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TEMPORARY ADMINISTRATIVE RULES

Oregon Health Authority, Health Systems Division:
Mental Health Services

309

Agency and Division

Administrative Rules Chapter Number

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Upon filing.

Adopted on

03/04/2017 thru 08/30/2017

Effective dates

RULE CAPTION

Rules Revisions Required to Comply with Federal 1915(i) Home and Community-based Regulations

Not more than 15 words

RULEMAKING ACTION

ADOPT:

309-035-0163, 309-035-0183, 309-035-0195, 309-035-0200, 309-035-0205, 309-035-0210, 309-035-0215, 309-035-0220, 309-035-0225

AMEND:

309-035-0100, 309-035-0105, 309-035-0110, 309-035-0115, 309-035-0120, 309-035-0125, 309-035-0130, 309-035-0135, 309-035-0140, 309-035-0145, 309-035-0150, 309-035-0155, 309-035-0165, 309-035-0170, 309-035-0175, 309-035-0185, 309-035-0190

SUSPEND:

309-035-0113, 309-035-0117, 309-035-0157, 309-035-0159, 309-035-0167, 309-035-0250, 309-035-0260, 309-035-0270, 309-035-0280, 309-035-0290, 309-035-0300, 309-035-0310, 309-035-0320, 309-035-0330, 309-035-0340, 309-035-0350, 309-035-0360, 309-035-0370, 309-035-0380, 309-035-0390, 309-035-0400, 309-035-0410, 309-035-0420, 309-035-0430, 309-035-0440, 309-035-0450, 309-035-0460, 309-035-0500, 309-035-0550, 309-035-0560, 309-035-0570, 309-035-0580, 309-035-0590, 309-035-0600

Stat. Auth.: ORS 413.042 & 413.450

Other Auth.:

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

RULE SUMMARY

Under Oregon Revised Statutes 413.042 and 413.450, the Authority licenses and has authority to regulate mental health treatment providers, including residential treatment facilities and residential treatment homes for adults with mental health disorders. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers.

The temporary rule provides updated procedural detail regarding federal regulation requirements, as issued by the Centers for Medicare and Medicaid Services (CMS), for 1915(i) Home and Community-Based Services (HCBS). The purpose of these updated regulations is to ensure individuals receive HCBS in settings that are integrated in and support full access to the greater community. The temporary rule also provides clarification of current and appropriate behavioral health terminology, in particular, the use of 'adults with mental health disorders' rather than 'mentally or emotionally disturbed persons.'

This amendment is necessary to provide for and clarify the Authority's and the providers of HCBS practices and procedures regarding each individual's federal rights under HCBS.

STATEMENT OF NEED AND JUSTIFICATION

The amendment of OAR 309-035-0100, 309-035-0105, 309-035-0110, 309-035-0115, 309-035-0120, 309-035-0125, 309-035-0130, 309-035-0135, 309-035-0140, 309-035-0145, 309-035-0150, 309-035-0155, 309-035-0165, 309-035-0170, 309-035-0175, 309-035-0185, 309-035-0190, the adoption of OAR 309-035-0163, 309-035-0183, 309-035-0195, 309-035-0200, 309-035-0205, 309-035-0210, 309-035-0215, 309-035-0220, 309-035-0225, and the suspension of OAR 309-035-0113, OAR 309-035-0117, OAR 309-035-0157, OAR 309-035-0159, OAR 309-035-0167, OAR 309-035-0250, OAR 309-035-0260, OAR 309-035-0270, OAR 309-035-0280, OAR 309-035-0290, OAR 309-035-0300, OAR 309-035-0310, OAR 309-035-0320, OAR 309-035-0330, OAR 309-035-0340, OAR 309-035-0350, OAR 309-035-0360, OAR 309-035-0370, OAR 309-035-0380, OAR 309-035-0390, OAR 309-035-0400, OAR 309-035-0410, OAR 309-035-0420, OAR 309-035-0430, OAR 309-035-0440, OAR 309-035-0450, OAR 309-035-0460, OAR 309-035-0500, OAR 309-035-0550, OAR 309-035-0560, OAR 309-035-0570, OAR 309-035-0580, OAR 309-035-0590, OAR 309-035-0600

In the Matter of

- OAR chapter 411, division 004 for Home and Community-Based Services and Setting and Person-Centered Service Planning (http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_411/411_004.html).
- Final Regulation 1915(i) State Plan HCBS, 5-Year Period for Waivers, Provider Payment Reassignment, Setting Requirements for Community First Choice, and 1915(c) HCBS Waivers - CMS-2249-F/CMS-2296-F
- <https://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf>
- Informational bulletin, press releases, and fact sheets regarding final

regulation CMS-2249-F/CMS-2296-F

<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>

Documents Relied Upon, and where they are available

The temporary rules are needed to provide updated procedural detail regarding federal regulation requirements concerning Oregon's compliance with Medicaid 1915(i) Home and Community-Based Services.

Need for the Temporary Rule(s)

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, CCO's, and the providers and clients of Residential Treatment Facilities and Residential Treatment Homes and recipients of Home and Community-Based Services 1915(i) Medicaid benefits. These rules need to be adopted promptly so that the Authority may be in compliance with federal 1915(i) Home and Community-Based Services regulations.

Justification of Temporary Rules



Chris Norman

3/2/17

Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Health Authority (Authority)	Health Systems Division (Division)	309
Agency and Division		Administrative Rules Chapter Number

Rules Revisions Required to Comply with Federal 1915(i) Home and Community-based Regulations.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of OAR 309-035-0100, 309-035-0105, 309-035-0110, 309-035-0115, 309-035-0120, 309-035-0125, 309-035-0130, 309-035-0135, 309-035-0140, 309-035-0145, 309-035-0150, 309-035-0155, 309-035-0165, 309-035-0170, 309-035-0175, 309-035-0185, 309-035-0190, the adoption of OAR 309-035-0163, 309-035-0183, 309-035-0195, 309-035-0200, 309-035-0205, 309-035-0210, 309-035-0215, 309-035-0220, 309-035-0225, and the suspension of OAR 309-035-0113, OAR 309-035-0117, OAR 309-035-0157, OAR 309-035-0159, OAR 309-035-0167, OAR 309-035-0250, OAR 309-035-0260, OAR 309-035-0270, OAR 309-035-0280, OAR 309-035-0290, OAR 309-035-0300, OAR 309-035-0310, OAR 309-035-0320, OAR 309-035-0330, OAR 309-035-0340, OAR 309-035-0350, OAR 309-035-0360, OAR 309-035-0370, OAR 309-035-0380, OAR 309-035-0390, OAR 309-035-0400, OAR 309-035-0410, OAR 309-035-0420, OAR 309-035-0430, OAR 309-035-0440, OAR 309-035-0450, OAR 309-035-0460, OAR 309-035-0500, OAR 309-035-0550, OAR 309-035-0560, OAR 309-035-0570, OAR 309-035-0580, OAR 309-035-0590, OAR 309-035-0600

Statutory Authority: ORS 413.042 & 413.450

Other Authority:

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

Need for the Temporary Rule(s): The temporary rules are needed to provide updated procedural detail regarding federal regulation requirements concerning Oregon's compliance with Medicaid 1915(i) Home and Community-Based Services.

Documents Relied Upon, and where they are available:

- OAR chapter 411, division 004 for Home and Community-Based Services and Setting and Person-Centered Service Planning (http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_411/411_004.html).
- Final Regulation 1915(i) State Plan HCBS, 5-Year Period for Waivers, Provider Payment Reassignment, Setting Requirements for Community First Choice, and 1915(c) HCBS Waivers - CMS-2249-F/CMS-2296-F <https://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf>
- Informational bulletin, press releases, and fact sheets regarding final regulation CMS-2249-F/CMS-2296-F <https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>

Justification of Temporary Rule(s): The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, CCO's, and the providers and clients of Residential Treatment Facilities and Residential Treatment Homes and recipients of Home and Community-Based Services 1915(i) Medicaid benefits. These rules need to be adopted promptly so that the Authority may be in compliance with federal 1915(i) Home and Community-Based Services regulations.

	<i>Chris Norman</i>	3/2/17
Authorized Signer	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2005

OREGON HEALTH AUTHORITY

HEALTH SYSTEMS DIVISION: MENTAL HEALTH SERVICES

DIVISION 35

RESIDENTIAL CARE-TREATMENT FACILITIES AND RESIDENTIAL TREATMENT HOMES FOR MENTALLY OR EMOTIONALLY DISTURBED PERSONS ADULTS WITH MENTAL HEALTH DISORDERS

309-035-0100

Purpose and Scope

(1) These rules prescribe standards by which the ~~Addictions and Mental Health Systems~~ Division (~~HSD~~Division) of the Oregon Health Authority (~~OHA~~Authority) ~~licenses community based community based~~ ~~approves~~ residential treatment facilities ~~and community based community based~~ residential treatment homes for adults with mental ~~or emotional health~~ disorders. The standards promote optimum health, mental and social ~~the~~ well-being, ~~health~~ and recovery ~~for of~~ adults with mental ~~or emotional health~~ disorders through the availability of a wide range of home and community based community residential based residential service options settings and services. They prescribe how services ~~will~~ be provided in safe, secure, and homelike environments that recognize the dignity, individuality, and right to self-determination of each ~~resident~~ individual.

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for ~~H~~home and ~~C~~community-B based ~~S~~services (HCBS) authorized under section 1915(i) of the Social Security Act;

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as ~~individuals people~~ not receiving HCBS, consistent with the standards set out in OAR chapter 411, division 4.

(2) ~~T~~~~Scope.~~ These rules apply to ~~all R~~residential ~~T~~treatment ~~H~~homes (RTH) and ~~R~~residential ~~T~~treatment ~~F~~acilities (RTF) providing services to adults with mental or emotional health disorders regardless of whether the program receives public funds. These for six to 15 residents and to residential treatment facilities serving 16 or more residents. Where standards differ based on the number of residents in a facility, the rules prescribe different requirements distinct standards in some areas for Ssecure Rresidential Ttreatment Ffacilities (SRTF) or are based on the number of individuals receiving services in the program.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991

309-035-0105

Definitions

As used in these rules, the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual.

(2) "Program Administrator" means the individual person designated by the licensee-provider as responsible for the daily operation and maintenance of the facility RTH or RTF or the program administrator's designee.

(3) "Adult" means an individual an individual person individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for an individual an individual resident by a Licensed Medical Professional (LMP) or other qualified health care professional which maintains that maintains or enhances the resident's individual's physical functioning.

(5) "Applicant" means the individual person (s) or entity, including the Division,

who owns, ~~seeks to own~~seeks to or operate~~operate,~~ or maintains and operates a program~~the facility~~ and is applying for a license.

(6) "Approved" means authorized or allowed by ~~OHA~~the Authority or his or her designee.
~~Division.~~

(7) "Authority" means the Oregon Health Authority or its designee.

(8) "Building Code" means the Oregon Structural Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(9) "Care" means services including but not limited to~~such as~~ supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

(10)~~(9)~~ "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

~~"Caregiver" means an employee, program staff, provider or volunteer of a licensed Residential Treatment Facility (RTF).~~

(11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for individuals~~persons~~ with mental ~~or emotional~~health disorders, operated by, or contractually affiliated with, a local mental health authority. CMHP's operate in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(12) "Competitive Integrated Employment" means work in a competitive labor market that is performed on a full-time or part-time basis and ~~(includes in~~self-employment). Competitive Integrated Employment also means individuals are compensated as rates set forth by federal, state or local minimum wage law and eligible for benefits and opportunities for advancement.

(13) "Contract" means a formal written agreement between the CMHP~~community mental health program,~~ CCO, Oregon Health Plan contractor, or the Division and a ~~Residential Treatment Facility (RTF) owner.~~ provider.

(14) "Coordinated Care Organization (CCO)" means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the CCO's~~organization's~~ members.

~~(13) "Crisis Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis respite services are RTF residents.~~

(154) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 943407-007-00001 through 943407-007-03700501.

(16513) "Crisis-Respite Services" means ~~providing the provision of services to individuals who are RTF residents for up to 30 days. Individuals receiving crisis-respite services are RTF residents.~~

(176) "Controlled" means a provider requires an individual to receive services from the provider or requires the individual to receive a particular service as a condition of living or re=maining in the HCB setting.

(1876) "Designated Representative" means:

(a) Any adult who is not the individual's paid provider, who the individual, or the individual's representative has authorized to serve as the individual's representative,;

(A) The individual has authorized to serve as his or her representative; or

(B) The individual's legal representative has authorized to serve as the individual's representative.

(b) The power to act as a designated representative and is valid until modified or rescinded. the individual or the individual's legal representative modifies the authorization and notifies the Division of the modification,; the individual or the The individual or representative must notify the Division or provider of any change in designation. designation. individual's representative notifies the provider that the designated representative is no longer authorized to act on his or her behalf,; or there is a change in the legal authority upon which the designation was based. The nNotice mustshall include the individual's or the representative's signature as appropriate,;

(c) An individual, or the individual's legal representative, is not required to appoint a designated representative.

(19874) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), published by the American Psychiatric Association.

(201985) "Deputy Director" means the dDeputy dDirector of the Addictions and Mental Health Systems Division of the Oregon Health Authority or his or her designee.

(210196) "Division" means the Addictions and Mental Health Systems Division of the Oregon Health Authority or or its designee.

(2240) "Division Staff" means individuals employed by the Division or individuals persons-delegated the authority by the Division to conduct licensing activities under these rules.

(232117) "Direct Care Staff" means an employee programprogram staff responsible for providing services for to residentsan individual.

(2432218) "Emergency Admission" means an admission to a programn-RTF made on an urgent basis due to the pressing service needs of the individual.

(25) "Employee" means an-person-who-is individual employed by a provider who receives wages, a salary, or is otherwise paid by the provider for providing the service.

~~(19) "Employee" means a person who is employed by a licensed Residential Treatment Facility (RTF), who receives wages, a salary, or is otherwise paid by the RTF for providing the service. The term also includes employees of other providers delivering direct services to clients of RTFs.~~

(26430) "Evacuation Capability" means the ability of occupants, including residents-individuals and program staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

(a) Impractical (SR-2): A group, even with staff assistance, ~~who that~~ cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes;

(b) Slow (SR-1): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes;

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division ~~shall is authorized to~~ determine evacuation capability for ~~RTFs-programs~~ in accordance with the NFPA 101A 2000 edition. ~~Facilities-Programs~~ that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

~~(21) "Facility" means one or more buildings and adjacent grounds on contiguous properties that are used in the operation of a Residential Treatment Facility.~~

~~(27542) "Fire Code" means the Oregon Fire Code as adopted by the State of Oregon Fire Marshal.~~

~~(2865) "HCB" means Home and Community-Based.~~

~~(22976) "HCBS" means Home and Community-Based Services; services provided in the individual's home or community. of an individual.~~

~~(230287) "Home and Community-Based Settings" or "HCB Settings" means a physical location meeting the requirements qualities of OAR 411-004-0020 where an individual receives Home and Community-Based Services.~~

~~(31298) "Home-like" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized care and services, and encourages independence, choice, and decision-making by the individual.~~

~~(320293) "Individual" means any individual-person being considered for placement or is currently residing in a licensed program receiving residential and other services regulated by these rules on a 24-hour basis, except as excluded under ORS 443.400.~~

~~(3310) "Individual Service Record" means an individual's records maintained by the program pursuant to as required and established in OAR 309-035-01307(4).~~

~~(3421) "Individually-Based Limitation" means any limitation to thea qualities outlined inyo listed inOARin as incorporated in-OAR 309-035-0195-(1)(a) to (1)(g)0000, due to health and safety risks. applied in accordance with applicable requirements provided in OAR 309-035-00000161. An individually-based limitation is based on a specific assessed need and only only implementedwithimplemented with the individual's or individual's representative's informed consent-of the individual or, as applicable, the individual's legal representative, as described in OAR 309-035-0195.these rules. These qualities include the individual's right to:~~

~~(a) Live under a legally enforceable agreement with protections substantially equivalent to landlord or /tenant laws;~~

~~(b) The freedom and support to access food at any time;~~

~~(c) Have visitors of the individual's choosing at any time;~~

~~(d) Have a lockable door in the individual's unit, which may be locked by the~~

individual;

(e) Choose a roommate when sharing a unit;

(f) Furnish and decorate the individual's unit according to the Residency Agreement;

(g) The freedom and support to control the individual's schedule and activities; and

(h) Privacy in the individual's unit.

(3532) "Informed Consent" means:

(a) That Options, risks, and benefits of the services outlined in these rules have been explained to an individual or ~~and, as applicable,~~ the individual's legal representative, in a manner that the individual ~~and, as applicable, the individual's legal representative~~ comprehends; and

(b) That tThe individual or legal representative ~~and, as applicable, the individual's legal representative,~~ consents to a ~~person-centered service plan~~ person-centered service plan of action, including any individually-based limitations to the rules, prior to implementation of the initial or updated ~~person-centered service plan~~ person-centered service plan or any individually-based limitation.

(3643) "Legal Representative" means an individual with ~~person who has~~ the legal authority to act for an individual and only within the scope and limits to the ~~his or her~~ authority ~~as~~ designated by the court or other agreement. A legal representative may include:

(a) For an individual under the age of 18, the parent, unless a court appoints another individual ~~person~~ or agency to act as the guardian; or

(b) For an individual 18 years of age or older, a guardian appointed by a court order or an agent legally designated as the health care representative.

(327544) "Licensed Medical Professional (LMP)" means a n individual ~~person~~ who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse Practitioner licensed to practice in the State of Oregon; or

(C) Physician's Assistant licensed to practice in the State of Oregon; ~~and~~

(b) Whose training, experience, and competence demonstrate the ability to conduct a ~~c~~Comprehensive ~~m~~Mental ~~h~~Health ~~a~~Assessment and provide medication management.

~~(25) "Licensee" means the person(s) or entity legally responsible for the operation of the facility to which the Division has issued a license.~~

~~(386526)~~ "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties ~~who choose to~~ operating a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation ~~which that~~ contracts with the Division to operate a CMHP or MHO for that county.

~~(397627)~~ "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any ~~individual person~~.

~~(4038728)~~ "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

~~(4139829)~~ "Mental Health Assessment" means a determination by a Qualified Mental Health Professional (QMHP) of ~~an individual's person's the client's~~ need for mental health services. It involves collection and assessment of data pertinent to the ~~individual's person's client's~~ mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services; or a written statement that the person is not in need of community mental health services.

~~(40390) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.~~

~~(421031)~~ "Mistreatment" means the following behaviors, displayed by ~~an employee, program staff, provider or volunteer of an RTF when staff when~~ directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm;

(b) "Financial Exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual₁₇;

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out₁₇;

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual₁₇;

(D) Failing to use the individual's income or assets ~~of an individual~~ effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a program staff~~caregiver~~ or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area₇ or restriction from access to ordinarily accessible areas of the setting~~facility~~, residence₁ or program, unless agreed to by the service plan.₇

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the individual's well-being~~of the individual~~₁₇;

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory statements~~in~~ inappropriate names, insults, verbal assaults, profanity₁ or ridicule₁₇;

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments₁₇;

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services~~s~~ essential to the individual's well-being~~of an individual~~₁₇;

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of the individual's ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) "Wrongful Restraint" means the use of physical or chemical restraint, except for:

(A) ~~An wrongful use of a physical or chemical restraint excluding an act~~ An act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730; or

(B) ~~A Wrongful restraint does not include~~ physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

~~(432132)~~ "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to an individual other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

~~(4432)~~ Person-Centered Service Plan ~~Person-Centered Service Plan~~ means written documentation that includes details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety as described in OAR 411-004-0030.

