

application of the disqualifying crimes identified in HB 2442 and ORS 443.004 will be applied consistently to all subject individuals who intend to work, or are currently working, as licensees or caregivers (whether paid or unpaid) in relative, non-relative or limited AFHs. (An example of an unpaid caregiver is a family member who performs some work in the home but does not receive a paycheck as a regular employee.) Employees hired by licensed providers prior to July 28, 2009 are exempt from this new law as long as those employees remain in the same position and work for the same employer after July 28, 2009. A caregiver hired prior to July 28, 2009 is subject to the disqualifying crimes in OAR 407-007-0275 once he or she applies for a new position or applies to work for a different employer. This exemption is not applicable to licensed providers.

Implementation/Transition Instructions: Local licensing offices and individuals involved in processing relative, non-relative and limited AFH criminal records checks are asked to process completed DHS 301 forms according to the steps outlined in the attached flowcharts. The process varies according to whether the subject individual is or intends to be:

- 1. A licensed provider with multiple AFHs;**
- 2. A licensed provider with a single AFH;**
- 3. AFH caregivers (does not include licensees but includes both paid and unpaid caregivers) employed on or after July 28, 2009;**
- 4. AFH caregivers employed prior to July 28, 2009 who wish to work for a new employer or in a different employment capacity.** Examples include, but are not limited to:
 - a. The housekeeper who wants to become a substitute caregiver in the same AFH;
 - b. The resident manager who wants to work as a resident manager for a different licensee); and
 - c. The caregiver who changed jobs in the same AFH or went to work for a different employer on or after July 28, 2009.
- 5. AFH caregivers employed prior to July 28, 2009 who continue to work in the same position.**

NOTE: If a subject individual's criminal records check is processed to be portable, a new criminal records check applying the HB 2442 crimes is not required between the annual criminal records rechecks. An example of a "portable" criminal records check is a caregiver who indicated on the DHS 301 form that he works as a substitute caregiver in "various" adult foster homes. If

approved, the subject individual's criminal records check is considered portable because it is valid for each AFH he works in as a substitute caregiver as long as those homes are within the jurisdiction of the local licensing office.

6. AFH occupants and others (excluding residents, licensee and caregivers).

If a Currently Licensed Provider is Disqualified: If the Department's Background Check Unit (BCU) denies a currently licensed provider's criminal records check based on the crimes identified in OAR 407-007-0275, they will immediately notify the local licensing office (in addition to the subject individual and Central Office AFH program staff). At that time, the local office is asked to complete and mail the attached template letter with a subject line that reads "Denial of Licensee's Criminal Records Check." The purpose of this letter is to inform the licensee of what to expect as a result of that denial.

If a Licensed Provider Surrenders the License or a Final Order Upholds the License Action: If the licensee surrenders his or her license at any time following the denial of the licensee's criminal records check based on the crimes identified in OAR 407-007-0275, or if the license action to revoke or not renew a license becomes a final order, the local licensing office is asked to send the AFH residents and the residents' representatives as appropriate the attached template letter with a subject line that reads "Closure of Adult Foster Home." The purpose of this letter is to inform them of the home's closure and provide contact information for assistance with relocation in addition to a local resource for questions regarding the closure of the home.

NOTE: The AFH licensee remains responsible for providing a completed SDS 901, Notice of Involuntary Move, Transfer or Discharge of Resident to the residents and their representatives according to OAR 411-050-0444(11)(c).

RELATIVE ADULT FOSTER HOMES ONLY Prior to July 1, 2010: The current Temporary Rule, OAR 411-050-0412(3), requires an annual, approved criminal records check **only** for the individual who is or will be the licensed provider. PLEASE NOTE the permanent rules that become effective July 1, 2010 will require an annual, approved criminal records check for all subject individuals as defined by OAR 411-050-0400(58) and in accordance with OAR chapter 407, division 007, Criminal History Checks.

Training/Communication Plan: Flowcharts outlining the various procedures are attached. Additional information will be communicated at the AFH Managers' Meeting and as needed electronically or by phone as appropriate.

