the Department's form (SDS 913) that the prospective private-pay *resident* has been advised of the right to receive a long-term care assessment. The *licensee* must maintain a copy of the form in the resident's record upon admission and make a copy available to the Department upon request.

(2) PRIOR TO ADMISSION.

(a) The *licensee* must obtain and document general information regarding a *resident* prior to the resident's admission. The information must include the names, addresses, and telephone numbers of the resident's relatives, significant persons, case managers, and medical or mental health providers. The information must also include the date of admission and, if available, the resident's medical insurance information, birth date, prior living *facility*, and mortuary;

(b) Prior to admission, the *licensee* must obtain and place in the resident's record:

(A) Prescribing practitioner's written or verbal orders for medications, treatments, therapies, and special diets, as applicable. Any verbal orders must be followed with written orders within seven calendar days of the resident's admission. Attempts to obtain written orders must be documented in the resident's record;

(B) *Prescribing practitioner* or pharmacist review of the resident's preferences for over-the-counter medications and home remedies; and

(C) Any medical information available, including the resident's history of accidents, illnesses, impairments, or mental status that may be pertinent to the resident's care.

(c) The *licensee* must ask for copies of the resident's *Advance Directive*, Physician's Order for Life Sustaining Treatment (POLST), and proof of court-appointed guardianship or conservatorship, if applicable. Copies of these documents must be placed in a prominent

place in the resident's record and sent with the *resident* if the *resident* is transferred for medical care;

(d) The *licensee* must provide written information to the *resident* or the resident's representative about the resident's right to make decisions concerning Advance Directives and the resident's right to accept or refuse medical care. The *licensee* must provide:

(A) A written copy of the adult foster home's policies regarding implementation of Advance Directives; and

(B) A clear and precise statement of limitation if the *licensee* is not able to implement an *Advance Directive* on the basis of conscience that includes:

(i) Identification of the state legal authority under ORS 127.625 permitting a conscientious objection; and

(ii) Descriptions of medical conditions or procedures affected by the licensee's conscientious objection.

(e) The *licensee* must review the Residents' Bill of Rights and the home's current *house policies* with the *resident* and the resident's *legal representative*, as appropriate. The discussion must be documented by having the *resident* sign and date a copy of the *house policies* that have been approved by the *local licensing authority* and the current Residents' Bill of Rights (form SDS 305A). A copy of the signed *house policies* and Residents' Bill of Rights must be maintained in the resident's record.

(3) SCREENING PRIOR TO RE-ADMISSION. ~~In the event~~ When a *resident* temporarily leaves the *home*~~,~~ including, but not limited to, a resident's hospitalization, the *licensee* shall conduct the necessary elements of the pre-admission and *screening* assessment requirements, and document those findings ~~in order to: in order~~ to:

(a) Determine whether readmission to the *home* is appropriate for the *classification* of the *home*;

(b) Determine whether the ~~L~~*licensee* can continue to meet the resident's *care* and safety needs in addition to those of the other residents; and ~~Determine whether readmission to the home is appropriate for the classification of the home, whether the Licensee can continue to meet the resident's care and safety needs in addition to those of the other residents;~~

(~~a~~b~~b~~c) Demonstrate compliance with *these rules*; and

(d~~c~~) If applicable, demonstrate the basis for refusing the resident's re-admission to the *home* according to OAR 411-050-0645 (11).

(4~~3~~) CARE PLAN.

(a) During the initial 14 calendar days following the resident's admission to the *home*, the *licensee* must continue to assess and document the resident's preferences and *care* needs. The assessment and *care plan* must be completed by the *licensee* and documented within the initial 14-day period. The *care plan* must describe the resident's needs, preferences, and capabilities, and what assistance the *resident* requires for various tasks. The resident's *care plan* must also include:

(A) By whom, when, and how often *care* and *services* shall be provided;

(B) The resident's ability to perform *activities of daily living* (ADLs);

(C) Special equipment needs;

(D) Communication needs (examples may include, but are not limited to, hearing or vision needs, such as eraser boards or flash cards, or language barriers, such as sign language or non-English speaking);

(E) Night needs;

(F) Medical or physical health problems, including physical disabilities, relevant to *care* and *services*;

(G) Cognitive, emotional, or other impairments relevant to *care* and *services*;

(H) Treatments, procedures, or therapies;

(I) Registered nurse consultation, teaching, *delegation*, or assessment;

(J) *Behavioral interventions*;

(K) Social, spiritual, and emotional needs, including lifestyle preferences, activities, and significant others involved;

(L) The ability to exit in an emergency, including assistance and equipment needed;

(M) Any use of physical restraints or *psychoactive medications*; and

(N) Dietary needs and preferences.

(b) The *licensee* must review and update each resident's *care plan* every six months ~~or~~and when a resident's condition changes. The review must be documented in the resident's record at the time of the review and include the date of the review and the licensee's signature. If a *care plan* contains many changes and becomes less legible, a new *care plan* must be written.

(~~4~~5) REGISTERED NURSE CONSULTATION.

(a) RN CONSULTATION AND ASSESSMENT. A *licensee* must obtain a medical professional consultation and assessment to meet the *care* needs of a *resident* as required in *these rules*. A registered nurse consultation must be obtained when a skilled *nursing care* task, as defined by the Oregon State Board of Nursing, has been ordered by a physician or other *licensed health care professional*.

(b) A *licensee* must also request a registered nurse consultation under the following conditions:

(A) When a *resident* has a health concern or behavioral symptoms that may benefit from a nursing assessment and *provider* education;

(B) When written parameters are needed to clarify a *prescribing practitioner p.r.n.* order for medication and treatment (See section (~~5~~6)(g) of this rule);

(C) Prior to the use of physical restraints when not assessed, taught, and reassessed, according to section (~~5~~6)(~~m~~o) of this rule, by a physician, nurse practitioner, physician assistant, Christian Science practitioner, mental health clinician, physical therapist, or occupational therapist;

(D) Prior to requesting *psychoactive medications* to treat behavioral symptoms or the use of new *psychoactive medications* when not assessed, taught, and reassessed according to section (~~5~~6)(h) of this rule, by a physician, nurse practitioner, physician assistant, or mental health practitioner; and

(E) When *care* procedures are ordered that are new for a *resident*, the *licensee*, or other caregivers.

(c) RN DELEGATIONS. A registered nurse may determine a *nursing care* task be taught utilizing the *delegation* process. RN delegations are not transferable to other residents or caregivers. (Refer to OAR chapter 851, division 047)

(d) Documentation of nurse consultations, delegations, assessments, and reassessments must be maintained in the resident's record and made available to the Department upon request.

(6~~5~~) STANDARDS FOR MEDICATIONS, TREATMENTS, AND THERAPIES.

(a) MEDICATIONS. The *licensee* and caregivers must demonstrate an understanding of each resident's medication administration regimen. Medication resource material must be readily available at

the *home* and include the reason a medication is used, any specific instructions, the medication's actions, and common side effects.

(b) WRITTEN ORDERS. The *licensee* must obtain and place a signed order in the resident's record for any medications, dietary supplements, treatments, or therapies that have been ordered by a *prescribing practitioner*. The written orders must be carried out as prescribed unless the *resident* or the resident's *legal representative* refuses to consent. The *prescribing practitioner* must be notified if the *resident* refuses to consent to an order.

(A) CHANGED ORDERS. Changes to a written order may not be made without a *prescribing practitioner* order. The *prescribing practitioner* must be notified if the *resident* refuses to consent to the change order. Changes to medical orders obtained by telephone must be followed-up with signed orders within seven calendar days. Changes in the dosage or frequency of an existing medication require a new properly labeled and dispensed medication container. If a new properly labeled and dispensed medication container is not obtained, the change must be written on an auxiliary label attached to the medication container, not to deface the existing original pharmacy label, and must match the new medication order. Attachment of the auxiliary label must be documented in the residents' record. (See section (~~5~~6)(f)(D) of this rule)

(B) DOCUMENTATION OF CHANGED ORDERS. Attempts to obtain the signed written changes must be documented and readily available for review in the resident's record. The resident's medications, including medications that are prescribed, over-the-counter medications, and home remedies, must be reviewed by the resident's *prescribing practitioner* or pharmacist at least annually. The review must be in writing, include the date of the review, and contain the signature of the *prescribing practitioner* or a pharmacist.

(c) MEDICATION SUPPLIES. The *licensee* must have all currently prescribed medications, including *p.r.n.* medications, and all prescribed over-the-counter medications available in the *home* for administration. Refills must be obtained prior to depletion of current

medication supplies. Attempts to order refills must be documented in the resident's record.

(d) HEALTH CARE PROFESSIONAL ORDERS (IMPLEMENTED BY AFH STAFF). The *licensee* who implements a hospice, home health, or other licensed medical professional-generated order must:

(A) Have a copy of the hospice, home health, or licensed medical professional document that communicates the written order;

(B) Transcribe the order onto the medication administration record (MAR);

(C) Implement the order as written; and

(D) Include the order on subsequent medical visit reports for the *prescribing practitioner* to review.

