

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [upon filing] by the
Date prior to or same as filing date

Department of Human Services, Developmental Disabilities

411

Agency and Division		Administrative Rules Chapter Number
Kimberly Colkitt-Hallman	500 Summer Street NE, E-48 Salem, OR 97301-1074	(503) 945-6398

Rules Coordinator	Address	Telephone
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to become effective [January 1, 2016] through [June 28, 2016].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

ODDS: Individual Rights for Individuals Receiving Developmental Disability Services

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

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

AMEND:

411-318-0000; 411-318-0005; 411-318-0010.

SUSPEND:

Stat. Auth.: **ORS 409.050, 427.107**

Other Auth.:

Stats. Implemented: **ORS 183.411-471, 409.010, 427.107, 427.109**

RULE SUMMARY

The Department of Human Services, Office of Developmental Disabilities Services (Department) is temporarily amending the rules in OAR chapter 411, division 318 to ensure individuals receive the rights they are entitled to under the newly adopted rules in OAR chapter 411, division 004 for home and community-based (HCB) services and settings and person-centered service planning.

The rules in OAR chapter 411, division 004 implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) by providing a foundation of standards to support the network of Medicaid-funded and private pay residential and non-residential HCB services and settings and person-centered service planning.

These rules are also being amended to --

- Provide consistency across services by removing terms included in the general definitions rule, OAR 411-317-0000; and
- Incorporate reference to newly adopted rules in OAR chapter 411, division 380 for direct nursing services for adults with intellectual or developmental disabilities.

Signed Lilia Teninty, Director, Developmental Disabilities

12/21/2015

Signature

Date

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services, Developmental Disabilities

411

Agency and Division

Administrative Rules Chapter Number

In the Matter of: **The temporary amendment of OAR 411-318-0000, 411-318-0005, and 411-318-0010 relating to individual rights for individuals receiving developmental disability services.**

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

ODDS: Individual Rights for Individuals Receiving Developmental Disability Services

Statutory Authority:

ORS 409.050, 427.107

Other Authority:

Stats. Implemented:

ORS 183.411-471, 409.010, 427.107, 427.109

Need for the Temporary Rule(s):

HCB Services and Settings

The Department needs to amend the following rules to ensure individuals receive the rights they are entitled to under the newly adopted rules in OAR chapter 411, division 004 for home and community-based (HCB) services and settings and person-centered service planning:

- OAR 411-318-0000 (Statement of Purpose and Scope);
- OAR 411-318-0005 (Definitions); and
- OAR 411-318-0010 (Individual Rights).

These rules are being amended to adopt the standards for HCB services and settings and person-centered service planning adopted in OAR chapter 411, division 004 by the Department on January 1, 2016.

Direct Nursing Services

The Department needs to amend OAR 411-318-0000 (Statement of Purpose and Scope) to incorporate reference to newly adopted rules in OAR chapter 411, division 380 for direct nursing services for adults with intellectual or developmental disabilities to the list of developmental disability services covered under the rules in OAR chapter 411, division 318. OAR 411-318-0000 is being amended to incorporate the rules in OAR chapter 411, division 380 for direct nursing services for adults with intellectual or developmental disabilities.

Definitions

The Department needs to amend OAR 411-318-0005 to provide consistency and streamline definitions across services. OAR 411-318-0005 is being amended to remove terms included in the general definitions rule, OAR 411-317-0000.

Documents Relied Upon, and where they are available:

Justification of Temporary Rule(s):

Failure to act promptly and immediately update the rules in OAR chapter 411, division 318 will result in serious prejudice to --

- Individuals receiving developmental disability services;
- The parents, guardians, family members, and representatives of individuals receiving services;
- Community Developmental Disability Programs;
- Support Services Brokerages;
- Providers; and
- The Department.

These rules need to be updated promptly to --

- Remove terms included in the general definitions rule, OAR 411-317-0000;
- Align with the new CMS standards relating to HCB services and settings and person-centered service planning adopted by the Department in OAR chapter 411, division 004; and
- Incorporate the rules in OAR chapter 411, division 380 for direct nursing services for adults with intellectual or developmental disabilities.