Local/Branch Action Required: Process criminal records checks for all subject individuals in relative, non-relative and limited adult foster homes according to the procedures illustrated in the attached flowcharts.

Pended License Renewals and Criminal Records Rechecks: Please begin processing

DHS 301 forms that have been held, per Action Request Number SPD-AR-10-008, according to the procedures in the attached flowcharts.

Central Office Action Required: Central Office is available for technical assistance in order to assist the local licensing offices and those responsible for processing relative, non-relative and limited AFH criminal records checks implement this change in policy.

Field/Stakeholder review: Yes No

If yes, reviewed by: Background Check Unit, SPD Policy Group, Field Services Unit and Operations Committee

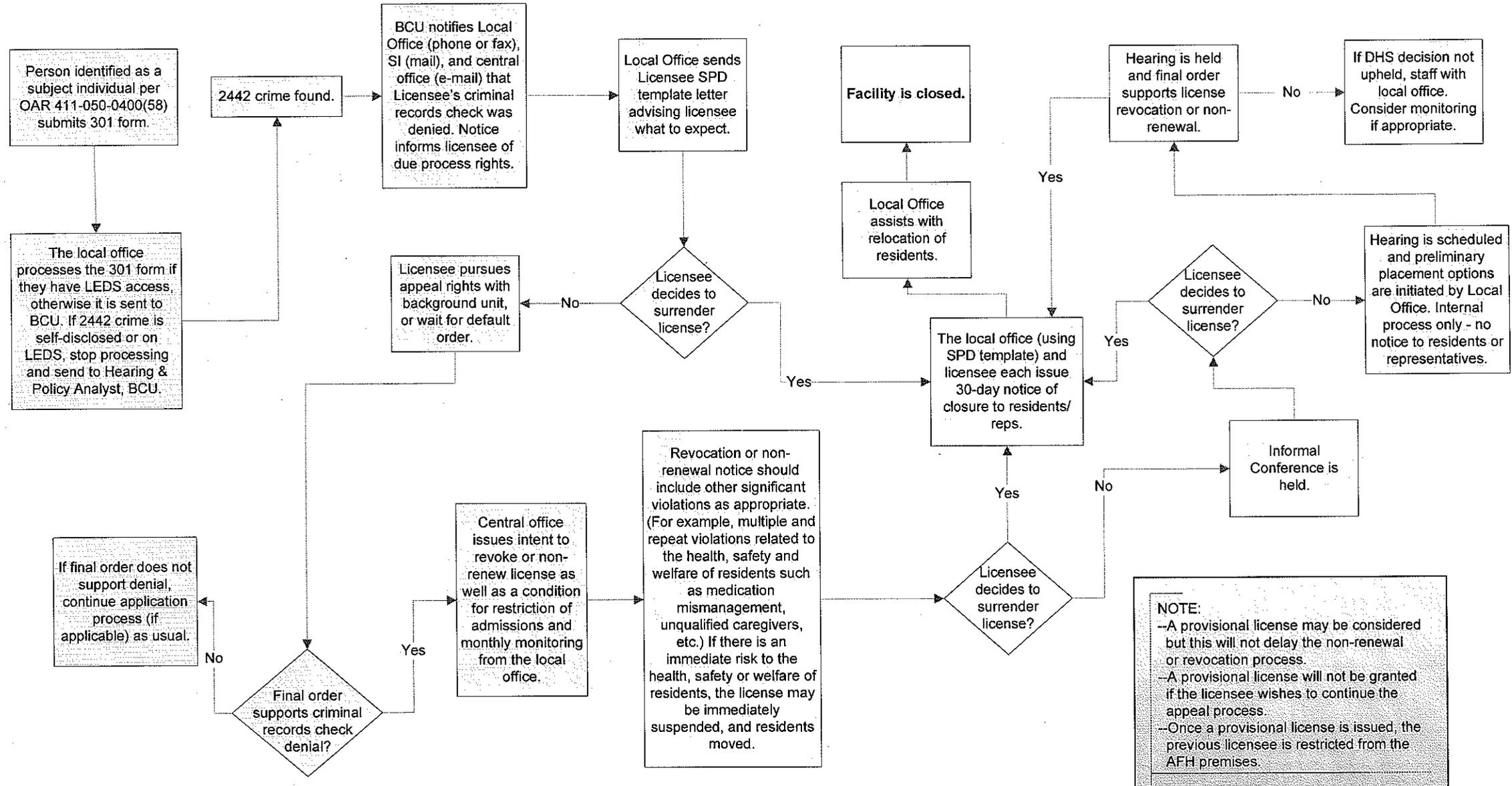
Filing Instructions:

If you have any questions about this policy, contact:

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

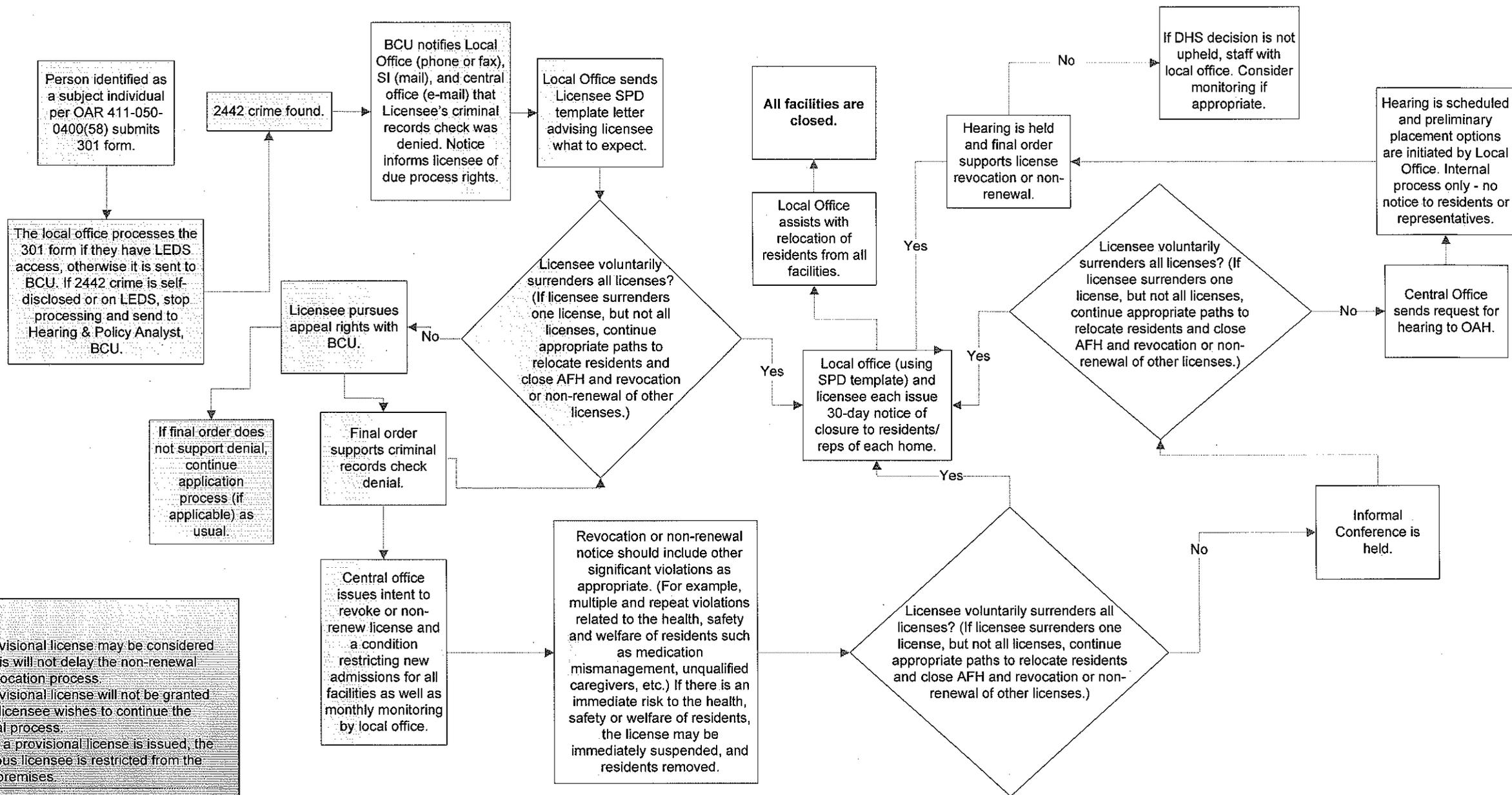
DENIAL PROCESS FOR AFH 2442 CRIMES

SINGLE FACILITY PROVIDER



DENIAL PROCESS FOR AFH 2442 CRIMES

MULTIPLE FACILITY PROVIDER



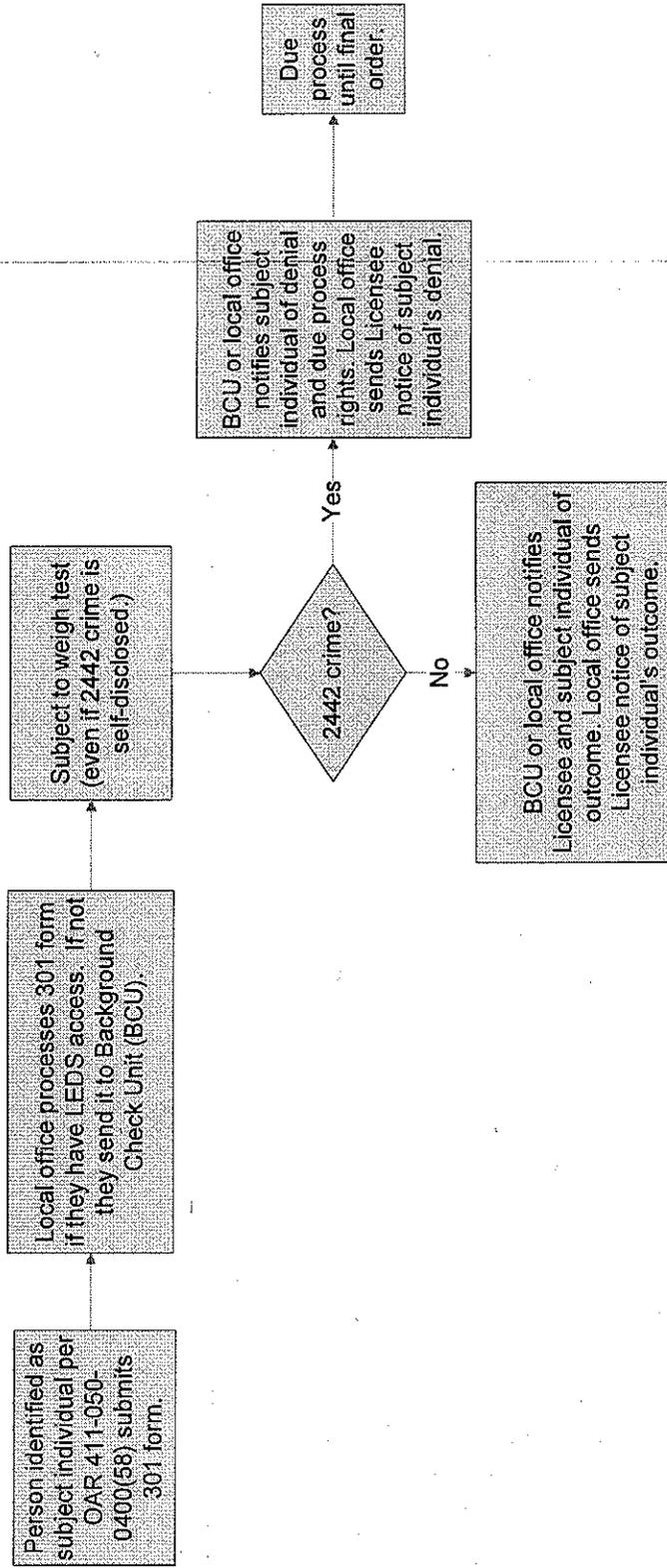
NOTE:

- A provisional license may be considered but this will not delay the non-renewal or revocation process.
- A provisional license will not be granted if the licensee wishes to continue the appeal process.
- Once a provisional license is issued, the previous licensee is restricted from the AFH premises.