(e) HOSPICE AND HOME HEALTH ORDERS (IMPLEMENTED BY NON-AFH STAFF). A *licensee* must allow a *resident* to receive hospice services. The *licensee* who provides *adult foster home services* to a recipient of hospice or home health services, but who does not implement a hospice or home health-generated order must:

(A) Have a copy of the hospice or home health document that communicates the written order; and

(B) Include the order on subsequent medical visit reports for the *prescribing practitioner* to review.

(f) MEDICATION ADMINISTRATION RECORD (MAR). A current, written medication administration record (MAR) must be kept for each *resident* and must:

(A) List the name of all medications administered by a *caregiver*, including over-the-counter medications and prescribed dietary supplements. The MAR must identify the dosage, route, and the date and time each medication ~~or~~and supplement is to be given;

(B) Identify any treatments and therapies administered by a *caregiver*. The MAR must indicate the type of treatment or therapy and the time the procedure must be performed;

(C) Be immediately initialed by the *caregiver* administering the medication, treatment, or therapy as it is completed. A resident's MAR must contain a legible signature that identifies each set of initials;

(D) Document changed and discontinued orders immediately showing the date of the change or discontinued order. A changed order must be written on a new line with a line drawn to the start date and time; and

(E) Document missed or refused medications, treatments, or therapies. If a medication, treatment, or therapy is missed or refused by the *resident*, the initials of the *caregiver* administering the medication, treatment, or therapy must be circled, and a brief, but complete, explanation must be recorded on the back of the MAR.

(g) P.R.N. MEDICATIONS. Prescription medications ordered to be given "as needed" or "*p.r.n.*" must have specific parameters indicating what the medication is for and specifically when, how much, and how often the medication may be administered. Any additional instructions must be available for the *caregiver* to review before the medication is administered to the *resident*.

(A) P.R.N. DOCUMENTATION. As needed (*p.r.n*) medications must be documented on the resident’s MAR with the time, dose, the reason the medication was given, and the outcome.

(B) P.R.N. ADVANCE SET-UP. As needed (*p.r.n.*) medications may not be included in any advance set-up of medication.

(h) PSYCHOACTIVE MEDICATIONS.

(A) A *licensee* is not required to request an evaluation of a resident's use of a psychoactive medication if the *resident* is

admitted to the *home* and the *resident* has been prescribed the psychoactive medication for a condition that is currently monitored by a physician, nurse practitioner, physician assistant, or mental health professional and the written order for the psychoactive medication is in the resident's record.

(B) If a *resident* is admitted to a *home* with no documented history as to the reason for taking a psychoactive medication, or if the *licensee* requests medical professional intervention to address behavioral symptoms, the *licensee* must request a physician, nurse practitioner, physician assistant, or mental health professional evaluate the resident's need for the psychoactive medication and the intended effect of the medication, common side effects, and circumstances for reporting. The evaluation request must be documented in the resident's record and include:

(i) A probable cause of the resident's behavior;

(ii) Behavioral and environmental interventions to be used instead of or in addition to psychoactive medication, if applicable. Alternative interventions must be tried as instructed by a licensed medical professional and the resident's response to the alternative interventions must be documented in the resident's record prior to administering a psychoactive medication; and

(iii) A plan for reassessment by the resident's prescribing physician, nurse practitioner, physician assistant, or mental health professional.

(C) The prescription and order for a psychoactive medication must specify the dose, frequency of administration, and the circumstance for use (i.e., specific symptoms). The *licensee* and all caregivers must be aware of and comply with these parameters.

(D) The *licensee* and all caregivers must know the intended effect of a psychoactive medication for a particular *resident* and the common side effects, as well as the circumstances for

reporting to the resident's physician, nurse practitioner, physician assistant, or mental health professional.

(E) The resident's *care plan* must identify and describe the behavioral symptoms for which *psychoactive medications* are prescribed and a list of all interventions, including behavioral, environmental, and medication.

(F) *Psychoactive medications* must never be given to discipline a *resident* or for the convenience of the caregivers.

(i) MEDICATION CONTAINERS AND~~,~~ STORAGE~~, AND DISPOSAL~~.

(A) MEDICATION CONTAINERS. Each of the resident's prescribed medication containers, including bubble packs, must be clearly labeled by the pharmacy. All medications, including over-the-counter medications, must be in the original container. Medications stored in advanced set up containers are required to be labeled as described in *th~~i~~ese rules*.

(B) OVER-THE-COUNTER ~~MEDICATIONS.~~ PRODUCTS. Over-the-counter products such as medications, ~~medication~~ vitamins, and supplements~~,~~ purchased for a specific resident's use must be marked with the resident's name. Over-the-counter ~~medications~~ items in stock bottles (with original labels) may be used for multiple residents in the *home* and must be clearly marked as the house supply.

(C) STORAGE OF RESIDENT MEDICATION. All *resident* medications, including over-the-counter medications, must be kept in a locked, central location that is cool, clean, dry, not subject to direct sunlight, and separate from medications belonging to the *licensee*, caregivers, and all other non-residents. Medications requiring refrigeration must also be locked and stored separately from non-resident medications. ~~Residents may not have access to medications belonging to the licensee, caregivers, or other household members.~~

(D) STORAGE OF NON-RESIDENT MEDICATION. All non-resident medications must be kept locked and separate from

resident medications. Residents shall not have access to medications belonging to the *licensee*, caregivers, other household members, or pets.

(~~E~~j) DISPOSAL OF MEDICATION.~~-~~ Outdated, discontinued, recalled, or contaminated medications, including over-the-counter medications, may not be kept in the *home* and must be disposed of within 10 calendar days of expiration, discontinuation, or the licensee's knowledge of a recall or contamination. A *licensee* must contact the local DEQ waste management company in their area for instructions on proper disposal of unused or expired medications.

(~~i~~k) DOCUMENTATION OF DISPOSAL. The disposal of a resident's medication must be documented in the resident's record and the documentation must be readily available in the resident's record.

(~~ii~~A) The disposal of a controlled substance must be documented in the resident's record and the disposal must be witnessed by a *caregiver* who is 18 years of age or older.

(~~iii~~B) ~~DOCUMENTATION OF DISPOSAL.~~ Documentation regarding the disposal of medications and controlled substances must include:

(~~I~~i) The date of disposal;

(~~II~~ii) Description of the medication, (i.e., name, dosage, and amount being disposed);

(~~III~~iii) Name of the *resident* for whom the medication was prescribed;

(~~IV~~iv) Reason for disposal;

(~~V~~v) Method of disposal;

(~~VI~~vi) Signature of the person disposing of the medication; and

(~~VII~~vii) For controlled substances, the signature of the *caregiver* who witnessed the disposal according to this rule.

(~~j~~l) ADVANCED SET-UP. The *licensee* may set-up each resident's medications for up to seven calendar days in advance (excluding *p.r.n.* medications) by using a closed container manufactured for the advanced set-up of medications. If used, each *resident* must have his or her own container with divisions for the days of the week and times of the day the medications are to be given. The container must be clearly labeled with the resident's name, name of each medication, time to be given, dosage, amount, route, and description of each medication. The container must be stored in the locked area with the residents' medications.

(m~~k~~) SELF-ADMINISTRATION OF MEDICATION. A *licensee* must have a *prescribing practitioner* written order of approval for a *resident* to self-medicate. A *resident* able to handle his or her own medical regimen may keep their medications in their own room in a lockable storage area or device. Medications must be kept locked except those medications on the residents' own person. The *licensee* must notify the prescriber of the medication if the *resident* shows signs of no longer being able to self-medicate safely.

(n~~l~~) INJECTIONS. Subcutaneous, intramuscular, and intravenous injections may be self-administered by a *resident* if the *resident* is fully independent in the task or may be administered by a *relative* of the *resident* or an Oregon licensed registered nurse (RN). An Oregon licensed practical nurse (LPN) may give subcutaneous and intramuscular injections. A *caregiver* who has been delegated and trained by a registered nurse under provision of the Oregon State Board of Nursing (OAR 851-047-0000 to 851-047-0040) may give subcutaneous injections. Intramuscular and intravenous injections may not be delegated. See OAR 411-050-0650 (5) for storage and disposal requirements of sharps, including but not limited to used needles and lancets.

(o~~m~~) PHYSICAL RESTRAINTS. Physical restraints may only be used when required to treat a resident's medical symptoms or to maximize a resident's physical functioning. Physical restraints may only be

used after a written assessment is completed as described below and all alternatives have been exhausted. Licensees and caregivers may use physical restraints in adult foster homes only in compliance with *these rules*, including the Residents' Bill of Rights listed in section (~~7~~8) of this rule. Prior to the use of any type of *physical restraint*, the following must be completed:

(A) ASSESSMENT. A written assessment must be obtained from the resident's physician, nurse practitioner, physician assistant, registered nurse, Christian Science practitioner, mental health clinician, physical therapist, or occupational therapist that includes consideration of all other alternatives.

