DEPARTMENT OF HUMAN SERVICES

AGING AND PEOPLE WITH DISABILITIES

OREGON ADMINISTRATIVE RULES

CHAPTER 411

DIVISION 50

ADULT FOSTER HOMES - LICENSURE OF ADULT FOSTER HOMES FOR ADULTS WHO ARE OLDER OR ADULTS WITH PHYSICAL DISABILITIES

Operation of Adult Foster Home

411-050-0705 Residency Agreement

(1) A licensee must enter into a written Agreement with all residents or the residents' representatives, which details the care and services to be provided, and the rate to be charged. The written Agreement must be signed by all parties before the admission of the resident. A copy of the Agreement is subject to review for compliance with these rules by the LLA before licensure and before the implementation of any changes to the Agreement.

(2) The Agreement must include, but not be limited to:

(a) Services to be provided and the rate to be charged. For individuals receiving Medicaid, the Residency Agreement may state the rate will be "as authorized by the Department". A payment range may not be used unless the Agreement plainly states when an

increase in rate may be expected based on a resident's increased care or service needs.

(b) Conditions under which the rates may be changed.

(c) The home's refund policies in instances of a resident's hospitalization, temporary absence, death, transfer to another care setting, and voluntary or involuntary move. The refund policies must be in compliance with OAR 411-050-0710. For consumers, the Agreement must:

(A) Disclose refund policies for partial months and indicate if the room and board is refundable.

(B) Be consistent with the rules for Payment Limitations in Home and Community-Based Services in OAR chapter 411, division 027.

(d) A statement indicating the resident is not liable for damages considered normal wear and tear on the AFH and the AFH's contents.

(e) A statement that must be initialed and dated by the resident or the resident's representative, indicating whether the resident agrees to a shared bedroom.

(3) The Agreement must disclose the home's policies regarding:

(a) Moves, including:

(A) Voluntary moves and whether or not the licensee requires written notification of a non-Medicaid resident's intent to not return.

(B) Involuntary moves and the resident's rights according to OAR 411-050-0760.

(b) Any charges for storage of belongings that remain in the AFH for more than 15 calendar days after the resident has left the home.

(c) Any policies the AFH may have on the use of alcohol, tobacco, intercoms, and audio monitors.

(d) Smoking in compliance with OAR 411-050-0720(18).

(e) Animals. Restrictions may not apply to animals that provide assistance or perform tasks for the benefit of a person with a disability. Such animals are often referred to as service animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals.

(f) The presence and use of legal medical and recreational marijuana on the premises.

(g) Schedule of meal times with no more than a 14-hour span between the evening meal and the following morning's meal (See OAR 411-050-0730(8)).

(h) Whether the home serves individuals eligible for Medicaid services.

(i) Refunds for residents eligible for Medicaid services, including pro-rating partial months and if the room and board is refundable.

(j) A clear and precise statement of any limitation to the implementation of Advance Directives on the basis of conscience. This rule does not apply to medical professional or hospice orders for administration of medications. The statement must include:

(A) A description of conscientious objections as they apply to all occupants of the AFH.

(B) The legal authority permitting such objections under ORS 127.505 to 127.660.

(C) Description of the range of medical conditions or procedures affected by the conscientious objection.

(4) The policies within the Agreement must be consistent with the practices of the licensee, staff, occupants, and visitors of the home.

(5) The Agreement also must:

(a) Not conflict with the Resident's Rights, the family atmosphere of the home, or any of these rules.

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(b) Be reviewed by the LLA to determine compliance with these rules before the issuance of a license, and before implementing any changes.

(6) The Agreement must include the freedoms authorized by 42 CFR 441.301(c)(4) & 42 CFR 441.530(a)(1), which must not be limited without the informed, written consent of the resident or the resident's legal representative, and for consumers, approval by the person-centered service plan coordinator. These include the right to be free from restraints according to the Resident's Bill of Rights, and the right to:

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

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

(c) Have a lockable door in the resident's bedroom, which may be locked by the resident;

(d) Choose a roommate when sharing a bedroom;

(e) Furnish and decorate the resident's bedroom according to the Residency Agreement;

(f) Have freedom and support to control the resident's schedule and activities; and

(g) Privacy in the resident's bedroom.

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(7) The licensee may not impose additional fees on consumers, such as finder's fees or non-compete fees.

(8) The licensee may not charge or ask for application fees or non-refundable deposits. Fees to hold a bed are permissible.

(9) The licensee must give a copy of the signed Agreement to the resident or the resident's representative and must retain the original signed Agreement and any amendments on the premises available for review.

(10) The licensee may not include any illegal or unenforceable provision in an Agreement with a resident and may not ask or require a resident to waive any of the resident's rights or licensee's liability for negligence.

(11) The use of any monitoring devices may not be included in the home's residency agreement and may not be a condition of admission.

(12) The licensee must give written notice to a non-Medicaid resident and the resident's family or other representatives 30 calendar days before any general rate increases, additions, or other modifications of the rates. The licensee is not required to give 30 day written notice if the rate change is due to the resident's increased care or service needs and the agreed upon rate schedule in the resident's Agreement has specified charges for those changes.

(13) The licensee must enter into a written agreement with a resident who receives Medicaid services if the licensee charges for storage of belongings that remain in the AFH for more than 15 calendar days after the resident has left the home.

(a) The written agreement must be consistent with the licensee's policy with private-pay residents and entered into at the time of the resident's admission or at the time the resident becomes eligible for Medicaid services.

(b) The licensee must give written notice to the resident and the resident's family or other representatives 30 calendar days before any increases, additions, or other modifications to the charges for storage.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0710 Refunds

(1) If a resident dies, the licensee may not retain or require payment for more than 15 calendar days after the date of the resident's death, or the time specified in the licensee's Agreement, whichever is less.

(2) If a resident leaves an AFH for medical reasons and the resident or the resident's representative indicates the resident's intent to not return, the licensee may not retain or require payment for more than 15 calendar days after the date the licensee receives notification from the resident, the resident's representative, or the time specified in the licensee's Agreement, whichever is less.

(3) If a resident who has paid with private funds becomes eligible for Medicaid services, the licensee must accept payment from the Department from the date of eligibility forward as payment in full. The licensee must

reimburse the resident or the resident's representative within 30 calendar days after the licensee receives payment from the Department for any private payment received after the resident became eligible for Medicaid services.

(4) The licensee must act in good faith to reduce the charge to a resident who has left the home by seeking a new resident to fill the vacancy.

(5) The licensee must refund any unused advance payment to the resident, or the resident's representative as appropriate, within 30 calendar days after the resident dies or leaves the home.

(6) If the AFH closes or the licensee gives written notice for the resident to leave, the licensee waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.

(7) If a resident dies or leaves an AFH due to neglect or abuse at the AFH that is substantiated by a Department investigator, or due to conditions of imminent danger of life, health, or safety, the licensee may not charge the resident beyond the resident's last day in the home.

(8) The refund policies in these rules also apply to refunds for resident moves and transfers as described in OAR 411-050-0760.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.880, 443.790

Stats. Implemented: ORS 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0715 Facility Standards

(1) In order to qualify for or maintain a license, an AFH must comply with these rules.

