

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

CHAPTER 411

**DIVISION 68
REGISTRATION OF ROOM AND BOARD FACILITIES**

411-068-0000 Definitions Relating to Room and Board Facilities
(Effective 8/1/1990)

(1) "Abuse" means any act or absence of action inconsistent with the health, safety and welfare of the residents of the facility. This includes but is not limited to:

(a) Physical assault such as hitting, kicking, scratching, pinching, choking or pushing;

(b) Denying meals or denying residents access to their clothing or aids to physical functioning;

(c) Use of derogatory or inappropriate names, phrases, or profanity; ridicule; harassment; coercion; threats; cursing; or intimidation;

(d) Sexual exploitation of residents including inappropriate physical contact between the operator, or an employee or agent of the operator and residents;

(e) Use of physical restraints, or forced confinement;

(f) Financial exploitation which includes but is not limited to: unreasonable rate increases; requiring residents to work for the benefit of the operator unless such work is voluntary and compensated; or use by the operator or employee of representative payee status for the payment of a resident's Social Security benefits to coerce, restrict, or exploit the resident.

(2) "Administration of Medication" means the act of placing a medication in, or on, a resident's body.

(3) "Aid to Physical Functioning" means any special equipment utilized by the resident such as a hearing aid, cane, walker, etc., which maintains or enhances the resident's physical functioning.

(4) "Applicant" means any operator of a room and board facility who completes an application for registration.

(5) "Application for Registration" means an application form designed and distributed by the Division to register room and board facilities.

(6) "Assistance with Activities of Daily Living" means those personal functional activities required by an individual for continued well being including eating/nutrition, dressing, personal hygiene, mobility, toileting and behavior management.

(7) "Care" means the performance of certain tasks by an individual for the benefit of a resident including supervision, protection, assistance with activities of daily living, administration of medication, nursing assistance, and management of money or other financial resources.

(8) "Certificate of Registration" means a certificate issued by the Division to applicants who have completed an application for registration and meet all applicable requirements of ORS 443.480 to 443.500 and these rules.

(9) "Compensation" means payments or services provided by or on behalf of a person in exchange for other services provided by another person.

(10) "Division" means the Seniors and People with Disabilities Division of the Department of Human Services.

(11) "Facility" means a room and board facility unless the specific context indicates otherwise.

(12) "House Rules" means procedures and standards for the daily operation of a room and board facility and include any restrictions or limitations on the use of the facility by residents.

(13) "Living Accommodations" means residential facilities including a place to sleep and common living areas.

(14) "Meals" means the provision of food by the operator or other employee for the consumption of residents one or more times per day.

(15) "Operator" means a person, partnership, corporation, or other entity who owns or operates a room and board facility.

(16) "Privately Arranged Housing" means the voluntary sharing of living accommodations and common expenses between two or more adults in a residence or apartment that does not offer such accommodations to the general public.

(17) "Residency Agreement" means an agreement or contract entered into by a resident and the operator which specifies the terms and conditions of residency in the facility.

(18) "Resident" means a person who is receiving living accommodations and meals in a room and board facility, for compensation, who is elderly or disabled as defined in ORS 443.480, and who is not related to the operator by blood or marriage.

(19) "Resident Manager" means a person employed by the operator who resides at the facility and who is responsible for the day to day operation or management of the facility.

(20) "Retirement Facility" means a facility that:

(a) Is exempt from the requirement for registration in OAR 411-068-0005; and

(b) Meets all of the following criteria:

(A) Offers to the general public for compensation individual dwelling units that include a private bathroom and a meal preparation and storage area;

(B) Represents itself to the public as a retirement facility; and

(C) A majority of the residents are 62 years of age or older.

(21) "Rights" means civil, legal or human rights guaranteed by Federal and State law and afforded to all persons.

(22) "Room and Board Facility" means a facility that offers to the general public living accommodations and meals for compensation to two or more adults who are elderly or disabled, as defined in ORS 443.480, not related to the operator by blood or marriage. For the purposes of these rules, room and board facility does not include the following:

- (a) Any facility operated by an institution of higher education;
- (b) Any private room and board facility approved by an institution of higher education which has as a resident a student or an employee of the institution;
- (c) Any private or nonprofit retirement facility which does not fall under the generally understood definition of a "room and board facility," a "boarding house" or a "boarding hotel" and where a majority of the residents are retirees;
- (d) Any privately arranged housing the occupants of which may not be related by blood or marriage; and
- (e) Any facility which is licensed or registered under any other law of this state or city or county ordinance or regulation.