(B) ORDERS. If it is determined that a *physical restraint* is necessary following the assessment and trial of other measures, the least restrictive restraint must be used and as infrequently as possible. The *licensee* must obtain a written order from the resident's physician, nurse practitioner, physician assistant, or Christian Science practitioner prior to the use of a *physical restraint*. The written order must include specific parameters, including the type of *physical restraint*, circumstances for use, and duration of use, including:

(i) Procedural guidance for the use of the *physical restraint*;

(ii) The frequency for reassessment;

(iii) The frequency and procedures for nighttime use; and

(iv) Dangers and precautions for using the *physical restraint*.

(C) Physical restraints may not be used on an as needed (*p.r.n.*) basis in an *adult foster home*.

(D) CONSENT. Physical restraints must not be used without first obtaining the written consent of the *resident* or the resident's *legal representative*.

(E) DOCUMENTATION. If it is determined a *physical restraint* is necessary following the assessment and trial of other measures, the written order for the use of a *physical restraint* must be documented in the resident's *care plan* explaining why and when the restraint is to be used, along with instructions for periodic release. Any less restrictive, alternative measures planned during the assessment, and cautions for maintaining the resident's safety while restrained must also be recorded in the resident's *care plan*. The resident's record must include:

(i) The completed assessment as described in this rule;

(ii) The written order authorizing the use of the *physical restraint* from the resident's physician, nurse practitioner, physician assistant, or Christian Science practitioner;

(iii) Written consent of the *resident* or the resident's *legal representative* to use the specific type of *physical restraint*; and

(iv) The reassessments completed by a medical professional as described above in subsection (B) of this rule.

(F) DAYTIME USE. A *resident* physically restrained during waking hours must have the restraints released at least every two hours for a minimum of 10 minutes and be repositioned, offered toileting, and provided exercise or range-of-motion exercises during this period. The use of restraints, restraint release, and activities that occurred during the release period must be documented in the resident's record.

(G) NIGHTTIME USE. The use of physical restraints at night is discouraged and must be limited to unusual circumstances. If used, the restraint must be of a design to allow freedom of movement with safety. The frequency of night monitoring to address *resident* safety and *care* needs must be determined in the assessment. Tie restraints of any kind must not be used to keep a *resident* in bed.

(H) If any physical restraints are used in an *adult foster home*, the restraints must allow for quick release at all times. Use of restraints may not impede the three-minute evacuation of all occupants of the *home*.

(I) Physical restraints may not be used for the discipline of a *resident* or for the convenience of the *adult foster home*.

(7~~6~~) RESIDENT CARE.

(a) *Care* and supervision of residents must be in a *home-like* atmosphere. The training of the *licensee* and caregivers and *care* and supervision of residents must be appropriate to the age, *care* needs, and conditions of the residents in the *home* ~~(See OAR 411-050-0625).~~ Additional staff may be required if, for example, *day care* individuals are in the *home* or if necessary to safely evacuate the residents and all occupants from the *home* as required by OAR 411-050-0650.

(b) If a *resident* has a medical regimen or personal *care plan* prescribed by a *licensed health care professional*, the *provider* must cooperate with the plan and ensure the plan is implemented as instructed.

(c) NOTIFICATION. The *licensee* must notify emergency personnel, the resident's physician, nurse practitioner, physician assistant, registered nurse, family representative, and case manager, as applicable, under the following circumstances:

(A) EMERGENCIES (MEDICAL, FIRE, POLICE). In the event of an emergency, the *licensee*~~,~~ or *caregiver* with the *resident* at the time of the emergency must first call 911 or the appropriate emergency number for their community. This does not apply to a *resident* with a medical emergency who practices Christian Science;

(i) If a *resident* is receiving hospice services, the caregivers must follow the written instructions for medical emergencies from the hospice nurse.

(ii) If a *resident* has a completed Physician's Orders for Life-Sustaining Treatment (POLST) or other legal documents, such as an *Advance Directive* or Do Not Resuscitate (DNR) order, copies of the documents must be made available to the emergency personnel when they arrive.

(B) HOSPITALIZATION. In the event the *resident* is hospitalized;

(C) HEALTH STATUS CHANGE. When the resident's health status or physical condition changes; and

(D) DEATH. Upon the death of the *resident*.

(d) The *licensee* shall not inflict, or tolerate to be inflicted, *abuse* or punishment, financial exploitation, or neglect of the residents.

(e) The *licensee* must exercise reasonable precautions against any conditions that may threaten the health, safety, or welfare of the residents.

(f) A qualified *caregiver* must always be present and available at the *home* when a *resident* is in the *home*. A *resident* may not be left in charge in lieu of a *caregiver*.

(g) ACTIVITIES. The *licensee* must make available at least six hours of activities per week that are of interest to the residents, not including television and movies. Information regarding activity resources is available from the *local licensing authority*. Activities must be oriented to individual preferences as indicated in the resident's *care plan* (See section (~~3~~4~~)(a)(J~~) of this rule). Documentation of the activities offered to each *resident* and the resident's participation in those activities must be recorded in the resident's records.

(h) DAY CARE. Prior to the admission of each *day care* individual, the *licensee* must:

(A) Conduct and document a *screening* as described in section (1)(a) of this rule;

(B) Obtain current medical professional orders as described in section (~~5~~6)~~(b)~~ of this rule if medications are to be administered and the necessary delegations, as applicable; and

(C) Develop and maintain a current, written medication administration record (MAR) as described in section (~~5~~6)~~(f~~) of this rule if medications are to be administered.

(i) DIRECT INVOLVEMENT OF CAREGIVERS. The *licensee* or caregivers must be directly involved with the residents on a daily basis. If the physical characteristics of the *adult foster home* do not encourage contact between the caregivers and residents and among residents, the *licensee* must demonstrate how regular positive contact occurs.

(j) RESIDENT MONEY. If the *licensee* manages or handles a resident's money, a separate account record must be maintained in the resident's name. The *licensee* may not under any circumstances commingle, borrow from, or pledge any of a resident's funds. The *licensee* may not act as a resident's guardian, conservator, trustee, or attorney-in-fact unless related by birth, marriage, or adoption to the *resident* as follows: parent, child, brother, sister, grandparent, grandchild, aunt, uncle, niece, or nephew. Nothing in this rule may be construed to prevent the *licensee* or the licensee's employee from acting as a representative payee for the *resident*. (See also OAR 411-020-0002 and ORS 127.520)

(A) Personal incidental funds (PIF) for individuals eligible for Medicaid services must be used at the discretion of the individual for such things as clothing, tobacco, and snacks (not part of daily diet).

(B) The *licensee* and other caregivers may not accept gifts from the residents through undue influence or accept gifts of substantial value. Caregivers and family members of the caregivers may not accept gifts of substantial value or loans from the *resident* or the resident's family. The *licensee* or other

caregivers may not influence, solicit from, or suggest to any of the residents or the residents' legal representatives that the residents or the residents' legal representatives give the *caregiver* or the caregiver's family money or property for any purpose.

(C) The *licensee* may not subject the *resident* or the resident's representative to unreasonable rate increases.

(k) The *licensee* and other caregivers may not loan money to the residents.

(8~~7~~) RESIDENTS' BILL OF RIGHTS. The *licensee*, the licensee's family, and employees of the *home* must guarantee not to violate these *rights* and to help the residents exercise them. The Residents' Bill of Rights provided by the Department must be explained and a copy given to each *resident* at the time of admission. The Residents' Bill of Rights states each *resident* has the right to:

(a) Be treated as an adult with respect and dignity;

(b) Be informed of all *resident rights* and all *house policies*;

(c) Be encouraged and assisted to exercise constitutional and legal *rights*, including the right to vote;

(d) Be informed of their medical condition and the right to consent to or refuse treatment;

(e) Receive appropriate care, *services*, and prompt medical care as needed;

(f) Be free from *abuse*;

(g) Complete privacy when receiving treatment or personal care;

(h) Associate and communicate privately with any person of choice and send and receive personal mail unopened;

(i) Have access to and participate in activities of social, religious, and community groups;

(j) Have medical and personal information kept confidential;

(k) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space;

(l) Be free from chemical and physical restraints except as ordered by a physician or other qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not to be used for discipline or convenience;

(m) Manage their own financial affairs unless legally restricted;

(n) Be free from financial exploitation. The *licensee* may not charge or ask for application fees or non-refundable deposits or solicit, accept, or receive money or property from a *resident* other than the amount agreed to for *services*;

(o) A written agreement regarding *services* to be provided and the rates to be charged. The *licensee* must give 30 days' written notice before any change in the rates or the ownership of the *home*;

(p) Not be transferred or moved out of the *adult foster home* without 30 calendar days' written notice and an opportunity for a hearing. A *licensee* may transfer a *resident* only for medical reasons, for the welfare of the *resident* or other residents, or for nonpayment;

(q) A safe and secure environment;

(r) Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion;

(s) Make suggestions or complaints without fear of retaliation; and

(t) Be free of discrimination in regard to the execution of an *Advance Directive*, Physician's Order for Life-Sustaining Treatment (POLST), or Do Not Resuscitate (DNR) orders.