~~(4543)~~ Person-Centered Service Plan Coordinator ~~Person-Centered Service Plan Coordinator~~ means the individual person, which may be a case manager, service coordinator, personal agents or other individual person, designated by the Division to provide case management services or person-centered service plan person-centered service planning for and with an individual.

~~(33)~~ "Owner" means ~~the person(s) or entity, including the Division, that is legally responsible for the operation of the facility.~~

~~(43654)~~ "P.R.N. (pro re nata) Medications and Treatments" means those medications and treatments which that have been ordered to be given as needed.

~~(43765)~~ "Program" means the Residential Treatment Facility or Residential

Treatment Home licensed by the Division and may refer to the provider setting groundowner, caregiver, staff and/or staff, or services as applicable to the context.

(~~43876~~) "Program Staff" means an employee, volunteer, direct care staff, or individual person who, by contract with a program RTF, provides a service to an individual.

~~and who has the applicable competencies, qualifications, and certification, required by the Integrated Services and Supports Rule (ISSR), OAR 309-032-1500 through 309-032-1565 to provide the service.~~

(~~43987~~) "Progress Notes" means the notations in the resident individual's record documenting significant information concerning the resident individual and summarizing progress made relevant to the objectives outlined in the residential service plan.

(~~4350498~~) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the residents individual, to prevent self-destructive acts, and to safeguard the residents individual's, property and funds when used in the relevant context.

(~~510439~~) "Provider" means the program administrator, individual individual person, or a qualified individual or an organizational entity, licensed by the Division which operates the program and provides services to individuals.

(~~5240~~) "Representative" refers to both "Designated Representative" and "Legal Representative" as defined in these rules, unless otherwise stated.

(~~5324~~) "Residency Agreement" means the written, legally enforceable agreement between a provider and an individual or the individual's representative when the individual receives services. The Residency Agreement identifies the rights and responsibilities of the individual and the provider. The Residency Agreement provides the individual protection from eviction substantially equivalent to landlord-tenant laws.

~~operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an RTF.~~

(~~40~~) "Resident" means any adult residing in a facility who receives services on a 24-hour basis, except as excluded under ORS 443.400.

(~~543241~~) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to an resident individual an individual in or through the facility program based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the RTF program is operated by a mental health service agency that provides other services to the resident individual.

(~~554~~342) "Residential Treatment Facility (RTF)" means a facility program that is licensed by the Division to provide services on a 24-hour basis for six to 16 ~~six or more residents~~ individuals as described in ORS 443.400(9). An RTF does not include the entities set out in ORS 443.405.

(~~565~~4) "Residential Treatment Home (RTH)" means a program that is licensed by the Division and operated to provide services on a 24-hour basis for up to five individuals as defined in ORS 443.400(10). A RTH does not include the entities set out in ORS 443.405.

(~~576~~543) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of ~~a resident~~ individual ~~an individual~~.

(~~587~~6) "Room and Board" means compensation for the provision of meals, a place to sleep, and tasks, such as housekeeping and laundry.

(~~459~~87) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(~~605~~9846) "Secure Residential Treatment Facility (SRTF)" means any Residential Treatment Facility, or portion thereof, approved by the Division that restricts ~~an resident's individual's~~ an individual's exit from the ~~facility setting or its grounds through~~ setting through the use of approved locking devices on ~~resident individual~~ exit doors, gates, or other closures. ~~Such locking devices will be installed in accordance with Building Code requirements.~~

(~~610~~5947) "Services and Supports" means those services defined as habilitation services and psychosocial rehabilitation services under OAR 410-172-0700(1), (2) & 410-172-0710(1), ~~(2). "Services" means the care and treatment provided to residents~~ individuals by a program.

(~~621~~0) "Setting" means one or more buildings and adjacent grounds on contiguous properties that are used in the operation of a program.

~~as part of the Residential Treatment Facility plan~~

(~~632~~148) "Supervision" ~~means the daily~~ means a program staff's observation, and monitoring of ~~residents an individual by direct care staff or oversight of a~~ program staff by the program administrator ~~or administrator's designee, as~~ applicable to the context.

(~~643~~249) "Termination of Residency" means the time at which the ~~resident individual~~ ceases to reside in the ~~RTF program~~, and includes the transfer of the ~~resident individual~~ to another facility program, but does not include absences from

the facility-setting for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(~~654350~~) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

(~~66654~~) "Unit" means the personal space and bedroom and other space of an individual receiving services from a program, as agreed to in the Residency Agreement. Unit includes private single occupancy spaces and shared units with roommates.:

(a) Private single occupancy spaces; and

(b) Shared units with roommates as allowed by these rules.

(~~676551~~) "Volunteer" means an individual ~~person~~ who provides a service or ~~who~~ takes part in a service provided to an ~~individuals~~ receiving supportive services in ~~an~~ program ~~program~~ RTF or other provider, and who is not a paid employee of the RTF program or other provider.
~~The services must be non-clinical unless the person has the required credentials to provide a clinical service.~~

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0110

Required Home-like Qualities

This rule becomes effective July 1, 2016, and enforceable pursuant to as described in OAR 309-035-0115 (17).6):

(1) A program, except for a SRTF, must ~~must~~shall have all of the following qualities:

(a) The setting is integrated in and supports the individual's same degree of access to the greater community as individual's' ~~people~~ not receiving HCBS, including opportunities for an individual to:

(A) Seek employment and work in competitive integrated employment settings.:

(i) For which an individual is compensated at a rate that:

(I) Is not less than the higher of the rate specified in federal, state, or local minimum wage law;

(II) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not persons with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(III) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.; and

(ii) For which an individual is eligible for the level of benefits provided to other employees;

(iii) That is a ~~At a location where the individual interacts with other individuals persons who are not individuals persons with disabilities. This does not (not including supervisory personnel or individuals persons providing services to the such individual,) to the same extent as individuals without persons who are not persons with disabilities and who are in comparable positions who interact with others; and~~

(iv) That presents opportunities for advancement that are similar to those for other employees who are not individuals persons with disabilities and who have similar positions.

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The program is selected by an individual or, as applicable, the legal or designated representative of the individual, from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options must shall be:

(A) Identified and documented in the person-centered service plan individuals' person-centered service plan for the individual;

(B) Based on the individual's needs and preferences of the individual; and

(C) Based on the individual's individual's -available resources of the individual for room and board.

(c) The program ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint;:-

(d) The program optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to, daily activities, physical environment, and with whom to interact;:-

(e) The program facilitates individual choice regarding services and supports, and individual choice as to who provides the services and supports.

(2) The individual, or the individual's ~~representative, must~~ representative shall have the opportunity to select from among available setting options, including non-disability specific settings and an option for a private unit in a setting. The setting options ~~must~~ shall be:

(a) Identified and documented in the ~~person-centered service plan~~ person-centered service plan for the individual;

(b) Based on the individual's needs and preferences ~~of the individual~~; and

(c) Based on the individual's available resources ~~of the individual~~ for room and board.

(3) The provider ~~must~~ shall take reasonable steps to ensure that the program maintains the qualities identified in ~~subsections (2) and (3) of this ese-rules~~. Failure to take reasonable steps may include but is not limited to:

(a) Failure to maintain a copy of the person-centered ~~service~~ plan at the setting;

(b) Failure to cooperate or provide necessary information to the ~~pperson~~-centered planning coordinator; or

(c) Failure to attend or schedule a person-centered planning meeting where applicable.

(4) ~~Additional Requirements~~. A program ~~must~~ shall maintain the following:

(a) The setting ~~must~~ shall be physically accessible to an individual;:-

(b) The provider ~~must~~ shall provide the individual a unit of specific physical place that the individual may own, rent, or occupy under a legally enforceable Residency Agreement;:-

(c) The provider ~~must~~ shall provide and include in the Residency Agreement that the individual has, at a minimum, the same responsibilities and protections from

an eviction that a tenant has under the landlord-tenant law of Oregon, and other applicable laws or rules of the county, city, or other designated entity. For a setting in which landlord-tenant laws do not apply, the Residency Agreement mustshall provide substantially equivalent protections for the individual and address eviction and appeal processes. The eviction and appeal processes mustshall be substantially equivalent to the processes provided under landlord-tenant laws;:-

(d) The provider mustshall provide each individual with privacy in their his-or-her own unit;:-

(e) The provider mustshall maintain units with entrance doors lockable by the individual. The program mustshall ensure that only the individual, the individual's roommate, (whereroommate, where applicable), and only appropriate staff, as described in the individual's person-centered plan, have keys to access the unit;:-

(f) The provider mustshall ensure that individuals sharing units have a choice of roommates;:-

(g) The provider mustshall provide and include in the Residency Agreement that individuals have the freedom to decorate and furnish their his-or-her own unit;

(h) The provider mustshall allow each individual to have visitors of their -his-or-her-choosing at any time;:-

(i) The provider mustshall ensure each individual has the freedom and support to control their his-or-her own schedule and activities;:-

(j) The provider mustshall ensure each individual has the freedom and support to have access to food at any time.

(5) A SRTF is not required to maintain the qualities or meet the obligations identified in subsections (4)(d),~~((e),(f),(h)(i) of section 4~~ of this rule. The provider is not required to seek an individually-based limitation to comply with these rules.

(6) A provider is not required to maintain the qualities or meet the obligations identified in ~~subsection~~section s(4) (b) or (c)-of section 4 of this rule when providing crisis--respite services to an individual. The provider is not required to seek an individually-based limitation for such an individual to comply with these rules.

(7) When a provider is unable to meet a qualities outlined under section (42)(e) through (4)(j) of this rule due to threats to the health and safety of the individual or others, the provider may seek an individually-based limitation with the consent of the individual or, as applicable, the individual's legal representative. The provider may not apply an individually-based limitation until the limitation is

approved, consented and documented as outlined in OAR 309-035-0000195.

Stat. Auth.: ORS 413.042 & 443.450-

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-01150

Licensing

(1) ~~License Required.~~ The Division ~~will shall~~ license a ~~programny facility~~ that meets the definition of a ~~Residential Treatment Facility~~ RTF or RTH and ~~demonstrates compliance with these and all applicable laws and rules. and~~ serves adults with a mental or emotional disorder. In the case of a facility serving another category of residents in addition to adults with a mental or emotional disorder, the Department responsible for licensure will be determined by the ~~Assistant Director.~~ No person or governmental unit acting individually or jointly with any other person or governmental unit ~~will shall~~ establish, maintain, manage, or operate a ~~Residential Treatment Facility~~ program without a license issued by the Division.

(2) Where a program serves or seeks to serve another category of individuals, in addition to adults with a mental or emotional health disorder, the dDirectors of the Authority -OHA and DHS the Department shall determine the dDepartment responsible for licensure.

(32) ~~Initial Application.~~ An application for a license ~~will must mustshall~~ be accompanied by the required fee and submitted to the Division using the forms or format required by the Division. The following information ~~will must mustshall~~ be included required in the application:

(a) Full and complete information as to the identity and financial interest of each ~~individual person~~, including stockholders, having a direct or indirect ownership interest of five percent or more in the ~~facility program~~ and all officers and directors in the case of ~~facilities a program~~ operated or owned by a corporation;

(b) Name and resume of the program administrator ~~of the facility~~;

(c) Physical address of the setting facility and mailing address;

(d) Maximum number of ~~residents individuals~~ to be served at any one time, their age range and evacuation capability;

(e) Proposed annual budget identifying sources of revenue and expenses;

(f) Signed criminal record authorizations for all ~~individuals persons~~ involved in the operation of the ~~RTF program~~ who ~~will shallwill~~ have contact with the

~~residents~~individuals including but not limited to caregivers;

(g) A complete set of policies and procedures;

(h) ~~Facility-Setting~~ plans and specifications; and

(i) Such other information as the Division may reasonably require.

(43) ~~Plans and Design Approval.~~ A complete set of plans and specifications must ~~will must~~shall be submitted to the Division at the time of initial application, whenever a new structure or addition to an existing structure is proposed, or when significant alterations to an existing facility are proposed. Plans ~~will~~shall meet the following criteria:

(a) Plans ~~will~~shall be prepared in accordance with the Building Code and as outlined in OAR 309-035-0140;

(b) Plans ~~will~~shall be to scale and sufficiently complete to allow full review for compliance with these rules; and

(c) Plans ~~will~~shall bear the stamp of an Oregon licensed architect or engineer when required by the Building Code.

(54) ~~Necessary Approvals.~~ Prior to approval of a license for a new or renovated ~~facility~~setting, the applicant ~~will must~~shall submit the following to the Division:

(a) One copy of written approval to occupy the ~~facility~~setting issued by the city or county building codes authority having jurisdiction;

(b) One copy of the fire inspection report from the State Fire Marshal or local jurisdiction indicating that the ~~facility~~setting complies with the Fire Code;

(c) When the ~~facility~~setting is not served by an approved municipal water system, one copy of the documentation indicating that the state or county health agency having jurisdiction has tested and certified safe ~~approved~~ the water supply in accordance with OAR chapter 333, Health Services rules to public water systems;

(d) When the ~~facility~~setting is not connected to an approved municipal sewer system, one copy of the sewer or septic system approval from the Department of Environmental Quality or local jurisdiction.

(65) ~~Required Fees.~~ The following fees must shall be submitted with an initial or renewal application:

(a) ~~The fee for each Residential Treatment Facility~~RTF license application fee for

initial or renewal licensing is \$60. No fee is required in the case of a governmentally operated ~~Residential Treatment Facility, RTF.~~

(b) The RTH license application fee for initial or renewal licensing is \$30. No fee is required in the case of a governmentally operated RTH.

~~(76) Renewal Application.~~ A license is renewable upon submission of a renewal application in the form or format required by the Division and a non-refundable fee as set out in subsection (6), of \$60, except that no fee willshall be required of a governmentally operated ~~facilityprogram~~:

(a) Filing of an application for renewal 60 days before the date of expiration extends the effective date of the current license until the Division takes action upon the renewal application:

(b) The Division ~~will refuse to~~mustshall deny renewal of a license if the ~~facility program~~ is not in substantial compliance with these rules, or if the State Fire Marshal or authorized representative has given notice of noncompliance.

~~(87) Review Process.~~ Upon receipt of an application and fee, the Division willshall conduct an application review. Initial action by the Division on the application willshall begin within 30 days of receipt of all application materials. The review willshall:

(a) Include a complete review of application materials;

(b) Determine whether the applicant meets the qualifications outlined in ORS 443.420 including:

(A) Demonstrates an understanding and acceptance of these rules;

(B) Is mentally and physically capable of providing services for ~~residents~~individuals;

(C) Employs or utilizes only ~~individuals~~persons whose presence does not jeopardize the health, safety, or welfare of ~~residents~~individuals; and

(D) Provides evidence satisfactory to the Division of financial ability to comply with these rules.

(c) Include a site inspection; and

(d) Conclude with a report stating findings and a decision on licensing of the ~~facility~~program.

(98) Findings of Noncompliance. The ~~Division will require an owner to~~ provider

~~must submit~~ shall submit and complete a plan of correction for each finding of noncompliance ~~with these rules~~.

(a) If the finding(s) of noncompliance substantially impact the welfare, health, and/or safety of residents/individuals, the ~~provider must~~ shall submit a plan of correction ~~will be submitted and completed and that will~~ shall be approved by the Division prior to issuance of a license. In the case of a currently operating RTF program, ~~the such~~ findings may result in suspension or revocation of a license.

(b) If it is determined that the finding(s) of noncompliance do not threaten the welfare, health, or safety of residents/individuals and the facility program meets other requirements of licensing, the Division may issue or renew a license with ~~may be issued or renewed, with license with and~~ the plan of correction ~~will be~~ submitted and completed as a condition of licensing.

(c) The Division ~~will~~ shall specify required documentation and set the time lines for the submission and completion of plans of correction in accordance with the severity of the finding(s).

(d) The Division ~~will~~ shall review and evaluate ~~approve~~ each plan of correction. If the plan of correction does not adequately remedy the finding(s) of noncompliance, the Division ~~may~~ shall ~~will~~ require a revised plan of correction, and/or may apply civil penalties or deny, revoke, or suspend the license.

(e) The ~~RTF~~ Provider owner may appeal the finding of noncompliance or the disapproval of a plan of correction by submitting a request for reconsideration in writing to the ~~Administrator of the~~ Division. The ~~Administrator of the~~ Division ~~or designee will~~ shall make a decision on the appeal within 30 days of receipt of the appeal. The decision ~~of the Administrator of the of the~~ Division will shall be final.

(109) ~~Variance~~. The Division, in its discretion, may ~~discretion, may~~ grant a variance to these rules based upon a demonstration by the applicant or provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, or safety of residents/individuals.

(a) ~~Variance Application~~. The ~~RTF owner requesting~~ provider seeking a variance ~~will must~~ submit shall submit, in writing, an application to the Division ~~which that~~ identifies the section of the rules from which the variance is sought, the reason for the proposed variance, the proposed alternative method or different approach, and signed documentation from the CMHP indicating approval of the proposed variance.

(b) ~~Division Review~~. The ~~Deputy Assistant d~~ Director or ~~designee, will~~ designee

shall review and approve or deny the request for a variance_{:-}

(c) ~~Notification of Decision.~~ The Division willshall notify the ~~RTF provider~~owner of the decision in writing within 30 days after receipt of the request~~application~~. A variance may be implemented only after receipt of written approval from the Division_{:-}

(d) ~~Appeal of Decision.~~ The ~~RTF owner~~provider may appeal the denial of a variance request by submitting a request for reconsideration in writing to the ~~a~~Assistant~~d~~Director of the Division's Director. The ~~D~~d~~D~~irector of the Division willshall make a decision ~~on the appeal~~ within 30 days of receipt of the appeal. The decision of the ~~a~~D~~d~~irector of the Division willshall be final_{:-} and_{:-}

(e) ~~Duration of the Variance.~~ A variance willshall be reviewed by the Division at least every two years and may be revoked or suspended based upon a finding that the variance adversely impacts the welfare, health_{:-} or safety of the ~~RTF residents~~individuals.

(110) ~~Issuance of License.~~ Upon finding that the applicant is in substantial compliance with these rules, the Division willshall issue a license_{:-}

(a) The license issued willshall state the name of the ~~owner of the facility~~provider, the name of the program administrator, the address of the facilitysetting to which the license applies, the maximum number of ~~residents~~individuals to be served at any one time and their evacuation capability, the type of facilityprogram, and such other information as the Division deems necessary_{:-}

(b) A ~~Residential Treatment Facility~~program license willshall be effective for two years from the date issued unless sooner revoked or suspended_{:-} and_{:-}

(c) ~~A program~~ The Residential Treatment Facility license is not transferable or applicable to any setting, location, ~~facility~~, or management other than that indicated on the application and license.

