

Cathy Cooper

Authorized Signature

Number: SPD-PT-10-030
Issue Date: 8/4/2010

Topic: Developmental Disabilities

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 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 checked="" type="checkbox"/> County DD Program Managers | <input checked="" type="checkbox"/> Other (please specify): CDDP
Licensors, AFH-DD providers |

Policy/Rule Title:	Union representation and AFH-DD licensing		
Policy/Rule Number(s):	Chapter 411, Division 360	Release No:	
Effective Date:		Expiration:	
References:	ORS 443.HB 2442,		
Web Address:	http://www.dhs.state.or.us/policy/spd/rules/411_360.pdf http://www.oregon.gov/DAS/HR/docs/lr/0911SEIUAFRCRCFin.pdf		

Discussion/Interpretation: As agreed in the 2009-2011 Collective Bargaining Agreement between the State of Oregon and SEIU for Adult Foster Care, Article 11, “DHS shall not preclude the Provider from having a Union representative present (either in person or by phone) to provide assistance and support to the Provider during an abuse or neglect investigation, a licensing visit, or informal conference between the Provider and the licensing authority of the State. A licensing visit includes an annual licensing inspection or a monitoring visit”.

As per the Collective Bargaining Agreement, the presence of the representative will not unreasonably delay the licensing activities, nor will a request for Union representation result in rescheduling the licensing visit. The Union representative shall not be allowed to interfere with the ability of the licensing authority or its designee to

conduct or complete the licensing tasks required.

During a licensing visit, disclosure of confidential client information incidental to the interview of the provider for licensing activities may occur. Information about any DHS client or recipient of DHS services is confidential and protected under State (ORS 192.518) and Federal (HIPAA) law and cannot be disclosed to others.

Union representatives present at a licensing visit will be expected to sign a confidentiality agreement prior to having access to, or receiving any, confidential information. Information obtained by the Union representative during the course of the licensing visit shall be kept confidential and shall not be used or disclosed for any purpose other than the provision of assistance and support to the Provider.

Copies of the signed Non-Disclosure Statement must be kept in the Providers file with the licensing agent (DHS or its designee).

Implementation/Transition Instructions: All AFH-DD licensors to receive copies of this Policy Transmittal and attached Non-Disclosure Statement. Licensor is directed to provide a copy to any Union representative present at a licensing visit, and retain that original copy in the CDDP's Provider's file.

Training/Communication Plan: No training anticipated, action required by the 2009-2011 Collective Bargaining Agreement between the State of Oregon and SEIU for Adult Foster Care.

Local/Branch Action Required:

Each CDDP will maintain copies of the Non-Disclosure Statement for Union representative signature, assure the Non-disclosure form is signed before disclosure and maintain original in CDDP's AFH-DD provider file.

Central Office Action Required: Technical Assistance as Requested

Field/Stakeholder review: Yes No

If yes, reviewed by:

Filing Instructions:

If you have any questions about this policy, contact:

Contact(s):	Shelly Reed / Barb Southard		
Phone:	503-945-5828 / 503-945-9816	Fax:	503-945-7811
E-mail:	Shelly.M.Reed@state.or.us / BSOUTHAR@DHS.state.or.us		

**NON-DISCLOSURE STATEMENT
LICENSING WITH UNION REPRESENTATIVE**

DHS (or its designee) is conducting this licensing visit for the purpose of licensing activities. Information obtained during this licensing visit may be used by DHS (or its designee) in its role as the licensing agency, or for purposes of oversight of the adult foster home. As a part of this licensing activity, DHS (or its designee) has determined that it is necessary to interview the licensee, and the licensee has asserted his or her right to have Union representation during this licensing visit. Information disclosed to the Union Representative in the course of licensing activity is incidental for purposes of licensing.

The purpose of this Non-Disclosure Statement is to inform the Union Representative that information about any Individual Recipient of DHS services is confidential and protected under State¹ and Federal² law and cannot be disclosed to others. Confidential information disclosed to a Union Representative is incidental to the licensee being interviewed in relation to licensing. Disclosure to a Union Representative during a licensee interview is limited to the minimum necessary information to achieve the purpose of licensing.

This Non-Disclosure Statement does not create any independent right of access to any information or create any independent right to participate as a Union Representative. This Non-Disclosure Statement merely addresses circumstances in which DHS is otherwise authorized by law to disclose information or to permit participation by a Union Representative incidental to a licensee interview for purposes of licensing.

1. All documentation or information about an individual Recipient of DHS services disclosed in the course of this licensee interview must be used solely for the purpose of licensing.
2. Every Union Representative who is present during an interview or views documents must be provided a copy of this Non-Disclosure Statement. DHS (or its designee) and its employees are required to maintain a record of disclosures. The licensing record maintained by DHS (or its designee) must include a copy of this Non-Disclosure Statement if a Union Representative is present during a licensee interview. Such information may be subject to disclosure to the Individual Recipient, or their personal representative, if the Individual Recipient would be authorized to obtain an accounting or other right of access required under federal or state law. This Non-Disclosure Statement does not create any independent right of access or disclosure that is not otherwise established in federal or state law.
3. It is the intent of this Non-Disclosure Statement to avoid waiver of any exemption from public disclosure of any information disclosed incidental to the licensee interview. All such information, including documents, retains its confidential status. Nothing in this Non-Disclosure Statement is intended to have any effect on disclosures otherwise permitted by law in relation to disciplinary proceedings or facility sanction proceedings, if any.

Representative acknowledges receipt of this Non-Disclosure Statement.

UNION REPRESENTATIVE SIGNATURE: _____ DATE: _____

UNION REPRESENTATIVE NAME: _____

UNION REPRESENTATIVE ADDRESS: _____

DATE OF LICENSING VISIT: _____

LICENSEE NAME: _____

LICENSOR NAME: _____ COUNTY: _____

¹ See ORS 192.518 Policy for Protected Health Information

² The HIPAA Privacy Rules describe the privacy that must be accorded to Protected Health Information about individuals who are the subject of the abuse investigation. See 45 CFR Parts 160 and 164.