Stat. Auth.: ORS 127.520, 410.070, 441.373, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, 443.991, 443.373

411-050-0660 Qualifications and Requirements for Ventilator-Assisted Care

Adult foster homes that provide *ventilator-assisted care* for residents must meet the following requirements in addition to the other requirements set forth in *these rules*:

(1) LICENSE REQUIRED. A person or *entity* may not represent themselves as operating an *adult foster home* that provides *ventilator-assisted care* or accept placement of an individual requiring *ventilator-assisted care* without being licensed as a *ventilator-assisted care adult foster home*.

(2) APPLICATION. An *applicant* or *licensee* must meet and maintain compliance with OAR 411-050-0610.

(a) To apply for a license to provide *ventilator-assisted care*, an *applicant* or *licensee* must complete the Department's *ventilator-assisted care* application form (SDS 448V) and submit the application with the required information and nonrefundable fee as outlined in OAR 411-050-0610~~(3) and (4)~~ to the *local licensing authority*.

(b) To renew a license to provide *ventilator-assisted care*, a *licensee* must complete the Department's *ventilator-assisted care* application form (SDS 448V) and submit the application with the required information and nonrefundable fee as outlined in OAR 411-050-0640~~(3)~~ to the *local licensing authority*.

(c) Applications are processed according to OAR 411-050-0610 and 411-050-0640.

(d) Applications must be approved by the Department prior to the issuance of a *ventilator-assisted care* license.

(3) QUALIFICATIONS AND TRAINING. An *applicant*, *licensee*, and all other caregivers must meet and maintain compliance with OAR 411-050-0625. In addition:

(a) The *applicant*, *licensee*, *resident manager*, *floating resident manager*, or *shift caregivers*, as applicable, must demonstrate one year of full-time experience in providing *ventilator-assisted care*.

(b) The *applicant* or *licensee*, as applicable, must have experience operating a Class 3 *adult foster home* in *substantial compliance* with *these rules* for at least one year.

(c) An *applicant* for an *adult foster home* providing *ventilator-assisted care* must be the *primary caregiver* and live in the *home* where *ventilator-assisted care* is to be provided for a minimum of one year from the date the initial *ventilator-assisted care* license is issued. The *licensee* may employ a *resident manager* to be the primary live-in caregiver after providing *ventilator-assisted care* for the one year period. The *resident manager* must be approved by the *local licensing authority* and the Department.

(d) The *applicant*, *licensee*, and all other caregivers must successfully complete the Department's approved training pertaining to *ventilator-assisted care* and other training as required. Training is required on an annual basis and must be completed by the *licensee*, *resident manager*, *floating resident manager*, *shift caregivers*, and substitute caregivers, as applicable, prior to approval of a renewed *ventilator-assisted care* license.

(4) CLASSIFICATION. An *applicant* for a *ventilator-assisted care* license must possess the minimum qualifications outlined in section (3) of this rule. The *applicant* and *licensee* must meet and maintain compliance with OAR 411-050-0630. The *local licensing authority* shall issue a Level A, Level B, or Level C *ventilator-assisted care adult foster home* license to qualified applicants.

(a) A *licensee* with a Level C *ventilator-assisted care* license may admit a maximum of one *resident* who requires *ventilator-assisted care*. The *local licensing authority* may issue a Level C license if the *applicant* has:

(A) Satisfied the requirements described in section (3) above; and

(B) Successfully operated a Class 3 *home* in *substantial compliance* with *these rules* for a period of not less than one year.

(b) A *licensee* with a Level B *ventilator-assisted care* license may admit a maximum of three residents who require *ventilator-assisted care*. The *local licensing authority* may issue a Level B license if the *licensee* has:

(A) Satisfied the requirements described in section (3) above; and

(B) Successfully operated and provided *ventilator-assisted care* in their Level C *home* in *substantial compliance* with *these rules* for a period of not less than one year; or

(C) The *applicant* or *licensee*, as applicable, has a current license as a health care professional in Oregon.

(c) A *licensee* with a Level A *ventilator-assisted care* license may admit a maximum of five residents who require *ventilator-assisted care*. The *local licensing authority* may issue a Level A license if the *licensee* has:

(A) Satisfied the requirements described in section (3) above; and

(B) Successfully operated and provided *ventilator-assisted care* in their Level B *home* in *substantial compliance* with *these rules* for a period of not less than one year.

(5) CAPACITY. An *applicant* and *licensee* must meet and maintain compliance with OAR 411-050-0632. The number of residents permitted to *reside* in a *ventilator-assisted care adult foster home* is determined by the *level* of the *home*, the ability of the staff to meet the *care* needs of the residents, the fire and life safety standards, and compliance with *these rules*. A *licensee* may only admit or continue to provide *ventilator-assisted care* for residents according to the *level* of the home's license. A licensee may admit other residents who do not require *ventilator-assisted care* within the approved license capacity listed on the home's license.

(6) OPERATIONAL STANDARDS. A *licensee* must meet and maintain compliance with OAR 411-050-0645. In addition:

(a) A minimum of two qualified and approved caregivers must be on site and available to meet the routine and emergency care and service needs of the residents 24 hours a day. A minimum of one of the two qualified and approved caregivers must be awake during nighttime hours.

(b) All caregivers must demonstrate competency in providing *ventilator-assisted care*.

(c) All caregivers must be able to evacuate the residents and any other occupants of the *home* within three minutes or less.

(d) The *applicant* and *licensee* must have a satisfactory system in place to ensure the caregivers are alert to the 24-hour needs of residents who may be unable to independently call for assistance.

(e) All caregivers must know how to operate the back-up generator without assistance and be able to demonstrate how to operate the back-up generator upon request by the Department or *local licensing authority*.

(7) FACILITY STANDARDS. An *applicant* and *licensee* must meet and maintain compliance with OAR 411-050-0650. In addition:

(a) The residents' bedrooms must be a minimum of 100 square feet, or larger if necessary, to accommodate the standard requirements of OAR 411-050-0650, the needs of the *resident*, and the equipment

and supplies necessary for the *care* and *services* needed by individuals requiring *ventilator-assisted care*.

(b) Homes that provide *ventilator-assisted care* for residents must have a functional, emergency back-up generator. The generator must be adequate to maintain electrical service for *resident* needs until regular service is restored. Hard wired, back-up generators must be installed by a licensed electrician. Back-up generators must be tested monthly and the test must be documented in the *facility* records.

(c) The *home* must have a functional, interconnected carbon monoxide and smoke alarm system with back-up batteries.

(d) The *home* must have a functional sprinkler system and maintenance of the sprinkler system must be completed as recommended by the manufacturer. A *home* that does not have a functional sprinkler system but was approved to provide *ventilator-assisted care* prior to September 1, 2013, must install a functional whole-home sprinkler system no later than July 31, 2015.

(e) Each resident's bedroom must have a mechanism in place that enables the *resident* to summon a caregiver's assistance when needed. The mechanism must be within the abilities of the *resident* to use. The summons must be audible in all areas of the *adult foster home*.

(8) STANDARDS AND PRACTICES FOR CARE AND SERVICES. Licensees must meet and maintain compliance with OAR 411-050-0655. In addition:

(a) The *licensee* must conduct and document a thorough *screening* of a prospective *resident* on the Department's form (SDS 902).

(b) Prior to admitting a *resident* requiring ventilator care to the *adult foster home*, the *licensee* must obtain preauthorization from the Department.

(c) The *licensee* must have a primary care physician identified for each *resident* being considered for admission.

(d) The *licensee* must retain the services of a registered nurse (RN) consultant to work in the *home* who is licensed by the State of Oregon and trained in the *care* of individuals requiring *ventilator-assisted care*. RN services include, but are not limited to, the provision of medical consultation and supervision of *resident care*, skilled *nursing care* as needed, and *delegation* of *nursing care* to caregivers. When the *licensee* is an RN, a back-up RN licensed by the State of Oregon and trained in the *care* of individuals requiring *ventilator-assisted care* must be identified and available to provide nursing services in the absence of the *licensee*.

(e) The *licensee* must develop individual care plans for each *resident* with the RN consultant addressing the expected frequency of nursing supervision, consultation, and direct service intervention. The RN consultation must be documented on the resident's completed *care plan* with the RN's signature and date signed.