DENIAL PROCESS FOR AFH 2442 CRIMES

OCCUPANTS AND OTHERS

AFH Occupants and Others (Excluding Residents, Licensee and Caregivers)

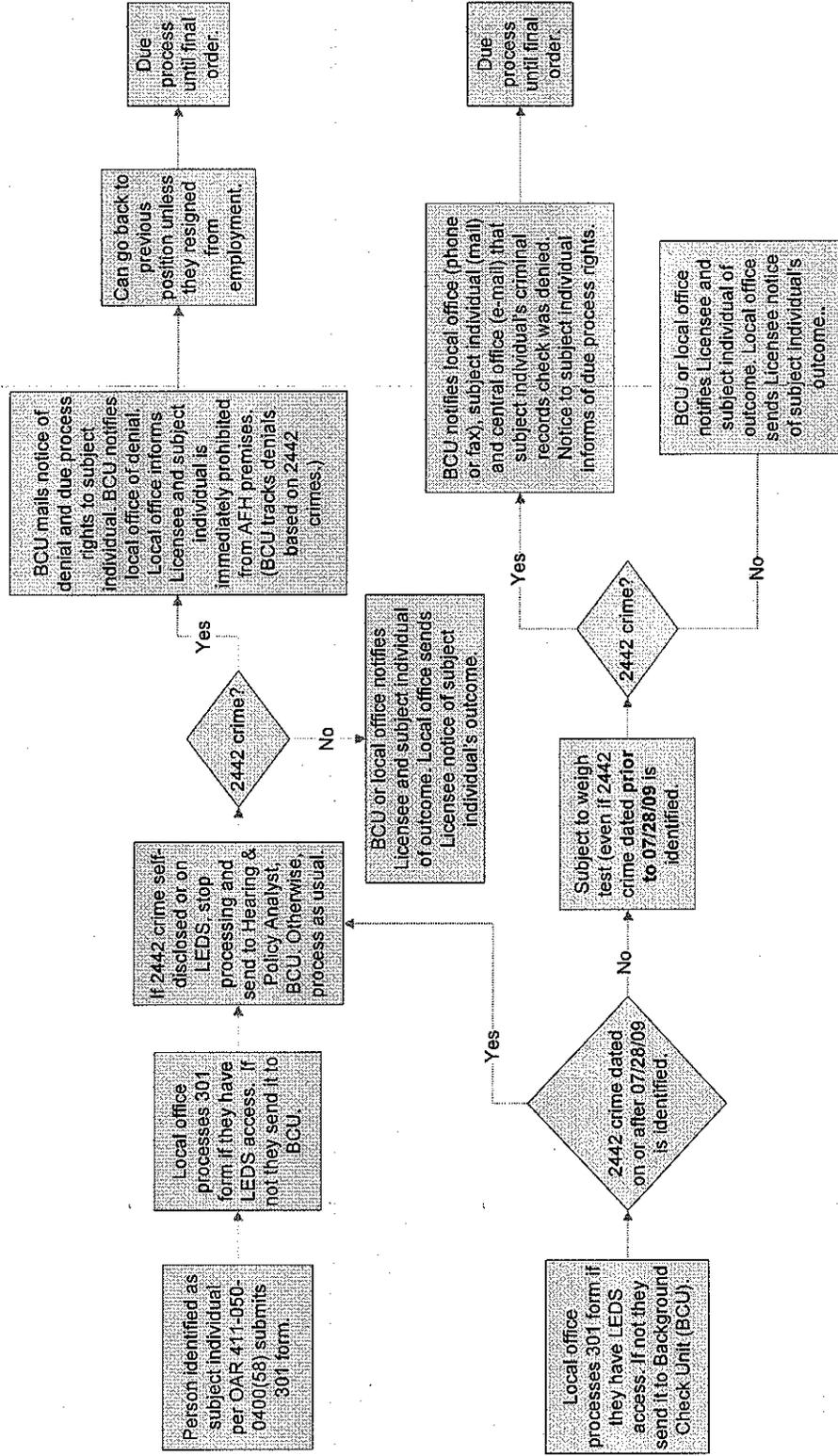


DENIAL PROCESS FOR AFH 2442 CRIMES

CAREGIVERS

Caregiver employed prior to 07/28/09 applies for or changes positions.