(124) ~~Conditions of License.~~ The license willshall be valid only under the following conditions:

(a) The ~~Residential Treatment Facility~~ willprovider mustmay not ~~be~~ operated or maintain the program ~~ed~~ in combination with a nursing facility, hospital, retirement facility, or other occupancy unless licensed, maintained, and operated as a separate and distinct part. Each ~~Residential Treatment Facility~~program willshall have sleeping, dining, and living areas for use only by its own ~~residents~~individuals, ~~employees~~ caregiversindividual's caregivers and invited guests_{:-}

(b) The provider mustshall maintain the license posted ~~will be retained~~ in the

~~facility setting~~ and available for inspection at all times; ~~and~~.

(c) ~~Each A~~ license ~~will be considered~~ ~~is becomes~~ void immediately upon suspension or revocation of the license by the Division, or if the operation is discontinued by voluntary action of the ~~licensee~~ ~~provider~~, or if there is a change of ownership.

(132) ~~Site Inspections.~~ Division staff ~~will~~ ~~shall~~ visit and inspect every ~~Residential Treatment Facility setting~~ at least, ~~but not limited to~~, once every two years to determine whether it is maintained and operated in accordance with these rules. The ~~provider or RTE owner~~/applicant ~~must~~ ~~shall~~ ~~will~~ allow Division staff entry and access to the ~~facility setting~~ and ~~individuals~~ ~~residents~~ for the purpose of conducting the inspections.

(a) Division staff ~~will~~ ~~shall~~ review methods of ~~resident~~ ~~individual~~ care and treatment, records, the condition of the ~~facility setting~~ and equipment, and other areas of operation.

(b) All records, unless specifically excluded by law, ~~will~~ ~~must be~~ ~~shall be~~ available to the Division for review; ~~and~~

(c) The State Fire Marshal or authorized ~~representative(s)~~ ~~will~~ ~~representatives~~ ~~shall~~, upon request, be permitted access to the ~~facility setting~~, fire safety equipment within the ~~facility setting~~, safety policies and procedures, maintenance records of fire protection equipment and systems, and records demonstrating the evacuation capability of ~~facility setting~~ occupants.

(143) ~~Investigation of Complaints and Alleged Abuse.~~ Incidents of alleged abuse covered by ORS 430.735 through 430.765 and reported complaints ~~will~~ ~~shall~~ be investigated in accordance with OAR 943-045-0250 through 0370. The Division may delegate the investigation to a CMHP or other appropriate entity.

(154) ~~Denial, Suspension, or Revocation of License.~~ The Division ~~will~~ ~~may??may~~ deny, suspend, or revoke a license when ~~re~~ it finds there has been substantial failure to comply with these rules; or when ~~re~~ the State Fire Marshal or authorized representative certifies that there is failure to comply with the Fire Code.

(a) In cases where there exists an imminent danger to the health or safety of ~~residents~~ ~~an individual or the public~~, a license may be suspended immediately; ~~and~~.

(b) ~~The~~ ~~Such~~ revocation, suspension, or denial ~~will~~ ~~shall~~ be done in accordance with ORS 443.440 ~~????~~
~~AR 309-035-0~~

(165) ~~Reporting Changes.~~ ~~Each licensee will~~ ~~The provider~~ ~~must~~ ~~shall~~ report promptly to the Division any significant changes to information supplied in the

application or subsequent correspondence. ~~Such~~ changes include, but are not limited to, changes in the ~~facility setting or program~~ name, ~~provider owner entity~~, ~~program~~ administrator, telephone number, and mailing address. ~~Such~~ changes also include, but are not limited to, changes in the ~~facility's~~ physical ~~nature of the setting~~ plant, policies and procedures, or staffing pattern when ~~the~~ ~~such~~ changes are significant or impact the ~~individual's~~ health, safety, or well-being ~~of residents~~ ~~individuals~~.

(176) Enforcement of Home and Community-Based Services and Settings Requirements:-

(a) All programs licensed on or after July 1, 2016, ~~must~~shall be in full compliance with all regulatory requirements under these rules at the time of initial licensure;

(b) All programs licensed prior to July 1, 2016, ~~must~~shall come into compliance with rules as follows:

(A) All programs ~~must~~shall be in full compliance with these rules no later than January 1, 2017; and-

(B) For the rules designated by the Division to become effective July 1, 2016, the provider ~~must~~shall make measureable progress towards compliance with those rules. The Division ~~will~~may not issue sanctions and penalties for failure to meet ~~these~~ rules effective July 1, 2016, or the obligations imposed by OAR ~~Ce~~Chapter 411, ~~d~~Division 4 until January 1, 2017, if the provider is making measureable progress towards compliance.

Stat. Auth.: ORS 413.042, ORS 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0120163

Contracts and Rates

(1) ~~Residential Treatment Facility~~A provider receiving operators providing services funded with state service payments ~~will~~ ~~must~~shall enter into a contract with the local CMHP, statewide coordinated care organizations, the Division, or other Division-approved party. The contract does not guarantee that any number of ~~persons~~ ~~individuals~~ eligible for Division funded services ~~will~~ ~~shall~~ be referred to or maintained in the ~~facility~~ program.

(2) The provider ~~must~~shall specify in a fee policy and procedure ~~Rates~~ for all services and the procedures for collecting payments from ~~residents~~ ~~individuals~~ and ~~or payees~~ ~~will be specified in a fee policy and procedures~~ ~~The payees~~ ~~The~~ fee policy and procedures ~~will~~ ~~must~~shall describe the schedule of rates,

conditions under which rates may be changed, acceptable methods of payment, and the policy on refunds at the time of termination of residency;

(a) For ~~residents~~ individuals whose services are funded by the Division, reimbursement for services will ~~shall~~ be made according to the rate schedule outlined in the contract. Room and board payments for ~~residents~~ individuals receiving Social Security benefits or public assistance will ~~shall~~ be in accordance with rates determined by the Division;

(b) For private paying ~~residents~~ individuals, the program will ~~shall~~ enter into a signed agreement with the ~~resident~~ individual, and ~~or, if applicable,~~ resident's applicable, the individual's designated or representative or legal representative, guardian, payee or conservator. This representative. This agreement ~~will~~ must include ~~shall include~~ but is not ~~be~~ limited to a description of the services to be provided; the schedule of rates; conditions under which the rates may be changed; and policy on refunds at the time of termination of residency; and;

(c) Before increasing rates or modifying payment procedures, the program will ~~shall~~ provide a 30-days' ~~a 30-day~~ advance notice of the change to all ~~residents~~ individuals, individuals, representatives, payees, guardians, or conservators, ~~as applicable.~~

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991)

309-035-01 ~~25175~~

Administrative Management

(1) ~~Licensee~~ The licensee provider shall ~~is will be responsible for ensuring,~~ and ensure that the ~~facility program and setting are maintained and is~~ operated in compliance with these rules and all other applicable federal, state, and local laws and regulations.

(2) The ~~licensee provider must~~ will ~~employ~~ shall employ a ~~program~~ administrator who meets the following qualifications and complies with the following standards:

(a) ~~B~~ Has ~~b~~ background including special training, experience, and other demonstrated ability in providing care and treatment appropriate to the ~~residents~~ individuals served in the ~~facility program~~;

(b) ~~D~~ Has a ~~d~~ documented approved criminal records checks processed in compliance with the procedures required by OAR 943407-007-00010 through 0501370 ~~criminal record clearance~~ and no history of abusive behavior;

(c) ~~E~~Will insure that the ~~RTF~~program operates in accordance with the standards outlined in these rules;

(d) ~~O~~Will oversee the daily operation and maintenance of the ~~RTF~~program and ~~will~~shall be available to perform administrative duties at the ~~facility~~setting at least 20 hours per week;

(e) ~~D~~Will develop and administer written policies and procedures to direct the operation of the ~~RTF~~program and the provision of services to ~~residents~~individuals;

(f) ~~E~~Will insure that qualified program staff are available, in accordance with the staffing requirements specified in these rules;

(g) ~~S~~Will supervise or provide for the supervision of program staff and others involved in the operation of the program;

(h) ~~M~~Will maintain ~~setting~~facility, personnel, and ~~resident~~individual service records;

(i) ~~R~~Will report regularly to the ~~licensee~~provider on the operation of the ~~RTF~~program; and

(j) ~~D~~Will delegate authority and responsibility for the operation and maintenance of the ~~facility~~program to a responsible staff person whenever the ~~p~~Program ~~a~~Administrator is absent from the ~~RTF~~setting. This authority and responsibility ~~may~~will not be delegated to ~~an~~resident~~individual~~an individual.

(3) ~~The provider must~~shall develop and update pPolicies and procedures ~~will be developed and maintain a copy, updated as necessary, maintained~~ in a location easily accessible for staff reference, and made available to others upon reasonable request. They ~~will~~must~~be~~shall be consistent with requirements of these rules, and ~~must~~address~~shall address at a minimum the following, but not be limited to:~~

(a) Personnel practices and staff training;

(b) ~~Resident~~individual screening~~selection~~, admission, and termination;

(c) Fire drills, emergency procedures, ~~resident~~individual safety and abuse reporting;

(d) Health and sanitation;

(e) Records maintenance and confidentiality;

- (f) Residential service plan, services, and activities;
 - (g) Behavior management, including the use of seclusion or restraints;
 - (h) Food Service;
 - (i) Medication administration and storage;
 - (j) ~~Resident-Individual~~ belongings, storage, and funds;
 - (k) ~~Resident-Individual~~ rights and advance directives;
 - (l) Complaints and grievances;
 - (m) ~~Facility-Setting~~ maintenance;
 - (n) Evacuation capability determination; and
 - (o) Fees and money management.
- (4) The ~~RTF-provider must will develop~~ shall develop reasonable house rules outlining operating protocols concerning, but not limited to, meal times, night-time quiet hours, guest policies, ~~and smoking, and as follows:-~~
- (a) ~~HThe~~ house rules ~~must shall will~~ be consistent with ~~resident-individual~~ rights as ~~set forth delineated~~ in OAR 309-035-0175~~:-~~
 - (b) House rules ~~will must be shall be~~ posted in an area readily accessible to ~~residents individuals:-~~
 - (c) House rules ~~will must be shall be~~ reviewed and updated~~:-~~ as necessary~~:-~~
 - (d) ~~Residents-Individuals will must shall~~ be provided an opportunity to review and provide input into any proposed changes to house rules before the revisions become effective~~:- and:-~~
 - (e) Effective July 1, 2016, house rules may not restrict or limit the program qualities identified in OAR 309-035-0110.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-01~~30187~~

Records

(1) Records ~~will must~~shall be maintained to document the legal operation of the program, personnel practices, and ~~resident individual~~ services and supports. All records ~~will must~~shall be properly obtained, accurately prepared, safely stored, and readily available or electronically accessible within the facility setting. All entries in records required by these rules shall be in ink, indelible pencil, or approved electronic equivalent prepared at the time, or immediately following, the occurrence of the event being recorded; be legible; and be dated and signed by the person making the entry. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

(2) Records documenting the legal operation of the RTF program shall include but not limited to:

(a) Written approval for occupancy of the building setting by the county or city having jurisdiction, any building inspection reports, zoning verifications, fire inspection reports, or other documentation pertaining to the safe and sanitary operation of the facility program issued during the development or operation of the facility program;

(b) Application for license, related correspondence, and site inspection reports;

(c) Program operating budget and related financial records;

(d) Payroll records, employee program staff schedules and time sheets;

(e) Materials sSafety and dData sSheets;

(f) Fire drill documentation;

(g) Fire alarm and sprinkler system maintenance and testing records;

(h) Incident reports; and

(i) Policy and procedure manual.

(3) Personnel records shall document and include:

(a) Job descriptions for all positions; and

(b) ~~Individual employee~~Separate program staff records including, but not limited to, written documentation of employee program staff identifying information and qualifications, criminal record clearance, T.B. test results, documentation that Hepatitis B inoculations have been given or made available~~status~~, performance appraisals, and documentation of pre-service orientation and other training.

(4) ~~Resident~~ Individual ~~service resident~~ records ~~will must~~shall be maintained for each ~~resident~~ individual and include:

(a) An easily accessible summary sheet ~~which~~ that includes, but is not limited to, the ~~individual~~ resident's name, previous address, date of admission to the ~~facility~~ program, gender, biological sex, date of birth, marital status, legal status, religious preference, ~~Social Security number~~, health provider information, evacuation capability, DSM diagnosis~~(es)~~, major physical health diagnosis~~concerns~~, medication allergies, food allergies, information indicating whether advance mental health and health directives and ~~or~~ burial plan have been executed, and the name of individuals ~~person(s)~~ to contact in case of emergency;

(b) The names, addresses, and telephone numbers of the ~~individual~~ resident's representative, legal guardian or conservator, parent~~(s)~~, next of kin, or other significant person~~(s)~~; physician~~(s)~~ or other medical practitioner~~(s)~~; ~~dentist; CMHP~~ case ~~dentist; case~~ manager or therapist; day program, school, or employer; and any governmental or other agency representative~~(s)~~ providing services to the ~~resident~~ individual;

(c) A mental health assessment and background information identifying the ~~individual~~ resident's residential service needs;

(d) Advance mental health and medical health directives, burial plans, or location of these;

(e) A residential service plan and copy~~(ies)~~ of plan~~(s)~~ from other service provider~~(s)~~;

(f) Effective July 1, 2016, and pursuant to enforceable as described in OAR 309-035-01105(176), a Person-Centered Service Plan~~person-centered service plan~~;

(g) Documentation of the ~~individual~~ resident's progress and any other significant information including, but not limited to, progress notes, progress summaries, any use of seclusion or restraints, and correspondence concerning the ~~resident~~ individual; and

(~~h~~) Health-related information and up-to-date information on medications.

(5) The program must~~shall~~ retain all referral packets, screening materials, and screening responses~~placement determinations for a minimum of three years from the date of the referral.~~

(6) For ~~residents~~ an individual receiving crisis-respite services, the provider ~~must~~attempt will be made to obtain~~shall obtain~~ and maintain records as outlined in these rules. Because it may not be possible to obtain and maintain

complete records during a crisis-respite stay ~~individual~~residen, the program shall, at a minimum, maintain records that are deemed reasonable to provide services in the program.

(76) All ~~resident individual service~~ records ~~will must~~shall be stored in a weatherproof and secure location. Access to records ~~will must~~shall be limited to the ~~pProgram a~~Administrator and direct care staff unless otherwise allowed in these rules.

(87) All ~~resident individual service~~ records ~~will must~~shall be kept confidential as required by law. A signed release of information ~~will must~~shall be obtained for any disclosure from an individual service ~~resident~~ records in accordance with all applicable laws and rules.

(98) ~~Resident An resident individual~~An individual, or the individual's representative guardian (as applicable), ~~will must~~shall be allowed to review and obtain a copy of ~~his/her resident individual~~the individual service record as ~~allowed in~~required by ORS 179.505(9).

(109) Pertinent information from records of ~~residents an individual who are is~~ being transferred to another facility ~~will be~~shall be transferred with the ~~resident individual~~. A signed release of information ~~will must~~shall first be obtained in accordance with applicable laws and rules.

(110) The ~~facility program must~~shall ~~will~~ keep all records, except those transferred with an an individual ~~resident~~, for a period of three years.

(124) If a ~~program n RTF~~ changes ownership or ~~pProgram a~~Administrator, all ~~resident individual~~ and personnel records shall remain ~~at in~~ the ~~facility~~setting. Prior to the dissolution of any ~~RTF program~~, the ~~pProgram a~~Administrator ~~will must~~notify shall notify the Division in writing as to the location and storage of ~~resident individual service~~ records or those records shall be transferred with the ~~residents individuals~~.

(132) ~~Resident~~ If ~~an resident individual~~an individual or an individual's representative guardian (as applicable) disagrees with the content of the ~~resident individual service~~ record, or otherwise desires to provide documentation for the record, the ~~resident individual~~ or guardian representative (as applicable) may provide material in writing that then shall become part of the ~~resident individual service~~ record.

(140) The program ~~must~~shall establish an individual service record upon the individual's admission. Prior to admission, within five days after an emergency admission, or within 24 hours of a crisis-respite admission, the program ~~must~~shall determine with whom communication needs to occur and make good faith efforts to obtain the needed authorizations for release of information. The

record established upon admission ~~must~~shall include the materials reviewed in screening the individual, the summary sheet, and any other available information. The program ~~must~~shall make every effort to complete the individual service record in a timely manner. The assessment and residential service plan ~~must~~shall be completed in accordance with OAR 309-035-0185. Records on prescribed medications and health needs ~~must~~shall be completed as outlined in OAR 309-035-0215.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-013520

Staffing

(1) ~~The provider must~~shall maintain a writtenA job description ~~will be available~~ for each staff position ~~which that and~~ specifies the position's qualifications and job duties:-

(a) ~~A direct care staff person must~~Any staff person hired to provide direct care to residents ~~will be~~shall be at least 18 years of age, be capable of implementing the facility's ~~setting's~~ emergency procedures and disaster plan, and be capable of performing other duties of the job as described in the job description:-

(b) All program ~~staff person who will have~~having staff having ~~who shall have~~ contact with ~~an residents an individual individual an individual~~will ~~must~~ mustshall ~~provide evidence of a~~ have a documented approved criminal record clearance, in accordance with OAR 943-007-0001 through 943-007-0501. The provider must ~~must~~shall maintain documentation of approved criminal records clearance for each applicable staff person:-

(c) ~~dDivision 2, sSubdivision Z, 4f (1)(2), Program II RTF~~staff who ~~shall may have~~will have contact with ~~residents an individual's~~ will ~~must~~ mustshall be tested for tuberculosis ~~and Hepatitis B~~ within two weeks of first employment;- additional testing ~~will~~shall take place as deemed necessary; and the employment of program staff who test positive for tuberculosis ~~will~~shall be restricted if necessary: and-

(d) All program staff ~~will must~~meetshall meet other qualifications when required by a contract or financing arrangement approved by the Division.

(2) Personnel policies ~~will~~shall be made available to all program staff and ~~will~~shall describe hiring, leave, promotion, and disciplinary practices.

(3) The program administrator ~~will must~~provideshall provide or arrange a

minimum of 16 hours pre-service orientation and eight hours in-service training annually for each ~~employee~~program staff, including:-

(a) Pre-service training for direct care staff ~~will~~shall include but not limited to a comprehensive tour of the ~~facility~~setting; a review of emergency procedures developed in accordance with OAR 309-035-0145; a review of ~~facility~~setting house rules, policies, and procedures; background on mental and emotional disorders; an overview of ~~resident~~individual rights; medication management procedures; food service arrangements; a summary of each ~~individual~~resident's assessment and residential service plan; and other information relevant to the job description and scheduled shift(s); and:-

(b) In-service training ~~will~~shall be provided on topics relevant to improving the care and treatment of ~~residents~~individuals in the ~~facility~~program and meeting the requirements in these administrative rules. In-service training topics include, but are not limited to, implementing the residential service plan, behavior management, daily living skills development, nutrition, first aid, understanding mental illness, sanitary food handling, ~~resident~~individual rights, identifying health care needs, and psychotropic medications.