(2) ACCESSIBILITY

(a) Interior and exterior areas of the home, including doorways, that may be used by residents must be wide enough, and accessible according to each resident's individual needs, including any mobility equipment used such as a wheelchair or walker.

(b) All interior and exterior stairways must be unobstructed, equipped with handrails on both sides, and appropriate to the condition of the residents. (See also OAR 411-050-0725(4)(c)).

(3) GENERAL CONDITIONS. The building, including the interior and exterior premises, furnishings, patios, decks, and walkways, as applicable, must be clean, in good repair and well maintained.

(a) There must be no accumulation of garbage, debris, rubbish, or offensive odors.

(b) Walls, ceilings, and floors must be of such character to permit washing, cleaning, or painting, as appropriate.

(c) All doors and windows that are used for ventilation must have screens in good condition.

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(4) ADDRESS. The address numbers of the AFH must be placed on the home in a position that is legible and clearly visible from the street or road fronting the property. If the home is so situated that the address number is not legible and clearly visible from the road fronting the property, such as when the home is accessed via a lengthy driveway or private access road, then the address numbers must also be posted where the driveway or private access road joins the fronting road. The address numbers must be at least four inches in height, made of reflective material, and contrast with the background.

(5) LIGHTING. Adequate lighting, based on the needs of the occupants, must be provided in each room, stairway, and exit way. Incandescent light bulbs and fluorescent tubes must be protected with appropriate covers.

(6) TEMPERATURE. The heating system must be in working order. Areas of the home used by the residents must be maintained at a comfortable temperature. Minimum temperatures during the day must be not less than 68 degrees, no greater than 85 degrees, and not less than 60 degrees during sleeping hours. Variations from the requirements of this rule must be based on resident care needs or preferences and must be addressed in each resident's care plan.

(a) During times of extreme summer heat, the licensee must make reasonable effort to keep the residents comfortable using ventilation, fans, or air conditioning. Precautions must be taken to prevent resident exposure to stale, non-circulating air.

(b) If the facility is air-conditioned, the system must be functional and the filters must be cleaned or changed as needed to ensure proper maintenance.

(c) If the licensee is unable to maintain a comfortable temperature for the residents during times of extreme summer heat, air conditioning or another cooling system may be required.

(7) COMMON USE AREAS. Common use areas for the residents must be accessible to all residents. There must be at least 150 square feet of common living space and sufficient furniture in the home to accommodate the recreational and socialization needs of all the occupants at one time. Common space may not be located in an unfinished basement or garage unless such space was constructed for that purpose or has otherwise been legalized under permit. There may be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space is required for each day services individual, room and board tenant, or relative receiving care for remuneration that exceeds the limit of five.

(8) MONITORING DEVICES

(a) Video monitors within the AFH are not allowed.

(b) Audio devices may be used to help alert caregivers to night needs and emergencies and must:

(A) Have the capability of being turned off by the resident. If a resident requests the audio monitor to be turned off, it must be turned off immediately.

(B) The use of monitors may not substitute for having sufficient staff to meet the individual care and service needs of all residents. If monitoring devices are not used, or if a monitoring device is turned off, the licensee is

responsible for ensuring the resident's daytime and nighttime needs are met.

(9) BATHROOMS. Bathrooms must:

(a) Provide individual privacy and have a finished interior with a door that opens to a hall or common-use room. If a resident's bedroom includes a private bathroom, the door for the private bathroom must open to the bedroom. A resident must have direct access to a bathroom without having to walk through another person's bedroom.

(b) Have a mirror, a window that opens or other means of ventilation, and a window covering for privacy.

(c) Be clean and free of objectionable odors.

(d) Have bathtubs, showers, toilets, and sinks in good repair. A sink must be located near each toilet and a toilet and sink must be available for the resident's use on each floor with resident rooms. There must be at least one toilet, one sink, and one bathtub or shower for each six household occupants (including residents, day services individuals, room and board tenants, the licensee, and the licensee's family).

(e) Have hot and cold water at each bathtub, shower, and sink in sufficient supply to meet the needs of the residents.

(f) Have nonporous surfaces for shower enclosures. Glass shower doors, if applicable, must be tempered safety glass, otherwise, shower curtains must be clean and in good condition.

(g) Have non-slip floor surfaces in bathtubs and showers.

(h) Have grab bars for each toilet, bathtub, and shower to be used by the residents for safety.

(i) Have barrier-free access to toilet and bathing facilities.

(j) Have adequate supplies of toilet paper and soap supplied by the licensee. Residents must be provided with individual towels and washcloths that are laundered in hot water at least weekly or more often if necessary. Residents must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, roller-dispensed hand towels or paper towels in a dispenser must be provided for the residents' use.

(10) BEDROOMS

(a) Bedrooms for all household occupants must have:

(A) Been constructed as a bedroom when the home was built or remodeled under permit.

(B) A finished interior with walls or partitions of standard construction that extend from floor to ceiling.

(C) A door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom.

(D) Adequate ventilation, heating, and lighting with at least one window that opens and meets the requirements in section (5)(e) of this rule.

(E) At least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright.

(F) No more than two occupants per room. (See also OAR 411-049-0105 pertaining to a child's bedroom). This rule is not intended to prohibit a child five years of age or younger from occupying his or her parent's bedroom.

(b) The licensee, any other caregivers, and family members may not sleep in areas designated as living areas or share a bedroom with a resident. This rule is not intended to prohibit a caregiver or other person of the resident's choosing from temporarily staying in the resident's room when required by the resident's condition.

(c) There must be a bed at least 36 inches wide for each resident consisting of a mattress and springs, or equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used for residents. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Waterproof mattress covers must be used for incontinent residents.

(d) Each resident's bedroom must have a separate, private dresser and closet space sufficient for the resident's clothing and personal effects, including hygiene and grooming supplies. A resident must be provided a private, secure storage space to keep and use reasonable

amounts of personal belongings. A licensee may not use a resident's bedroom for storage of items, supplies, devices, or appliances that do not belong to the resident.

(e) RESIDENT BEDROOM DOORS

(A) All resident bedroom doors must have a locking device on the inside of the door, released by a single action.

(B) Each resident shall be provided a key that locks and unlocks only his or her bedroom door.

C) A master key to all of the residents' bedroom door locks must be immediately available to the licensee and all other caregivers in the home.

(f) Drapes or shades for bedroom windows must be in good condition and allow privacy for the residents.

(g) Resident bedrooms must be in close enough proximity to the licensee or caregiver in charge to alert the licensee or caregiver in charge to resident nighttime needs or emergencies, or the bedrooms must be equipped with a functional call bell or intercom within the residents' abilities to operate. Intercoms may not violate the resident's right to privacy and must have the capability of being turned off by the resident or at the resident's request.

(h) Bedrooms used by the licensee, resident manager, shift caregiver, and substitute caregiver, as applicable, must be located in the AFH

and must have direct access to the residents through an interior hallway or common use room.

(11) SANITATION

(a) NON-MUNICIPAL WATER SOURCE. A public water supply must be utilized if available. If a non-municipal water source is used, the licensor, a sanitarian, or a technician from a laboratory accredited for well water testing must collect and test a sample for coliform bacteria annually or as required by the Department. Water testing and any necessary corrective action to ensure water is suitable for drinking must be completed at the licensee's expense. Water testing records must be retained for three years.

