

Information Memorandum Transmittal Developmental Disabilities Services



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Number: APD-IM-19-108

Issue date: 12/20/2019

Topic: Developmental Disabilities

Due date:

Subject: 2019 Senate Bill 917- Prohibition on Provider Practices Interfering with Disclosure of Information Related to Concerns of Abuse or Mistreatment of an Individual

Applies to (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> All DHS employees | <input type="checkbox"/> County Mental Health Directors |
| <input type="checkbox"/> Area Agencies on Aging: {Select type} | <input type="checkbox"/> Health Services |
| <input type="checkbox"/> Aging and People with Disabilities | <input checked="" type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input type="checkbox"/> Self Sufficiency Programs | <input type="checkbox"/> ODDS Children's Intensive In Home Services |
| <input checked="" type="checkbox"/> County DD program managers | <input checked="" type="checkbox"/> Stabilization and Crisis Unit (SACU) |
| <input type="checkbox"/> Support Service Brokerage Directors | <input checked="" type="checkbox"/> Other (<i>please specify</i>): Residential Providers-Group Homes; Adult & Children's Foster Homes; Host Homes; SEIU; Provider Organizations, including ORA, CPAO; DD Licensing. |
| <input checked="" type="checkbox"/> ODDS Children's Residential Services | |
| <input type="checkbox"/> Child Welfare Programs | |

Message:

The 2019 Oregon legislature passed Senate Bill 917 with an effective date of January 1, 2020. The bill, signed into law by the Governor, restricts residential setting providers from interfering with the good faith disclosure of information by employees or volunteers concerning:

- | | | | | |
|---|--|-----------------------------------|--|--|
| The abuse or mistreatment of an individual; | Violations of licensing or certification requirements; | Criminal activity at the setting; | Violations of state or federal law; or | Any practice that threatens the health and safety of an individual living in the facility. |
|---|--|-----------------------------------|--|--|

A provider may not interfere with the above disclosures made to:

Law enforcement;

Residential Facilities/Long Term Care Ombudsman;

Any entity that has legal or other regulatory authority; or

A family member, guardian, friend or other person who is acting on behalf of the individual*.

SB 917 applies to the following ODDS licensed, certified, or otherwise funded programs and settings:

24-Hour
Residential
Program Settings

Adult Foster
Homes

Child Foster
Homes

Host Homes

Interference with the disclosure of information includes situations where a provider limits or prohibits an employee or volunteer from sharing information about abuse, maltreatment, or concerning violations, except when sharing of information is limited by law.

The statute does not authorize the disclosure of protected health information (PHI) other than as is permitted by Health Insurance Portability and Accountability Act (HIPAA) privacy regulations.

A provider is considered to be interfering with the disclosure of information when:

Asks or requires the employee or volunteer to sign a nondisclosure or similar agreement prohibiting the employee or volunteer from disclosing the information;

Trains an employee or volunteer not to disclose the information*;
OR

Takes action or communicates to the employee or volunteer that the employee or volunteer may not disclose the information*.

*A provider may train, take action, or communicate to employees' policies that:

- Limit disclosure of protected information of individuals;
- Protect individual privacy in accordance with law; or
- Limit disclosure to appropriate social or public service programs or agencies, advocacy programs, or persons with authority to receive information about the individual.

The statute language from SB 917 grants authority for licensing agencies to revoke or suspend the license or certificate of provider programs or provider-operated settings

that violate the act. The bill also identifies the violation of limiting disclosure as a possible unlawful employment practice which may allow for a civil action by an employee.

This act takes effect January 1, 2020. ODDS will be updating any applicable Oregon Administrative Rules as necessary. SB917 can be found at:

<https://olis.oregonlegislature.gov/liz/2019R1/Measures/Overview/SB917>

From there, click on “Text” and then “Enrolled.”

Expectations Related to Compliance:

Providers

To demonstrate compliance with SB 917, providers are expected to update policies, procedures and training where applicable in rule, to clearly communicate to employees and volunteers employed or engaged by the provider which information is to be disclosed and to whom information may be disclosed.

Staff and Volunteers

Caregivers and volunteers employed by residential setting providers are expected to be informed of and appropriately apply expectations related to information sharing.

When a caregiver or volunteer is unsure of whether to share information with a requesting party, the caregiver or volunteer shall direct the person requesting the information to abuse reporting, licensing, or advocacy organizations for assistance.

Caregivers or volunteers receiving reports of abuse or maltreatment must report such information as a mandatory reporter to:

Abuse Reporting Hotline- 1-855-503-SAFE (7233)

Training/communication plan:

CME’s (licensors/certifiers) should share this information with providers. ODDS will send provider alerts, post transmittal information on various ODDS webpages (FC, 24-hour residential, and Staff tools) and share information with SEIU.

If you have any questions about this information, contact:

Contact(s): Ken Ralph	
Phone: 503 947-5191	Fax: 503 373-7274
Email: ken.j.ralph@state.or.us	

This transmittal will be discussed during the next Monthly Transmittal Call In.
These meetings are held the **third Thursday of every month at 2 pm.**

[877-873-8017](tel:877-873-8017), [guest code #772325](mailto:ODDS.INFO@state.or.us), please try to send questions in advance to ODDS.INFO@state.or.us