(4) The ~~licensee~~provider and ~~program~~ administrator ~~shall be responsible for~~ ensuring that an adequate number of ~~program~~staff and direct care ~~staff~~, are available at all times to meet the treatment, health, and safety needs of ~~residents~~individuals. Program staff must be scheduled to meet the changing needs and ensure safety of individuals. Minimum staffing requirements are as follows:-

(a) In ~~facilities~~ RTFs serving ~~one~~16 to ~~five~~520 ~~residents~~individuals, there ~~will~~ must~~be~~shall be at least ~~one~~one direct care staff on duty at all times:-

(b) In ~~facilities~~ RTFs serving ~~six~~624 to ~~35~~16 ~~residents~~individuals, there ~~will~~ must~~be~~shall be at least ~~one~~one direct care staff on duty ~~from 7:00 a.m. to 9:00 p.m. and at least one direct care staff person on duty from 9:00 p.m. to 7:00 a.m. at all times~~:-

(c) In ~~facilities~~ serving 36 to 50 residents, there ~~will be at least three direct care staff on duty from 7:00 a.m. to 9:00 p.m. and at least two direct care staff on duty from 9:00 p.m. to 7:00 a.m.~~

(d) In ~~facilities~~ serving 51 to 65 residents, there ~~will be at least four direct care staff on duty from 7:00 a.m. to 9:00 p.m. and at least two direct care staff on duty from 9:00 p.m. to 7:00 a.m.~~

(e) In the case of a specialized ~~RTF~~program, staffing requirements outlined in the contractual agreement for specialized services ~~will~~ must~~be~~shall be implemented:-

(d) Class I and Class II SRTFs ~~must~~shall ensure staffing levels ~~meet are~~ congruent with the requirements set forth in cChapter 309, dDivisions 32 and 33:-

and

(e) ~~Direct care~~ Program and/or direct care staff on night duty ~~will must~~ shall be awake and dressed at all times. In ~~facilities settings~~ where ~~residents individuals~~ are housed in two or more detached buildings, ~~program direct care~~ staff ~~will~~ must ~~monitor shall monitor~~ each building at least once an hour during the night shift. An approved method for alerting ~~program~~ staff to problems ~~will must~~ shall be in place and implemented. This method ~~must~~ shall be accessible to and usable by the ~~residents individuals~~.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991 ~~(2)~~

309-035-01 4025

Facility Setting Requirements

(1) ~~The provider must~~ shall ensure that the setting ~~Each Residential Treatment Facility will meet~~ the requirements for approved Group SR or I occupancies in the Building Code and the Fire Code in effect at the time of original licensure. When a change in ~~facility setting~~ use results in a new building occupancy classification, the ~~facility program's will setting~~ must ~~meet shall meet~~ the requirements for approved Group SR or I occupancies in the Building Code in effect at the time of such change. If occupants are capable of evacuation within ~~three-3~~ minutes, refer to Group R occupancies.

(2) ~~Facilities Programs will must~~ shall be accessible as follows:

(a) Those ~~settings facilities~~ or portions of ~~settings facilities~~ that are licensed, constructed, or renovated after January 26, 1992, and that are covered multi-family dwellings or public accommodations ~~must~~ shall ~~will~~ meet the physical accessibility requirements in chapter 11 of the Oregon Structural Specialty Codes. These codes specify requirements for public accommodations as defined in the Americans with Disabilities Act under Title III and for buildings qualifying as multi-family dwellings as defined in the Fair Housing Act as amended in 1988;

(b) In order to ~~e~~ insure program accessibility under Title II of the Americans with Disabilities Act, the Division may require additional accessibility improvements; and.

(c) Any accessibility improvements made to accommodate an identified individual ~~resident shall~~ be in accordance with the specific needs of the individual ~~resident~~.

(3) An accessible outdoor area is required and ~~will be~~ shall be made available to all individuals ~~residents~~. For ~~facilities programs~~, or portions thereof, licensed on or after June 1, 1998, a portion of the accessible outdoor area ~~will be~~ shall be

covered and have an all-weather surface, such as a patio or deck.

(4) The ~~setting must~~ shall have facility ~~will include~~ sufficient and safe storage areas that include but not limited to: ~~will include~~

(a) Storage for a reasonable amount of individual ~~resident~~ belongings beyond that available in the individual's unit ~~resident sleeping rooms will~~ must be provided appropriate to the size of the ~~facility~~ setting;

(b) All maintenance equipment, including yard maintenance tools, ~~will must~~ shall be maintained in adequate storage space. Equipment and tools ~~which pose that pose~~ a danger to ~~facility residents~~ individuals ~~will must~~ shall be kept in locked storage; and

(c) Storage areas necessary to ~~e~~ ensure a functional, safe, and sanitary environment consistent with OAR 309-035-0140 through 0155 and 309-035-0210 through 0215.

(5) For ~~facilities programs~~ initially licensed on or after June 1, 1998, all ~~resident individual~~ use areas and ~~resident individual~~ units ~~will must~~ shall be accessible through temperature controlled common areas or hallways with a minimum width of 36 inches except that a minimum width of 48 inches ~~will be~~ shall be provided along the route to accessible bedrooms and bathrooms and between common areas and required exits.

(6) ~~The s~~ Setting must ~~shall have s~~ Sufficient space ~~will be provided~~ for confidential storage of both ~~resident individual service records~~ and business records, for program staff use in completing record-keeping tasks, and for a telephone. Other equipment including fire alarm panels and other annunciators ~~will must~~ shall be installed in an area readily accessible to staff in accordance with the Fire Code.

(7) ~~Resident Sleeping Rooms~~ The provider must ~~shall provide a unit for each individual, although the program may maintain units to be shared by more than one individual, consistent with these rules. The unit must~~ shall include sleeping accommodations for the individual and be ~~Resident sleeping quarters will be provided in rooms~~ separated from other areas of the ~~facility~~ setting by an operable door with an approved latching device. The provider must ~~shall maintain units as follows:~~

(a) For ~~facilities programs~~ licensed prior to June 1, 1998, ~~resident sleeping rooms will units~~ must ~~be include~~ a minimum of 60 square feet per resident and allow for a minimum of three feet between beds;

(b) For ~~facilities programs~~, or portions thereof, initially licensed on or after June 1, 1998, ~~each resident sleeping room will units~~ must ~~shall~~ be limited to one or two ~~residents~~ individuals. At least ten percent of units, but no less than one unit, ~~of the~~

~~resident sleeping rooms will~~ mustshall be accessible for ~~persons~~ individuals with mobility disabilities. All ~~resident sleeping rooms will~~ units mustshall include a minimum of 70 square feet per ~~resident~~ individual exclusive of closets, vestibules, and bathroom facilities and allow a minimum of three feet between beds.

(c) The provider mustshall provide a lockable entrance door(s) to each unit for the individual's privacy as follows:

(A) The locking device mustshall release with a single-action lever on the inside of the room and, open to a hall or common-use room;

(B) The provider mustshall provide each individual with a personalized key that operates only the door to his or her unit from the corridor side;

(D) The provider mustshall maintain a master key to access all of the units that is easily and quickly available to the provider, program administrator, and appropriate program staff;

(E) The provider may not disable or remove a lock to a unit without obtaining consent from the individual, or the individual's representative, through the individually-based limitations process outlined in ~~incorporated by~~ OAR 309-035-0000195; and

(F) Section (7) of these rules are effective July 1, 2016 and enforceable as described in OAR 309-035-01150(176).

(d) A clothes closet, with adequate clothes hanging rods will beshall be accessible within each ~~sleeping room~~ unit for storage of each ~~individual's~~ resident's clothing and personal belongings. For ~~facilities~~ programs initially licensed on or after June 1, 1998, built-in closet space will beshall be provided totaling a minimum of 64 cubic feet for each ~~resident~~ individual. In an accessible ~~sleeping rooms~~ unit, the clothes hanging rod height will mustbeshall be adjustable or no more than 54 inches in height to ~~ensure~~ insure accessibility for ~~persons~~ an individual using a in-wheelchairs; and;

(ed) Each ~~resident sleeping room will~~ unit mustshall have exterior window(s) with a combined area at least one-tenth of the floor area of the room. ~~Sleeping room~~ Unit windows will mustbeshall be equipped with curtains or blinds for privacy and light control of light. For ~~facilities~~ programs, or portions of ~~facilities~~ programs, initially licensed on or after June 1, 1998, an escape window will mustbeshall be provided consistent with ~~b~~ Building ~~c~~ Code requirements.

(8) Bathing and toilet facilities will mustbeshall be conveniently located for ~~resident~~ individual use, provide permanently wired light fixtures that illuminate all parts of the room, provide individual privacy for ~~residents~~ individuals, provide a

securely affixed mirror at eye level, be adequately ventilated, and include sufficient facilities specially equipped for use by ~~persons~~individuals with a physical disability in buildings serving such ~~persons~~individuals:-

(a) In ~~facilities~~programs licensed prior to June 1, 1998, a minimum of one toilet and one lavatory ~~will~~shall be available for each eight ~~individuals~~residents, and one bathtub or shower ~~will~~shall be available for each ten ~~individuals~~residents; and
-

(b) In ~~facilities~~programs, or portions of ~~facilities~~programs, initially licensed on or after June 1, 1998, a minimum of one toilet and one lavatory ~~will~~shall be available for each six ~~individuals~~residents, and a minimum of one bathtub or shower ~~will~~shall be available for each ten ~~individuals~~residents, ~~when~~re these fixtures are not available in ~~individual resident rooms~~units. At least one centralized bathroom along an accessible route ~~will~~shall be designed for disabled access in accordance with Chapter 11 of the Oregon Structural Specialty Code.

~~For facilities licensed for more than 16 residents, there will be at least one separate toilet and lavatory provided for staff and visitor use.~~

(9) The ~~facility~~setting ~~must~~shall include lounge and activity area(s) for social and recreational use by ~~individuals~~residents, program staff and invited guests totaling no less than 15 square feet per ~~individual~~resident.

(10) Laundry facilities ~~will~~must~~shall be~~ separate from food preparation and other ~~resident~~individual use areas. When residential laundry equipment is installed, the laundry facilities may be located to allow for both ~~resident~~individual and staff use. In ~~facilities~~programs initially licensed on or after June 1, 1998, separate residential laundry facilities ~~will~~shall be provided when the primary laundry facilities are located in another building, are of commercial type, or are otherwise not suitable for ~~resident~~individual use. The following ~~will~~shall be included in the primary laundry facilities:

(a) Countertops or spaces for folding table(s) sufficient to handle laundry needs for the facility;

(b) Locked storage for chemicals and equipment;

(c) Outlets, venting, and water hook-ups according to state building code requirements. Washers ~~will~~must~~have~~must have a minimum rinse temperature of 155 degrees Fahrenheit (160 degrees Fahrenheit recommended) unless a chemical disinfectant ~~will~~beis used; and

(d) Sufficient storage and handling space to ~~e~~insure that clean laundry is not contaminated by soiled laundry.

(11) Kitchen facilities and equipment in ~~facilities a setting licensed for 16 or fewer residents~~ may be of residential type except as required by the state building code and ~~fFire cCode~~ or local agencies having jurisdiction. ~~Facilities serving 17 or more residents will have facilities and equipment meeting Food Sanitation Rules of Health Services under OAR chapter 333 as applicable. For all~~The setting's kitchens, the following will be included: must~~must~~ kitchen shall have the following:

(a) Dry storage space, not subject to freezing, in cabinets or a separate pantry for a minimum of one week's supply of staple foods;

(b) Sufficient refrigeration space for a minimum of two days' supply of perishable foods. The Such space must~~shall be~~ maintained at 45 degrees Fahrenheit or less and freezer space maintained at 0 degrees Fahrenheit or less; for a minimum of two days' supply of perishable foods;

(c) ~~In facilities licensed to serve 16 or fewer residents, a~~A dishwasher ~~will be provided~~ (may be approved residential type) with a minimum final rinse temperature of 155 degrees Fahrenheit (160 degrees recommended), unless chemical disinfectant is used~~;~~;

~~In facilities licensed to serve 17 or more residents, a commercial dishwasher is required as specified in Health Services Food Sanitation Rules;~~

(d) ~~In facilities licensed to serve 16 or fewer residents, a~~A separate food preparation sink and hand washing sink ~~will~~;

~~be provided. In facilities licensed to serve 17 or more residents, a triple pot wash sink will be provided unless pots are sanitized in the dishwasher, in addition to a food preparation sink and separate hand washing sink;~~

(e) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(f) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;

(g) Stove and oven equipment for cooking and baking needs; and

(h) Storage for a mop and other cleaning tools and supplies used for food ~~preparation, preparation for~~ dining and adjacent areas. ~~Such C~~cleaning tools will be~~shall be~~ maintained separately from those used to clean other parts of the ~~facility~~setting.

~~In facilities initially licensed on or after June 1, 1998, and licensed to serve 17 or more residents, a separate janitor closet or alcove will be provided with a floor or service sink and storage for cleaning tools and supplies.~~

(12) The setting must~~shall have a~~A separate dining room or an area where meals

are served ~~will be provided~~ for use by ~~residents~~individuals, employees, and ~~invited~~ guests:-

(a) In ~~facilities~~programs licensed prior to June 1, 1998, the ~~setting's~~ dining area ~~will must~~seat shall seat at least half of the ~~residents~~individuals at one time with a minimum area of 15 square feet per ~~resident~~individual; ~~and~~:-

(b) In ~~facilities~~programs, or portions of ~~facilities~~programs, initially licensed on or after June 1, 1998, ~~the setting's~~ dining space ~~will must be provided to seat~~shall seat all residents with a minimum area of 15 square feet per ~~resident~~individual, exclusive of serving facilities and required exit pathways.

(13) All details and finishes ~~will meet~~shall meet the finish requirements of applicable sections of the Building Code and the Fire Code as follows:-

(a) Surfaces of all walls, ceilings, windows, and equipment ~~will be~~shall be nonabsorbent and readily cleanable:-

~~In facilities, or portions of facilities, initially licensed on or after June 1, 1998, the walls and ceilings in the kitchen, laundry and bathing areas will be smooth, nonabsorbent, and readily cleanable, and kitchen walls in facilities licensed to serve 17 or more residents will comply with Health Services Food Sanitation Rules, OAR chapter 333, division 150 through 160.~~

(b) ~~The setting's~~In facilities, or portions of facilities, initially licensed on or after ~~June 1, 1998~~, flooring, thresholds, and floor junctures ~~will must be~~shall be designed and installed to prevent a tripping hazard and to minimize resistance for passage of wheelchairs and other ambulation aids. In addition, hard surface floors and base ~~will must be~~shall be free from cracks and breaks, and bathing areas ~~will have~~shall have non-slip surfaces:-

(c) In ~~facilities~~programs, or portions of ~~facilities~~programs, initially licensed on or after June 1, 1998,:-

~~(A), All doors~~all doors to ~~resident units~~sleeping rooms, bathrooms, and common use areas ~~will must~~provide shall provide a minimum clear opening of 32 inches:-

(d) In all programs:

~~(AB)~~ Lever type door hardware ~~will must be~~shall be provided on all doors used by ~~residents~~individuals:-

~~(BC) Locking door levers. If~~ Locks ~~are~~ used on doors to individual resident units ~~sleeping rooms, they must must~~ shall will be interactive to release with operation of the inside door handle and ~~be master-keyed from the corridor side. comply with the requirements established by OAR 309-035-0140~~(7)(c)(A)(B)(D)(E):

(CD) Exit doors ~~will must not~~ may not include locks ~~which prevent that prevent~~ evacuation except in accordance with ~~b~~ Building ~~c~~ Code and ~~f~~ Fire ~~c~~ Code requirements and with written approval of the Division; ~~and~~.

(DE) An exterior door alarm or other acceptable system may be provided for security purposes and to alert staff when ~~individuals resident(s)~~ or others enter or exit the ~~facility setting~~.

(ed) Handrails ~~will must~~ shall be provided on all stairways as specified in the Building Code.

(14) All areas of the ~~facility will setting must~~ shall be adequately ventilated and temperature controlled in accordance with the Mechanical and Building ~~Code requirements~~ Code requirements:-

(a) ~~All facilities will include~~ Each setting ~~must~~ shall have and maintain heating equipment capable of maintaining a minimum temperature of 68 degrees Fahrenheit at a point three inches above the floor. During times of extreme summer heat, fans ~~will be~~ shall be made available when air conditioning is not provided:-

(b) All toilet and shower rooms ~~will must~~ shall be adequately ventilated. ~~In facilities initially licensed on or after June 1, 1998, toilet and shower rooms will be equipped with~~ ventilated with a mechanical exhaust fan, ~~window mounted exhaust fan~~, or central exhaust system ~~which discharges that discharges~~ to the outside:-

(c) Where used, the design and installation of fireplaces, furnaces, wood stoves and boilers ~~will~~ shall meet standards of the Oregon Mechanical Specialty Code and the Boiler Specialty Code, as applicable. ~~Documentation of annual inspection noting safe and proper operation must~~ shall be maintained at the setting; ~~and~~.

(d) In ~~resident individual-use~~ areas, hot water temperatures ~~will must~~ shall be maintained within a range of 110 to 120 degrees Fahrenheit. Hot water temperatures in laundry and kitchen areas ~~will be~~ shall be at least 155 degrees Fahrenheit.

(15) All wiring systems ~~and electrical circuits must~~ shall ~~will~~ meet the standards of Oregon Electrical Specialty Code in effect on the date of installation, and all electrical devices ~~will be~~ shall be properly wired and in good repair. ~~The provider must~~ shall ensure the following:

(a) When not fully grounded, circuits in ~~resident individual use~~ areas ~~will must~~ shall be protected by GFCI type receptacles or circuit breakers as an acceptable alternative:-

~~(b) All electrical circuits will be protected by circuit breakers or non-interchangeable plug-type fuses in fuse boxes. Electrical loads on distribution panels and circuits will be limited in accordance with the Oregon Electrical Specialty Code.~~

~~(c) A sufficient supply of electrical outlets will beshall be provided to meet residentindividual and staff needs;~~

~~(c) No more than one power strip may be utilized for each electrical outlet;~~

~~(d) Connecting power strips to one another or use of other outlet expansion devices is prohibited;~~

~~(e) Extension cord use in units and common use rooms is prohibited;~~

~~(The use of extension cords will be in accordance with the rules of the Office of State Fire Marshal and the Department of Health Services.)~~

~~(f) Lighting fixtures will beshall be provided in each residentindividual bedroom unit and bathroom, switchable near the entry door, and in other areas as required to meet task illumination; and-~~

~~(g) In facilities, or portions of facilities, initially licensed on or after June 1, 1998, Lighting fixtures that illuminate evacuation pathways will mustbeshall be operable within 10-ten seconds during a failure of the normal power supply and provide illumination for a period of at least two hours.~~

(16) All plumbing ~~will mustmeetshall meet~~ the Oregon Plumbing Specialty Code in effect on the date of installation, and all plumbing fixtures ~~will mustbeshall be~~ properly installed and in good repair.

(17) The ~~facility willprogram mustshall~~ provide adequate access to telephones for private use by ~~residentsindividuals~~. ~~In facilities initially licensed on or after June 1, 1998, a phone for resident use will be provided in addition to the phone used by staff. The program mustshall not limit the hours of availability for phone use. The facilityA program may establish guidelines for fair and equal use of a shared telephonereasonable house rules governing phone use to insure equal access by all residents. Each individual, or individual's representative, resident or guardian(as applicable,) will individual's representative beshall be~~ responsible for payment of long distance phone bills where the calls were initiated by the ~~residentindividual~~, unless other mutually agreed arrangements have been made.