(b) Septic tanks or other non-municipal sewage disposal systems must be in good working order.

(c) COMMODES AND INCONTINENCE GARMENTS. Commodes used by residents must be emptied frequently and cleaned daily, or more frequently if necessary. Incontinence garments must be disposed of in closed containers.

(d) LAUNDRY. Before laundering, soiled linens and clothing must be stored in closed containers in an area that is separate from food storage, kitchen, and dining areas. Pre-wash attention must be given to soiled and wet bed linens. Sheets and pillowcases must be laundered at least weekly and more often if soiled.

(e) GARBAGE. Garbage and refuse must be suitably stored in readily cleanable, rodent-proof, covered containers, pending weekly removal.

(f) PESTS. Reasonable precautions must be taken to prevent pests (e.g., ants, cockroaches, other insects, and rodents).

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441.373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0720 Safety

(1) FIRE AND LIFE SAFETY. Buildings must meet all applicable state and local building, fire, mechanical, and housing codes for fire and life safety. The home may be inspected for fire safety by the State Fire Marshal's Office, or the State Fire Marshal's designee, at the request of the LLA or the Department using the standards in these rules, as appropriate.

(2) HEAT SOURCES. All heating equipment including, but not limited to, wood stoves, pellet stoves, and fireplaces must be installed in accordance with all applicable state and local building and mechanical codes. Heating equipment must be in good repair, used properly, and maintained according to the manufacturer's or a qualified inspector's recommendations.

(a) A licensee who does not have a permit verifying proper installation of an existing woodstove, pellet stove, or gas fireplace must have it inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth, Patio, and Barbeque Association member and follow the inspector's recommended maintenance schedule.

(b) Fireplaces must have approved and listed protective glass screens or metal mesh screens anchored to the top and bottom of the fireplace opening.

(c) The LLA may require the installation of a non-combustible, heat-resistant, safety barrier 36 inches around a woodstove to prevent residents with ambulation or confusion problems from coming in contact with the stove.

(d) Unvented, portable oil, gas, or kerosene heaters are prohibited. Portable electric heaters shall be listed and labeled. Sealed electric transfer heaters or electric space heaters with tip-over, shut-off capability may be used when approved by the State Fire Marshal or the State Fire Marshal's designee. A heater must be directly connected to an electrical outlet and may not be connected to an extension cord.

(3) EXTENSION CORDS AND ADAPTORS. Extension cord wiring and multi-plug adaptors may not be used in place of permanent wiring. Listed and labeled re-locatable power strips or taps (RPTs) with circuit breaker protection are permitted for indoor use only and must be installed and used in accordance with the manufacturer's instructions. If RPTs are used, the RPT must be directly connected to an electrical outlet, never connected to another RPT (known as daisy-chaining or piggy-backing), and never connected to an extension cord.

(4) LOCKS AND ALARMS. Hardware for all exit doors and interior doors must be readily visible, have simple hardware that may not be locked against exit, and have an obvious method of operation.

(a) Hasps, sliding bolts, hooks and eyes, slide chain locks, and double key deadbolts are not permitted.

(b) If a home has a resident with impaired judgment who is known to wander away, the home must have an activated alarm system to alert a caregiver of the resident's unsupervised exit.

(5) BEDROOM WINDOWS. Bedrooms must have at least one window or exterior door that leads directly outside and is approved for emergency escape or rescue. The exit window or door must readily open from the inside without special tools, and provide a clear, unobstructed opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 24 inches in height or 20 inches in width. If the interior sill height of the window is more than 44 inches from the floor level, approved steps or other aids to the window exit that the occupants are capable of using must be provided. Windows with a clear opening of not less than 5.0 square feet or 720 square inches with interior sill heights of no more than 44 inches above the floor may be accepted when approved by the State Fire Marshal or the State Fire Marshal's designee.

(6) CONSTRUCTION. Construction must be in compliance with OAR 411-050-0715(2).

(a) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread index of finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(b) MANUFACTURED HOMES. A manufactured home (formerly mobile homes) must have been built in 1976 or later and designed for use as a home rather than a travel trailer. The manufactured home must have a manufacturer's label permanently affixed on the unit itself that states the manufactured home meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows:

(A) "As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(B) If a label, as stated in (b) of this rule, is not evident and the licensee believes the manufactured home meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the home's manufacturer.

(C) Manufactured homes built in 1976 or later meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(c) STRUCTURAL CHANGES. The licensee must notify the LLA, in writing, at least 15 calendar days before any remodeling, renovations, or structural changes in the home that require a building permit. Such activity must comply with local building, sanitation, utility, and fire code requirements applicable to a single-family dwelling (see ORS 443.760(1)). The licensee must forward all required permits and inspections, an evacuation plan as described in OAR 411-050-0725(2), and a revised floor plan as described in OAR 411-050-0720(16), to the LLA within 30 calendar days of completion.

(7) FIRE EXTINGUISHERS. At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in conspicuous locations where they are readily accessible and immediately available for use on each floor, including basements.

(a) Fire extinguishers shall be inspected by the licensee or designated staff at least once per calendar month.

(b) Service personnel providing or conducting annual maintenance on portable fire extinguishers shall possess a valid certificate as outlined in the fire code.

(c) Documentation of monthly and annual inspections for each fire extinguisher shall be maintained and made available upon request.

(8) CARBON MONOXIDE AND SMOKE ALARMS

(a) All carbon monoxide alarms and smoke alarms must contain a sounding device or be interconnected to other alarms to provide, when activated an alarm that is audible in all sleeping rooms. The alarms must be loud enough to wake occupants when all bedroom doors are closed. Intercoms and room monitors may not be used to amplify alarms.

(b) The licensee must test all carbon monoxide alarms and smoke alarms in accordance with the manufacturer's instructions at least monthly (per NFPA 72). Testing must be documented in the facility records. The licensee must maintain carbon monoxide alarms, smoke alarms, and fire extinguishers in functional condition. If there are more than two violations in maintaining battery operated alarms in working condition, the Department may require the licensee to hard wire the alarms into the electrical system.

(c) CARBON MONOXIDE ALARMS. Carbon monoxide alarms must be listed as complying with ANSI/UL 2034 and must be installed and maintained in accordance with the manufacturer's instructions.

Carbon monoxide alarms must be installed within 15 feet of each bedroom at the height recommended by the manufacturer.

(A) If bedrooms are located in multi-level homes, carbon monoxide alarms must be installed on each level, including the basement.

(B) Carbon monoxide alarms may be hard-wired, plug-in, or battery operated. Hard wired and plug-in alarms must be equipped with a battery back-up. Battery operated carbon monoxide alarms must be equipped with a device that warns of a low battery.

(C) A bedroom used by a hearing-impaired occupant who may not hear the sound of a regular carbon monoxide alarm must be equipped with an additional carbon monoxide alarm that has visual or vibrating capacity.

(d) SMOKE ALARMS. Smoke alarms must be installed in accordance with the manufacturer's instructions in each bedroom, in hallways or access areas that adjoin bedrooms, the family room or main living area where occupants congregate, and in basements. In addition, smoke alarms must be installed at the top of all stairways in multi-level homes.