(23) "Self-administration of Medication" means the act of a resident placing a medication in, or on, his/her own body.

(24) "Services" means living accommodations and meals provided by the operator and non-care related tasks such as housekeeping, laundry, transportation or recreation performed by an operator or employee for the benefit of residents.

Stat. Auth.: ORS 410.070 & 443.485
Stats. Implemented: ORS 443.480 & 443.500

411-068-0005 Certificate of Registration Required

(Effective 8/1/1990)

(1) Any person who operates a room and board facility as defined in these rules must obtain a Certificate of Registration for the facility from the Division. Any person operating a room and board facility prior to August 1, 1990 must submit a completed application for registration within 30 days following the effective date of these rules. All persons who wish to begin operation of a room and board facility on or after August 1, 1990 must register the facility with the Division before providing services or receiving compensation.

(2) If an operator runs more than one room and board facility, each facility must be separately registered.

(3) No Certificate of Registration which has been issued to an operator for the operation of a room and board facility for a given location shall be valid for use by any other operator or at any facility other than that for which it was issued.

(4) When a facility is to be sold or otherwise transferred to another operator, the new operator must apply for and obtain a new Certificate of Registration prior to the transfer of operation of the facility.

(5) A Certificate of Registration is valid for one year unless revoked or suspended at an earlier date.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0010 Application and Fees

(Effective 8/1/1990)

(1) Application for a Certificate of Registration shall be submitted by the operator in writing on a form provided by the Division. The application shall include but not be limited to:

(a) A description of the property or place in or upon which the applicant proposes to maintain or conduct a room and board facility;

- (b) The maximum number of residents who can reside at the facility;
- (c) The names of all residents residing at the facility at the time of application;
- (d) The number of floors to be occupied;
- (e) The number of beds on each floor;
- (f) The name, address, telephone number, birth date, and Social Security number of the applicant;
- (g) The names, addresses, telephone numbers, birth dates, and Social Security numbers of any partner, corporate officer or other persons having a financial interest in the property;
- (h) The name, address, telephone number, birth date, and Social Security number of the resident manager, if applicable;
- (i) A description of services which will be offered to residents;
- (j) A copy of the residency agreement; and
- (k) Signed and dated forms, SDS 303, for release of criminal records for the applicant and the resident manager, if applicable;
- (l) A signed and dated statement from the operator stating that the operator and the facility are in compliance with all the requirements of these rules.

(2) The registration fee shall be \$20 per year, per facility, and shall accompany the application.

(3) The application shall not be considered complete until all the required information and the application fee are received by the Division.

Stat. Auth.: ORS 410.070 & 443.485
Stats. Implemented: ORS 443.480 & 443.500

411-068-0015 Issuance of Certificate of Registration

(Effective 8/1/1990)

(1) If the Division determines that all the requirements of ORS 443.480 to 443.500 and these rules have been met, it shall issue a Certificate of Registration to the applicant for the facility within 60 days of receipt of the completed application and the registration fee.

(2) If the Division determines that any of the requirements for registration have not been met, the Division shall notify the applicant of the requirements that have not been met within 60 days of receipt of the completed application and the registration fee. The applicant shall have 30 days to come into compliance with the requirements. If the requirements are not met within the time allowed, the Division shall issue an order denying the registration.

(3) The Certificate of Registration shall include but not be limited to: the name, address and phone number of the operator of the facility; the address and phone number of the facility; the maximum number of residents who can reside at the facility; the effective date and expiration date of the registration; and a statement in a prominent location and typeface that "**A Certificate of Registration does not constitute approval, recommendation or endorsement of a room and board facility by the Seniors and People with Disabilities Division.**"

(4) The issuance of a Certificate of Registration shall not mean that the Division has inspected, approved or made any representation regarding the quality of a room and board facility.

(5) A room and board facility operator shall not advertise, represent or imply that a home has been inspected or approved by the State of Oregon.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0020 Renewal

(Effective 8/1/1990)

(1) At least 30 days prior to the expiration of the registration, a reminder notice and application for renewal will be sent by the Division to the current operator. If the Division receives the application for renewal and the annual registration fee of \$20 prior to the expiration date, the facility's registration shall remain in force until the Division takes action on the application for renewal. If the application for renewal and the fee are not submitted prior to the expiration date, the facility shall be considered an unregistered facility subject to civil penalties.