Failure to immediately update these rules --

- Prevents the Department from streamlining operations to provide consistency across services;
- Risks non-compliance with the new CMS standards relating to HCB services and settings and person centered service planning;
- Prevents individuals with complex health needs from accessing direct nursing services; and
- Prevents these rules from aligning with the rules in OAR chapter 411, division 004 (HCB Services and Settings and Person-Centered Service Planning); OAR 411-317-0000 (Definitions); and OAR chapter 411, division 380 (Direct Nursing Services).

Signed Lilia Teninty, Director, Developmental Disabilities

12/21/2015

Signature

Date

**DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 318**

**INDIVIDUAL RIGHTS, COMPLAINTS, NOTIFICATION OF PLANNED
ACTION, AND CONTESTED CASE HEARINGS FOR
DEVELOPMENTAL DISABILITY SERVICES**

411-318-0000 Statement of Purpose and Scope

(1) The rules in OAR chapter 411, division 318 prescribe:

- (a) The rights of individuals receiving developmental disability services;
- (b) The process for reporting and investigating a complaint regarding dissatisfaction with a developmental disability service or provider;
- (c) The requirements for notification in the event a developmental disability service is denied, reduced, suspended, or terminated and the contested case hearing process for challenging a denial, reduction, suspension, or termination of a developmental disability service; and
- (d) The contested case hearing process for challenging an involuntary reduction, transfer, or exit.

(2) The rules in OAR chapter 411, division 318 apply to the developmental disability services and service settings described in:

(a) OAR chapter 411, division 004 for home and community-based services and settings;

(ab) OAR chapter 411, division 300 for the Children's Intensive In-Home Services, Behavior Program;

- (bc) OAR chapter 411, division 305 for family support services for children with intellectual or developmental disabilities;
- (ed) OAR chapter 411, division 308 for in-home support for children with intellectual or developmental disabilities;
- (de) OAR chapter 411, division 320 for eCommunity eDevelopmental eDisability pPrograms;
- (ef) OAR chapter 411, division 323 for agency certification and endorsement to provide services to individuals with intellectual or developmental disabilities in community-based settings;
- (fg) OAR chapter 411, division 325 for 24-hour residential settings for children and adults with intellectual or developmental disabilities;
- (gh) OAR chapter 411, division 328 for supported living settings for adults with intellectual or developmental disabilities;
- (hi) OAR chapter 411, division 330 for comprehensive in-home support for adults with intellectual or developmental disabilities;
- (ij) OAR chapter 411, division 340 for support services for adults with intellectual or developmental disabilities;
- (jk) OAR chapter 411, division 345 for employment services for adults individuals with intellectual or developmental disabilities;
- (kl) OAR chapter 411, division 346 for foster homes for children with intellectual or developmental disabilities;
- (lm) OAR chapter 411, division 350 for medically fragile children's services;
- (mn) OAR chapter 411, division 355 for the Medically Involved Children's Program; and
- (no) OAR chapter 411, division 360 for adult foster homes for individuals with intellectual or developmental disabilities-; and

(p) OAR chapter 411, division 380 for direct nursing services for adults with intellectual or developmental disabilities.

Stat. Auth.: ORS 409.050, 427.107

Stats. Implemented: ORS 183.411-471, 409.010, 427.107, 427.109

411-318-0005 Definitions

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 318:

~~(1) "Abuse" means:~~

~~(a) For a child:~~

~~(A) "Abuse" as defined in ORS 419B.005; and~~

~~(B) "Abuse" as defined in OAR 407-045-0260 when a child resides in a 24-hour residential setting licensed by the Department as described in OAR chapter 411, division 325.~~

~~(b) For an adult, "abuse" as defined in OAR 407-045-0260.~~

~~(2) "Adult" means an individual who is 18 years or older with an intellectual or developmental disability.~~

~~(31) "CDDP" means "Community Developmental Disability Program" as defined in OAR 411-320-0020.~~

~~(42) "Chemical Restraint" means the use of a psychotropic drug or other drugs for punishment or to modify behavior in place of a meaningful behavior or treatment plan.~~

~~(5) "Child" means an individual who is less than 18 years of age that has a provisional determination of an intellectual or developmental disability.~~

(63) "CIIS" means "Cchildren's Iintensive Iin-Hhome Sservices". CIIS include the services described in:

(a) OAR chapter 411, division 300 for the Children's Intensive In-Home Services, Behavior Program;

(b) OAR chapter 411, division 350 for the Medically Fragile Children's Services Program; or

(c) OAR chapter 411, division 355 for the Medically Involved Children's Program.