(A) Ceiling placement of smoke alarms is recommended.

(B) Battery operated smoke alarms or hard-wired smoke alarms with a battery backup must be equipped with a device that warns of a low battery.

(C) A bedroom used by a hearing-impaired occupant who may not hear the sound of a regular smoke alarm must be equipped with an additional smoke alarm that has visual or vibrating capacity.

(9) COMBUSTIBLES AND FIREARMS. Flammables, combustible liquids, and other combustible materials must be safely and properly stored in the original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals.

(a) Oxygen and other gas cylinders in service or in storage, must be adequately secured to prevent the cylinders from falling or being knocked over.

(b) No smoking signs must be visibly posted where oxygen cylinders are present.

(c) Firearms must be stored, unloaded, in a locked cabinet. The firearms cabinet must be located in an area of the home that is not accessible to the residents.

(d) Ammunition must be secured in a locked area separate from the firearms.

(10) HAZARDOUS MATERIALS. Cleaning supplies, poisons, insecticides, and other hazardous materials must be properly stored in the original container, or in a container manufactured for the type of product. The containers must be properly labeled and kept in a safe area that is not accessible to residents, or near food preparation areas, food storage areas, dining areas, or medications.

(11) PETS AND OTHER ANIMALS. Sanitation for household pets and other domestic animals on the premises must be adequate to prevent health hazards. Proof of rabies vaccinations and any other vaccinations that are required for the pet by a licensed veterinarian must be maintained on the premises. Pets not confined in enclosures must be under control and not present a danger to the residents or guests.

(12) FIRST AID. Current, basic first-aid supplies and a first-aid manual must be readily available in the home.

(13) WATER TEMPERATURE. A resident who is unable to safely regulate the water temperature must be supervised.

(14) INFECTION CONTROL. Standard and enhanced precautions for infection control must be followed in resident care as directed by the:

(a) Oregon Health Authority's infection control staff at http://www.oregon.gov/oha/PH/DISEASESCONDITIONS/COMMUNICABLEDISEASE/HAI/pages/index.aspx; or

(b) Local county health department staff.

(15) MEDICAL SHARPS. Precautions must be taken to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. All sharps, including, but not limited to needles and lancets, must be disposed of in approved sharps containers that:

(a) Are puncture-resistant.

(b) Are leak-proof.

(c) Are labeled or color-coded red to warn that the contents are hazardous.

(d) Have a lid, flap, door, or other means of closing the container and inhibits the ability to remove sharps from the container.

(e) Are not overfilled.

(f) Are stored in an upright position in a secure location as close as practical to the use area. The container must not be accessible to residents or not close to any food preparation or food storage area.

(g) Must be closed immediately once full and properly disposed of within 10 days, according to the home's waste management company's or pharmacy's instructions.

(16) FLOOR PLAN. The licensee must develop a current and accurate floor plan that indicates:

(a) The size of rooms.

(b) Which bedrooms are to be used by residents, the licensee, caregivers, and for day services and room and board tenants, as applicable.

(c) The location of all the exits on each level of the home, including emergency exits such as windows.

(d) The location of wheelchair ramps.

(e) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms.

(f) The planned evacuation routes, initial point of safety, and final point of safety.

(g) Any designated smoking areas in or on the AFH's premises.

(17) SAFETY BARRIERS. Patios, decks, walkways, swimming pools, hot tubs, spas, saunas, water features, fire pits, stairways, and open bodies of water, as applicable, must be equipped with safety barriers designed to reasonably prevent injury to current residents of the home. Resident access to or use of swimming or other pools, hot tubs, spas, saunas, fire pits, or any open bodies of water on the premises must be supervised.

(18) SMOKING. The licensee must identify the home's smoking policies in the home's Residency Agreement. If smoking is allowed in or on the premises of the home:

(a) The Residency Agreement must restrict smoking to designated areas, and prohibit smoking in:

(A) Any bedroom, including that of the residents, licensee, resident manager, any other caregiver, occupant, or visitor.

(B) Any upholstered furniture with cushions or pillows.

(C) Any room where oxygen is used.

(D) Anywhere flammable materials are stored.

(b) Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0725 Emergency Preparedness

(1) ORIENTATION TO EMERGENCY PROCEDURES. Within 24 hours of arrival, any new resident or caregiver must be shown how to respond to a smoke and carbon monoxide alarm, shown how to participate in an emergency evacuation drill, and receive an orientation to basic fire safety, including the location of designated smoking areas, if applicable. New caregivers must also be oriented in how to conduct an evacuation.

(2) EVACUATION PLAN. An emergency evacuation plan must be developed and revised as necessary to reflect the current condition of the residents in the home. The evacuation plan must be rehearsed with all occupants.

(3) EVACUATION DRILL. An evacuation drill must be held at least once every 90 calendar days, with at least one evacuation drill per year conducted during sleeping hours.

(a) The evacuation drill must be clearly documented, signed by the caregiver conducting the drill, and maintained according to OAR 411-050-0745(1)(g).

(b) The licensee and all other caregivers must be able to demonstrate the ability to evacuate all occupants from the facility to the initial point of safety within three minutes or less, and to the final point of safety within an additional two minutes or less. The initial and the final points of safety must both have direct access to a public sidewalk or street and may not be in the backyard of a home unless the backyard has direct access to a public street or sidewalk.

(A) The initial point of safety must be exterior to and a minimum of 25 feet away from the structure.

(B) The final point of safety must be a minimum of 50 feet away from the structure.

(c) SPRINKLERS. When an AFH has a sprinkler system throughout the home that is maintained according to the adopted codes and standards, all occupants may have up to five minutes to evacuate to the initial point of safety, and two minutes to further evacuate occupants to the final point of safety as indicated in (A) of this subsection.

(4) RESIDENT PLACEMENT

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(a) A resident, who is non-ambulatory, has impaired mobility, is cognitively impaired, or is not capable of self-preservation, may not be placed in a bedroom on a floor without a second ground level exit.

(b) A resident with a bedroom above or below the ground floor must be able to demonstrate their capability for self-preservation.

(c) STAIRS. Stairs must have a riser height of between 6 to 8 inches and tread width of between 8 to 10.5 inches. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs. (See also section 411-050-0720(6)).

(5) EXIT WAYS. All exit ways must be barrier free and the corridors and hallways must be a minimum of 36 inches wide or as approved by the State Fire Marshal or the State Fire Marshal's designee.

(a) Interior doorways used by the residents must be wide enough to accommodate residents' wheelchairs and walkers, and beds that are used by residents for evacuation purposes.

(b) Any bedroom window or door identified as an exit must remain free of obstacles that would interfere with evacuation or rescue.

(c) There must be a second safe means of exit from all sleeping rooms. A provider whose sleeping room is above the first floor may be required to demonstrate at the time of licensure, renewal, or inspection, how the premises will be evacuated from the provider's sleeping room using the secondary exit.

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(d) There must be at least one wheelchair ramp from a minimum of one exterior door if an occupant of the home is non-ambulatory. Wheelchair ramps must comply with the U.S. Department of Justice's 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design (https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm#c4, Chapter 4, Accessible Routes, Section 405, Ramps).