(f) The *licensee* must have physician, RN, and respiratory therapist consultation services, all licensed by the State of Oregon and trained in the *care* of individuals requiring *ventilator-assisted care* available on a 24-hour basis and for in-home visits as appropriate. The *licensee* must call the appropriate medical professional to attend to the emergent *care* needs of the residents.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 410.070, 443.001-004, 443.705-825, 443.875, 443.991

411-050-0662 Qualifications and Requirements for Limited Adult Foster Homes

(1) To qualify for a *limited adult foster home* license the *applicant* or *licensee* must submit:

(a) A completed application for initial or renewal limited licenses;

(b) The Department's Health History and Physician's or Nurse Practitioner's Statement that indicates the *applicant* or *licensee* is physically, cognitively, and emotionally capable of providing *care* to a

specific adult who is *older* or who has a physical *disability* and with whom the *applicant* has an established relationship of not less than one year. The Health History and Statement must be submitted initially and every third year or sooner if there is reasonable cause for health concerns;

(c) Documentation of the initiation of a *background check* or copy of an approved *background check* for each *subject individual*;

(d) Completion of the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W); and

(e) A $20 non-refundable fee. If the *licensee* requests and is granted a *variance* from the capacity limitation of one *resident*, a $20 per bed non-refundable fee for each non-relative *resident* is required.

(2) The *applicant* or *licensee* must demonstrate a clear understanding of the resident's *care* needs.

(3) The *applicant* or *licensee* must live in the *home* that is to be licensed.

(4) The *applicant* or *licensee* must own, rent, or lease the *home* in which *care* is being provided. The *applicant* or *licensee* must provide verification of proof of ownership or a copy of the signed and dated rental or lease agreement as applicable.

(5) A *caregiver* must be available at all times, 24 hours a day, 7 days a week, when the *resident* is in the *home*. The *caregiver* must have the knowledge and ability to meet the resident's *care* needs. All caregivers must:

(a) Have an approved *background check* according to the *Criminal Records and Abuse Check rules* (OAR 407-007-0200 through 407-007-0370) prior to working in the *home*;

(b) Complete the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W); and

(c) Be at least 18 years of age.

(6) The *licensee* must notify the *local licensing authority* if the *licensee* shall be absent from the *home* 10 days or more and the *resident* shall be remaining in the *home* during the absence. The *licensee* must also submit a staffing plan to the *local licensing authority* demonstrating coverage during the absence that meets the needs of the *resident*.

(7) The resident's bedroom must be in close enough proximity to the *licensee* or *caregiver* in charge to alert him or her to nighttime needs or emergencies, or the bedroom must be equipped with a functional call bell or intercom within the resident's abilities to operate.

(8) The *licensee* and *caregiver* must have a complete understanding of the resident's medications. The *licensee* must have a copy of current *prescribing practitioner* orders including, if applicable, written authorization for self-administration of medications.

(9) Medications must be stored in their original labeled container except when stored in a 7-day closed container manufactured for advanced set-up of medications.

(10) The *licensee* and *caregiver* must place used, disposable syringes and needles, and other sharp items in a puncture-resistant, red container designed for disposal of sharp items. Disposal must be according to local regulations ~~and~~ as stated in section (5) of this rule. ~~resources~~ (See ORS 459.386 through 459.405)~~.~~

(11) The *licensee*, the licensee's family, and employees of the *home* must guarantee not to violate the Residents' Bill of Rights as outlined in OAR 411-050-0655.

(12) The *licensee* must have a copy of any *Advance Directive*, Physician Order for Life-Sustaining Treatment (POLST), and Do Not Resuscitate (DNR) orders.

(13) The *home* must have a working landline and corded telephone. If the *licensee* has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in place of a landline.

(14) CONSTRUCTION. Interior and exterior doorways used by a *resident* must be wide enough to accommodate wheelchairs and walkers if used by the *resident*. Interior and exterior stairways must be unobstructed, equipped with handrails, and appropriate to the condition of the *resident*.

(15) Hardware for all exit doors and interior doors must be readily visible and have simple hardware that may not be locked against exit and must have an obvious method of operation. Hasps, sliding bolts, hooks and eyes, slide chain locks, and double key deadbolts are not permitted. If a *home* has a *resident* with impaired judgment who is known to wander away, the *home* must have an activated alarm system to alert a *caregiver* of the resident's unsupervised exit.

(16) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(a) MANUFACTURED HOMES. Manufactured home (formerly mobile homes) units must have been built since 1976 and designed for use as a home rather than a travel trailer. The unit must have a manufacturer's label permanently affixed on the unit itself that states the unit meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(b) If such a label is not evident and the *licensee* believes the unit meets the required specifications, the *licensee* must take the necessary steps to secure and provide verification of compliance from the manufacturer.

(c) Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(17) The *applicant* or *licensee* must meet minimal fire safety standards including:

(a) A functional smoke alarm with back-up battery must be installed in all sleeping areas and hallways or access ways that adjoin sleeping areas;

(b) A functional carbon monoxide alarm with back-up battery must be installed within 15 feet of each bedroom and at a height as recommended by the manufacturer;

(c) At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a visible and readily accessible location on each floor, including basements, and be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose;

(d) The *licensee* must have a safe evacuation plan and may be required to demonstrate their evacuation plan. The *licensee* may be required to install an Americans with Disabilities Act (ADA) compliant ramp for the safety of all occupants;

(e) The *licensee* and all occupants must be able to evacuate within 3 minutes to an *initial point of safety* exterior to and away from the structure, with access to a public sidewalk or street. The *licensee* and all occupants must be able to demonstrate the ability to further evacuate all occupants from the *initial point of safety* to the *final point of safety* within two minutes or less;

(f) Smoking is prohibited in any bedroom including that of the *resident*, the *licensee*, occupants, or caregivers and in any room where oxygen is used or stored;

(g) The *home* must be built of standard construction and must meet all applicable state and local building, mechanical, and housing codes for fire and life safety;

(h) A *resident* must have a bedroom that:

(A) Was constructed as a bedroom when the *home* was built or remodeled under permit;

(B) Is finished with walls or partitions of standard construction that go from floor to ceiling;

(C) Has a door large enough to accommodate the *occupant* of the room and any equipment that may be necessary such as a hospital bed or wheelchair;

(D) Be adequately ventilated, heated, and lighted with at least one operable window or exterior door that leads directly outside as a secondary egress for *resident* use; and

(E) Has at least 70 square feet of usable floor space.

(i) All exit ways, including windows, must remain unobstructed at all times;

(j) Flammable materials cannot be stored within 36 inches of open flame or heat sources;

(k) Only sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used when approved by the State Fire Marshal or State Fire Marshal's designee. Heaters must be plugged directly into an outlet and may not be used with extension cords; and

(l) The *licensee* must install or make available any supportive device necessary to meet the resident's needs and ensure *resident* safety including, but not limited to grab bars, ramps, and door alarms.

(18) A license is not transferable and does not apply to any location or person other than the location and the person indicated on the license obtained from the *local licensing authority*.

(19) The *licensee* must notify the *local licensing authority* at least 30 days prior to any change in residential or mailing address.

(20) The Department, the *local licensing authority*, and the Centers for Medicare and Medicaid Services (CMS) have authority to conduct inspections with or without advance notice to the *licensee* or the *resident* of a *home*. The *licensee* must allow and authorize other caregivers and occupants to permit entrance and access to the *home* and the *resident* for the purpose of assessing, monitoring, inspection, investigation, and other duties within the scope of the Department, the *local licensing authority*, or CMS.

(21) The *applicant* or *licensee* must obtain any training and maintain *resident* record documentation deemed necessary by the Department to provide adequate *care* for the *resident*.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0665 Abuse Reporting, Complaints, and Notification of Findings

(1) ABUSE REPORTING. *Abuse* is prohibited. The *facility* employees and *licensee* may not permit, aid, or engage in *abuse* of residents who are under their care. *Abuse* and suspected *abuse* must be reported in accordance with OAR 411-020-0020.

(a) STAFF REPORTING. All *facility* employees must immediately report *abuse* and suspected *abuse* to the *investigative authority*.

(b) LICENSEE REPORTING. The *licensee* must immediately notify the *investigative authority* of any incident of *abuse* or suspected *abuse*, including events overheard or witnessed by observation.

(c) LAW ENFORCEMENT AGENCY. The local law enforcement agency must be called first when the suspected *abuse* is believed to be a crime (e.g., rape, murder, assault, burglary, kidnapping, theft of controlled substances).

(2) IMMUNITY AND PROHIBITION OF RETALIATION.

(a) The *licensee* may not retaliate against any *resident* after the *resident* or someone acting on the resident's behalf has filed a *complaint* in any manner, including, but not limited to:

(A) Increasing or threatening to increase charges;

(B) Decreasing or threatening to decrease *services*;

(C) Withholding *rights* or privileges;

(D) Taking or threatening to take any action to coerce or compel the *resident* to leave the *facility*; or

(E) Threatening to harass or *abuse* a *resident* in any manner.

(b) The *licensee* must ensure any complainant, witness, or employee of a *facility* is not subjected to retaliation by any *caregiver*, (including the caregiver's family and friends who may live in or frequent the *adult foster home*) for making a report, being interviewed about a *complaint*, or being a witness, including, but not limited to, restriction of access to the *home* or a *resident* or, if an employee, dismissal or harassment.

(c) Anyone who, in good faith, reports *abuse* or suspected *abuse* has immunity, as approved by law, from any civil liability that might otherwise be incurred or imposed with respect to the making or content of an *abuse complaint*.

