

Tom Vanderveen

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Number: APD-IM-14-019

Issue date: 4/9/2014

Topic: Licensing

Subject: Nursing Facility Licensing Rules Effective April 1, 2014

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 checked="" type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental |
| <input type="checkbox"/> Children, Adults and Families | Disabilities Services (ODDS) |
| <input type="checkbox"/> County DD Program Managers | <input type="checkbox"/> Other (<i>please specify</i>): |

Message:

Permanent Nursing Facility Rules Effective April 1, 2014 included changes to the following areas:

- 1. Facility Policy is Required for the Treatment or Referral of Acute Sexual Assault Victims; and**
- 2. Nursing Facility Closure.**

1. Facility Policy is Required for the Treatment or Referral of Acute Sexual Assault Victims

OAD 411-085-0005 Definitions

(5) "Acute Sexual Assault" means any non-consensual or unwanted sexual contact that warrants medical treatment or forensic collection.

OAD 411-085-0210 Facility Policies

(1)(i) The referral of residents who may be victims of acute sexual assault to the nearest trained sexual assault examiner. The policy must include information regarding the collection of medical and forensic evidence that must be obtained within 86 hours of the incident.

Background

During the 2011 Legislative Session, passage of Senate Bill 557 amended the Oregon

Revised Statutes (ORS) 147.401 and 147.403, creating requirements for hospitals, nursing facilities, residential care facilities and assisted living facilities to adopt policies for the treatment or referral of residents that may be victims of acute sexual assault. Facilities are required to identify and utilize an appropriately trained resource to evaluate instances of potential sexual assault. The law established regional sexual assault response teams; the regional teams must assure that protocols are developed to respond to sexual assault victims in each county.

For policy guidelines and additional resource information, please see the *Nursing Facility Administrator Alert*,

<http://www.oregon.gov/dhs/spd/adminalerts/New%20Rules%20-%20Policy%20Required%20for%20Acute%20Sexual%20Assault%20-%20April%202014.pdf>

2. Nursing Facility Closure

Nursing Facility rules relating to closure were updated to align with federal rule changes effective April 2013.

OAR 411-085-0025 – Change of Ownership or Operator and Closure.

- The facility administrator submits a proposed resident transition plan and facility closure plan to the Department 75 days prior to the anticipated closure date.
- No new admissions to the facility 60 days prior to the anticipated closure date.

OAR 411-085-0210 – Facility Policies.

- Requires a facility policy stating that the administrator's duties include providing required notices, resident transition plan and facility closure plan.

OAR 411-088-0070 – Notice Requirements.

- In the case of NF closure:
 - Requires written notice to the resident, resident representatives and LTCO 60 days prior to the anticipated closure date.
 - Written notice is provided to the resident using form 0509, *Notice of Transfer*, form 0509L, *Resident Letter Nursing Facility Closure* and form 9847, *Leaving the Nursing Facility*. Forms are available electronically from the Department's Forms Server, (https://aix-xweb1p.state.or.us/es_xweb/FORMS/) or from the Department by request.

OAR 411-088-0080 - Informal Conference and Hearing.

- In the case of NF closure:

- A resident or designated representative may request an informal conference if unable to agree regarding a proposed transition plan.
- If a resident wishes to request a hearing following an informal conference, the hearing request must be received by the Department within 10 business days, an expedited hearing must be conducted within 5 business days of hearing request and the final order must be issued within 48 hours following the hearing.
- Hearings concerning involuntary transfer as a result of NF closure shall only regard whether the resident's proposed transition plan meets requirements at OAR 411-085-0025(2)(d), not transfer from the closing facility.

OAR 411-089-0030 Civil Penalties

- NF Administrators who fail to comply with closure requirements are subject to civil monetary penalties and exclusion from federally funded programs.

For additional information about federal rule and survey changes related to closure, please see the *Nursing Facility Administrator Alert*,

<http://www.oregon.gov/dhs/spd/adminalerts/New%20Rules%20-%20Nursing%20Facility%20Closure%20-%20Effective%20April%202014.pdf>

To access the Nursing Facility Closure – Implementation Guidelines, please see

<http://www.oregon.gov/dhs/spd/adminalerts/Nursing%20Facility%20Closure%20-%20Implementation%20Guidelines%20-%20April%202014.pdf>

The permanent rule text may be found at:

http://www.dhs.state.or.us/policy/spd/rules/411_085.pdf

http://www.dhs.state.or.us/policy/spd/rules/411_088.pdf

http://www.dhs.state.or.us/policy/spd/rules/411_089.pdf

If you have any questions about this information, contact:

Contact(s):	Renee Shearer		
Phone:	(503) 373-2164	Fax:	(503) 378-8966
Email:	renee.m.shearer@state.or.us		