(74) "Claimant" means the individual directly impacted by the action that is the subject of a hearing request.

(85) "Complaint" means an oral or written expression of dissatisfaction with a developmental disability service or provider.

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

(107) "Complaint Log" means the list of complaint-related information that is completed and maintained by a local program.

(118) "Continuing Services" means the continuation of a developmental disability service following the request for a hearing until a Final Order is issued.

(129) "DD Administrative Hearing Request" means form SDS 0443DD.

(1310) "Denial" means any rejection of a request for a developmental disability service or an increase in a developmental disability service. A denial of a Medicaid service requires a Notification of Planned Action.

(1411) "Department" means the Department of Human Services.

(~~15~~12) "Department Hearing Representative" means the person authorized by the Department to represent the Department in a hearing as described in OAR 411-001-0500.

(~~16~~13) "Department Staff" means the person employed by the Department who is knowledgeable in a particular subject matter. For the purposes of the complaint process, Department staff may not be involved in a specific complaint prior to the receipt of the complaint or the request for a review of the complaint.

(~~17~~14) "Developmental Disability Services" means the services provided to an individual listed in OAR 411-318-0000 ~~provided to an individual with an intellectual or developmental disability.~~

(~~18~~15) "Director" means the Director of the Department of Human Services or the designee of the Director, which may include Department Staff.

~~(19) "Exit" means termination or discontinuance of a Department-funded developmental disability service by a licensed or certified provider.~~

(~~20~~16) "Good Cause" means an excusable mistake, surprise, excusable neglect (which may include neglect due to a significant cognitive or health issue), circumstances beyond the control of a claimant, reasonable reliance on the statement of an employee of the Department or an adverse provider relating to procedural requirements, [or due to] fraud, misrepresentation, or other misconduct of the Department or a party adverse to a claimant.

~~(21) "Guardian" means the parent of a minor child or a person or agency appointed and authorized by a court to make decisions about services for a child or an adult.~~

(~~22~~17) "Hearing" means a contested case hearing subject to OAR 137-003-0501 to 137-003-0700, which results in a Final Order.

~~(23) "Individual" means a child or an adult applying for, or determined eligible for, Department-funded services. Unless otherwise specified, references to individual also include the representative of the individual, who has the ability to act for the individual and to exercise the rights of the individual.~~

(2418) "Informal Conference" means the discussion between a claimant, the representative of the claimant, Department staff, and a Department representative that is ~~help held~~ prior to a hearing to address any matters pertaining to the hearing, as described in OAR 411-318-0025. An administrative law judge does not participate in an informal conference. The informal conference may result in resolution of the issue.

(2519) "Informal Discussion" means the conversation between an individual making a complaint, or as applicable the representative of the individual, and the designee of the Department or local program who received the complaint to address the content of the complaint. The informal discussion may result in resolution of the issue.

~~(26) "Involuntary Reduction" means a provider has made the decision to reduce services provided to an individual without prior approval from the individual.~~

~~(27) "Involuntary Transfer" means a provider has made the decision to transfer an individual without prior approval from the individual.~~

(20) "ISP" means "Individual Support Plan".

~~(28) "Legal Representative" means a person who has the legal authority to act for an individual.~~

~~(a) For a child, the legal representative is the parent of the child unless a court appoints another person or agency to act as the guardian of the child; and~~

~~(b) For an adult, the legal representative is the attorney at law who has been retained by or for the adult, the person acting under the authority granted in a power of attorney, or the person or agency authorized by a court to make decisions about services for the adult.~~

(2921) "Local Program" means the local Community Development Disability Program, Support Services Brokerage, provider organization, CIIS pProgram, or other certified, licensed, or endorsed provider or agency with which the Department contracts to provide developmental disability

services and is providing services to the individual with whom ~~the a~~ complaint is associated.

