

Cathy Cooper

Authorized Signature

Number: SPD-PT-10-002
Issue Date: 1/15/2010

Topic: Foster Care

Transmitting (check the box that best applies):

- New Policy
 Policy Change
 Policy Clarification
 Executive Letter
 Administrative Rule
 Manual Update
 Other: _____

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): |

Policy/Rule Title:	Adult Foster Home		
Policy/Rule Number(s):	Chapter 411, Division 50	Release No:	
Effective Date:	January 1, 2010	Expiration:	
References:	ORS 443.705 – 443.825, SB 162, SB 163, SB 287, SB 670, HB 2442		
Web Address:			

Discussion/Interpretation:

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.

Implementation/Transition Instructions:

Please provide this transmittal with a copy of the attached memorandum dated December 30, 2009 to all Adult Foster Home licensors, all Adult Protective Service Specialists who work in Adult Foster Homes and all other staff who provide services to providers or residents in Adult Foster Homes.

Training/Communication Plan:

Policies and guidelines for the application of the revised rules will be made available as soon as possible.

Local/Branch Action Required:

Provide a copy (electronically, when possible) of the revised rules and a copy of the attached memorandum dated December 30, 2009 to all Adult Foster Home providers licensed by the Office of Licensing and Quality of Care by January 15, 2010.

Adult foster home licensors, Adult Protective Service Specialists and other staff who serve residents in Adult Foster Homes licensed by the Office of Licensing and Quality of Care must read the revised rules and apply effective January 1, 2010.

Central Office Action Required:

Central Office is available for technical assistance in order to assist the field with understanding the implications of these changes in relation to licensing, investigations and the people we serve. Central Office will provide policies and guidelines for the implementation of these changes as quickly as feasible.

Field/Stakeholder review: Yes No

If yes, reviewed by:

Filing Instructions:

When the 2009 edition of the Oregon Revised Statutes become available, you may access them by using the following web address:

<http://www.leg.state.or.us/ors>

If you have any questions about this policy, contact:

Contact(s):	Marie Cervantes / Sylvia Rieger		
Phone:	503-945-6079 / 503-945-6403	Fax:	503-378-8966
E-mail:	marie.g.cervantes@state.or.us / sylvia.a.rieger@state.or.us		

DATE: December 30, 2009

TO: Adult Foster Home Providers
with Relative, Non-relative or Limited Licenses

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

RE: Emergency 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 enclosed temporary adult foster home rules that become effective January 1, 2010. The legislative bill 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.

Notice of Emergency Rules for Adult Foster Homes
December 30, 2009

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 will be posted online within a few days of the implementation date. Go to http://www.dhs.state.or.us/policy/spd/rules/411_050.pdf or contact your local licensing office.