(6) FLASHLIGHT. There must be at least one plug-in, rechargeable flashlight in good functional condition available on each floor of the home for emergency lighting.

(7) EMERGENCY PREPAREDNESS PLAN. A licensee must develop and maintain a written emergency preparedness plan for the protection of all occupants in the home in the event of an emergency or disaster.

(a) The written emergency plan must:

(A) Include an evaluation of potential emergency hazards including, but not limited to:

(i) Prolonged power failure or water or sewer loss.

(ii) Fire, smoke, or explosion.

(iii) Structural damage.

(iv) Hurricane, tornado, tsunami, volcanic eruption, flood, or earthquake.

(v) Chemical spill or leak.

(vi) Pandemic.

(B) Include an outline of the caregiver's duties during an evacuation.

(C) Consider the needs of all occupants of the home including, but not limited to:

(i) Access to medical records necessary to provide services and treatment.

(ii) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation.

(iii) Behavioral support needs.

(D) Include provisions and supplies sufficient to shelter in place for a minimum of three days without electricity, running water, or replacement staff.

(E) Planned relocation sites.

(b) The licensee must notify the Department or the LLA of the home's status in the event of an emergency that requires evacuation and during any emergent situation when requested.

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(c) The licensee must re-evaluate the emergency preparedness plan at least annually and whenever there is a significant change in the home.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0730 Operational Standards

(1) A licensee must own, rent, or lease the home to be licensed, however, the LLA may grant a variance to churches, hospitals, non-profit associations, or similar organizations. If a licensee rents or leases the premises where the AFH is located, the licensee may not enter into a contract that requires anything other than a flat rate for the lease or rental. A licensed provider of a building where an AFH is located may not allow the owner, landlord, or lessor to interfere with the admission, transfer, or voluntary or involuntary move of any resident in the AFH unless the owner, landlord, or lessor is named on the license.

(2) Each AFH must comply with:

(a) All applicable local business license, zoning, building, and housing codes.

(b) The Fair Housing Act.

(c) State and local fire and safety regulations for a single-family residence, and Oregon Fire Code, Appendix L.

(d) Federal regulations governing HCB Settings. Providers initially licensed before January 1, 2016 must fully comply with Home and Community-Based Services and Settings and Person-Centered Service Plans, OAR chapter 411, division 004, by no later than June 30, 2020.

(3) ZONING. AFHs are subject to applicable sections of ORS 197.660 to 197.670.

(4) COOPERATION AND ACCESS. The licensee must cooperate with the Department, Centers for Medicare and Medicaid Services (CMS), Oregon Health Authority (OHA) and local licensing and investigative personnel in inspections, complaint investigations, planning for resident care, application procedures, and other necessary activities.

(a) Department, CMS, OHA, local licensing, and investigative personnel must be provided access to all resident and facility records and may conduct private interviews with residents.

(b) The State Long-Term Care Ombudsman must be provided access to all resident and facility records. Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to facility records, and with written permission from the resident or the resident's legal representative, may have access to resident records. (See OAR 114-005-0030).

(5) CONFIDENTIALITY. Licensees and AFH staff must keep personal and healthcare information related to residents confidential and private as required by all applicable confidentiality and privacy laws, except as may be necessary in the planning or provision of care or medical treatment, or related to an inspection, investigation, or sanction action under these rules. Applicable confidentiality and privacy laws include, but are not limited to:

(a) For medical information:

(A) Health Insurance Portability and Accountability Act (HIPAA).

(B) ORS 192.553 to 192.581, confidentiality of protected health information.

(b) For resident records generally:

(A) ORS 410.150, Use of files, confidentiality, and privileged communications.

(B) OAR chapter 411, division 005, Privacy of protected information.

(6) TRANSPORTATION. A licensee must arrange for or provide appropriate transportation for residents when needed.

(7) COMMUNICATION

(a) Applicants for an initial license must obtain and provide to the LLA a current, active business address for electronic mail before obtaining a license.

(b) A licensee must notify the LLA within 24 hours upon a change in the home's business address for electronic mail.

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(c) A licensee must notify the LLA, the residents and the resident's family members, representatives, and case managers, as applicable, of any change in the telephone number for the licensee or the AFH within 24 hours of the change.

(d) A licensee must notify the LLA in writing before any change of the licensee's residence or mailing address.

(8) MEALS

(a) Three nutritious meals must be served daily at times consistent with those in the community. Each meal must include food from the basic food groups according to the United States Department of Agriculture (USDA's) My Plate and include fresh fruit and vegetables when in season.

(b) Meals must reflect consideration of a resident's preferences and cultural and ethnic background. This does not mean the licensee must prepare multiple, unique meals for the residents at the same time.

(c) A schedule of meal times and menus for the coming week must be prepared and posted weekly in a location accessible to residents and families.

(A) Meal substitutions for scheduled menu items in compliance with section (8)(a) of this rule are acceptable and must be documented on, or attached to, the weekly menu.

(B) The licensee must maintain the weekly menus for a minimum of the most recent six months during which the home has conducted business.

(C) The licensee must support the resident's right to access food at any time. Limitations may only be used when there is a health or safety risk, as stated in OAR 411-051-0005, and when a written informed consent is obtained. Providers have until June 30, 2020 to fully comply with this HCB Settings requirement, OAR 411-051-0005(3).

(D) If a resident misses a meal at a scheduled time, an alternative meal must be made available.

(d) There must be no more than a 14-hour span between the evening and morning meals. Snacks do not substitute for a meal in determining the 14-hour span. Nutritious snacks and liquids must be offered to fulfill each resident's nutritional requirements.

(e) Food may not be used as an inducement to control the behavior of a resident.

(f) Home-canned foods must be processed according to the guidelines of the Oregon State University Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

(g) Special consideration must be given to a resident with chewing difficulties or other eating limitations. Special diets must be followed, as prescribed in writing, by the resident's physician, nurse practitioner, or physician assistant.

(h) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Storage and food preparation areas must be free from food that is spoiled or expired.

(i) The household utensils, dishes, glassware, and household food may not be stored in bedrooms, bathrooms, or living areas.

(j) Meals must be prepared and served in the home where the residents live. Payment for meals eaten away from the home for the convenience of the licensee (e.g., restaurants, senior meal sites) is the responsibility of the licensee.

(A) Meals and snacks, as part of an individual recreational outing by choice, are the responsibility of the resident.

(B) Payment for food beyond the required three meals and snacks are the responsibility of the resident.

(k) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with a sani-cycle is recommended.

(l) Food preparation areas and equipment, including utensils and appliances, must be clean, free of offensive odors, and in good repair.

(9) TELEPHONE

(a) The home must have a working landline and corded telephone with a listed number that is separate from any other number the home has, such as, but not limited to, internet or fax lines, unless the system includes features that notify the caregiver of an incoming call, or automatically switches to the appropriate mode. If a licensee has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. A licensee may have only one phone line as long as the phone line complies with the requirements of these rules. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in place of a landline.

(b) The licensee must make a telephone that is in good working order available and accessible for the residents use with reasonable accommodation for privacy during telephone conversations. A resident with a hearing impairment, to the extent the resident may not hear a normal telephone conversation, must be provided with a telephone that is amplified with a volume control or a telephone that is hearing aid compatible.