(3) Immunity under this rule does not protect self-reporting licensees from liability for the underlying conduct that is alleged in the *complaint*.

(4) The *local licensing authority* must furnish each *adult foster home* with a Complaint Notice that states the telephone number of the Department, the *investigative authority*, and the Long-Term Care Ombudsman, and the procedure for making complaints.

(5) Any person who believes *these rules* have been violated may file a *complaint* with the Department, the *local licensing authority*, or the *investigative authority*.

(6) The Department or the *investigative authority* shall investigate complaints in accordance with the adult protective services rules in OAR chapter 411, division 20, OAR chapter 407, division 45, or OAR chapter 943, division 45, as applicable.

(7) Immediate protection shall be provided for the residents by the Department, the *local licensing authority*, or the *investigative authority*, as necessary, regardless of whether the investigative report is completed. The *licensee* must immediately cease any practice that places a *resident* at risk of serious harm.

(8) PRELIMINARY FINDINGS. The Department, through the *investigative authority*, shall provide, by written communication or electronic mail, a copy of the preliminary *abuse* investigation report to the *licensee* and complainant within seven business days of the completion of the investigation:

> (a) The report shall be accompanied by a notice informing the *licensee* and complainant of their right to give additional information about the content of the report to the *investigative authority* within 10 calendar days of receipt of the report.
>
> (b) The *investigative authority* must review the responses and reopen the investigation or amend the report if the additional evidence warrants a change.

(9) A copy of the entire report shall be sent to the Department upon completion of the investigation report.

(10) NOTIFICATION OF FINDINGS. Upon a determination of substantiated *abuse* or a rule violation, the Department must provide written notification of its findings to the *licensee*.

(a) CONTENT. The written notice shall:

(A) Explain the nature of each allegation;

(B) Include the date and time of each occurrence;

(C) For each allegation, include a determination of whether the allegation is substantiated, unsubstantiated, or inconclusive;

(D) For each substantiated allegation, state whether the violation was *abuse* or another rule violation;

(E) Include a copy of the *complaint* investigation report;

(F) State that the complainant, any person reported to have committed wrongdoing, and the *facility* have 15 calendar days to provide additional or different information; and

(G) For each allegation, explain the applicable appeal rights available.

(b) APPORTIONMENT. If the Department determines there is substantiated *abuse*, the Department may determine the *licensee*, an individual, or both the *licensee* and an individual were responsible for *abuse*. In determining responsibility, the Department shall consider intent, knowledge, and ability to control, and adherence to professional standards, as applicable.

(A) LICENSEE RESPONSIBLE. Examples of when the Department shall determine the *licensee* is responsible for the *abuse* include~~s~~, but are not limited to, the following:

(i) Failure to provide sufficient, qualified staffing in accordance with *these rules* without reasonable effort to correct;

(ii) Failure to check for or act upon relevant information available from a licensing board;

(iii) Failure to act upon information from any source regarding a possible history of *abuse* by any staff or prospective staff;

(iv) Failure to adequately train, orient, or provide sufficient oversight to staff;

(v) Failure to provide adequate oversight to residents;

(vi) Failure to allow sufficient time to accomplish assigned tasks;

(vii) Failure to provide adequate *services*;

(viii) Failure to provide adequate equipment or supplies; or

(ix) Failure to follow orders for treatment or medication.

(B) INDIVIDUAL RESPONSIBLE. Examples of when the Department determines an individual is responsible include~~s~~, but is not limited to:

(i) Intentional acts against a *resident*, including assault, rape, kidnapping, murder, or sexual, verbal, or mental abuse;

(ii) Acts contradictory to clear instructions from the *facility*, such as those identified in section (~~9~~10)(b)(A) of this rule, unless the act is determined by the Department to be the responsibility of the *facility*;

(iii) Callous disregard for *resident rights* or safety; or

(iv) Intentional acts against a resident's property (e.g., theft or misuse of funds).

(C) An individual shall not be considered responsible for the *abuse* if the individual demonstrates the *abuse* was caused by factors beyond the individual's control. "Factors beyond the individual's control" are not intended to include such factors as misuse of alcohol or drugs or lapses in sanity.

(D) NURSING ASSISTANTS. In cases of substantiated *abuse* by a nursing assistant, the written notice shall explain:

(i) The Department’s intent to enter the finding of *abuse* into the Nursing Assistant Registry following the procedure set out in OAR 411-089-0140; and

(ii) The nursing assistant’s right to provide additional information and request a contested case hearing as provided in OAR 411-089-0140.

(c) DISTRIBUTION.

(A) The written notice shall be mailed to:

(i) The *licensee*;

(ii) Any person reported to have committed wrongdoing;

(iii) The complainant, if known;

(iv) The Long-term Care Ombudsman; and

(v) The *local licensing authority*.

(B) A copy of the written notice must be placed in the Department's *facility complaint* file.

(1~~0~~1) Upon receipt of a notice that substantiates *abuse* for victims covered by ORS 430.735, the *facility* must provide written notice of the findings to

the individual found to have committed *abuse*, residents of the *facility*, and the residents' case managers and legal representatives.

(1~~1~~2) Licensees who acquire substantiated complaints pertaining to the health, safety, or welfare of residents may be assessed civil penalties, have conditions placed on their licenses, or have their licenses suspended, revoked, or not renewed.

(13~~2~~) COMPLAINT REPORTS. Copies of all completed *complaint* reports must be maintained and available to the public at the *local licensing authority*. Individuals may purchase a photocopy upon requesting an appointment to do so.

(1~~3~~4) The Department and the *local licensing authority* shall not disclose information that may be used to identify a *resident* in accordance with OAR 411-020-0030, Confidentiality, and federal HIPAA Privacy Rules. Completed reports placed in the public file must be in compliance with OAR 411-050-0670 and:

(a) Protect the privacy of the complainant and the *resident*. The identity of the person reporting suspected *abuse* must be confidential and may be disclosed only with the consent of that person, by judicial process (including administrative hearing), or as required to perform the investigation by the Department or a law enforcement agency;

(b) Treat the names of the witnesses as confidential information; and

(c) Clearly designate the final disposition of the *complaint*.

(A) PENDING COMPLAINT REPORTS. Any information regarding the investigation of the *complaint* may not be filed in the public file until the investigation has been completed.

(B) COMPLAINT REPORTS AND RESPONSES. The investigation reports, including copies of the responses with confidential information deleted, must be available to the public at the *local licensing authority* office along with other public information regarding the *adult foster home*.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 124.050, 124.060, 124.075, 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0670 Inspections

(1) The *local licensing authority* must conduct an inspection of an *adult foster home* and all structures on the *adult foster home* property:

(a) Prior to issuance of a license;

(b) Prior to the annual renewal of a license. The *local licensing authority* must conduct this inspection unannounced;

(c) Upon receipt of an oral or written *complaint* of violations that threaten the health, safety, or welfare of residents; or

(d) Anytime the Department has probable cause to believe a *home* has violated a regulation or provision of *these rules* or is operating without a license.

(2) The Department may conduct inspections:

(a) Any time such inspections are authorized by *these rules* and any other time the Department considers it necessary to determine if a *home* is in compliance with *these rules* or with conditions placed upon the license;

(b) To determine if cited violations have been corrected; and

(c) For the purpose of routine monitoring of the residents' care.

(3) State or local fire inspectors must be permitted access to enter and inspect adult foster homes regarding fire safety upon the Department's request.

(4) The Department, the *local licensing authority*, the *investigative authority*, and the Centers for Medicare and Medicaid Services (CMS) have authority and must have full access to examine and copy *facility* and *resident*

records, including but not limited to, admission agreements, private pay *resident* contracts, and *resident* account records, as applicable.

(5) PRIVATE INTERVIEW. Department, *local licensing authority*, *investigative authority*, and CMS staff have authority to interview the *licensee*, *resident manager*, other caregivers, and the residents. Interviews must be confidential and conducted privately.

(6) Licensees must authorize all staff to permit the Department, *local licensing authority*, the *investigative authority*, and CMS staff, for the purpose of inspection, investigation, and other duties within the scope of their authority:

> (a) Entrance to the *adult foster home* and any other structure on the premises; and
>
> (b) Access to *resident* and *facility* records.

(7) The Department, *local licensing authority*, the *investigative authority*, and CMS has authority to conduct inspections with or without advance notice to the *licensee*, staff, or the residents of the *home*. The Department, *local licensing authority*, and CMS shall not give advance notice of any inspection if it is believed that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of *these rules*.

(8) If Department, *local licensing authority*, the *investigative authority*, or CMS staff are not permitted access for inspection, a search warrant may be obtained.

(9) The inspector must respect the private possessions of the residents, *licensee*, and staff while conducting an inspection.