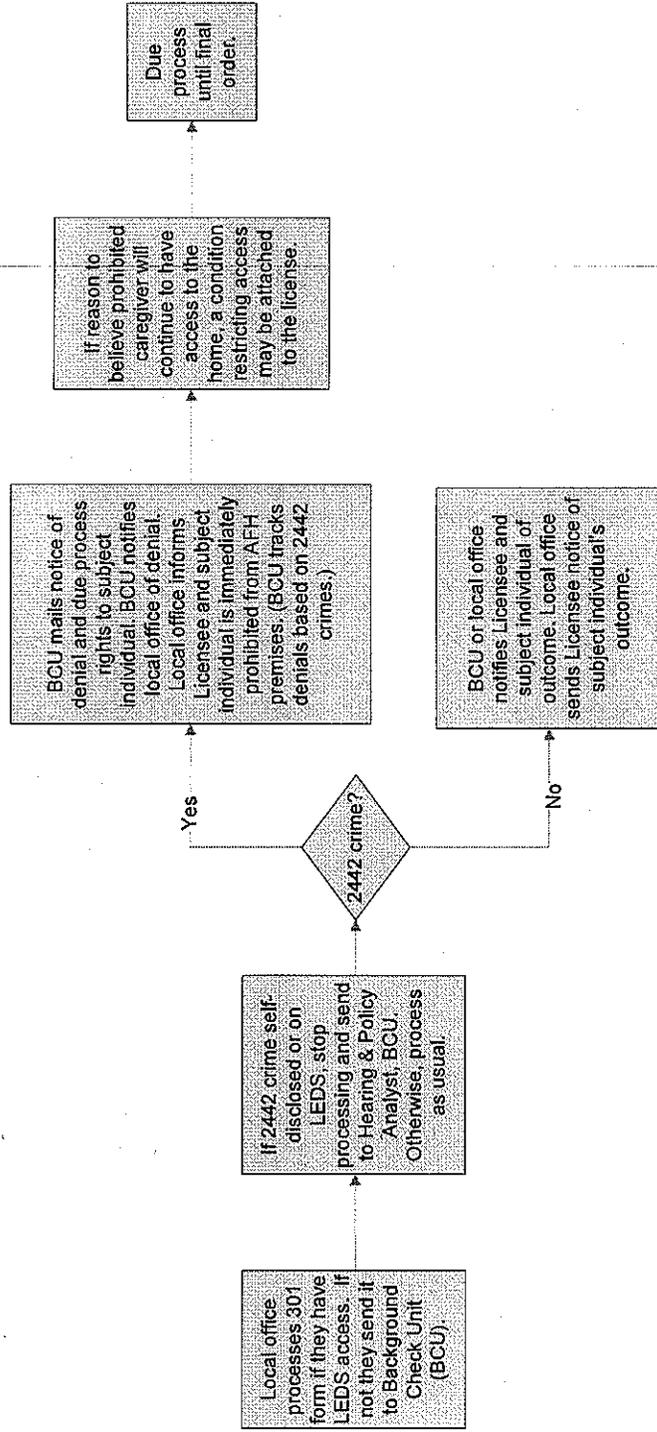
Caregiver employed prior to 07/28/09 criminal recheck only, no change in position.



DENIAL PROCESS FOR AFH 2442 CRIMES

CAREGIVERS

Caregiver
employed on or
after 07/28/09.





Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Seniors and People with Disabilities

, OR
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Subject: Denial of Licensee's Criminal Records Check

Dear :

The Department of Human Services' Background Check Unit has issued a Notice of Final Fitness Determination denying the approval of your criminal records check for a disqualifying crime. This action is based on a law passed during the 2009 Legislative session (Oregon Revised Statute 443.004).