(c) Restrictions on the use of the telephone by the residents must be specified in the written Residency Agreement and may not violate the residents' rights. Individual restrictions must be well documented in the resident's care plan.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441. 373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0735 Staffing Standards

(1) The licensee must have qualified caregivers, including awake caregivers as necessary, sufficient in number to meet the 24-hour needs of each resident in addition to caring for any children or relatives beyond the license capacity of the AFH.

(2) A licensee may not employ a resident manager, floating resident manager, or shift caregiver who does not meet or exceed the qualifications and training requirements as described in OAR 411-049-0125 and classification standards for the AFH as described in and OAR 411-049-0105.

(3) A licensee may not employ or allow any caregiver to train or work in the home who is on either of the Exclusion Lists.

(a) A licensee must verify the resident manager, floating resident manager, and shift caregivers, as applicable, are not listed on either of the Exclusion Lists prior to employment.

(b) Verification of checking the Exclusion Lists must be clearly documented in the facility records.

(4) EMPLOYMENT APPLICATION. An application for employment in any capacity in an AFH must include a question asking whether the person applying for employment has been found to have committed abuse. Employment applications must be retained for at least three years.

(5) STAFFING WITH SUBSTITUTE CAREGIVERS. A Substitute caregiver routinely left in charge of an AFH for any period that exceeds 48 hours is

required to meet the education, experience, and training requirements of a resident manager as specified in this rule.

(a) A licensee may not leave a substitute caregiver or concurrent substitute caregivers routinely in charge of the home for any period that exceeds 48 hours within one calendar week.

(b) This requirement is not intended to prevent a qualified substitute caregiver from providing relief care in the absence of the primary caregiver, such as for a one or two-week vacation. In such an event, the licensee must arrange for the qualified back-up provider to be available as needed.

(c) If a licensee has demonstrated non-compliance with one or more of these rules, the Department may require, by condition, additional training in the deficient area.

(6) ABSENCE OF A PRIMARY CAREGIVER. If a primary caregiver or a shift caregiver is absent from the home for 10 days or more, the licensee must notify the LLA, in writing, at least seven days before the primary caregiver's absence or immediately upon knowing of the absence. Notification must state the reason for and anticipated length of the absence. The licensee must submit a staffing plan to the LLA that demonstrates coverage to meet the needs of the residents during the primary caregiver's absence and is signed by the back-up provider.

(7) CHANGE OF PRIMARY CAREGIVER. If a primary caregiver or a shift caregiver changes during the period the license covers, the licensee must notify the LLA within 24 hours and identify who is providing care.

(a) If a licensee assumes the role as the primary caregiver or shift caregiver when there has been a change in primary caregiver, the

licensee must submit an updated plan of 24-hour coverage to the LLA within seven days.

(b) If a resident manager, floating resident manager, or shift caregiver changes, the licensee must submit a request for a change of resident manager, floating resident manager, or shift caregiver, as applicable, to the LLA along with:

(A) The Department's supplemental application form (SDS 448B) completed by the resident manager applicant, floating resident manager applicant, or shift caregiver applicant;

(B) A completed Health History and Physician or Nurse Practitioner's Statement (form SDS 903) for the new applicant;

(C) Documentation of the initiation of or a copy of an approved background check; and

(D) A $10 non-refundable fee.

(c) When there is a change in primary caregiver, an approved floating resident manager may assume the responsibilities of the live-in, primary caregiver until a new primary caregiver is employed. If a new primary caregiver is not employed within 60 calendar days, the floating resident manager must be designated as the home's resident manager and the licensee must notify the LLA of the change in status.

(d) The LLA shall issue a revised license when there is a change in a primary caregiver who is identified on the license.

(8) UNEXPECTED AND URGENT STAFFING NEED. If the LLA determines an unexpected and urgent staffing need exists, the LLA may authorize a person who has not completed the Department's current Ensuring Quality Care Course and passed the current examination to act as a resident manager or shift caregiver until training and testing are completed, or for 60 calendar days, whichever period is shorter. The licensee must notify the LLA of the unexpected and urgent staffing need in writing and satisfactorily demonstrate:

(a) The licensee's inability to live in the home and act as the primary caregiver;

(b) The licensee's inability to find a qualified resident manager or shift caregiver, as applicable; and

(c) The proposed staff person is 21 years of age and meets the requirements of a substitute caregiver for the AFH as described in OAR 411-049-0105 and 411-049-0125.

(9) RESPONSIBILITY. A licensee is responsible for the supervision, training, and overall conduct of all caregivers, family members, and friends when acting within the scope of their employment, duties, or when present in the home.

(a) A current copy of the administrative rules, OAR chapter 411, division 49, 50, 51, and 52 must be readily accessible to all caregivers in the AFH.

~~(b) A licensee may not pass-along the responsibility for payment of any portion of a civil penalty.~~

(10) SEXUAL ABUSE. Sexual abuse, as defined in OAR 411-020-0002 (Adult Protective Services), is prohibited.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441. 373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0740 Foreclosure

(1) A licensee must provide written notification to the LLA within 10 calendar days after receipt of any notice of default, or any notice of potential default, with respect to a real estate contract, trust deed, mortgage, or other security interest affecting any property occupied or used by the licensee.

(2) The licensee must provide a copy of the notice of default or warning of potential default to the LLA.

(3) The licensee must provide written updates to the LLA at least every 30 days until the default or warning of potential default has been resolved and no additional defaults or potential defaults have been declared and no additional warnings have been issued. Written updates must include:

(a) The current status on what action has been or is about to be taken by the licensee with respect to the notice received.

(b) The action demanded or threatened by the holder of the security interest.

(c) Any other information reasonably requested by the LLA.

(4) The licensee must provide written notification within 24 hours to the LLA upon final resolution of the matters leading up to or encompassed by the notice of default or the notice warning of potential default.

(5) If the subject default property is licensed as an AFH, the licensee must provide written notification of the following within 24 hours to the LLA, and all the residents and the residents' representatives, if applicable, regarding:

(a) The filing of any litigation regarding such security interest, including the filing of a bankruptcy petition by or against the licensee or an entity owning any property occupied or used by the licensee;

(b) The entry of any judgment with respect to such litigation;

(c) The passing of the date 40 days before any sale scheduled pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the licensee; and

(d) The sale, pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the licensee.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441. 373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0745 Records - Facility

(1) FACILITY RECORDS. Completed facility records must be kept current, maintained in the AFH, and made available for review upon request. Facility records include, but are not limited to:

(a) Proof the licensee and all subject individuals have a background check approved by the Department as required by OAR 411-049-0120.

(b) Proof the licensee and all other caregivers have met and maintained the minimum qualifications at each home where they train or work, as required by OAR 411-049-0125, including:

(A) Proof of required continuing education. Documentation must include the date of each training, subject matter, name of agency or organization providing the training, and number of Department-approved classroom hours.

(B) Completed certificates to document the substitute caregivers' completion of the Department's Caregiver Preparatory Training Study Guide and Workbook and to document the resident manager, floating resident manager, and shift caregivers, as applicable, completion and passing of the Department's Ensuring Quality Care Course and examination.

