

Cathy Cooper
Authorized Signature

Number: SPD-AR-10-013

Issue Date: 3/23/2010

CORRECTED

Topic: Foster Care

Due Date:

Subject: Those involved with Licensing Non-relative, Relative or Limited Adult Foster Homes for Seniors and Adults with Disabilities

Applies to (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input checked="" type="checkbox"/> Area Agencies on Aging | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Children, Adults and Families | <input checked="" type="checkbox"/> Seniors and People with Disabilities |
| <input type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Other (please specify): |

Action Required: Local offices that previously forwarded the December 30, 2009 memorandum attached to Policy Transmittal SPD-PT-10-002 may disregard this request. Local adult foster home licensing offices should send the attached memorandum (electronically if available) to non-relative, relative and limited adult foster home providers as soon as possible. The memorandum includes a hyperlink to the complete text of the [Temporary Adult Foster Home Administrative Rules, chapter 411, division 50](#), which became effective January 1, 2010.

Please provide this transmittal with a copy of the attached memorandum dated February 24, 2010 to all Adult Foster Home Licensers, all Adult Protective Service Specialists, all individuals who supervise those programs and other staff who provide services to providers or residents in adult foster homes.

Reason for Action: The 2009 legislature amended several laws related to adult protective services and adult foster home licensing. HB 2442 amended the abuse definition for incidents that occur on or after January 1, 2010, increased civil penalty amounts for certain incidents of abuse, prohibited anyone convicted of specific crimes from working in any capacity in an adult foster home, required the public posting of all findings of abuse and required all employment applications to ask if the applicant had ever been found responsible for abuse.

SB 162 clarified the level of resident confidentiality afforded in a complaint investigation report. SB 163 provided that the Department must check the nursing assistant registry prior to issuing an initial or renewed license to make sure that there is

no finding of abuse by the applicant/licensee or any certified nursing assistant employed in the home. SB 287 allowed the Department to consider an applicant/licensee's compliance history in any other facilities they currently operate or previously have operated in determining whether to issue, renew or suspend a license. SB 670 included an adult foster home licensee and employees in the definition of mandatory reporters.

Central Office is available for technical assistance in order to assist the local licensing offices with understanding the implications of these changes in relation to licensing, investigations and the people we serve.

Field/Stakeholder review: Yes No

If yes, reviewed by:

If you have any questions about this action request, contact:

Contact(s):	Sylvia Rieger, Operations and Policy Analyst		
Phone:	(503) 945-6403	Fax:	(503) 378-8966
E-mail:	Sylvia.A.Rieger@state.or.us		



Oregon

Theodore R. Kulongoski, Governor

Disabilities

Department of Human Services

Seniors and People with

500 Summer Street NE, E13
Salem, OR 97301-1074
(503) 945-5832

1(800)232-3020

Fax (503) 378-8966

February 24, 2010

Dear Adult Foster Home Providers with Limited, Relative or Non-Relative Licenses,

RE: Temporary Adult Foster Home Rules Effective January 1, 2010
OAR Chapter 411, Division 50 and ORS 443.705 to 825

The 2009 legislative session amended several laws pertaining to the operation and licensing of adult foster homes. These changes are reflected in the temporary adult foster home rules that became effective January 1, 2010. The legislative bills and a brief summary of the required changes are listed below.

HB 2442 requires the following rule changes:

1. The definition of abuse for incidents that occur on or after January was amended – see OAR 411-050-0400, Definitions;
2. The civil penalty for certain incidents of abuse was increased – see OAR 411-050-0487, Civil Penalties;
3. Individuals with convictions for specific crimes are prohibited from working in any capacity in an adult foster home (for 10 years from the date of a conviction for the manufacture or delivery of drugs and indefinitely for other specific crimes) – see OAR 411-050-0412, Criminal History Check;
4. Any findings of abuse must be publicly posted in the adult foster home – see OAR 411-050-0444, Operational Standards and OAR 411-050-0455, Complaints;
5. All adult foster home employment applications must inquire if the applicant has ever been found to be responsible for abuse – see OAR 411-050-0440; and
6. Pertaining to complaint investigations, a notification of findings including appeal rights must be mailed to the licensee, the complainant, any person reported to have committed wrongdoing and the local licensing office – see OAR 411-050-0455, Complaints.

SB 162: Clarifies the Division's requirements to ensure the confidentiality of residents in complaint reports – see OAR 411-050-0455, Complaints and OAR 411-050-0460, Procedures for Correction of Violations.

SB 163: Specifies the Division must not issue a license if an applicant or any nursing

assistant employed by the applicant had a finding of abuse – see OAR 411-050-0415, Issuance and OAR 411-050-0420, Renewal.

SB 287: The Division will not issue a license if the applicant does not currently operate or has not operated any other licensed facility in substantial compliance with ORS 443.705 to 443.825, Adult Foster Homes – see OAR 411-050-0415, Issuance, OAR 411-050-0420, Renewal and OAR 411-050-0481, Suspension of License; and

SB 670: Licensees and their employees are identified as mandatory reporters for incidents of elder abuse or potential elder abuse.

Please review these rules and contact your Licenser if you have questions about their implementation effective January 1, 2010. A complete copy of these temporary rules is available online at http://www.dhs.state.or.us/policy/spd/rules/411_050.pdf or contact your local licensing office.

Sincerely,

Mary Gear, Administrator
Office of Licensing and Quality of Care
Seniors and People with Disabilities Division