~~(3022)~~ "Mechanical Restraint" means any mechanical device, material, object, or equipment attached or adjacent to the body of an individual that the individual cannot easily remove or easily negotiate around that restricts freedom of movement or access to the body of the individual. Mechanical restraint is not:

(a) The use of acceptable infant safety products;

(b) The use of car safety systems, consistent with applicable state law for people without disabilities; or

(c) Safeguarding equipment when ordered by a physician or health care provider and approved by the ISP team.

~~(3123)~~ "Notice of Involuntary Reduction, Transfer, or Exit" means form SDS 0719DD. This form is part of the AFH/DD Mandatory Written Notice of Exit or Transfer.

~~(3224)~~ "Notification of Planned Action" means form SDS 0947. The Notification of Planned Action is the written decision notice issued to an individual in the event that a developmental disability service is denied, reduced, suspended, or terminated.

~~(3325)~~ "OAH" means the Office of Administrative Hearings.

~~(3426)~~ "OHA" means the Oregon Health Authority.

~~(35) "Personal Agent" means personal agent as defined in OAR 411-340-0020.~~

~~(36) "Person-Centered Planning":~~

~~(a) Means a timely and formal or informal process driven by an individual, includes people chosen by the individual, ensures the individual directs the process to the maximum extent possible, and the individual is enabled to make informed choices and decisions consistent with 42 CFR 441.540.~~

~~(b) Person-centered planning includes gathering and organizing information to reflect what is important to and for the individual and to help:~~

~~(A) Determine and describe choices about personal goals, activities, services, providers, service settings, and lifestyle preferences;~~

~~(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and~~

~~(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.~~

~~(c) The methods for gathering information vary but all are consistent with the cultural considerations, needs, and preferences of the individual.~~

~~(3727) "Program Director" means the Director of a local program or the designee of the Director.~~

~~(3828) "Program Staff" means a person employed by the local program who is knowledgeable in a particular subject matter. For the purposes of the complaint process, program staff may not be involved in a specific complaint prior to the receipt of the complaint or the request for a review of the complaint.~~

~~(3929) "Protective Physical Intervention" is a safety intervention used in an emergency, which may or may not include physical contact with the individual. means any manual physical holding of or contact with an individual that restricts freedom of movement.~~

~~(40) "Provider" means a person, agency, organization, or business selected by an individual that provides recognized Department-funded services and is approved by the Department or other appropriate agency to provide Department-funded services.~~

~~(41) "Provider Organization" means an entity selected by an individual or the representative of the individual and paid with service funds that:~~

~~(a) Is primarily in business to provide supports for individuals with intellectual or developmental disabilities;~~

~~(b) Provides supports for the individual through employees, contractors, or volunteers; and~~

~~(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the individual.~~

(4230) "Representative" means any adult, such as a parent, family member, guardian, legal representative, advocate, or other person, who is chosen by an individual or the legal representative of the individual to represent the individual in connection with the provision of developmental disability services or during the complaint or hearing process. The representative may not be an employee of the Department, CDDP, or Support Services Brokerage ~~employee~~ acting in official capacity. An individual or ~~a~~ the legal representative ~~of~~ for the individual is not required to choose a representative.

(4331) "Request for Service" means:

(a) Submission of a completed application for developmental disability services as described in OAR 411-320-0080;

(b) A written request for a new developmental disability service or provider; or

(c) A written request for a change in a developmental disability service currently provided.

(32) "Restraint" means any physical hold, device, or chemical substance that restricts, or is meant to restrict, the movement or normal functioning of an individual.

(33) "Safeguarding Equipment" means a device used to provide support to an individual for the purpose of achieving and maintaining functional body position, proper balance, and protecting the individual from injury or symptoms of existing medical conditions.

(4434) "Service" means "developmental disability services" as defined in this rule.

(4535) "Service Funds" means state public funds or Medicaid funds used to purchase developmental disability services.