(C) Documentation of orientation to the AFH on the Department’s form (APD 0349) for the resident manager, floating resident manager, shift caregivers, and substitute caregivers, as applicable.

(D) The licensee must maintain copies of all caregiver's certificates of completion as part of the AFH facility records as required in OAR 411-050-0745.

(E) Employment applications and the names, addresses, and telephone numbers of all caregivers employed or used by the licensee.

(F) Verification that all caregivers are not listed on either of the Exclusion Lists.

(c) Copies of notices sent to the LLA pertaining to changes in the resident manager, floating resident manager, shift caregiver, or other primary caregiver.

(d) Proof of required vaccinations for animals on the premises.

(e) Well water tests, if required, according to OAR 411-050-0715(11). Test records must be retained for a minimum of three years.

(f) Residency Agreements with all residents and, if applicable, specialized contracts with the Department, and tenancy agreements with room and board tenants.

(g) Records of evacuation drills according to OAR 411-050-0725, including the date, time of day, evacuation route, length of time for evacuation of all occupants, names of all residents and occupants, and names of residents and occupants that required assistance.

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(h) Records of monthly smoke alarm and carbon monoxide alarm testing.

(i) The Department's current Adult Foster Home Back-Up Agreement form (APD 350) completed by the current back-up provider and the licensee, as stated in OAR 411-049-0135(9)(r).

(j) Documentation the licensee confirmed the RN has a valid, unencumbered Oregon license on the Oregon State Board of Nursing's website at: https://osbn.oregon.gov/OSBNVerification/Default.aspx

(k) Notwithstanding record retention for menus in OAR 411-050-0730(8), facility records must be maintained a minimum of three years.

(2) REQUIRED POSTED ITEMS. The following items must be posted in one location in the entryway or other equally prominent place in the home where residents, visitors, and others may easily read them:

(a) The AFH license;

(b) Conditions attached to the license, if any;

(c) A copy of a current floor plan meeting the requirements of OAR 411-050-0720(16);

(d) The AFH Resident's Rights and Freedoms form (APD 0305);

(e) The home's policies as stated in the current Residency Agreement that has been reviewed for compliance with these rules by the LLA;

(f) The Department's procedure for making complaints (SDS 0519);

(g) The Long-Term Care Ombudsman poster;

(h) The Department's inspection forms identifying the number and type of violations, if any, including how corrections were made since the last annual inspection;

(i) The Department's notice pertaining to the use of any intercoms and monitoring devices that may be used in the AFH; and

(j) A weekly menu according to OAR 411-050-0730(8).

(3) POST BY TELEPHONE. The following emergency contacts must be readily visible and posted by a central telephone in the AFH:

(a) The contact number for at least one back-up provider who has agreed to respond in person in the event of an emergency and an emergency contact number for the licensee must be readily visible and posted by a central telephone in the AFH.

(b) The contact numbers for the home's registered nurse consultant(s), which may include a healthcare staffing agency.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441. 373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0750 Records - Resident

(1) An individual resident record must be developed, kept current, and readily accessible on the premises of the home for each individual admitted to the AFH. The record must be legible and kept in an organized manner so as to be utilized by staff. The record must contain the following information:

(a) A complete initial screening assessment and general information form (SDS 902) as described in OAR 411-051-0010.

(b) Documentation on form SDS 913 that the licensee has informed private-pay residents of the availability of a long-term care assessment.

(c) Documentation that the licensee has informed all residents of the right to formulate an Advance Directive.

(d) FINANCIAL INFORMATION:

(A) Detailed records and receipts, if the licensee manages or handles a resident's money. The Resident Account Record (form SDS 713) or other expenditure forms may be used if the licensee manages or handles a resident's money. The record must show amounts and sources of funds received and issued to, or on behalf of, the resident and be initialed by the person

making the entry. Receipts must document all deposits and purchases of $5 or more made on behalf of a resident.

(B) Residency Agreement signed and dated by the resident or the resident's representative may be kept in a separate file but must be made available for inspection by the LLA.

(e) Medical and legal information, including, but not limited to:

(A) Medical history, if available.

(B) Current prescribing practitioner orders.

(C) Nursing instructions, delegations, and assessments, as applicable.

(D) Completed medication administration records retained for at least the last six months or from the date of admission, whichever is less. (Older records may be stored separately).

(E) Copies of Guardianship, Conservatorship, Advance Directive for Health Care, Power of Attorney, and Physician's Order for Life Sustaining Treatment (POLST) documents, as applicable.

(f) A complete, accurate, and current care plan.

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(g) Effective July 1, 2019 and no later than June 30, 2020, documentation that supports or eliminates any individually-based limitation, as described in OAR 411-051-0015.

(h) A copy of the current house policies, as identified in the current Residency Agreement, and the current Resident's Bill of Rights, signed and dated by the resident or the resident's representative.

(i) SIGNIFICANT EVENTS. A written report (using form SDS 344 or its equivalent) of all significant incidents relating to the health or safety of the resident, including how and when the incident occurred, who was involved, what action was taken by the licensee and staff, as applicable, and the outcome to the resident.

(j) NARRATIVE OF RESIDENT'S PROGRESS. Narrative entries describing each resident's progress must be documented at least weekly and maintained in each resident's individual record. All entries must be signed and dated by the person writing them.

(k) Non-confidential information or correspondence pertaining to the care needs of the resident.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441. 373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0755 Records – Availability

(1) ACCESS TO RESIDENT RECORDS. Resident records must be readily available at the AFH to:

(a) Residents, the residents' representatives or other legally authorized persons, all caregivers working in the home, and the Department, the LLA, the investigative authority, case managers, the Centers for Medicare and Medicaid Services (CMS), and Oregon Health Authority (OHA) for the purpose of conducting inspections or investigations.

(b) The State Long-Term Care Ombudsman must be provided access to all resident and facility records. A Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to facility records relevant to caregiving and resident records with written permission from the resident or the resident's representative. (See OAR 114-005-0030).

(2) CONFIDENTIALITY. The licensee must protect the residents' personal health and all other confidential information according to OAR 411-050-0730(5).

(3) RETENTION. Records, including any financial records for residents, must be kept for a period of three years from the date the resident left the home.

(4) ELECTRONIC. Electronic records may be used if the system complies with these rules. At a minimum, an electronic record system must:

(a) Have the capability to print the electronic records. All caregivers must be able to print records upon request by the Department.

(b) Have a back-up system to protect the electronic records in the event of power outages, system problems, or other problems.

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(c) Be compliant with applicable privacy and confidentiality laws according to OAR 411-050-0730(5).

(d) Automatically identify any late entry and reflect the date and time of the late entry.

(e) Prevent alteration of any entries once they are made. Changes may be documented, but the system must automatically include the date and time of the change. The reason for any modification must be documented by the caregiver.

(f) Be password protected. The passwords for the electronic record system must be changed at least quarterly, and the password for the router must be changed at least every six months.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 – 443.795, 443.880
Stats. Implemented: ORS 197.660 – 197.670, 441. 373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991

411-050-0760 Resident Moves and Transfers

(1) The licensee must support a resident's choice to remain in his or her living environment, while recognizing that some residents may no longer be appropriate for the adult foster care setting due to safety and medical limitations.