(2) The application for renewal shall include the same information as the original application for registration.

(3) The Division shall respond to the application for renewal in the same manner and within the same periods of time specified in OAR 411-068-0015.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0025 Exceptions

(Effective 8/1/1990)

(1) An operator or applicant may apply to the Division for an exception from the provisions of these rules. An exception may be granted if the operator proves to the Division by clear and convincing evidence that such an exception will not jeopardize the health, safety, and welfare of the residents.

(2) Any exception will be granted in writing and reviewed at each renewal period.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0030 Waiver of Registration Requirement

(Effective 8/1/1990)

(1) Any city or county that requires registration or licensure of room and board facilities may request a waiver of the requirements of ORS 443.480 to 443.500 for facilities within its jurisdiction. Such a request shall be made in writing to the Division and shall include a copy of the ordinance or regulation and an explanation of why the city or county believes the requirements are substantially similar or superior to the requirements of ORS 443.480 to 443.500 and these rules.

(2) If the Division finds that the requirements of the local jurisdiction are substantially similar or superior to ORS 443.480 to 443.500 and these rules, it shall issue a waiver in writing to the local jurisdiction. Such a waiver shall be reviewed by the Division upon amendment of the local ordinance or regulation, or upon amendment of ORS 443.480 to 443.500 or these rules.

(3) If the Division finds that the local requirements are not substantially similar or superior to ORS 443.480 to 443.500 and these rules, the Division shall issue a written order to the local jurisdiction denying the request for a waiver.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0035 Identification

(Effective 8/1/1990)

The Division shall establish and maintain a statewide registry of room and board facilities which shall be made available upon request.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0040 Residency Agreement

(Effective 8/1/1990)

(1) Prior to accepting compensation from or providing services to any elderly or disabled person, the operator or resident manager and the

person seeking residence at the facility shall both sign a residency agreement. Such an agreement shall include:

- (a) All monthly charges and other fees;
- (b) A description of all services to be provided;
- (c) A copy of the house rules, including any restrictions or limitations on the use of the facility by residents such as use of tobacco or alcohol, use of telephones, visitors, etc.;
- (d) The terms and conditions under which the agreement may be terminated by either party, including any policy on refunds; and
- (e) If the resident chooses to have the operator act as representative payee for the payment of the resident's Social Security benefits, the residency agreement shall indicate this choice.

(2) The residency agreement shall conform to ORS Chapter 91, and all other statutes, rules or ordinances relating to the rights and responsibilities of landlords and tenants.

(3) The operator shall maintain a record of the original signed residency agreement(s) for each resident.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0045 Standards for Operators of Room and Board Facilities
(Effective 8/1/1990)

(1) The Division may deny registration to an applicant if any of the following conditions apply:

- (a) The applicant or resident manager, if applicable, has been convicted of one or more crimes described in OAR 407-007-0280; or
- (b) The applicant has had a certificate to operate a room and board facility, or a license to operate a foster home or residential care

facility denied, suspended, revoked or refused to be renewed in this or any other state/county if the denial, suspension, revocation or refusal to renew was due to abuse of the residents or a threat to the health and safety of the residents. The applicant or operator is required to establish to the Division by clear and convincing evidence his/her ability and fitness to operate a room and board facility. If the applicant or operator does not meet this burden, then the Division shall deny, suspend, revoke or refuse to renew the license;

(c) (A) The applicant or operator is associated with a person whose registration or license for a room and board facility, a foster home or residential care facility was denied, suspended, revoked or not renewed due to abuse of the residents or a threat to the health and safety of the residents within three years preceding the application, unless the applicant or operator can demonstrate to the Division by clear and convincing evidence that the person does not pose a threat to the residents;

(B) For purposes of this subsection, an applicant or operator is "associated with" a person as described in paragraph (1)(c)(A) of this rule if the applicant or operator:

(i) Resides with the person;

(ii) Employs the person in the room and board facility;

(iii) Receives financial backing from the person for the benefit of the facility;

(iv) Receives managerial assistance from the person for the benefit of the facility; or

(v) Knowingly allows the person to have access to the facility.