(18) ~~All licensed programs must comply with the Division's Tobacco Freedom Policy, state and local regulations concerning proximity of smoking to program.~~ Smoking is not allowed ~~within the setting, including including setting including within buildingsbuildings or on the grounds.~~

~~in sleeping areas. If there is a designated smoking area, it will be separated from~~

~~other common areas. Indoor smoking areas will be equipped with a mechanical exhaust fan or central exhaust system which discharges to the outside. Furniture used in designated smoking areas will be non-flammable and without crevasses. In facilities, or portions of facilities, initially licensed on or after June 1, 1998, indoor smoking areas will be separated from other parts of the facility by a self-closing door and contain sprinkler protection or heat detectors.~~

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-014530

Safety

(1) ~~The provider must~~shall train all programAll staff ~~will be trained in staff~~ safety procedures prior to beginning their first regular shift. ~~All residents~~Every individualmustindividual mustwill be trained in ~~resident individual~~ safety procedures as soon as possible ~~during within the~~their first 72 hours of residency.

(2) ~~The program must~~shall develop and implement a ~~A~~-written procedure and disaster plan ~~will be approved authorized~~ by the State Fire Marshal or authorized representative. The plan ~~will must~~covershall cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes, and floods. The ~~program must~~shall post the plan ~~will be posted~~ by the phone and ~~be~~ immediately available to the ~~program~~ administrator and ~~employees~~program staff. The plan ~~will must~~includeshall include diagrams of evacuation routes, and these ~~will must~~be must be posted. The plan ~~will must~~specifyshall specify where staff and ~~residents individuals~~ will ~~go reside~~ if the ~~facility setting~~ becomes uninhabitable. The ~~program must~~shall update the plan ~~will be kept up to date~~ and ~~will includeshall include~~:

(a) Emergency instructions for employees;

(b) The telephone numbers of the local fire department, police department, the poison control center, the administrator, the administrator's designee, and other persons to be contacted in emergencies; and

(c) Instructions for the evacuation of ~~residents individuals~~ and employees.

(3) Noncombustible and nonhazardous materials ~~will be~~shall be used whenever possible. When necessary to the operation of the facility, flammable and combustible liquids and other hazardous materials ~~will be~~shall be safely and properly stored in clearly labeled, original containers in areas inaccessible to ~~residents individuals~~ in accordance with the Fire Code. Any quantities of combustible and hazardous materials maintained ~~will be~~shall be the minimum necessary.

(4) Non-toxic cleaning supplies ~~will beshall be~~ used whenever available. Poisonous and other toxic materials ~~will beshall be~~ properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation capability categories are based upon the ability of the ~~residents~~ individuals and program staff as a group to evacuate the building or relocate from a point of occupancy to a point of safety. Buildings ~~will beshall be~~ constructed and equipped according to a designated evacuation capability for occupants. Categories of evacuation capability include "Impractical" (SR--2) or "Slow" (SR-1). The evacuation capability designated for the facility ~~will shall~~ be documented and maintained in accordance with NFPA 101A.:-

(a) Only ~~persons~~ individuals assessed to be capable of evacuating in accordance with the designated facility evacuation capability ~~will beshall be~~ admitted to the ~~facility~~ program; and:-

(b) ~~Persons~~ individuals experiencing difficulty with evacuating in a timely manner ~~will beshall be~~ provided assistance from staff and offered environmental and other accommodations, as practical. Under such circumstances, the ~~facility~~ will ~~program~~ program must ~~program shall~~ consider increasing staff levels, changing staff assignments, offering to change the ~~resident's~~ individual's room assignment, arranging for special equipment, and taking other actions that may assist the ~~resident~~ individual. ~~Residents~~ The program must ~~shall assist individuals~~ who still cannot evacuate the building safely in the allowable period of time ~~will and shall~~ be assist ed with transferring to another facility with an evacuation capability designation consistent with the individual's documented evacuation capability.

(6) ~~The program must~~ shall ensure that e Every ~~resident~~ individual shall will participate in an unannounced evacuation drill each month.:- ~~(See Section 408.12.5 of the fire code.)~~

(a) At least once every three months, the ~~program must~~ shall conduct a drill ~~will be conducted~~ during ~~resident~~ individual sleeping hours between 10 :00PM p.m. and 6 :00 AM a.m.:-

(b) Drills ~~will beshall be~~ scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes.:-

(c) Any ~~resident~~ individual failing to evacuate within the established time limits ~~will beshall be~~ provided with special assistance and a notation made in the ~~resident~~ individual service record; and:-

(d) Written evacuation records ~~will beshall be~~ maintained for at least three years. They ~~will include~~ shall include documentation, made at the time of the drill, specifying the date and time of the drill, the location designated as the origin of

the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(7) All stairways, halls, doorways, passageways, and exits from rooms and from the building ~~will be~~ shall be unobstructed.

(8) The ~~provider will~~ program must ~~shall~~ provide and maintain one or more 2A10BC fire extinguishers on each floor in accordance with the Fire Code.

(9) Approved fire alarms and smoke detectors ~~will be~~ shall be installed according to Building Code and Fire Code requirements. These alarms ~~will be~~ shall be set off during each evacuation drill. The ~~facility will~~ program must ~~shall~~ provide appropriate signal devices for persons with disabilities who do not respond to the standard auditory alarms. All of these devices ~~will be~~ shall be inspected and maintained in accordance with the requirements of the State Fire Marshal or local agency having jurisdiction.

(10) ~~The program must~~ shall install and maintain ~~s~~ Sprinkler systems ~~will be installed in~~ compliance with the Building Code and maintained in accordance with rules adopted by the State Fire ~~Marshal.~~ The Marshal. ~~The program must~~ shall maintain an automated sprinkler system as follows:

(a) Programs initially licensed prior to July 1, 2016, are not required to install or maintain a sprinkler system if one ~~were~~ was ~~not present at the time of initial licensure; RTFs must have and maintain a sprinkler system regardless of the initial date of licensure;~~

(b) The Division recommends that ~~RTFs~~ shall programs ~~licensed prior to July 1, 2016, install and maintain sprinkler systems;~~

(c) Any program initially licensed ~~under these rules on or after July 1, 2016, must~~ shall have and maintain a sprinkler system.

(11) HSD ~~The~~ will ~~Division may not issue any variances addressing sprinkler systems in programs licensed on or after July 1, 2016.~~

(12) ~~First aid supplies~~ will be ~~readily accessible to staff. All supplies~~ will be ~~properly labeled.~~

(13) ~~Portable heaters are a recognized safety hazard and~~ will ~~must~~ may ~~not be used.~~

(14) ~~The provider must~~ shall develop and implement ~~a~~ A safety

program ~~will be developed and implemented~~ to identify and prevent the occurrence of hazards at the facility. Such hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-015035

Sanitation

(1) The water supply in the facility ~~will meet~~shall meet the requirements of the current rules of Oregon Health Services governing domestic water supplies ~~and~~;
See the following:

(a) A municipal water supply ~~will be~~shall be utilized if available ~~;~~and.

(b) When the facility is not served by an approved municipal water system, and the facility qualifies as a public water system according to OAR 333-061-0020(127), Oregon Health Services rules for public water systems, then the ~~facility will~~provider mustshall comply with the OAR Chapter 333 rules of the Oregon Health Services pertaining to public water systems. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly, and nitrate at least annually, and reported to Oregon Health Services. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards, ~~that~~ public notice be given whenever a violation of the water quality standards occurs, ~~and that~~ records of water testing be retained according to the Oregon Health Services requirements.

(2) All floors, walls, ceilings, windows, furniture, and equipment ~~will be~~shall be kept in good repair, clean, sanitary, neat, and orderly.

(3) Each bathtub, shower, lavatory, and toilet ~~will be~~shall be kept clean, in good repair, and regularly sanitized.

(4) No kitchen sink, lavatory, bathtub, or shower ~~will be~~shall be used for the disposal of cleaning waste water.

(5) Soiled linens and clothing ~~will be~~shall be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) All necessary measures ~~will be~~shall be taken to prevent rodents and insects from entering the ~~facility~~setting. ~~Should pests be found in the facility~~The provider must~~shall take appropriate~~take appropriate action ~~will be taken~~ to eliminate ~~rodents or insects~~them.

(7) The grounds of the ~~facility~~setting ~~will~~must~~shall~~ be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage and refuse receptacles ~~will be~~shall be clean, durable, watertight, insect and rodent proof, and ~~will be~~shall be kept covered with tight-fitting lids. All garbage and solid waste ~~will~~must~~be~~be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality (DEQ).

(9) All sewage and liquid wastes ~~will~~shall be disposed of in a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes ~~will~~shall be collected, treated, and disposed of in compliance with the current rules of the ~~DEQ~~DEQ~~Department of Environmental Quality~~. Sewage lines, and septic tanks or other non-municipal sewage disposal systems ~~where applicable, will~~shall be maintained in good working order.

(10) Biohazardous waste ~~will~~shall be disposed of in compliance with the rules of the ~~DEQ~~Department of Environmental Quality.

(11) Precautions ~~will~~shall be taken to prevent the spread of infectious ~~and/or~~ communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards:

(a) Program staff ~~will~~shall employ universal precautions whereby all human blood and certain body fluids are treated if known to be infectious for HIV, HBV, and other blood borne pathogens.

(12) If pets or other household animals ~~exist~~reside at the ~~facility~~setting, sanitation practices ~~will~~shall be implemented to prevent health hazards:-

(a) ~~Such~~A animals ~~will~~must~~be~~be vaccinated in accordance with the recommendations of a licensed veterinarian. ~~Proof~~Documentation of ~~such~~ vaccinations ~~will~~must~~be~~be maintained on the premises:-

(b) Animals not confined in enclosures ~~will~~shall be under control and maintained in a manner that does not adversely impact ~~residents~~individuals or others; ~~and~~:-

(c) No live animal ~~will~~shall be kept or allowed in any portion of the ~~premises~~setting where food is stored or prepared, except that aquariums and aviaries ~~will~~shall be allowed if enclosed so as not to create a public health problem.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-015540

Resident Individual Furnishings

(1) ~~Residents will be allowed~~The program must~~shall permit an individual~~ to use the individual's ~~ir~~-own furniture within space limitations of the ~~resident individual's unit, sleeping room.~~ Otherwise, furniture ~~will~~shall be provided or arranged for each ~~resident individual~~, maintained in good repair, and include the following:

(a) A bed, including a frame and a clean mattress and pillow;

(b) A private dresser or similar storage area for personal belongings ~~which is that~~ is readily accessible to the ~~resident individual~~; and

(c) Locked storage for the ~~resident's individual's~~small individual's small, personal belongings. ~~In facilities For programs~~ initially licensed before June 1, 1998, this locked storage may be provided in a place other than the ~~resident's Individual's unit, bedroom. The unit. The provider must~~shall provide the resident individual will ~~be provided~~ with a key or other method to gain access to ~~his~~/her locked storage space.

(2) The program must~~shall provide~~ ~~linens will be provided~~ for each ~~resident individual~~ and ~~will must include~~shall include the following:

(a) Sheets, pillowcase, other bedding appropriate to the season and the individual's~~resident's comfort individual's comfort~~;

(b) Availability of a waterproof mattress or waterproof mattress cover; and

(c) Towels and washcloths.

(3) ~~Each resident~~The provider must~~shall assist each individual will be assisted~~ ~~in individual in~~ obtaining personal hygiene items in accordance with individual needs. These ~~will must be~~shall be stored in a clean and sanitary manner, and may be purchased with the ~~resident's individual's~~ personal allowance. Personal hygiene items include, but are not limited to, a comb and ~~or~~ hairbrush, a toothbrush, toothpaste, and menstrual supplies (if needed).

(4) The provider shall provide ~~s~~Sufficient supplies of soap, shampoo, and toilet paper for all ~~residents individuals. will must~~shall be provided.

(5) An adequate supply of furniture for ~~resident individual~~ use in living room,

dining room, and other common areas ~~will must~~shall be maintained in good condition.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-016345

Admission to ~~Facility~~Program

(1) The provider shall ensure ~~the a~~Admission p~~Process~~ includes the following:

(a) The provider ~~must~~shall specify in its Each facility's admission policy and procedures ~~will~~specify who is the program staff responsible for each component of the admission information-gathering and decision-making process. The program ~~must~~shall allocate rResponsibilities ~~will be organized and assigned to~~ promote effective processing of referrals and admissions.;

(b) The provider ~~must~~shall develop and implement admission policies and procedures that support a prospective individual's right to select pick and choose from available service settings.;

(c) The provider ~~must~~shall support the individual's right to select a program by assisting the ~~person-centered service plan coordinator~~person-centered service plan coordinator in identifying and documenting program options in the ~~person-centered service plan~~person-centered service plan including providing information regarding program services and rates; and.

(d) The provider may close admissions to the program when accepting an additional prospective individual may would cause the program to exceed its reasonable waitlist. When admissions are closed, the provider is not required to accept referrals, conduct screenings, or evaluate admissions criteria as directed by these rules.

(2) Unless limited by contractual agreement with the Division or other Division-approved party, the program may accept referrals ~~may be accepted~~ from a variety of sources. ~~Residents individuals whose services will be funded by the Division must be approved for placement by the CMHP or other local entity given responsibility for this function by contract with the Division, and/or approval of the Division.~~

(3) In accordance with ORS 179.505 and the 42 CFR, Part 2, the program ~~must~~shall obtain an authorization for the release of information for disclosure ~~will be obtained~~ for any confidential information concerning a prospective residentindividual.

(4) The provider mustshall consider an individual ~~Persons will be considered~~ for admission without regard to race, color, sex or sexual orientation, ~~except as may be limited by room arrangement~~, religion, creed, national origin, ~~age~~, ~~exceptage, except~~ under 18 years), familial status, marital status, source of income, or disability in addition to the mental ~~or emotional~~health disorder.

(5) Prior to accepting ~~an resident individual~~ an individual for admission to the ~~facility~~program, the program administrator ~~or his/her designee will~~mustshall determine that the ~~resident individual~~ meets admission criteria including the following:-

(a) Opportunity for Screening. The provider ~~mustshall~~ offer each individual referred for placement at the program an opportunity to participate in a screening interview prior to being accepted or denied placement at a program. The screening is intended to provide information about the program and the services available as well as to obtain information from the prospective individual, a relative, and ~~or~~ agencies currently providing services to the individual sufficient to determine eligibility for admission and service needs; ~~and~~;

(b) Screening Information. The provider ~~willshall~~ receive screening packets for each individual referred for placement. At a minimum, screening packets ~~willshall~~ include:

(A) Written documentation that the prospective individual has, or is suspected of having, a mental ~~or emotional~~health disorder;

(B) Background information including a mental health assessment, description of previous living arrangements, service history, behavioral issues, and service needs;

(C) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or recommended medications, treatments, dietary specifications, and aids to physical functioning;

(D) Copies of documents, or other documentation, relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions ~~(as applicable)~~;

(E) A copy of the prospective individual's most recent mental health treatment plan, or in the case of an emergency or crisis-respite admission, a summary of current mental health treatment involvement; and

(F) Documentation of the prospective individual's ability to evacuate the building

consistent with the facility's designated evacuation capability and other concerns about potential safety risks.

~~(cb) Requirements for Screenings.~~ The provider ~~must~~shall ensure that screenings ~~comply with the following:~~

~~(A) The screening must~~shall be conducted at the prospective program setting unless: Needs to have a (B) or move the (A) up into the (c) then make the (i) and (ii) into (A) and (B).?????????

~~(Ai) Travel arrangements cannot be made due to inclement weather; or~~

~~(Bii) The individual, or the individual's representative, requests a phone screening or screening at the individual's current location.~~

~~-(db) The provider must~~shall make contact with the referring agency for the purpose of scheduling a screening appointment within 48 hours of receipt of the referral packet;

~~(ee) The provider must~~shall coordinate with the referring agency to schedule a screening appointment to occur within 14 calendar days from the date of receipt of the referral packet;

~~(fe) The provider must~~shall provide the following to each individual referred for placement:

~~(Ai) Materials explaining conditions of residency;~~

~~(Bii) Services available to individuals residing in the program; and~~

~~(Ciii) An opportunity to meet with a prospective roommate if the program uses a shared room model.~~

~~(ge) The screening meeting must~~shall include the program administrator, the prospective individual, and the individual's representative, ~~—(as applicable).~~ With the prospective individual's consent, the meeting may also include family member(s), other representative(s) as appropriate, representative(s) of relevant service-providing agencies, and others with an interest in the individual's admission.

~~(6) If an individual is referred for emergency or crisis-respite admission, an amended or abbreviated screening process may be used~~employed to more quickly meet the needs of individuals seeking placement. -Screening and admissionthe information obtained may be less comprehensive than for regular admissions but ~~must~~shall be sufficient to determine that the individual meets admission criteria and that the setting and program is appropriate considering the

individual's needs. The program ~~must~~shall document the reasons for incomplete information.

(7) Prior to admission, the provider ~~must~~shall evaluate and determine whether a prospective individual is eligible for admission based on the following criteria.
~~†~~The individual shall:

(a) ~~The individual must~~shall ~~B~~be assessed to have a mental ~~or emotional~~health disorder, or a suspected mental ~~or emotional~~health disorder;

(b) ~~The individual must~~shall ~~B~~be at least 18 years of age;

~~(c)~~ ~~The individual must~~ shall ~~N~~not require continuous nursing care, unless a reasonable plan to provide the ~~such~~ care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;

~~(d)~~ ~~The individual must~~shall ~~H~~have evacuation capability consistent with the setting's SR ~~o~~Occupancy classification; and

~~(e)~~ ~~The individual must~~shall ~~M~~meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.

~~(87)~~ The provider may deny an individual admission to its program for the following reasons:

(a) Failure to meet admission criteria established by these rules;

(b) Inability to pay for services due to lack of presumed Medicaid eligibility or other funds;

(c) Documented instances of behaviors within the last 14 calendar days that would pose a reasonable and significant risk to the health, safety, and well-being of ~~the individual or~~ another individual, ~~or another person should~~ if the individual is ~~be~~ admitted;

(d) Lack of availability of necessary services required to maintain the health and safety of the individual (no nursing, etc.) or lack of an opening at the setting; or

(e) Individual declines the offer for screening;

~~(98)~~ The provider ~~may~~ not deny an individual admission to its program as follows:

(a) Prior to offering a face-to-face screening or other screening process as allowed by these rules; or

(b) Due to county of origin, responsibility, or residency.

(9107) The provider's admission decision ~~must~~shall be made as follows:

(a) The program's decision ~~must~~shall be based on review of screening materials, information gathered during the face-to-face screening meeting, and evaluation of the admission criteria;

(b) The program ~~must~~shall inform the prospective individual and the individual's representative, ~~(as applicable),~~ of the admission decisions within 72 hours of the screening meeting;

(~~cd~~) When the program denies admission, the program ~~must~~shall inform the ~~prospective~~ applicant, the individual's representative ~~(as applicable),~~ and the referring entity in writing of the basis for the decision and the ~~individual's right~~ individual's right to appeal the decision;

(~~ede~~) When the program approves admission, the program ~~must~~shall inform the ~~prospective~~ applicant, the individual's representative ~~(as applicable),~~ and the referring entity through an acceptance notification that ~~shall include~~the following:

(A) When not waitlisted or ~~1st~~first on the waitlist, an estimated date of admission;

(B) When waitlisted, the number on the waitlist.