(a) If a resident moves, or intends to move, out of an AFH for any reason, the licensee must cooperate with the potential provider's screening and assessment activities as directed by the resident or the resident's representative, and submit copies of pertinent information

from the resident's record to the resident's new place of residence at the time of move. Pertinent information must include, at a minimum:

(A) Copies of current prescribing medical practitioner's orders for medications, current medication sheets, an updated care plan, including the elements of any person-centered service plan, and any documentation of limitations.

(B) Documentation of actions taken by the AFH staff, resident, or the resident's representative pertaining to the move or transfer.

(b) A licensee must immediately document voluntary and involuntary moves or transfers from the AFH in the resident's record as events take place.

(2) VOLUNTARY MOVES AND TRANSFERS. If a resident eligible for Medicaid services or the resident's representative gives notice of the resident's intent to leave the AFH, or the resident leaves the home abruptly, the licensee must promptly notify the resident's case manager and the LLA.

(a) A licensee must obtain prior authorization from the resident, the resident's representative, and case manager, as applicable, before the resident's:

(A) Voluntary move from one bedroom to another in the AFH;

(B) Voluntary transfer from one AFH to another home that has a license issued to the same person; or

(C) Voluntary move to any other location.

(b) Notifications and authorizations of voluntary moves and transfers must be documented and available in the resident's record.

(c) The licensee remains responsible for the provision of care and services until the resident has moved from the home.

(3) INVOLUNTARY MOVES AND TRANSFERS. A resident may only be moved involuntarily to another room within the AFH, transferred to another AFH operated by the same licensee for a temporary or permanent stay, or moved from the AFH for the following reasons:

(a) Medical reasons. The resident has a medical or nursing condition that is complex, unstable, or unpredictable that exceeds the level of care and services the facility provides.

(b) The AFH is unable to accomplish evacuation of the AFH in accordance with OAR 411-050-0725.

(c) Welfare of the resident or other residents, including:

(A) The resident exhibits behavior that poses an imminent danger to self or others, including acts that result in the resident's arrest or detention;

(B) The resident engages in behavior or action that repeatedly and substantially interfere with the rights, health, or safety of the residents or others; or

(C) The resident engages in illegal drug use or commits a criminal act that causes potential harm to the resident or others.

(d) Failure to make payment for care or failure to make payment for room and board.

(e) The AFH license was revoked, not renewed, the license was voluntarily surrendered, or the home was voluntarily closed.

(f) The home was not notified before the resident's admission, or learns following the resident's admission, that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

(g) The licensee's Medicaid Provider Enrollment Agreement is terminated.

(h) The specialized contract for a Medicaid eligible resident is terminated.

(i) The resident engages in the use of legal medical marijuana, recreational marijuana, or both, in violation of the home's written policies or contrary to Oregon Law under ORS chapter 475B, Cannabis Regulation.

(j) The resident repeatedly refuses a roommate without good cause after the resident or resident's representative has signed a residency agreement stating a willingness to share a bedroom. For purposes of this rule, "good cause" means there is a reasonable belief that the

individual's physical, emotional, or mental well-being will suffer or be harmed.

(4) MANDATORY WRITTEN NOTICE FOR INVOLUNTARY MOVES. A resident may not be moved involuntarily from the AFH, to another room within the AFH, or transferred to another AFH for a temporary or permanent stay without a minimum of 30 calendar days' written notice. The notice must be delivered in person to the resident and must be delivered in person or sent by registered or certified mail to the resident's representative, guardian, or conservator, and a copy must be immediately submitted to the LLA, and to the resident's case manager, as applicable. Where a resident lacks capacity and there is no representative, a copy of the notice must be immediately submitted to the State Long Term Care Ombudsman. The written notice must:

(a) Be on the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901);

(b) Be completed by the licensee; and

(c) Include the following information:

(A) The resident's name;

(B) The reason for the proposed move or transfer, including the specific reasons the facility is unable to meet the resident's needs;

(C) The date of the proposed change;

(D) The resident's new location, if known;

(E) A notice of the right to hold an informal conference and hearing;

(F) The name, address, and telephone number of the person giving the notice; and

(G) The date the notice is issued.

(5) LESS THAN 30 DAYS' WRITTEN NOTICE. A licensee may give less than 30 calendar days' written notice in specific circumstances as identified in paragraphs (a) to (c) below, but must do so as soon as possible using the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901). The notice must be given in person to the resident, the resident's representative, guardian, conservator, and a copy must be immediately submitted to the LLA, and to the resident's case manager, as applicable. The reasons for the notice must be fully documented in the resident's record. The licensee remains responsible for the provision of care and services until the resident has moved from the home. A licensee may give less than 30 calendar days' notice only if:

(a) Undue delay in moving the resident would jeopardize the health, safety, or well-being of the resident, including:

(A) The resident has a medical emergency that requires the immediate care of a level or type the AFH is unable to provide.

(B) The resident exhibits behavior that poses an immediate danger to self or others.

(b) The resident is hospitalized or is temporarily out of the home and the licensee determines he or she is no longer able to meet the needs of the resident; or

(c) The home was not notified before the resident's admission, or learns following the resident's admission, the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

(A) In the event a resident is given notice of an involuntary move due to (5)(c) of this rule, the notice may be given without reasonable advance notice.

(B) The resident shall be given the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901) as stated in (3) of this rule.

(6) RESIDENT HEARING RIGHTS. Notwithstanding (3)(e) of this rule, a resident, who has been given formal notice of an involuntary move or refused the right of return or re-admission, is entitled to an informal conference and hearing before the involuntary move or transfer.

(a) INFORMAL CONFERENCE. The LLA must hold an informal conference as promptly as possible after the request is received. The LLA must send written notice of the time and place of the conference to the licensee and all persons entitled to the notice. Participants may include the resident and at the resident's request, a family member, case manager, Ombudsman, legal representative of the resident, the licensee, and a representative from an AFH association or SEIU if requested by the licensee. The purpose of the informal conference is to resolve the matter without an administrative hearing. If a resolution

is reached at the informal conference, the LLA must document the outcome in writing and no administrative hearing is needed.

(b) ADMINISTRATIVE HEARING. If a resolution is not reached as a result of the informal conference, the resident or the resident's representative may request an administrative hearing. If the resident is being moved or transferred with less than 30 calendar days' notice according to section (5)(c) of this rule, the hearing must be held within seven business days of the move or transfer. The licensee must hold a space available for the resident pending receipt of an administrative order. These administrative rules and ORS 441.605(4) governing transfer notices and hearings for residents of long-term care facilities apply to AFHs.

(7) CLOSURE OF ADULT FOSTER HOMES. A licensee must notify the LLA before the voluntary closure, proposed sale, or transfer of ownership of the home, and give the residents and the residents' families, representatives, and case managers, as appropriate, a minimum of 30 calendar days' written notice on the Department's form (SDS 901) according to section (3) of this rule.

(a) In circumstances where undue delay might jeopardize the health, safety, or well-being of residents, licensees, or staff, written notice must be given as soon as possible, according to section (5)(c).

(b) A licensee must surrender the physical license to operate an AFH to the LLA at the time of the AFH's closure.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 - 443.795, 443.880

Stats. Implemented: ORS 197.660-197.670, 441.373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991