~~(46) "Services Coordinator" means an employee of the Department, CDDP, or other agency that contracts with the county or Department, who provides case management services including, but not limited to, planning, procuring, coordinating, and monitoring developmental disability services.~~

~~(47) "Support Services Brokerage" means "brokerage" as defined in OAR 411-340-0020.~~

(4836) "These Rules" mean the rules in OAR chapter 411, division 318.

~~(49) "Transfer" means movement of an individual from a service setting to another service setting administered or operated by the same provider.~~

(5037) "Written Outcome" means the written response from the Department or the local program to a complaint following a review of the complaint.

Stat. Auth.: ORS 409.050, 427.107

Stats. Implemented: ORS 183.411-471, 409.010, 427.107, 427.109

411-318-0010 Individual Rights

(21) While receiving developmental disability services, an individual has the right to:

(a) Be free ~~and protected~~ from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(b) Be free from seclusion, unauthorized training or treatment, ~~protective physical intervention, and personal, chemical restraint, or and mechanical restraints~~ and assured that medication is administered only for the clinical needs of the individual as prescribed by a health care provider, unless an imminent risk of physical harm to

the individual or others exists and only for as long as the imminent risk continues;

(c) Be assured that prescribed medication is administered only for the clinical needs of the individual as prescribed by a health care provider, unless an imminent risk of physical harm to the individual or others exists and only for as long as the imminent risk continues;

(ed) Individual choice for an adult to consent to or refuse treatment unless incapable and then an alternative decision maker must be allowed to consent to or refuse treatment for the adult. For a child, the parent or guardian of the child must be allowed to consent to or refuse treatment, except as described in ORS 109.610 or limited by court order;

(de) Informed, voluntary, written consent prior to receiving services, except in a medical emergency or as otherwise permitted by law;

(ef) Informed, voluntary, written consent prior to participating in any experimental programs;

(fg) A humane service environment that affords reasonable ~~protection from harm, reasonable~~ privacy ~~in all matters that do not constitute a documented health and safety risk to the individual, and access~~ and the ability to engage in private communications with ~~any public or private rights protection program, services coordinator, personal agent, and others~~ people chosen by the individual through personal visits, mail, telephone, or electronic means;

(gh) ~~Contact and visits~~ Visit with ~~legal and medical professionals,~~ legal and designated representatives, family members, friends, advocates, and ~~legal and medical professional~~ others chosen by the individual, ~~except where prohibited by court order;~~

(hi) Participate regularly in the community and use community resources, including recreation, developmental disability services, employment services, school, educational opportunities, and health care resources;

(~~h~~) For individuals less than 21 years of age, access to a free and appropriate public education, including a procedure for school attendance or refusal to attend;

(~~j~~) Not be required to perform labor, Reasonable and lawful compensation for performance of labor, except personal housekeeping duties, without reasonable and lawful compensation;

(~~k~~) Manage his or her own money and financial affairs unless the right has been taken away by court order or other legal procedure;

(~~l~~) Keep and use personal property, ~~personal control and freedom regarding personal property,~~ and have a reasonable amount of personal storage space;

(~~m~~) ~~Adequate f~~Food, housing, clothing, medical and health care, supportive services, and training;

(~~n~~) Seek a meaningful life by choosing from available services, ~~service settings, and providers consistent with the support needs of the individual identified through a functional needs assessment_~~ and enjoying the benefits of community involvement and community integration in a manner that is most integrated, considering the preferences and age of the individual;:-

~~(A) Services must promote independence and dignity and reflect the age and preferences of the individual; and~~

~~(B) The services must be provided in a setting and under conditions that are most cost effective and least restrictive to the liberty of the individual, least intrusive to the individual, and that provide for self-directed decision-making and control of personal affairs appropriate to the preferences, age, and identified support needs of the individual;~~

(~~o~~) An individualized written plan for services created through a person-centered planning process, services based upon the plan, and periodic review and reassessment of service needs;

(~~pg~~) Ongoing ~~opportunity to participate~~ participation in the planning of services ~~in a manner appropriate to the capabilities of the individual,~~ including the right to participate in the development and periodic revision of the plan for services, the right to be provided with an reasonable explanation of all service considerations in a manner that ensures meaningful individual participation, through choice advising, and the right to invite others chosen by the individual to participate in the plan for services;