(1109) Management of waitlists includes the following:-

(a) The program ~~must~~shall establish admissions waitlists of reasonable length;

(b) The program ~~must~~shall document actions taken in the management of the~~r~~ waitlist;

(~~cb~~) The program ~~must~~shall contact a waitlisted individuals, the individual's representative, and the referring entity monthly to determine if the individual has been placed elsewhere;

(~~de~~) The program ~~must~~shall prioritize admissions on a waitlist as follows:

(A) The program ~~must~~shall give first priority to those individuals under current civil commitment or under the jurisdiction of the Psychiatric Security Review Board and seeking to transition from the Oregon State Hospital or other hospital level of care into the community;

(B) The program ~~must~~shall give second priority for admission to individuals seeking admission to programs as an alternative ~~to~~ or to prevent civil commitment or placement at the Oregon State Hospital ~~or for the purpose of~~

transitioning from a program or a secure residential treatment facility;

(ee) The program ~~must~~shall determine priority for admission based on the priorities described above and on a first-come first-served ~~basis~~. The program may not take into account the individual's county of origin, responsibility, or residency;

(fe) Within 72 hours of a provider learning of a pending opening, the program ~~must~~shall notify the first individual on the waitlist, the individual's representative, and the referring entity of the expected opening. The individual ~~must~~shall respond within three business days of the provider's notification. If any of the following occurs, the program may offer the opening to the next individual on the wait list:

(1A) ~~T~~the program receives no response from the individual, the individual's representative, or the referring entity with~~in~~ three business days;

(2B) ~~T~~the individual will not be ready to transition into the program within one week; or

(C3) ~~T~~the individual no longer desires placement at the program.

~~The prospective resident will receive an explanation of the program, be given a copy of materials explaining conditions of residency, and be offered the opportunity to visit the facility. Sufficient information will be obtained from the prospective resident, a relative and/or agencies providing services to determine eligibility for admission and service needs. In the case of individuals referred for emergency or crisis respite admission, the information obtained may be less extensive than for regular admissions but ~~must~~ be sufficient to determine that the resident meets admission criteria and that the facility is appropriate considering the individual's needs. Screening information will include, but not be limited to, the following:~~

- ~~(a) Written documentation that the prospective resident has, or is suspected of having, a mental or emotional disorder;~~
- ~~(b) Background information including a mental health assessment and describing previous living arrangements, service history, behavioral issues and service needs;~~
- ~~(c) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or recommended medications, treatments, dietary specifications, and aids to physical functioning;~~
- ~~(d) Copies of documents, or other documentation, relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions (as applicable);~~
- ~~(e) A copy of the prospective resident's most recent mental health treatment plan,~~

or in the case of an emergency or crisis-respite admission, a summary of current mental health treatment involvement; and

(f) Documentation of the prospective resident's ability to evacuate the building consistent with the facility's designated evacuation capability and other concerns about potential safety risks.

(6) Admission Criteria. Persons considered for admission will:

(a) Be assessed to have a mental or emotional disorder, or a suspected mental or emotional disorder;

(b) Be in need of care, treatment and supervision;

(c) Be at least 18 years of age;

(d) Not require continuous nursing care, unless a reasonable plan to provide such care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;

(e) Have an evacuation capability consistent with the facility's SR Occupancy classification; and

(f) Meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.

(7) Admission Decisions. An admission decision will be made based upon the existence of an opening within the facility, a review of screening materials at a pre-admission meeting and a determination that the resident meets the admission criteria. A pre-admission meeting will be scheduled to include the facility administrator or designee, the potential resident and his/her legal guardian (as applicable). With the prospective resident's consent, the pre-admission meeting may also include family member(s) or other representative(s) as appropriate, representative(s) of relevant service providing agencies, and others with an interest in the resident's admission. Potential residents, their legal guardian (as applicable) and authorized representative will be informed of admission decisions within 72 hours. When admission is denied, the prospective applicant, their legal guardian (as applicable) and authorized representative will be informed in writing of the basis for the decision and their right to appeal the decision in accordance with OAR 309-035-0157.

(1248) The program must shall obtain informed consent for services from the individual or the individual's legal representative. Each resident, or his/her guardian (as applicable), will provide informed consent for services upon prior to admission to the facility program, unless the resident's individual's ability to do seconsent is legally restricted.

(1329) Upon admission, the program administrator or his/her designee will must shall provide and document an orientation to each new resident individus individual that individual that includes, but is not limited to, the following:

(a) A complete tour of the facility setting;

(b) Introductions to other residents individuals and program staff;

(c) Discussion of house rules;

(d) ~~E~~xplanation of the laundry and food service schedule and policies;

(e) R~~e~~view of ~~resident~~ the individual's rights;

(f) Review of ~~and~~ grievance procedures;

(g) Completion of a residency agreement; ~~congruent with this rule;~~

(h) ~~of the fee policy,~~ D~~i~~scussion of the conditions under which residency would be terminated;

(i) ~~G~~and ~~a~~ general description of available services and activities;

(j) ~~During the orientation,~~ Review and explanation of advance directives ~~will be explained~~. If the ~~resident~~ individual does not already have any advance directive(s), ~~she/he will be given the program~~ must shall provide an opportunity to complete ~~them~~ advanced directive(s);

(k) ~~. Orientation will also include a description of the facility's~~ ~~E~~mergency procedures in accordance with OAR 309-035-0145(2);

(L) Review of the person-centered planning process; and

(m) Review of the process for imposing individually-based limitations on certain program obligations to the individual.;

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0165

Residency Agreement

This rule becomes effective July 1, 2016, and enforceable as described in OAR 309-035-01159(176).

(14) The provider ~~must~~ shall enter into a written residency agreement with each individual or ~~the individual's~~ representative and be admitted to the program consistent with the following procedures:

(a) ~~i~~ The written residency agreement ~~must~~ shall be signed by the program administrator and the individual, or ~~the individual's~~ representative, prior to or at the time of admission;

(b) ~~ii~~ The provider ~~must~~ shall provide a copy of the signed agreement to the

individual, or the individual's representative, and the provider mustshall retain the original signed agreement within the individual's service record;

(ciii) The provider mustshall give written notice to an individual, or the individual's representative (as applicable), at least 30 calendar days prior to any general rate increases, additions, or other modifications of the rates; and

(div) Updates to Residency Agreements The provider mustshall update residency agreements at least annually and also when social security rates change or an individual's finances change such that the amount paid for room and board changes.

(22) The residency agreement mustshall include, but is not be limited to, the following terms:

(a) Room and Board. The residency agreement mustshall include the room and board agreement including the room and board rate describing the estimated public and private pay portions of the rate.;

(Ai) Whenre an individual's social security or other funding is not active at the time of admission to the program, the program mustshall prepare the room and board agreement based upon the estimated benefit to be received by the individual; and

(Bii) If, when funding is later activated, actual income of the individual varies from the estimated income noted on the residency agreement, the agreement mustshall be updated and resigned by all the applicable parties.

(b) Services and supports to be provided in exchange for payment of the room and board rate;

(c) Conditions under which the program may change the rates;

(de) The provider's refund policy in instances of an individual's hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move from the program;

(ed) A statement indicating that the individual is not liable for damages considered normal wear and tear;

(fe) The program's policies on voluntary moves and whether written notification of a non-Medicaid individual's intent to not return is required;

(gf) The potential reasons for involuntary termination of residency in compliance with this rule and individual's rights regarding the eviction and appeal process as described in OAR 309-035-XXXX0183(3);

(hg) Any policies the program may have on the presence and use of alcohol, cannabis, and illegal drugs of abuse;

(ih) Policy regarding tobacco smoking in compliance with the Tobacco Freedom Policy established by the Division;

(ji) Policy addressing pet and service animals. The program may not restrict animals that provide assistance or perform tasks for the benefit of a person with a disability. These ~~Such~~ animals are often referred to as services animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals;

(kj) Policy regarding the presence and use of legal medical and recreational marijuana at the setting;

(Lk) ~~Schedule of meal times.~~ The provider may not schedule meals ~~with more~~with more than a ~~fourteen (14-)~~hour span between the evening meal and the following morning's meal (see, OAR 411-050-0645);

(ml) Policy regarding refunds for residents eligible for Medicaid services, including pro-rating partial months and if the room and board payment is refundable;

(nm) Any house rules or social covenants required by the program ~~which~~that may be included in the document or as an addendum;

(oo) Statement informing the individual of the freedoms authorized by 42 CFR 441.301(c)(2)(xiii) & 42 CFR 441.530(a)(1)(vi)(F) ~~, which must~~that may not be limited without the informed, written consent of the individual or the ~~individuals~~~~individual's~~legal representative~~legal representative~~; and include the right to the following:

(Ai) Live under a legally enforceable agreement with protections substantially equivalent to landlord-/tenant laws;

(Bii) The freedom and support to access food at any time;

(Ciii) To have visitors of the individual's choosing at any time;

(Div) Have a lockable door in the individual's ~~unit, which~~unit that may be locked by the individual;

(Ev) Choose a roommate when sharing a unit;

(Fvi) Furnish and decorate the individual's unit according to the Residency

Agreement;

(G)vii The freedom and support to control the individual's schedule and activities; and

(Hviii) Privacy in the individual's unit.

(33) The provider may not propose or enter into a residency agreement that:

(a) Charges or asks for application fees, refundable deposits, or non-refundable deposits;

(b) Includes any illegal or unenforceable provisions or ask or require an individual to waive any of the individual's rights or the provider's licensee's agree to waive the program's liability for negligence; or

(Cc) Conflicts with individual rights or these rules.

~~(10) Record Preparation. A resident record will be established concurrent with the resident's admission. Prior to admission, within five days after an emergency admission, or within 24 hours of a crisis respite admission, the facility will determine with whom communication needs to occur and will attempt to obtain the needed authorizations for release of information. The record established upon admission will include the materials reviewed in screening the resident, the summary sheet and any other available information. Every effort will be made to complete the resident record consistent with OAR 309-035-0117(4) in a timely manner. The assessment and residential service plan will be completed in accordance with OAR 309-035-0159. Records on prescribed medications and health needs will be completed as specified in OAR 309-035-0170.~~

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-017050

Termination of Residency

(1) Each ~~facility's~~ provider's termination policy and procedure mustshall designate the program staff will specify who is responsible for each step of the process for terminating residency. The provider mustshall designate ~~r~~Responsibilities ~~shall be~~ organized and assigned to promote a fair and efficient termination process. Unless otherwise designated as a condition of licensing or in contract language approved by the Division, the program aAdministrator shall be responsible for initiating and coordinating termination proceedings. The provider mustshall make reasonable ~~An effortswill be made to~~efforts to prevent unnecessary terminations by making reasonable accommodations within the

program and setting facility.

(2) A resident or guardian (~~as applicable~~) may terminate residency in a facility upon providing at least 30 days' notice. Upon mutual agreement between the administrator and the resident or guardian (~~as applicable~~), less than 30 days' notice may be provided.

(3) If ~~an~~ resident's ~~an individual's~~ behavior poses a serious and immediate threat to the health or safety of others in or near the ~~facility~~ program or setting, the program administrator, after providing 24 hours written notice to the individual or representative specifying the causes ~~to the individual or an individual's representative~~ resident or guardian (~~as applicable~~), may immediately terminate the residency. The notice shall specify the individual's right to appeal the emergency termination decision in accordance with OAR 309-035-0183(3).

(4) When other circumstances arise providing grounds for termination of ~~residency~~, the underresidency under this subsection, the program aAdministrator ~~will must~~ discuss shall discuss these grounds with the ~~resident~~ individual, ~~or the individual's representative~~ resident's guardian (~~as applicable~~), and with the individual's permission, other ~~individuals~~ persons with an interest in the individual's circumstances. If a decision is made to terminate residency, the program aAdministrator ~~will must~~ provide shall provide at least 30 days' written notice specifying the causes to the individual or the individual's legal or designated representative ~~representative~~ resident or guardian (~~as applicable~~). This notice shall also specify the individual's right to appeal the termination decision in accordance with OAR 309-035-0183(3). Upon mutual agreement between the program administrator and the individual's representative ~~resident or guardian~~ (~~as applicable~~), termination ~~may occur with~~ less than 30 days' notice. ~~may be provided. The program must~~ shall make reasonable ~~An effort~~ will be made to efforts to establish a reasonable termination date in consideration of both ~~facility~~ the program's needs and the individual's ~~need of the terminated resident to~~ need to find alternative living arrangements. ~~G~~ Criteria ~~establishing~~ grounds for termination include the following:

(a) ~~(a) Resident~~ The individual no longer needs or desires services provided ~~by~~ at the facility ~~program~~ and/or expresses a desire to move to an alternative setting;

(b) ~~Resident~~ The individual is assessed by a Licensed Medical Professional or other qualified health professional to require services, such as continuous nursing care or extended hospitalization, that are not available, or ~~can not~~ cannot be reasonably arranged, at the facility;

(c) The individual ~~Resident's~~ behavior is continuously and significantly disruptive or poses a threat to the health or safety of self or others, and these behavioral concerns cannot be adequately addressed with services available at the facility

setting or services that can be arranged outside of the ~~facility program~~ ee setting;

(d) ~~The individual~~ The individual ~~Resident~~ cannot safely evacuate the ~~facility setting~~ in accordance with the ~~setting facility~~'s SR Occupancy Classification after efforts described in OAR 309-035-0145(5)(b) have been taken;

(e) Nonpayment of fees in accordance with program's fee policy; and

(f) ~~Resident~~ The individual continuously and knowingly violates house rules resulting in significant disturbance to others.

(5) Except in the case of ~~an~~ emergency terminations ~~or a crisis~~ or crisis -respite ~~residents individual services~~, a pre-termination meeting shall be held with the individual, the individual's representative ~~resident, guardian (as applicable)~~, and with the ~~resident's individual's~~ permission, others interested in the ~~resident's individual's~~ circumstances. The purpose of the meeting is to plan any arrangements necessitated by the termination decision. The meeting shall be scheduled to occur at least two weeks prior to the termination date. In the event a pre-termination meeting is not held, the reason shall be documented in the ~~resident's individual service~~ record.

(6) Documentation of discussions and meetings held concerning termination of residency and copies of notices shall be maintained in the individual service ~~resident's~~ record.

(7) At the time of termination of residency the ~~individual resident~~ shall be given a statement of account, any balance of funds held by the ~~facility program and program~~, and all property held in trust or custody by the facility program as in the following:

(a) In the event of pending charges ~~(such as long distance phone charges or damage assessments)~~, the program may withhold hold back the amount of funds anticipated to cover the pending charges. Within 30 days after residency is terminated or as soon as pending charges are confirmed, the ~~program must~~ shall ~~provide the individual with a resident will be provided a~~ final financial statement along with any funds due to the ~~resident individual~~; and.

(b) In the case of an individual's property ~~resident belongings left~~ being left at the ~~facility setting~~ for longer than seven days after termination of residency, the ~~RTF program will~~ shall make a reasonable attempt to contact the individual, or the individual's representative ~~resident, guardian (as applicable) and/or other representative of the resident~~. The ~~RTF program must~~ shall allow the individual, or the individual's representative ~~resident, guardian (as applicable) or other representative at~~ representative at least 15 days to make arrangements concerning the property. If ~~it is the program~~ the program determines ~~ed~~ that the ~~resident~~

individual has abandoned the property, the RTF-program may then dispose of the property. If the property is sold, proceeds of the sale, minus the amount of any expenses incurred and any amounts owed the program by or on behalf of the ~~resident~~individual, will individual shall be forwarded to the individual or the individual's representative ~~representative resident or guardian, (as applicable),~~

(8) Because crisis-respite services are time-limited, the planned end of services ~~will not~~may not be considered a termination of residency and subject to requirements in OAR 309-035-0170(2)(4)(5). Upon admission to crisis-respite services the ~~resident individual~~ or ~~the individual's~~ individual's ~~representative, guardian (as applicable), will~~representative shall be informed of the planned date for discontinuation of services. This date may be extended through mutual agreement between the program administrator and the individual or individual's representative ~~resident or guardian, (as applicable),~~ RTFs-A program providing crisis-respite services ~~will must~~implement shall implement policies and procedures that specify reasonable time frames and the grounds for discontinuing crisis-respite services earlier than the date planned.

(9) If ~~an resident individual~~an individual moves out of the ~~facility setting~~ without providing notice, or is absent without notice for more than seven consecutive days, the ~~administrator-provider~~ may terminate residency in the manner provided in ORS 105.105 to 105.168 after seven consecutive days of the ~~individual resident's~~ absence. ~~The provider must~~make shall make ~~an~~an attempt ~~will be made~~ to contact the ~~individual, or the individual's representative, resident, guardian (as applicable), and/or others~~persons interested in the ~~individual resident's~~ circumstances to confirm the ~~individuals resident's~~individual's intent to discontinue residency.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-017555

Resident Individual Rights

(1) Each ~~individual must~~resident will be shall be assured the same civil and human rights accorded to other citizens. These rights ~~will must~~be shall be assured unless expressly limited by a court in the case of ~~an resident individual~~an individual who has been adjudicated incompetent and not restored to legal capacity. The rights described in paragraphs (2) and (3) of this section are in addition to, and do not limit, all other statutory and constitutional rights ~~which that~~ are afforded to all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose property, enter into contracts and execute documents.

(2) A provider must shall actively work to support and ensure each individual's

rights described in this rule are not limited or infringed upon by the provider except where expressly allowed under these rules.

(3) Rights of The provider shall ensure that individuals receiving mental health services have the rights Service Recipients set forth in .In accordance with ORS 430.210: residents an individual will and: have the right to:

(a) Choose from available services those which that are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection, and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person, and that provide for the greatest degree of independence;

(b) An individualized written service plan, services based upon that plan and periodic review, and reassessment of service needs;

(c) Ongoing participation in planning services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations;

(d) Not receive services without informed consent except in a medical emergency or as otherwise permitted by law;

(e) Not participate in experimentation without informed voluntary written consent;

(f) Receive medication only for the person's individual's clinical needs;

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services, and exercise of a grievance procedure;

(h) A humane service environment that affords reasonable protection from harm and affords reasonable privacy;

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation;

(j) Religious freedom;

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation;

(l) Visit with family members, friends, advocates, and legal and medical professionals;

~~(am) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Authority Division department;~~

~~(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedure for reporting abuse, and to have these rights and procedures prominently posted in a location readily accessible to the person individual and made available to the individual person's guardian and any representative designated by the person individual;~~

~~(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure;~~

~~(p) Have access to and communicate privately with any public or private rights protection program or rights advocate; and~~

~~(q) Exercise all rights described in this section without any form of reprisal or punishment.~~

~~(43) Residents will~~ An individual also has~~ve~~ a right to the following:

(a) Adequate food, shelter, and clothing;

(b) A reasonable accommodation if, due to their disability, the housing and services are not sufficiently accessible;

(c) Confidential communication, including receiving and opening personal mail, private visits with family members and other guests, and access to a telephone with privacy for making and receiving telephone calls;

(d) Express sexuality in a socially appropriate and consensual manner;

(e) Access to community resources including recreation, religious services, agency services, employment, and day programs, unless such access is legally restricted;

(f) Be free from seclusion and restraint, except as outlined in OAR 309-035-0205.