The purpose of this letter is to inform you of what to expect as a result of your fitness determination being denied. The Notice of Final Fitness Determination affords you due process rights associated with that decision. If the Notice is upheld and the Notice of Final Fitness Determination becomes a Final Order, you will receive a licensing action (such as a notification of the intent to revoke, deny or suspend your license) from the Department. At that time, the Department will issue a license condition restricting new admissions to your home.

You will have the right to request a hearing and be represented during this process. Your Licensor will work with you regarding options for your adult foster home operation and every effort will be made to minimize disrupting the lives of the residents in your home.

If you have any questions, please contact your Licensor, at

Sincerely,



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Seniors and People with Disabilities

, OR
()

Subject: Closure of Adult Foster Home

Dear residents and representatives of residents:

This letter is to inform you that _____ adult foster home located at _____ will be closing effective _____ and to summarize what you may expect during this transition. Department staff will be coordinating efforts to ensure each resident is transitioned to an alternative care setting and every effort will be made to minimize any disruption to resident lives during this period.

If you receive assistance through the Medicaid program, please contact your Case Manager, _____ at _____ to discuss a plan for your future living arrangements. If you do not have a Case Manager, you may request resources for long-term care settings by calling _____.

You have the right to request a hearing and be represented during this process. To request a conference or hearing, or if you have any questions about the closure of _____ adult foster home, please contact your local office Licensors, _____ at _____.

Sincerely,



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Seniors and People with Disabilities

District #XX

Local office address

City, OR Zipcode

Phone (xxx) xxx-xxxx

Fax (xxx) xxx-xxxx

Date

Name

Mailing address

City, state zip code

Subject: Denial of Licensee's Criminal Records Check

Dear XX XXX:

The Department of Human Services' Background Check Unit has issued a Notice of Final Fitness Determination denying the approval of your criminal records check for a disqualifying crime. This action is based on a law passed during the 2009 Legislative session (Oregon Revised Statute 443.004).

The purpose of this letter is to inform you of what to expect as a result of your fitness determination being denied. The Notice of Final Fitness Determination affords you due process rights associated with that decision. If the Notice is upheld and the Notice of Final Fitness Determination becomes a Final Order, you will receive a licensing action (such as a notification of the intent to revoke, deny or suspend your license) from the Department. At that time, the Department will issue a license condition restricting new admissions to your home.

You will have the right to request a hearing and be represented during this process. Your Licensor will work with you regarding options for your adult foster home operation and every effort will be made to minimize disrupting the lives of the residents in your home.

If you have any questions, please contact your Licensor, XX XXX, at (XXX) XXX-XXXX.

Sincerely,

Licensing Supervisor or Manager's Signature

"Assisting People to Become Independent, Healthy and Safe"

An Equal Opportunity Employer



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

Seniors and People with Disabilities

District #XX

City, OR Zip code

Phone (xxx) xxx-xxxx

Fax (xxx) xxx-xxxx

Date

Name

Mailing address

City, state zip code

Subject: Closure of Adult Foster Home

Dear residents and representatives of residents:

This letter is to inform you that XX XXX's adult foster home located at XXXXX, XXX, Oregon will be closing effective Month, day, year and to summarize what you may expect during this transition. Department staff will be coordinating efforts to ensure each resident is transitioned to an alternative care setting and every effort will be made to minimize any disruption to resident lives during this period.

If you receive assistance through the Medicaid program, please contact your Case Manager, XXX XXXX at (XXX) XXX-XXXX to discuss a plan for your future living arrangements. If you do not have a Case Manager, you may request resources for long-term care settings by calling Insert phone # of individual assigned.

You have the right to request a hearing and be represented during this process. To request a conference or hearing, or if you have any questions about the closure of XX XXX 's adult foster home, please contact your local office Licensor, XXX XXXX at (XXX) XXX-XXXX.

Sincerely,

Licensing Supervisor or Manager's signature