(2) If a new resident manager begins employment in that capacity during the time period covered by the Certificate of Registration, the operator shall submit that person's name, birth date, Social Security number, and form SDS 303 completed and signed by the new resident manager.

Stat. Auth.: ORS 410.070 & 443.485
Stats. Implemented: ORS 443.480 & 443.500

411-068-0050 Standards for a Room and Board Facility
(Effective 8/1/1990)

Each facility must meet the following standards for the protection of residents:

(1) Each facility shall meet applicable local zoning and building codes, and state and local fire, sanitary and safety regulations.

(2) Each bedroom shall:

(a) Be adequately ventilated, heated, and lighted and have an outside window;

(b) Be separate from the operator, members of the operator's family, or other employees;

(c) Have adequate space for bed and personal belongings; and

(d) Have a bed with adequate bedding and linens available.

(3) A telephone must be available for use by residents. A listing of emergency telephone numbers, including the numbers of the local police, fire department, ambulance, and the local Area Agency on Aging/Seniors and People with Disabilities Division office shall be placed in plain view on or next to the telephone.

(4) Bathing and toilet areas shall be private, clean, in good repair, and shall be accessible at all times. There shall be adequate supplies of toilet paper and soap for each bathroom.

(5) Fire Safety:

(a) All residents shall be shown how to utilize all exits from the facility within 24 hours of arrival to the facility;

(b) Facilities shall be equipped with smoke detectors in each bedroom and extinguisher(s) in functional condition which are of a type approved for home use;

(c) Sleeping quarters shall be confined to the first floor for nonambulatory residents and others with substantial disabling conditions; and

(d) Recommendations of the local fire department or State Fire Marshal shall be enforced. The Division may request an inspection for fire safety upon receipt of a complaint regarding a facility.

(6) Food Preparation and Storage:

(a) All food and drink shall be clean; wholesome; free from spoilage, pathogenic organisms, toxic chemicals, and other harmful substances; and shall be prepared, stored, handled, and served so as to be safe for human consumption. Food storage and preparation areas shall be kept in clean and sanitary condition. The temperature of potentially hazardous food shall be maintained at 45 degrees Fahrenheit or below, or at 140 degrees Fahrenheit or above at all times;

(b) Employees or residents engaged in food handling shall observe sanitary methods, including hand washing as appropriate. Employees or residents with diseases which can be transmitted by foods shall not be assigned to food handling duties;

(c) Poisonous or toxic materials shall be prominently and distinctly labelled for easy identification of contents, and shall not be used in a way that contaminates food equipment, or utensils, nor in a way that constitutes a hazard to employees or residents; and

(d) Meals provided by the facility shall be nutritionally balanced and shall provide the recommended daily allowance of vitamins, minerals, and calories.

(7) Operators shall maintain a record of all compensation received from a resident in return for services, and a record of all compensation paid to a resident for work or other services performed by a resident.

(8) Residents shall be allowed to exercise all civil and human rights accorded to other citizens, such as voting, privacy, and sending and receiving mail unopened.

(9) An operator and other employee of a facility shall not abuse residents and shall exercise reasonable precautions against any other conditions which threaten the health, safety or welfare of residents.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0055 Limitation on the Provision of Services in a Room and Board Facility

(Effective 8/1/1990)

(1) No operator or other employee of a room and board facility shall provide care as defined in OAR 411-068-0000 to any resident of a room and board facility.

(2) No residency agreement of a room and board facility shall contain any promise to provide any service that falls within the definition of care specified in OAR 411-068-0000.

(3) Nothing in these rules is meant to prohibit an operator or other employee from providing assistance to a resident in the self-administration of medication provided that the resident requests such assistance.

(4) Nothing in these rules is meant to prohibit an operator or employee from providing non-care related services to a resident.

(5) No operator or other employee of a room and board facility shall provide services or engage in behavior that constitutes a financial conflict of interest including: borrowing from or loaning money to residents; witnessing wills in which the operator or employee is beneficiary; adding the operator's or employee's name to a resident's bank accounts or other personal

property; inappropriately expending a resident's personal funds; co-mingling the resident's funds with the operator's or other residents' funds; or becoming guardian or conservator for a resident.