(g) To review the program~~Residential Treatment Facility~~'s policies and procedures; and

(h) Not participate in research without informed voluntary written consent.

(5) An individual also has the following HCBS rights:

(a) Live under a legally enforceable residency agreement in compliance with protections substantially equivalent to landlord-tenant laws as described in this rule;

(b) Have visitors of the individual's choosing at any time and the freedom to visit with guests within the common areas of the setting and the individual's unit;

(c) The freedom and support to control the individual's own schedule and activities including but not limited to: ~~Accessing~~to accessing the community without restriction;

(d) Have a lockable door in the individual's unit ~~that, which~~ may be locked by the individual, and only appropriate program staff have a key to access the unit;

(e) A choice of roommates when sharing a unit;

(f) -Furnish and decorate the individual's unit according to the Residency Agreement; ~~and~~

(g) -The freedom and support to have access to food at any time;

(h) -Privacy in the individual's unit; ~~and-~~

(i) -Section (5) of these rules are effective July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(6) An SRTF is not required to maintain the qualities or obligations identified in ~~subsection~~section s(5) (b), (c), (d), (e) and ~~-(h)~~. ~~-of section (5) of this rule.~~The provider is not required to seek an individually-based limitation to comply with these rules.

(7) A provider is not required to comply with section (5) (a) of this rule when providing an individual with crisis-respite services. The provider is not required to seek an individually-based limitation for such an individual to comply with these rules.

(84) For the purpose of this section, these terms have the following meanings:

(a) "Fresh air" means the inflow of air from outside the facility where the ~~resident~~ individual is receiving services. "Fresh air" may be accessed through an open window or similar method as well as through access to the outdoors~~;~~

(b) "Outdoors" means an area with fresh air that is not completely enclosed overhead. "Outdoors" may include a courtyard or similar area~~;~~

(c) If ~~an~~ resident individual ~~an individual~~ requests access to fresh air and the

outdoors or the individual resident's treating health care provider determines that fresh air or the outdoors would be beneficial to the individual resident, the facility program in which the individual resident is receiving services shall provide daily access to fresh air and the outdoors unless this access would create a significant risk of harm to the individual resident or others;

(d) The determination whether a significant risk of harm to the individual resident or others exists shall be made by the individual resident's treating health care provider. The treating health care provider may find that a significant risk of harm to the individual resident or others exists if:

(A) The individual resident's individual circumstances and condition indicate an unreasonable risk of harm to the individual resident or others ~~which cannot~~ cannot be reasonably accommodated within existing programming should the individual resident be allowed access to fresh air and the outdoors; or

(B) The ~~programs facility's program's~~ existing physical plant setting or existing staffing prevent the provision of access to fresh air and the outdoors in a manner that ~~n~~ maintains the safety of the individual resident or others.

(e) If a facility provider determines that its existing physical plant setting prevents the provision of access to fresh air and the outdoors in a safe manner, the facility provider shall make a good faith effort at the time of any significant renovation to the physical plant setting that involves renovation of the unit or relocation of where ~~individual residents are~~ individuals are treated to include changes to the physical plan setting or location that allows access to fresh air and the outdoors, so long as such changes do not add an unreasonable amount to the cost of the renovation.

(95) The program ~~will must have~~ shall have and implement written policies and procedures ~~which protect~~ that protect individual residents' rights, and encourage and assist individual residents to understand and exercise their rights. The program ~~will must post~~ shall post a listing of individual resident rights under these rules in a place readily accessible to all individual resident and visitors.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-018357

Resident Individual Grievances and Appeals

(1) The provider must ~~shall develop and implement facility will have a~~ written policies ~~iesy~~ and procedures concerning the ~~resident individual~~ grievance and appeal process. A copy of the grievance and appeal process ~~will~~ shall be posted in a place readily accessible to individual residents. A copy of the grievance and

appeal process ~~will~~shall be provided to each ~~resident individual and guardian (as applicable)~~ at the time of admission to the ~~facility~~program.

(2) A ~~facility's provider's~~ process for grievances ~~must~~shall, at a minimum, include the following:

(a) ~~Residents-Individuals~~ ~~will~~shall be encouraged to informally resolve complaints through discussion with ~~RTF-program~~ staff; ~~and~~.

(b) If the ~~individual resident~~ is not satisfied with the informal process or does not wish to use it, the ~~individual resident~~ may proceed as follows:

(A) The ~~individual resident~~ may submit a complaint in writing to the ~~RTF-program~~ ~~a~~Administrator. The ~~individual resident~~ may receive assistance in submitting the complaint from any person whom the ~~individual resident~~ chooses. If requested by the ~~individual resident~~, ~~RTF-program~~ staff ~~will~~shall be available to assist the ~~individual resident~~;

(B) The written complaint ~~will~~shall go directly to the ~~program RTF a~~Administrator~~program administrator~~ without being read by other ~~program~~ staff; unless the ~~resident individual~~ requests or permits other ~~program~~ staff to read the complaint;

(C) The complaint ~~will~~shall include the reasons for the grievance and the proposed resolutions. No complaint ~~will~~shall be disregarded because it is incomplete;

(D) Within five days of receipt of the complaint, ~~the individual~~, the ~~RTF-program~~ ~~a~~Administrator ~~will must meet shall meet~~ with the ~~resident individual~~ to discuss the complaint. The ~~resident individual~~ may have an advocate or other person of ~~their~~ ~~his/her~~ choosing present for this discussion;

(E) Within five days of meeting with the ~~individual resident~~, the ~~program administrator must RTF Administrator will provide shall provide~~ a written decision to the ~~resident individual~~. As part of the written decision, the ~~program a~~Administrator ~~will~~shall provide information about the appeal process; ~~and~~.

(F) In circumstances where the matter of the complaint is likely to cause irreparable harm to a substantial right of the ~~individual resident~~ before the grievance procedures outlined in OAR 309-035-0183(2)(b)(D) and (E) are completed, the ~~individual resident~~ may request an expedited review. The ~~program a RTF Administrator~~ ~~will~~shall review and respond in writing to the grievance within 48 hours. The written decision ~~will~~shall include information about the appeal process.

(3) An individual, an individual's legal representative, Residents, their legal guardians (as applicable, the Division or other Division-approved party,) and an applicant prospective residents individual (as applicable,) will have the right to appeal admission, termination, and grievance decisions as follows:

(a) If the individual resident is not satisfied with the decision, the individual resident may file an appeal in writing within ten days of the date of the program aRTF Administrator's decision to the complaint or notification of admission denial or termination, (as applicable); and

(b) If program services are delivered by a person or entity other than the Division, the appeal will be submitted to the CMHP dDirector or designee in the county where the RTF program is located;

(A) The individual resident may receive assistance in submitting the appeal. If requested by the individual resident, RTF program staff will be available to assist the individual resident;

(B) The CMHP dDirector or designee will provide a written decision within ten days of receiving the appeal; and

(C) If the individual resident is not satisfied with the CMHP dDirector's decision, the individual resident may file a second appeal in writing within ten days of the date of the CMHP dDirector's written decision to the Assistant dDeputy dDirector of the Division or designee. The decision of the Assistant dDeputy dDirector of the Division will be final.

(c) If program services are delivered by the Division, the appeal will be submitted to the dDeputy aAssistant dDirector or designee;

(A) The individual resident may receive assistance in submitting the appeal. If requested by the individual resident, RTF program staff will be available to assist the individual resident;

(B) The dDeputy Assistant dDirector or designee will review and approve or deny the appeal;

(C) The Division will notify the individual resident of the decision in writing within ten days after receipt of the appeal; and

(D) If the individual resident is not satisfied with the dDeputy aAssistant dDirector's or designee's decision, the individual resident may submit a second appeal in writing within ten days of the date of the written decision to the aAssistant dDirector of the Division. The decision of the aAssistant dDirector of the Division will be final.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-018559

Resident Individual Assessment and Residential Service Plan

(1) ~~The program must~~shall complete an assessment ~~will be completed~~ for each resident individual within ~~30-14~~ days after admission to the ~~facility~~program, unless admitted ~~to the facility program~~ for crisis-respite services;

(a) The assessment ~~will must~~shall be based upon an interview with the resident individual to identify strengths, preferences, and service needs; observation of the resident individual's capabilities within the residential setting; a review of information in the resident individual service record; and contact with representatives of other involved agencies, family members, and others, as appropriate. All contacts with others ~~will~~shall be made with proper authorization for the release of information;

(b) Assessment findings ~~will must~~shall be summarized in writing and included in the resident individual service's record. Assessment findings ~~will must include~~shall include, but not be limited to, diagnostic and demographic data; identification of the resident individual's medical, physical, emotional, behavioral, and social strengths, preferences, and needs related to independent living and community functioning; and recommendations for residential service plan goals; and.

(c) ~~The provider must~~shall provide assessment findings to the person-centered service plan~~person-centered service plan coordinator~~person-centered service plan coordinator to assist in the development of the person-centered service plan~~person-centered service plan~~.

~~(2) Person-centered service plan~~ Within 30 days of the date of admission, the ~~person-centered service plan coordinator~~person-centered service plan coordinator, under contract with the Division, and assigned to the individual or program site ~~will~~shall schedule and conduct an assessment of the individual for the purpose of developing a Person-Centered Service Plan~~person-centered service plan~~. The provider ~~must~~shall support the person-centered service plan coordinator~~person-centered service plan coordinator~~ efforts to develop the plan and provide information as necessary.

~~(32)~~ ~~The provider must~~shall develop and implement a~~an~~ individualized plan, ~~for~~plan for the purpose of implementing and documenting the provision of services and supports as well as any individually-based~~individualized~~ limitations contained within the Person-Centered Service Plan~~plan~~. Identification

~~of~~ the goals to be accomplished through the services ~~provided, will~~ provided ~~shall~~ be prepared for each ~~resident individual~~ individual within 30 days after admission, unless admitted to the facility for crisis-respite services, ~~within 30 days after admission~~:-

(a) If the person-centered service plan is unavailable for use in developing the residential service plan, providers must~~shall~~ still develop an initial residential service plan based on the information available within 30 days of admission. Upon the person-centered service plan becoming available, the providers will~~shall~~ amend the residential service plan as necessary to comply with this rule;

(ba) The residential service plan ~~will must~~shall be based upon the findings of the ~~resident individual~~ individual assessment, be developed with participation of ~~individual the individual and the individual's representative the resident and his/her guardian (as applicable),~~ and be developed through collaboration with the ~~resident individual's~~ primary mental health treatment provider. With consent of the ~~resident individual or the individual's representative guardian (as applicable),~~ family members, representatives from involved agencies, and others with an interest in the ~~resident individual's~~ circumstances ~~will must~~shall be invited to participate. All contacts with others ~~will~~shall be made with proper, prior authorization from the ~~resident individual~~:-

(cb) The residential service plan ~~must~~shall include the following:

(A) The Set out~~an~~ necessary steps and actions of the provider for the implementation and provision of services consistent and as required by the Person-Centered Service Plan~~person-centered service plan~~:-

(B) I will~~identify~~ the individual's service individual's service needs, desired outcomes, and service strategies to ~~address, but not be limited to, the~~address ~~the~~ following ~~areas:~~ physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability, and community navigation, all areas identified in the Person-Centered Service Plan~~person-centered service plan~~, and any other areas.

(de) The residential service plan ~~will must~~shall be signed by the ~~individual, the individual's representative (as applicable) resident,~~ the ~~program~~ administrator or other designated ~~facility-program~~ staff person, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan; ~~and~~:-

(ed) The provider ~~must~~shall attach the rResidential sService pPlan to the Person Centered Service Plan~~person-centered service plan as an addendum~~:-

(43) For ~~residents an individual~~ admitted to ~~facilities a program~~ for 30 days or ~~less for less for the purpose of receiving crisis-respite services,~~ an assessment and residential service plan ~~must~~shall be developed within 48 hours of admission

~~which identifies~~that identifies service needs, desired outcomes, and the service strategies to be implemented to resolve the crisis or address other needs of the individual that resulted in the short-term service arrangement.

(54) ~~The provider must~~shall maintain pProgress notes ~~will be maintained~~ within each ~~individual resident's~~ service record and ~~documenting~~ significant information relating to all aspects of the ~~individual resident's~~ functioning and progress toward desired outcomes identified in the residential service ~~plan. The~~plan. The provider must ~~shall enter a~~ progress note ~~will be entered~~ in the ~~individual resident's~~ record at least once each month.

(65) The ~~provider must~~shall review and update the assessment and residential service plan ~~will be reviewed and updated~~ at least annually. On an ongoing basis, ~~the provider must~~shall update the residential service plan ~~will be updated,~~ as necessary, based upon changing circumstances or upon the ~~resident's~~individual's request for reconsideration.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-019060

Person-Centered Service Plan

This rule becomes effective July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

~~(1) NING PROCESS.~~ When developed as described in ~~subsections (2) and (3), a~~ Person-Centered Service Plan~~person-centered service plan~~must ~~plan shall be~~ developed through a ~~person-centered service plan~~person-centered service ~~planning process. The~~ person-centered service plan~~person-centered service~~ planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and ~~as applicable, the individual's representative;~~

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a ~~person-centered service plan~~person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative HCB settings considered by the individual;

(i) Provides a method for the individual or, ~~as applicable, the individual's representative,~~ to request updates to the ~~person-centered service plan~~person-centered service plan, ~~as needed;~~

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

~~(L)~~ Includes any services that are self-directed, if applicable;

(m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;

(n) Includes risk factors and plans to minimize any identified risk factors; and

(o) Results in a ~~Person-Centered Service Plan~~person-centered service plan documented by the ~~p~~Person-~~c~~Centered ~~s~~Services ~~p~~Plan ~~c~~Coordinator, signed by the individual or, ~~as applicable, the~~ the individual's representative, participants

in the ~~person-centered service plan~~person-centered service planning process, and all persons responsible for the implementation of the ~~person-centered service plan~~person-centered service plan. The ~~person-centered service plan~~person-centered service plan is distributed to the individual, and, as applicable, theand the individual's representative, and other people involved in the ~~person-centered service plan~~person-centered service plan.

(22) ~~PERSON-CENTERED SERVICE PLANS~~Person-Centered Service Plans:;

(a) To avoid conflict of interest, the ~~person-centered service plan~~person-centered service plan may not be developed by the provider for individuals receiving Medicaid. The Division may grant an exception whenre it has determined that the provider is the only willing and qualified entity to provide case management and develop the ~~person-centered service plan~~person-centered service plan;;

(b) Whenre the provider is responsible for developing the ~~person-centered service plan~~person-centered service plan, the provider ~~must~~shall ensure that the plan includes the following:

(A) HCBS and setting options based on the individual's needs and ~~preferences~~ preferencesof the individual, and for residential settings, the individual's available resourcesof the individual for room and board;

(B) The HCBS and settings are chosen by the individual and are integrated in, and support full access to, the greater community;

(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual wishes to pursue employment, a non-disability specific setting option ~~must~~shall be presented and documented in the ~~person-centered service plan~~person-centered service plan;

(D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;

(E) The strengths and preferences of the individual;

(F) The service and support needs of the individual;

(G) The goals and desired outcomes of the individual;

(H) The providers of services and supports, including unpaid supports provided voluntarily;

(I) Risk factors and measures in place to minimize risk;

(J) Individualized backup plans and strategies, when needed;

(K) People who are important in supporting the individual;

(L) The person responsible for monitoring the ~~person-centered service plan~~person-centered service plan;

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and, as applicable, theand the individual's representative;

(N) The written informed consent of the individual or, as applicable, theor the individual's representative;

(O) Signatures of the individual or, as applicable, theor the individual's representative, participants in the ~~person-centered service plan~~person-centered service planning process, and all persons and entities responsible for the implementation of the ~~person-centered service plan~~person-centered service plan;

(P) Self-directed supports; and

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(c) When~~re~~ the provider is not responsible for the developing the ~~person-centered service plan~~person-centered service plan but provides or willshall provide services to the individual, the provider mustshall provide relevant information and provide necessary support for the ~~person-centered service plan coordinator~~person-centered service plan coordinator or other individuals ~~persons~~ developing the plan to fulfill the characteristics described in subsection ~~part (b)~~ of this subsection;-

(d) The individual or, as applicable, the individual's representative, decides on the level of information in the ~~person-centered service plan~~person-centered service plan that is shared with providers. To effectively provide services, providers mustshall have access to the portion of the ~~person-centered service plan~~person-centered service plan that the provider is responsible for implementing;-

(e) The ~~person-centered service plan~~person-centered service plan shall be distributed to the individual, individual's, as applicable, the individual's representatives, and others ~~people~~involved in the ~~person-centered service plan~~person-centered service plan of this section;-

(f) The ~~person-centered service plan~~person-centered service planmustplan shall justify and document any individually-based limitation to be applied as outlined in

OAR 309-035-0195 when the qualities under 309-035-0195(1) create a threat to the health and safety of the individual or others; and;

(g) The ~~person-centered service plan~~ person-centered service plan must plan shall be reviewed and revised:

(A) At the request of the individual or, as applicable, the individual's representative or representative;

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

(33) Because it may not be possible to assemble complete records and develop a ~~person-centered service plan~~ person-centered service plan during the crisis-respite individual's short stay, the provider is not required to develop a ~~person-centered service plan~~ person-centered service plan under these rules, but must shall, at a minimum, develop an assessment and residential service plan as deemed appropriate to identify service needs, desired outcomes, and service strategies to resolve the crisis or address the individual's other needs that caused the need for crisis-respite services. In addition, the provider must shall provide relevant information and provide necessary support for the ~~person-centered service plan coordinator~~ person-centered service plan coordinator as described in this rule.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-019561

Individually-Based Limitations

This rule becomes effective on July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(14) When the program qualities described below create a threat to the health and safety of an individual or others, a provider may seek to apply an individually-based limitation through the process described in this rule. The program qualities subject to a potential individually-based limitation include the individual's right to:

(a) The freedom and support to access food at any time;

(b) Have visitors of the individual's choosing at any time;

(c) Have a unit entrance door that is lockable by the individual with only

appropriate staff having access;

(d) Choose a roommate when sharing a unit;

(e) Furnish and decorate the individual's unit as agreed to in the Residency Agreement;

(f) The freedom and support to control the individual's schedule and activities; and

(g) Privacy in the individual's unit.

(22) A provider may ~~only~~ apply ~~an~~an individually-based limitation only if:

(a) The program quality threatens the health or safety of the individual or others;

(b) The individually-based limitation is supported by a specific assessed need;

(~~c~~) The individual or ~~the individual's~~ legal representative consents;

(~~d~~) The limitation is directly proportionate to the specific assessed need; and

(~~e~~) The individually-based limitation~~must~~will will not cause harm to the individual.