(10) PUBLIC FILE. The *local licensing authority* must maintain current information on all licensed adult foster homes and must make all non-confidential information available to prospective residents and other interested members of the public at *local licensing authority* offices throughout the state as authorized by law. The information includes:

> (a) The location of the *adult foster home* and the name and mailing address of the *licensee* if different;

(b) A brief description of the physical characteristics of the *home*;

(c) A copy of the current license that indicates the current *classification*, *level*, and capacity of the *home*, as applicable;

(d) The date the *licensee* was first licensed to operate that *home*;

(e) The date of the last licensing inspection including any fire inspection, the name and telephone number of the office that performed the inspection, and a summary of the inspection findings;

(f) Copies of all non-confidential portions of *complaint* investigations involving the *home*, together with the findings, actions taken by the Department, and responses from the *licensee* and complainant, as appropriate. All *complaint* terminology must be clearly defined and the final disposition clearly designated;

(g) Any license conditions, suspensions, denials, revocations, non-renewals, civil penalties, variances, or other actions taken by the Department involving the *home*; and

(h) Whether *care* is provided primarily by the licensed *provider*, a *resident manager*, or *shift caregivers*.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0675 Procedures for Correction of Violations

(1) If, as a result of an inspection or investigation, the Department determines that *abuse* has occurred, the *licensee* shall be notified verbally to immediately cease the abusive act. The Department shall follow-up with a written confirmation of the warning to cease the abusive act and shall include notification that further sanctioning may be imposed.

(2) If an inspection or investigation indicates a violation of *these rules* other than *abuse*, the *local licensing authority* shall notify the *licensee* of the violation in writing.

(3) The notice of violation may not include information that may be used to identify a *resident* in accordance with OAR 411-020-0030, Confidentiality, and federal HIPAA Privacy Rules. Notices placed in the public file must be in compliance with OAR 411-050-0670 and must include the following:

(a) A description of each condition that constitutes a violation;

(b) Each rule that has been violated;

(c) A specific time frame for correction, not to exceed 30 calendar days after receipt of the notice. The *local licensing authority* may approve a reasonable time in excess of 30 calendar days if correction of the violation within that time frame is not practical. If the *licensee* requests more than 30 calendar days to correct the violation, such time must be specified in the licensee's plan of correction and must be found acceptable by the *local licensing authority*;

(d) Sanctions that may be imposed against the *home* for failure to correct the violation;

(e) The right of the *licensee* to contest the violation if an administrative sanction is imposed; and

(f) The right of the *licensee* to request a *variance* as provided in OAR 411-050-0642.

(4) At any time after receipt of a notice of violation or an inspection report, the *applicant*, the *licensee*, the *local licensing authority*, or the Department may request a meeting. The meeting must be scheduled within 10 business days of a request by any party.

(a) The purpose of the meeting is to discuss the violation stated in the notice of violation, provide information, and to assist the *applicant* or *licensee* in achieving compliance with the requirements of *these rules*.

(b) The request for a meeting by an *applicant*, *licensee*, *local licensing authority*, or the Department does not extend any previously established time frame for correction.

(5) The *applicant* or *licensee* must notify the *local licensing authority* of correction of the violation by completing a written response in the provider's statement of correction section on the violation. Notification of correction of the violation must be submitted to the *local licensing authority* no later than the date specified in the notice of violation.

(6) The *local licensing authority* may conduct a re-inspection of the *home* after the date the *local licensing authority* receives the report of compliance, or after the date the violation must be corrected as specified in the notice of violation.

(7) For violations that present an imminent danger to the health, safety, or welfare of residents, the *licensee* must correct the violation and abate the conditions no later than 24 hours after receipt of the notice of violation. The *local licensing authority* may inspect the *home* after the 24-hour period to determine if the violation has been corrected as specified in the notice of violation.

(8) If residents are in immediate danger, the license may be immediately suspended and arrangements made to move the residents.

(9) If, after inspection of a *home*, the violations have not been corrected by the date specified in the notice of violation or if the *local licensing authority* has not received a report of compliance, the Department may institute one or more administrative sanctions.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0680 Administrative Sanctions

(1) An administrative sanction may be imposed for non-compliance with *these rules*. An administrative sanction includes one or more of the following actions:

(a) Attachment of conditions to a license;

(b) Civil penalties;

(c) Denial, suspension, revocation, or non-renewal of license; and

(d) Reclassification of a license.

(2) If the Department imposes an administrative sanction, the Department shall serve a notice of administrative sanction upon the *licensee* personally, by certified or registered mail, or by certified electronic mail if requested by the *licensee*.

(3) The notice of administrative sanction shall state:

(a) Each sanction imposed;

(b) A short and plain statement of each condition or act that constitutes a violation;

(c) Each statute or rule allegedly violated;

(d) A statement of the licensee's right to a contested case hearing;

(e) A statement of the authority and jurisdiction under which the hearing is to be held;

(f) A statement that the Department's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(g) A statement that the Department shall issue a final order of default if the *licensee* fails to request a hearing within the specified time.

(4) The *licensee* must comply with any final order of the Department.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0685 Civil Penalties

(1) Except as otherwise provided in this rule, civil penalties, not to exceed $100 per violation to a maximum of $250, may be assessed for a general violation of *these rules*.

(2) Mandatory penalties up to $500, unless otherwise required by law, shall be assessed for falsifying *resident* or *facility* records or causing another to do so.

(3) A mandatory penalty of $250 shall be imposed for failure to have either the *licensee* or other qualified *caregiver* on duty 24 hours per day in the *adult foster home*.

(4) A mandatory penalty of $250 shall be imposed for dismantling or removing the battery from any required smoke alarm or failing to install any required smoke alarm.

(5) The Department shall impose a civil penalty of not less than $250 nor more than $500 on a *licensee* who admits a *resident* knowing that the resident's *care* needs exceed the license *classification* of the *licensee* and the admission places the *resident* or other residents at risk of harm.

(6) Civil penalties up to a maximum of $1,000 per occurrence may be assessed for substantiated *abuse*.

(7) If the Department or the Department's designee conducts an investigation and *abuse* is substantiated and if the *abuse* resulted in the death, serious injury, rape, or sexual abuse of a *resident*, the Department shall impose a civil penalty of not less than $2,500 for each violation.

(a) To impose this civil penalty, the Department must establish that:

(A) The *abuse* arose from deliberate or other than accidental action or inaction;

(B) The conduct resulting in the *abuse* was likely to cause death, serious injury, rape, or sexual abuse of a *resident*; and

(C) The person with the finding of *abuse* had a duty of care toward the *resident*.

(b) For the purposes of this civil penalty, the following definitions apply:

(A) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(B) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(C) "Sexual abuse" means any form of nonconsensual sexual contact including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(D) "Other than accidental" means failure on the part of the *licensee*, or licensee's employees, agents, or volunteers for whose conduct *licensee* is responsible, to comply with applicable Oregon Administrative Rules.

(8) In addition to any other liability or penalty provided by law, the Department may impose a penalty for any of the following:

(a) Operating the *home* without a license;

(b) The number of residents exceeds the licensed capacity;

(c) The *licensee* fails to achieve satisfactory compliance with the requirements of *these rules* within the time specified, or fails to maintain such compliance;

(d) The *home* is unable to provide adequate level of *care* to the residents;

(e) There is retaliation or discrimination against a *resident*, family, employee, or any other person for making a *complaint* against the *home*;

(f) The *licensee* fails to cooperate with the Department or fails to cooperate with the *prescribing practitioner* or *licensed health care professional* in carrying out a resident's *care plan*; or

(g) The *licensee* fails to obtain an approved *background check* from the Department prior to employing a *caregiver* in the *home*.

(9) A civil penalty may be imposed for violations other than those involving the health, safety, or welfare of a *resident* if the *licensee* fails to correct the violation as required when a reasonable time frame for correction was given.

(10) Any civil penalty imposed under this rule becomes due and payable 10 calendars days after the order imposing the civil penalty becomes final by operation of law or on appeal. The notice must be delivered in person or sent by registered or certified mail and must include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(11) The person to whom the notice is addressed shall have 10 calendar days after receipt of the notice in which to make written application for a

hearing. If a written request for a hearing is not timely received, the Department shall issue a final order by default.

(12) All hearings shall be conducted according to the applicable provisions of ORS 183.

(13) When imposing a civil penalty, the Department shall consider the following factors:

> (a) The past history of the person incurring the penalty in taking all feasible steps or procedures to correct the violation;
>
> (b) Any prior violations of statutes, rules, or orders pertaining to the *facility*;
>
> (c) The economic and financial conditions of the person incurring the penalty;
>
> (d) The immediacy and extent to which the violation threatens or threatened the health, safety, or welfare of one or more residents; and
>
> (e) The degree of harm to residents.

(14) If the person notified fails to request a hearing within the time specified, or if after a hearing the person is found to be in violation of a license, rule, or order, an order may be entered assessing a civil penalty.

(15) Unless the penalty is paid within 10 calendar days after the order becomes final, the order constitutes a judgment and may be recorded by the county clerk, which becomes a lien upon the title to any interest in real property owned by that person. The Department may also initiate a notice of revocation for failure to comply with a final order.