(6) Operators shall make reasonable efforts to refer residents in need of care services to appropriate social service agencies or medical facilities. If a resident is in need of protective services, through self-neglect or inability to provide for his or her own care needs, the operator shall call the Division or local area agency on aging.

(7) Operators who wish to provide care as defined in OAR 411-068-0000 to residents must apply for licensure as an adult foster home or a residential care facility.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0060 Complaints

(Effective 8/1/1990)

(1) The Division shall issue a notice to each room and board facility, which shall include the telephone number of the Division and the local area agency on aging and the procedures for making complaints. The notice shall be posted in a conspicuous place available to residents.

(2) Complaints regarding a facility may be made to the Division or local area agency on aging by any person, whether or not a resident of the facility. When a complaint is received, the Division or representative shall investigate or cause an investigation of the facility.

(3) No operator or employee of a facility shall retaliate against a resident by increasing charges, decreasing services, rights or privileges; threatening to increase charges or decrease services, rights or privileges; taking or threatening to take any action to coerce or compel the resident to leave the home; or by harassing, abusing, or threatening to harass or abuse a resident in any manner related to the filing, or possible filing, of a complaint with the Division.

Stat. Auth.: ORS 410.070 & 443.485
Stats. Implemented: ORS 443.480 & 443.500

411-068-0065 Complaint Records

(Effective 8/1/1990)

(1) A record shall be maintained by the Division of all complaints and any action taken on the complaint. Any information regarding the investigation of the complaint shall not be filed in the public file until the investigation has been completed.

(2) The name, addresses, and other identifying information of the complainant, the resident, and any witnesses are confidential and shall not be placed in the public record.

(3) Any person has the right to inspect and photocopy the public complaint files maintained by the Division. Disclosure of information for the public complaint file shall be governed by relevant statutes concerning public records and confidentiality.

Stat. Auth.: ORS 410.070 & 443.485
Stats. Implemented: ORS 443.480 & 443.500

411-068-0070 Access and Inspection

(Effective 8/1/1990)

(1) The Division staff or authorized representative shall be permitted access to enter and inspect all *registered* facilities upon receipt of a complaint or other information that gives the Division cause to believe there exists a threat to the health, safety or welfare of the residents.

(2) If an authorized representative of the Division is denied access to enter and inspect a registered facility when investigating a complaint, such denial shall be grounds for suspension, revocation, or refusal to renew registration.

(3) When investigating a complaint, an authorized representative of the Division shall be permitted access to the residents of the facility in order to

interview residents privately and to inspect copies of the residency agreement and other records maintained by the operator.

(4) Upon receipt of a complaint or request of the Division, state and local fire inspectors shall be permitted access to enter and inspect a facility regarding fire safety.

(5) Upon receipt of a complaint or request of the Division, state and local health officers shall be permitted access to enter and inspect a facility regarding health and sanitation.

(6) If the Division or a representative has reasonable cause to believe a facility subject to the requirements of ORS 443.480 to 443.500 is operating without registration, it may request permission to enter the facility to determine if it is in violation of ORS 443.480 to 443.500 and/or it may apply to the district or circuit courts for a search warrant.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0075 Procedures for Correction of Violations

(Effective 8/1/1990)

(1) If the Division or its authorized representative determines that abuse has occurred in a facility, the operator must be notified verbally to immediately cease the abusive act or to take action to prevent further abuse.

(2) If an investigation finds a violation of these rules, the Division shall notify the provider in writing.

(3) The notice of violation shall state the following:

(a) A description of each condition that constitutes a violation;

(b) Each regulation that has been violated;

(c) Except in cases of imminent danger, a specific time frame for correction, but no later than sixty (60) days after receipt of the notice;

(d) Sanctions that may be imposed against the facility for failure to correct the violations; and

(e) Right to contest the violations if an administrative sanction is imposed.

(4) During the time frame for correction specified in the notice of violation, the operator or the Division may request a conference to discuss the findings. The conference shall be scheduled within ten days of a request by either party.

(5) The purpose of the conference is to discuss the findings and to provide information to assist the operator in complying with the requirements of these rules.

(6) The request by an operator or the Division for a conference shall not extend any previously established time limit for correction.

(7) The operator shall notify the Division in writing of correction of violations no later than the date specified in the notice of violation.

(8) The Division may conduct an inspection of the facility after the date the Division receives the notice of compliance or after the date by which violations must be corrected as specified in the notice of violation.