(33) The provider ~~must~~shall demonstrate and document that the individually-based limitation meets the requirements of subsection (2) of this rule and the measures described below in the person-centered service plan. The provider ~~must~~shall submit and sign a program-created form that includes the following:

(a) The specific and individualized assessed need justifying the individually-based limitation;

(b) The positive interventions and supports used prior to consideration of any individually-based limitation;

(c) Documentation that the provider or other entities have tried other less intrusive methods, but ~~those methods~~ did not work;

(d) A clear description of the limitation that is directly proportionate to the specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation;

(f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary;

(g) The informed consent of the individual or, ~~as applicable, the individual's legal representative,~~ including any discrepancy between the wishes of the individual and the consent of the legal representative; and

(h) An assurance that the interventions and support do not cause harm to the individual.

(44) The provider ~~must~~shall:

(a) Maintain a copy of the completed and signed form documenting the consent to the individually-based limitation described in subsection (43) of this rule. The form ~~must~~shall be signed by the individual, or, ~~if applicable, the individual's legal representative;~~

(b) Regularly collect and review the ongoing effectiveness of and the continued need for the individually-based limitation; and

(c) Request review of the individually-based limitation by the ~~Person-Centered Service Plan Coordinator~~person-centered service plan coordinator when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed, but no less than annually.

(55) The qualities described in sections ~~(24)~~(b)–(g) do not apply to an individual receiving services at a SRTF, including but not limited to, an individual receiving crisis-respite services in a secure residential setting. A provider does not need to ~~not~~ seek an individually-based limitation to comply with these rules.

(66) The qualities described in sections ~~(24)~~(d) and ~~and~~ (g))do not apply to an individual receiving crisis-respite services, and a provider does not need to ~~not~~ seek an individually-based limitation to comply with these rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0~~200~~165

Resident Individual Services and Activities

(1) The ~~provider must~~shall make services and activities available at the ~~facility program,~~will including~~program including~~ care and treatment consistent with ORS 443.400, and those services individually specified for the ~~resident individual~~ in the residential service plan developed as outlined in OAR 309-035-0185. ~~The provider must~~shall encourage individuals to ~~Residents will be encouraged to~~ care for their own needs to the extent ~~possible.~~The possible. ~~The provider will~~shall ~~provide~~ensure aAll services and activities ~~will~~be provided in a manner that

respects individual~~residents~~' rights, promotes recovery, and protects personal dignity.

(2) Services and activities to be available ~~will~~shall include but not limited to:

(a) Provision of ~~a~~sufficient shelter;

(b) Provision of at least three meals per day, seven days per week, provided pursuant to ~~in accordance with~~ OAR 309-035-0210;

(c) Assistance and support, as necessary, to enable ~~residents~~ individuals to meet personal hygiene and clothing needs;

(d) Laundry services that ~~that, which~~ may include access to washer(s) and dryer(s) so individuals ~~residents~~ can do their own personal laundry;

(e) Housekeeping essential to the health and comfort of individuals~~residents~~;

(f) Activities and opportunities for socialization and recreation both within the ~~facility setting~~ and in the larger community;

(g) Health-related services provided in accordance with OAR 309-035-0215;

(h) Assistance with community navigation and transportation arrangements;

(i) Assistance with money management, ~~when~~if requested by ~~an individual~~ an individual ~~resident~~, to include accurate documentation of all funds deposited and withdrawn when funds are held in trust for the individual~~resident~~;

(j) Assistance with acquiring skills to live as independently as possible;

(k) Assistance with accessing other additional services, as needed; and

(~~L~~) Any additional services required under contract to the Division.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0~~205~~467

Use of Seclusion or Restraints

(1) The use of seclusion or restraints is prohibited, except in ~~Secure Residential Treatment Facilities~~ SRTFs with the Division's approval.

(2) A ~~Secure Residential Treatment Facility~~ SRTF provider or applicant may

submit an application to the Division for approval to use seclusion or restraints pursuant to OAR 309-033-0700 through 309-033-0740. Approval by the Division ~~will~~shall be based upon the following:

(a) A determination that the ~~individuals residents~~individuals served, or proposed to be served, have a history of behavioral concerns involving threats to the safety and well-being of themselves or others;

(b) The applicant demonstrates that the availability of seclusion or restraints is necessary to safely accommodate ~~individuals persons~~individuals who would otherwise be unable to experience a community residential program; and

(c) The applicant demonstrates an ability to comply with OAR 309-033-0700 through ~~309-033~~309-033-0740 and 309-033-0500 through ~~309-033~~309-033-0560. These rules include special requirements for staffing, training, reporting, policies and procedures, and the ~~facility's setting's~~facility's setting's physical environment.

(3) Seclusion or restraints ~~will~~may only be used in an approved ~~Secure Residential Treatment Facilities~~Secure Residential Treatment Facilities ~~SRTF~~SRTF when an emergency occurs in accordance with OAR 309-033-0700 through ~~309-033~~309-033-0740 and 309-033-0500 through ~~309-033~~309-033-0560. In such emergency situations, seclusion and restraint ~~will~~shall be used as a last resort behavior management option after less restrictive behavior management interventions have failed, or in the case of an unanticipated behavioral outburst, to ~~e~~ensure safety within the ~~facility~~facility ~~program~~program. ~~An a~~An a approved ~~Secure Residential Treatment Facilities~~Secure Residential Treatment Facilities ~~SRTF must~~will ~~implement~~shall implement policies and procedures approved by the Division outlining the circumstances under which seclusion or restraints ~~would~~may be used and the preventive measures to be taken before such use. All incidents involving the use of seclusion or restraints ~~will~~shall be reported to the Division. ~~I~~In order to use seclusion or restraints with ~~an individual resident~~an individual resident who is not in state custody under civil commitment proceedings, the ~~individual resident must~~shall be placed on a hold.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0210170

Food Services

(1) ~~The provider must~~shall ~~plan and serve m~~Meals ~~will be planned and served~~ in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid.

(2) ~~The provider must~~shall ~~obtain a~~an order from ~~an~~an ~~Licensed Medical Professional~~LMP ~~will be obtained~~ for each ~~resident~~individual who, for health

reasons, is on a modified or special diet. The provider mustshall plan sSuch diets ~~will be planned~~ in consultation with the ~~resident~~individual.

(3) The provider mustshall support the individual's right to access food at any time. The provider may only apply an individually-based limitation whenre the circumstances meet, and the provider complies with, the standards and requirements of OAR 309-035-0195. This section is effective July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(4) If an individual misses a meal at a scheduled time, the provider mustshall make an alternative meal available.

~~(53) The provider mustshall prepare m~~Menus ~~will be prepared~~ at least one week in advance and ~~willshall~~ provide a sufficient variety of foods served in adequate amounts for each ~~resident~~individual at each meal and adjusted for seasonal changes. The provider mustshall file and maintain rRecords of menus, ~~as served, will be filed and maintained~~ in the facility for at least 30 days. The provider mustshall consider individual~~Resident~~ preferences and requests ~~will be considered~~ in menu planning. The provider mustshall reasonably accommodate~~Religious~~ religious and vegetarian preferences ~~will be reasonably accommodated~~.

~~(64) The provider mustmaitnatimaintain~~shall maintain aAdequate supplies of staple foods, for a minimum of one week, and perishable foods, for a minimum of two days, ~~will be maintained on the premisesat the setting. An emergency supply of potable water mustshall be available such that the provider maintains seven7~~ gallons of water per individual.

~~(75) The provider mustshall store, prepare, and serve f~~Food ~~will be stored, prepared and served~~ in accordance with Health Services Food Sanitation Rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0215175

Health Services

(1) The program administrator ~~will be responsible for assuring~~mustshall ensure that all ~~residents~~individuals are offered medical attention when needed. The provider mustshall aArrangements ~~forarrange for~~ health services ~~will be made~~ with the informed consent of the individual or the individual's representative~~resident and/or guardian, (as applicable).~~ The ~~RTF will~~program mustshall arrange for physicians ~~or other qualified health care professionals~~ to be available in the event the individual~~resident's~~ regular physician ~~or other health care professional~~ is unavailable. The provider mustshall identify a hospital

emergency room ~~will be identified and that~~ may be used in case of emergency.

(2) ~~The provider must~~shall ensure that ~~e~~Each ~~resident individual~~ admitted to the ~~facility program will~~shall be screened by an ~~Licensed Medical Professional~~ or other qualified health care professional to identify health problems and to screen for communicable disease. ~~The provider must~~shall maintain ~~d~~Documentation of the initial health screening ~~will be placed~~ in the ~~resident individual service~~ record.

(a) The health screening ~~will~~mustshall include a brief history of health conditions, current physical condition, and a written record of current or recommended medications, treatments, dietary specifications, and aids to physical functioning.

(b) For regular admissions, the health screening ~~will~~shall be obtained prior to the ~~resident's individual's~~ admission and include the results of testing for tuberculosis and Hepatitis B.

(c) For emergency admissions, including crisis-respite admissions, the health screening ~~will~~shall be obtained as follows:

(A) For individuals experiencing psychiatric or medical distress, a health screening ~~will~~shall be completed by an ~~LMP Licensed Medical Professional~~ or other qualified health care professional prior to the ~~individual's resident's~~ admission or within 24 hours of the emergency placement. The health screening ~~will~~shall confirm that the individual does not have health conditions requiring continuous nursing care, a hospital level of care, or immediate medical assistance. For each crisis-respite ~~individual resident~~ who continues in the ~~facility program~~ for more than seven consecutive days, a complete health examination ~~will~~shall be arranged if any symptoms of a health concern exist.

(B) For other individuals who are admitted on an urgent basis due to a lack of alternative supportive housing, the health screening ~~will~~shall be obtained within 72 hours after the ~~individual resident's~~ admission.

(C) The health screening criteria may be waived for individuals admitted for crisis-respite services who are under the active care of an LMP ~~or other qualified health care professional~~ if it is the opinion of the attending health care professional that the crisis-respite placement presents no health risk to the individual or other ~~residents individuals~~ in the ~~facility program~~. Such a waiver ~~must~~shall be provided in writing and be signed and dated by the attending health care professional within 24 hours of the ~~individual resident's~~ admission.

(3) Except for crisis-respite ~~individuals residents~~, the program ~~will~~insureshall ensure that each ~~individual resident has individual has~~ a primary physician ~~or other qualified health care professional~~ who is responsible for monitoring ~~their~~ ~~his/her~~ health care. Regular health examinations ~~will~~shall be done in accordance with the recommendations of this primary health care professional, but not less

than once every three years. Newly admitted individuals ~~residents will~~shall have a health examination completed within one year prior to admission or within three months after admission. Documentation of findings from each examination ~~will~~shall be placed in the individual~~resident's~~ service record.

(4) A written order, signed by a physician ~~or other qualified health care professional,~~ is required for any medical treatment, special diet for health reasons, aid to physical functioning, or limitation of activity.

(5) A written order signed by a physician ~~or other qualified health care professional~~ is required for all medications administered or supervised by RTF program staff. This written order is required before any medication is provided to an individual~~resident~~. ~~Medication will~~Medications may not be used for the convenience of staff or as a substitute for programming. Medications ~~will not~~may not be withheld or used as reinforcement or punishment, or in quantities that are excessive in relation to the amount needed to attain the client's best possible functioning.

(a) Medications ~~will~~shall be self-administered by the individual ~~resident~~ if the individual ~~resident~~ demonstrates the ability to self-administer medications in a safe and reliable manner. In the case of self-administration, both the written orders of the prescriber and the residential service plan ~~will~~shall document that medications ~~will~~shall be self-administered. The self-administration of medications may be supervised by ~~facility~~program staff who may prompt the individual ~~resident~~ to administer the medication and observe the fact of administration and dosage taken. When supervision occurs, program staff ~~will~~shall enter information in the individual~~resident's~~ record consistent with section (5)(h) below.

(b) Program ~~S~~Staff who assist with administration of medication ~~will~~shall be trained by a Licensed Medical Professional on the use and effects of commonly used medications.

(c) Medications prescribed for one individual ~~resident~~ ~~will not~~may not be administered to, or self-administered by, another individual~~resident~~.

(d) The program may not maintain ~~S~~Stock supplies of prescription medications ~~will not be maintained~~. The facility may maintain a stock supply of non-prescription medications.

(e) The ~~facility will provide~~program must~~shall develop~~ and implement a policy and procedure ~~which that ensures~~ assures that all orders for prescription drugs are reviewed by an LMP-qualified health care professional, as specified by a physician, at least every six months, ~~or other qualified health care professional but not less often than every six months~~. When ~~re~~ this review identifies a contraindication or other concern, the individual's ~~resident's~~ primary physician ~~or~~, LMP ~~or other primary health care professional~~ willshall be immediately notified. Each

~~individual client~~ receiving psychotropic medications ~~will~~shall be evaluated at least every three months by the LMP prescribing the medication, who ~~will~~must~~note~~shall note, for the ~~individual's resident's~~ record, the results of the evaluation and any changes in the type and dosage of medication, the condition for which it is prescribed, when and how the medication is to be administered, common side ~~effects~~effects, ~~(including effects, including~~ any signs of tardive dyskinesia, contraindications or possible allergic reactions), and what to do in case of a missed dose or other dosing error.

(f) ~~The provider must~~shall dispose of a All unused, discontinued, outdated, or recalled medications, and any medication containers with worn, illegible or missing labels ~~will be disposed~~. The ~~provider must~~shall dispose of medications in a safe method ~~of disposal will be safe~~, consistent with any applicable federal statutes, and designed to prevent diversion of these substances to persons for whom they were not prescribed. ~~The provider must~~shall maintain a A written record of all disposals ~~will be maintained and specifying~~ the date of disposal, a description of the medication, its dosage potency, amount disposed, the name of the individual for whom the medication was prescribed, the reason for disposal, the method of disposal, and the signature of the ~~program~~ staff ~~person~~ disposing ~~of~~ the medication. For any medication classified as a controlled substance in schedules 1 through 5 of the Federal Controlled Substance Act, the disposal ~~must~~shall be witnessed by a second staff person who documents ~~their their her~~ ~~or his~~ observation by signing the disposal record.

(g) ~~The provider must~~shall properly and securely store a All medications ~~will be properly and securely stored~~ in a locked space for medications only in accordance with the instructions provided by the prescriber or pharmacy. Medications for all ~~residents individuals~~ ~~will must~~shall be labeled. Medications requiring refrigeration ~~must~~shall be stored in an enclosed, locked container within the refrigerator. The ~~provider must~~shall en ~~facility will~~ assure that ~~individuals residents~~ have access to a locked, secure storage space for their self-administered medications. The ~~facility program~~ ~~will~~shall note in its written policy and procedures which persons have access to this locked storage and under what conditions.

(h) For all ~~individuals residents~~ taking prescribed medication, ~~the provider staff will~~must~~shall~~ record in the medical record each type, date, time, and dose of medication provided. All effects, adverse reactions, and medications ~~errors~~ ~~will~~shall be documented in the ~~individual's service resident's~~ record. All errors, adverse reactions, or refusals of medication ~~will~~shall be reported to the prescribing ~~professional~~ LMP within 48 hours.

(i) P.~~Rf.Nr.~~ medications and treatments ~~will~~shall only be administered in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

(6) Nursing tasks may be delegated by a ~~r~~Registered ~~n~~Nurse to direct care staff within the limitations of their classification and only in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0~~220~~185

Civil Penalties

(1) For purposes of imposing civil penalties, programs ~~residential treatment facilities~~ licensed under ORS 443.400 to 443.455 are considered to be long-term care facilities subject to ORS 441.705 to 441.745.

(2) Violations of any requirement within any part of the following sections of the rule may result in a civil penalty:

- (a) 309-035-0115;
- (b) 309-035-0120;
- (c) 309-035-0125;
- (d) 309-035-0130;
- (e) 309-035-0135;
- (f) 309-035-0140;
- (g) 309-035-0145;
- (h) 309-035-0150;
- (i) 309-035-0155;
- (j) 309-035-0163;
- (k) 309-035-0170;
- (l) 309-035-0175;
- (m) 309-035-0183;
- (n) 309-035-0185;
- (o) 309-035-0200;
- (p) 309-035-0205;
- (q) 309-035-0210; and
- (r) 309-035-0215.

(3) Civil penalties ~~will~~shall be assessed in accordance with the following guidelines:

(a) Civil penalties~~;~~ not to exceed \$250 per violation to a maximum of \$1,000~~;~~ may be assessed for general violations of these rules. Such penalties ~~will~~shall be assessed after the procedures outlined in OAR 309-035-0110(8) have been implemented;

(b) A mandatory penalty up to \$500 ~~will~~shall be assessed for falsifying individual

~~servicer~~~~resident or facility~~ records or program records or causing another to do so;

(c) A mandatory penalty of \$250 per occurrence ~~will~~shall be imposed for failure to have direct care staff on duty 24 hours per day;

(d) Civil penalties up to \$1,000 per occurrence may be assessed for substantiated abuse;

(e) In addition to any other liability or penalty provided by the law, the Division may impose a penalty for any of the following:

(A) Operating the ~~RTF~~program without a license;

(B) Operating with more individuals ~~residents~~ than the licensed capacity; and

(C) Retaliating or discriminating against ~~an individual~~ an individual ~~resident~~, family member, employee, or other person for making a complaint against the program.

(f) In imposing a civil penalty, the following factors ~~will~~shall be taken into consideration:

(A) The past history of the ~~person~~provider incurring the penalty in taking all feasible steps or procedures to correct the violation;

(B) Any prior violations of statutes, rules, or orders pertaining to the ~~facility~~program;

(C) The economic and financial conditions of the provider ~~person~~ incurring the penalty;

(D) The immediacy and extent to which the violation threatens or threatened the health, safety, or welfare of one or more residents; and

(E) The degree of harm caused to individuals ~~residents~~.

(4) Any civil penalty imposed under this section ~~will~~shall become due and payable ten days after notice is received, unless a request for a hearing is filed. The notice ~~will~~shall be delivered in person, or sent by registered or certified mail and ~~will~~shall include a reference to the particular section of the statute or rule involved, a brief summary of the violation, the amount of the penalty or penalties imposed, and a statement of the right to request a hearing.

(5) The person to whom the notice is addressed ~~will~~shall have ~~ten~~20 days from the date of receipt of the notice to request a hearing. This request ~~must~~shall be in writing and submitted to ~~the~~ the aAssistant Director ~~director of~~ the Division. If the

written request for a hearing is not received ~~on time~~, the Division ~~will~~ may ~~issue~~ shall issue a final order ~~by default~~.

(6) All hearings ~~will~~ shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

(7) Unless the penalty is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk ~~which~~ that becomes a lien upon the title to any interest in real property owned by the person. The Division may also take action to revoke the license upon failure to comply with a final order.

(8) Civil penalties are subject to judicial review under ORS 183.480 ~~_, except that the court may, at its discretion, reduce the amount of the penalty.~~

(9) All penalties recovered under ORS 443.790 to 443.815 ~~will~~ shall be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0~~225~~190

Criminal Penalties

(1) Violation of any provision of ORS 443.400 through 443.455 is a Class B misdemeanor.

(2) In addition, the Division may commence an action to enjoin operation of a ~~program~~ Residential Treatment Facility:

(a) When a ~~program~~ Residential Treatment Facility is operated without a valid license; or

(b) When a ~~program~~ Residential Treatment Facility continues to operate after notice of revocation has been ~~given~~ received and a reasonable time has been allowed for placement of ~~residents~~ individuals in other ~~programs~~ facilities.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991