(16) Civil penalties are subject to judicial review under ORS 183.480, except that the court may, at its discretion, reduce the amount of the penalty.

(17) All penalties recovered under ORS 443.790 to 443.815 are paid to the Quality Care Fund.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

411-050-0686 Conditions

(1) Conditions may be attached to a license and take effect immediately upon notification by the Department or the delivery date of the notice, whichever is sooner. The type of *condition* attached to a license must directly relate to a risk of harm or potential risk of harm to residents. Conditions may be attached upon a finding that:

(a) Information on the application or initial inspection requires a *condition* to protect the health, safety, or welfare of the residents;

(b) A threat to the health, safety, or welfare of a *resident* exists;

(c) There is reliable evidence of *abuse*, neglect, or exploitation; or

(d) The *home* is not being operated in compliance with *these rules*.

(2) Examples of conditions that may be imposed on a *licensee* include, but are not limited to:

(a) Restricting the total number of residents based upon the ability of the *licensee* to meet the health and safety needs of the residents;

(b) Restricting the number of residents a *provider* may admit or retain within a specific *classification* or *level* based upon the ability of the *licensee* and staff to meet the health and safety needs of all the residents;

(c) Changing the *classification* of the license based on the licensee's ability to meet the specific *care* needs of the residents;

(d) Requiring additional staff to meet the resident's *care* needs;

(e) Requiring additional qualifications or training of *licensee* and staff to meet specific *resident care* needs;

(f) Restricting admissions when there is a threat to the current residents of the *home* and admitting new residents would compound that threat; and

(g) Restricting a *licensee* from allowing persons on the premises who may be a threat to a resident's health, safety, or welfare.

(3) In accordance with OAR 411-050-0680, the *licensee* shall be notified in writing of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS 183.310 to 183.550. A *licensee* must request a hearing in writing within 21 calendar days after the receipt of the notice. Conditions take effect immediately and are a final order of the Department unless later rescinded through the hearings process.

(4) In addition to, or in-lieu of, a contested case hearing, a *licensee* may request an informal conference with the Department of conditions imposed. The informal conference does not diminish the licensee's right to a hearing.

(5) Conditions imposed remain in effect until the Department has sufficient cause to believe the situation that warranted the *condition* has been remedied. If the *licensee* believes the situation that warranted the *condition* has been remedied, the *licensee* may request in writing that the *condition* be removed.

(6) Conditions must be posted with the license in a prominent place in the *home* and be available for inspection at all times.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0687 Denial, Revocation, or Non-Renewal of License

(1) The Department shall deny, revoke, or refuse to renew a license where the Department finds:

(a) There has been substantial non-compliance with *these rules* or where there is substantial non-compliance with local codes and ordinances or any other state or federal law or rule applicable to the health and safety of caring for residents in an *adult foster home*;

(b) The Department has conducted a *background check* and determined the *applicant* or *licensee* is not approved in accordance with OAR 411-050-0620;

(c) The *licensee* allows a *caregiver*, or any other person, excluding the residents, to *reside* or work in the *adult foster home*, who has been convicted of potentially disqualifying crimes, and has been denied, or refused to cooperate with the Department in accordance with OAR 411-050-0620; or

(d) The *applicant* or *licensee* falsely represents that he or she has not been convicted of a crime.

(2) The Department shall deny, revoke, or refuse to renew a license where the Department of Human Services has received notice from the Department of Revenue in accordance with ORS 305.385.

(3) The Department may deny, revoke, or refuse to renew an *adult foster home* license if the *applicant* or *licensee*:

(a) Submits incomplete or untrue information to the Department;

(b) Has a history of, or demonstrates financial insolvency, such as foreclosure, eviction due to failure to pay rent, or termination of utility services due to failure to pay bills;

(c) Has a prior denial, suspension, revocation, or refusal to renew a certificate or license to operate a foster *home* or *residential care* facility in this or any other state or county;

(d) Is associated with a person whose license for a foster *home* or *residential care* facility was denied, suspended, revoked, or refused to be renewed due to *abuse* or neglect of the residents, creating a threat to the residents, or failure to possess physical health, mental health, or good personal character within three years preceding the

present action, unless the *applicant* or *licensee* is able to demonstrate to the Department by clear and convincing evidence that the person does not pose a threat to the residents. For purposes of this subsection, an *applicant* or *licensee* is "associated with" a person if the *applicant* or *licensee*:

(A) Resides with the person;

(B) Employs the person in the foster *home*;

(C) Receives financial backing from the person for the benefit of the foster *home*;

(D) Receives managerial assistance from the person for the benefit of the foster *home*;

(E) Allows the person to have access to the foster *home*; or

(F) Rents or leases the *adult foster home* from the person.

(e) Has threatened the health, safety, or welfare of any *resident*;

(f) Has abused, neglected, or exploited any *resident*;

(g) Has a medical or psychiatric problem that interferes with the ability to provide *care* and *services*;

(h) Has previously been cited for the operation of an unlicensed *adult foster home*;

(i) Does not possess the good judgment or character deemed necessary by the Department;

(j) Fails to correct a violation within the specified time frame;

(k) Refuses to allow access and inspection;

(l) Fails to comply with a final order of the Department to correct a violation of the rules for which an administrative sanction has been imposed, such as a license condition;

(m) Fails to comply with a final order of the Department imposing an administrative sanction, including the imposition of a civil penalty;

(n) Fails to take or pass the Department's Ensuring Quality Care Course and examination;

(o) Fails to obtain an approved *background check* for subject individuals according to OAR 411-050-0620 on more than one occasion;

(p) Has previously surrendered a license while under investigation or administrative sanction during the last three years;

(q) Is not currently or has not previously been in compliance with employment or tax laws; or

(r) Fails to operate the *home* or any other *facility* in *substantial compliance* with ORS 443.705 to 443.825.

(4) If the Department issues a notice of revocation for the reason of *abuse*, neglect, or exploitation of a *resident*, the *licensee* may request a review in writing within 10 calendar days after receipt of the notice of the revocation. If a request is made, the Department must review all material relating to the allegation of *abuse*, neglect, or exploitation and the revocation within 10 calendar days. The Department shall determine, based on a review of the material, whether to sustain the decision. If the Department does not sustain the decision, the license shall be restored immediately. The decision of the Department is subject to a contested case hearing under ORS 183.

(5) If a license is revoked or not renewed, the *licensee* is entitled to a contested case hearing preceding the effective date of the revocation or non-renewal if the *licensee* requests a hearing in writing within 21 calendar days after receipt of the notice. If no written request for a hearing is timely received, the Department shall issue the final order by default. The Department may designate its file as the record for purposes of default.

(6) A license subject to revocation or non-renewal remains valid during an administrative hearings process even if the hearing and final order are not issued until after the expiration date of the license.

(7) If an initial license is denied for any reason other than the results of a test or inspection, the *applicant* is entitled to a hearing if the *applicant* requests a hearing in writing within 60 calendar days after receipt of the denial notice. If no written request for a hearing is timely received, the Department shall issue a final order by default. The Department may designate its file as the record for purposes of default.

(8) If a license is revoked or not renewed, the Department may arrange for residents to move for the residents' protection.

Stat. Auth.: ORS 410.070, 430.735, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0688 Suspension of License

(1) The Department may immediately suspend a license for reason of *abuse*, neglect, or exploitation of a *resident* if:

> (a) The Department finds that the *abuse*, neglect, or exploitation causes an immediate threat to any of the residents; or
>
> (b) The *licensee* fails to operate the *home* or any other *facility* in *substantial compliance* with ORS 443.705 to 443.825.

(2) The *licensee* may request a review of the decision to immediately suspend a license by submitting a request, in writing, within 10 calendar days after receipt of the notice and order of suspension. Within 10 calendar days after receipt of the licensee's request for a review, the Department must review all material relating to the allegation of *abuse*, neglect, or exploitation and to the suspension, including any written documentation submitted by the *licensee* within that time frame. The Department shall determine, based on a review of the material, whether to sustain the decision. If the Department does not sustain the decision, the suspension shall be rescinded immediately. The decision of the Department is subject

to a contested case hearing under ORS 183 if requested within 90 calendar days.

(3) The Department shall suspend a license upon written notice from the Department of Revenue in accordance with ORS 305.385, and after notice to the *licensee* and a hearing if requested.

(4) If a license is suspended, the Department may arrange for residents to move for the resident's protection.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

411-050-0690 Criminal Penalties

(1) Operating an *adult foster home* without a license is punishable as a Class C misdemeanor ORS 443.991(5).

(2) Refusing to allow access and inspection of a *home* by Department or *local licensing authority* staff or state or local fire inspection is a Class B misdemeanor ORS 443.991(6).

(3) The Department may commence an action to enjoin operation of an *adult foster home*:

> (a) When an *adult foster home* is operated without a valid license; or
>
> (b) After a notice of revocation or suspension has been given and a reasonable time for placement of individuals in other facilities has been allowed.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991