(9) For violations that present an imminent danger to the health, safety or welfare of residents, the notice of violation shall order the operator to correct the violations and abate the conditions no later than 24 hours after receipt of the notice of violation. The Division may inspect the home after the 24 hour period to determine if the violations have been corrected as specified in the notice of violation.

(10) If residents are in immediate danger, the registration may be suspended or revoked and arrangements made to voluntarily move the residents.

(11) If the violations have not been corrected by the date specified in the notice of violation or if the Division has not received a report of compliance, the Division may institute one or more administrative sanctions.

Stat. Auth.: ORS 410.070 & 443.485
Stats. Implemented: ORS 443.480 & 443.500

411-068-0080 Administrative Sanctions

(Effective 8/1/1990)

(1) An administrative sanction may be imposed for non-compliance with these rules. An administrative sanction includes one or more of the following actions:

- (a) Civil penalties;
- (b) Denial, suspension, revocation, or refusal to renew registration.

(2) If the Division imposes an administrative sanction, it shall serve a notice of administrative sanction upon the operator personally or by certified mail.

(3) The notice of administrative sanction shall state:

- (a) Each sanction imposed;
- (b) A short and plain statement of each condition or act that constitutes a violation;
- (c) Each statute or rule allegedly violated;
- (d) A statement of the operator's right to a contested case hearing;
- (e) A statement of the authority and jurisdiction under which the hearing is to be held;
- (f) A statement that the Division's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and
- (g) A statement that the notice becomes a final order upon default if the operator fails to request a hearing within the specified time.

(4) If an administrative sanction is imposed for reasons other than abuse, it shall be preceded by a hearing if the operator requests the hearing in writing within 60 days after receipt of the notice.

(5) If an operator fails to request the hearing within the 60 days, the notice of administrative sanction shall become a final order of the Division by default.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0085 Denial, Suspension, Revocation or Refusal to Renew Registration

(Effective 8/1/1990)

(1) The Division may *immediately* suspend, revoke, or refuse to renew a Certificate of Registration for reason of abuse of a resident. The operator may request a review of the decision by submitting a request, in writing, within ten (10) days of the notice and order of suspension, revocation or non-renewal.

(2) Within ten days of receipt of the operator's request for a review, the Division administrator or designee shall review all material relating to the allegation of abuse and to the suspension, revocation or non-renewal, including any written documentation submitted by the operator within that time frame. The administrator or designee shall determine, based on a review of the material, whether to sustain the decision. If the administrator or designee does not sustain the decision, the suspension, revocation or refusal to renew shall be rescinded immediately. The decision of the administrator or designee is subject to a contested case hearing under ORS 183.310 to 183.550 if requested within 90 days.

(3) The Division may also deny, suspend, revoke, or refuse to renew a registration where it finds:

(a) There has been substantial failure to comply with these rules or where there is substantial non-compliance with local codes and ordinances or any other state or federal law or rule applicable to the health and safety of the residents in a room and board facility; or

(b) An operator or employee refuses to allow access and inspection by an authorized representative of the Division; or

(c) The application or renewal for the Certificate of Registration contains fraudulent information or material misrepresentations; or

(d) Fails to comply with a final order of the Division to correct a violation of these rules for which an administrative sanction has been imposed; or

(e) Fails to comply with a final order of the Division imposing an administrative sanction.

(4) If registration is suspended, revoked, or not renewed, the Division may arrange for residents to voluntarily move for their protection.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500

411-068-0090 Civil Penalties

(Effective 8/1/1990)

(1) Civil penalties, not to exceed \$200 per violation, may be assessed for a facility operating without registration.

(2) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Division. The notice shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(3) The person to whom the notice is addressed shall have ten days from the date of mailing in which to make written application for a hearing.

(4) All hearings shall be conducted according to the applicable provisions of ORS 183.310 to 183.550.

(5) If the person notified fails to request a hearing within the time specified; or if after a hearing the person is found to be in violation of a statute, rule, or order, an order may be entered assessing a civil penalty.

(6) Unless the penalty is paid within ten days after the order becomes final, the order constitutes a judgement and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the person.

(7) 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.

(8) All penalties recovered under ORS 443.480 to 443.500 shall be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: ORS 410.070 & 443.485

Stats. Implemented: ORS 443.480 & 443.500