(~~qr~~) Request a change in the plan for services and a reassessment of service needs;

(~~rs~~) A timely decision upon request for a change in the plan for services and a reassessment of service needs;

(t) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services, and exercise of a complaint procedure;

(~~su~~) Advance written notice of any action that terminates, suspends, reduces, or denies a service or request for service, and notification of ~~other~~ available sources for of necessary continued services, ; and(t) A a hearing to challenge an action that terminates, suspends, reduces, or denies a service or request for service;

(v) Be informed at the start of services and annually thereafter of the rights guaranteed by this rule, the contact information for the protection and advocacy system described in ORS 192.517(1), ~~the procedures for reporting abuse,~~ and the procedures for filing complaints, reviews, ~~or requests for~~ hearings, or appeals if services have been or are proposed to be terminated, suspended, reduced, or denied;

~~(w) Have these rights and procedures prominently posted in a location readily accessible to individuals and made available to representatives of the individual;~~

~~(xw)~~ Be encouraged and assisted in exercising all legal, ~~civil, and human rights accorded to other citizens of the same age, except when limited by a court order;~~

~~(ux)~~ Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Department;

(y) Be informed of and have the opportunity to assert complaints as described in OAR 411-318-0015 with respect to infringement of the rights described in this rule, including the right to have such complaints considered in a fair, timely, and impartial complaint procedure without any form of retaliation or punishment; ~~and~~

(z) Freedom to exercise all rights described in this rule without any form of reprisal or punishment; and

~~(4aa) An individual who is receiving developmental disability services has the right under ORS 430.212 and OAR 411-320-0090 to b~~Be informed that a family member has contacted the Department to determine the location of the individual, and to be informed of the name and contact information of the family member, if known, as provided under ORS 430.212 and OAR 411-320-0090.

~~(42)~~ The individual rights described in ~~this rule section (1) of this rule~~ apply to all individuals eligible for or receiving a developmental disability services. A parent or guardian may place reasonable limitations on the rights of a child.

(3) In addition to the rights described in section (1) of this rule, individuals receiving home and community-based services in residential and non-residential home and community-based settings have the right to home and community-based settings with the qualities described in OAR 411-004-0020(1).

(4) In addition to the rights described in sections (1) of this rule, individuals receiving home and community-based services in provider owned, controlled, or operated residential settings have the right to provider owned, controlled, or operated residential settings with the qualities described in OAR 411-004-0020(2).

(a) For children under the age of 18, enrolled in or utilizing home and community-based services, and residing in provider owned, controlled, or operated residential settings, the qualities described in OAR 411-004-0020(2) apply in the context of addressing any limitations beyond what are typical health and safety precautions or discretions utilized for children of the same age without disabilities.

(b) Health and safety precautions or discretions utilized for children under the age of 18, enrolled in or utilizing home and community-based services, and residing in provider owned, controlled, or operated residential settings, must be addressed through a person-centered service planning process and documented in the ISP for the child.

(c) Limitations that deviate from and are more restrictive than what is typical for children of the same age without disabilities must comply with OAR 411-004-0040.

(35) The rights described in this rule are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens including, but not limited to, the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property, and enter into contracts and execute documents ~~unless specifically prohibited by law.~~

(56) The rights described in this rule may be asserted and exercised by an individual, the legal representative of an individual, and any representative designated by an individual.

(67) Nothing in this rule may be construed to alter any legal rights and responsibilities between a parent and child.

(78) A guardian is appointed for an adult only as is necessary to promote and protect the well-being of the adult. A guardianship for an adult must be designed to encourage the development of maximum self-reliance and independence of the adult, and may be ordered only to the extent necessitated by the actual mental and physical limitations of the adult. An adult for whom a guardian has been appointed is not presumed to be incompetent. An adult with a guardian retains all legal and civil rights

provided by law, except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by an adult include, but are not limited to, the right to contact and retain counsel and to have access to personal records. (ORS 125.300).

Stat. Auth.: ORS 409.050, 427.107

Stats. Implemented: ORS 183.411-471, 409.010, 427.107, 427.109