

TEMPORARY FILING
INCLUDING STATEMENT OF NEED & JUSTIFICATION
For internal agency use only.

Department of Human Services, Aging and People with Disabilities (APD)	411-052, 054, 086
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FILING CAPTION

Requires facilities distribute Long-Term Care Ombudsman information to residents at admission to implement HB 2524 (2019).

Agency Approved Date: [12-19-2019]

Effective Date: [01-01-2020] through [06-28-2020]

RULEMAKING ACTION

List each rule number separately (000-000-0000). Attach clean text for each rule at the end of the filing

ADOPT:

AMEND: 411-051-0110; 411-054-0030; 411-086-0040

SUSPEND:

RULE SUMMARY:

Include a summary for each rule included in this filing.

411-051-0110: Requires adult foster homes to distribute information from the Long-Term Care Ombudsman to residents at time of admission

411-054-0030: Requires residential care and assisted living facilities to distribute information from the Long-Term Care Ombudsman to residents at time of admission

411-086-0040: Requires nursing facilities to distribute information from the Long-Term Care Ombudsman to residents at time of admission

STATEMENT OF NEED AND JUSTIFICATION

Need for the Rule(s):

The Department needs to immediately amend rule to be in compliance with HB 2524 (2019).

Justification of Temporary Filing:

Failure to act promptly and immediately amend OAR chapter 411, divisions 051, 054 and 086 will result in serious prejudice to the public interest, the Department, and residents of adult foster homes and residential care, assisted living, and nursing facilities. These rules need to be adopted promptly so that all these facility types will provide information from the Office of Long Term Care Ombudsman (LTCO) to residents at the time of admission.

OAR chapter 411, divisions 051, 054 and 086 need to be amended promptly so that, at admission, residents will receive information approved by the LTCO concerning the services provided by that office. This required information will also include contact information, so residents will know how to contact the LTCO, if needed. (Implements HB 2524 (2019))

Documents Relied Upon, and where they are available:

<https://olis.oregonlegislature.gov/liz/2019R1/Measures/Overview/HB2524>

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2019orlaw0117.pdf

Signature

Date

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

**CHAPTER 411
DIVISION 51**

**ADULT FOSTER HOMES FOR OLDER ADULTS OR ADULTS WITH
PHYSICAL DISABILITIES - STANDARDS OF CARE**

411-051-0110 Pre-Admission

(Temporary effective 01/01/2020 to 06/28/2020)

(1) PRE-ADMISSION SCREENING AND ASSESSMENT.

(a) Before admission, the licensee or administrator must conduct and document a screening using the Department's current Adult Foster Home Screening and Assessment and General Information form (SDS 0902) to determine if a prospective resident's care needs exceed the license classification of the home. The screening must:

(A) Evaluate the ability of the prospective resident to evacuate the home within three minutes along with all the occupants of the home.

(B) Determine if the licensee and caregivers can meet the prospective resident's needs in addition to meeting the needs of the other residents of the home.

(C) Include medical diagnoses, medications, personal care needs, nursing care needs, cognitive needs, communication needs, night care needs, nutritional needs, activities, lifestyle preferences, and other information, as needed, to assure the prospective resident's care needs shall be met.

(b) The screening process must include interviews with the prospective resident and the prospective resident's family, prior care providers, and case manager, as appropriate. The licensee or administrator must also interview, as necessary, any physician, nurse practitioner, physician assistant, registered nurse, pharmacist,

therapist, or mental health or other licensed health care professional involved in the care of the prospective resident. A copy of the screening document must be:

(A) Given to the prospective resident or their representative.

(B) Placed in the resident's record if admitted to the home; or

(C) Maintained for a minimum of three years if the prospective resident is not admitted to the home.

(c) If the Department or AAA knows a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 163A.005 is applying for admission to an AFH, the Department or AAA shall notify the home of the person's status as a sex offender.

(d) The licensee or administrator may refuse to admit a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in 163A.005.

(e) REQUIRED DISCLOSURES.

(A) The licensee or administrator must disclose the home's policies to a prospective resident or the prospective resident's representative, as applicable. A copy of the home's current Residency Agreement identifying the home's policies shall be provided to the prospective resident and their representative. (See OAR 411-050-0705).

(B) LONG-TERM CARE ASSESSMENT. The licensee or administrator must inform a prospective private-pay resident or the prospective resident's representative, if appropriate, of the availability of long-term care assessment services provided through the Department or a certified assessment program. The licensee or administrator must document on the Department's form (SDS 913) that the prospective private-pay resident has been advised of the right to receive a long-term care assessment. The licensee or administrator must maintain a

copy of the form in the resident's record upon admission and make a copy available to the Department upon request.

(2) BEFORE ADMISSION.

(a) The licensee or administrator must obtain and document general information regarding a resident before the resident's admission. The information must include the names, addresses, and telephone numbers of the resident's relatives, significant persons, case managers, and medical or mental health providers. The information must also include the date of admission and, if available, the resident's medical insurance information, birth date, prior living facility, and mortuary.

(b) Before admission, the licensee or administrator must obtain and place in the resident's record:

(A) Prescribing practitioner's written or verbal orders for medications, treatments, therapies, and special diets, as applicable. Any verbal orders must be followed by written orders within seven calendar days of the resident's admission. Attempts to obtain written orders must be documented in the resident's record.

(B) Prescribing practitioner or pharmacist review of the resident's preferences for over-the-counter medications and home remedies.

(C) Any medical information available, including the resident's history of accidents, illnesses, impairments, or mental status that may be pertinent to the resident's care.

(c) The licensee or administrator must ask for copies of the resident's Advance Directive, Physician's Order for Life Sustaining Treatment (POLST), and proof of court-appointed guardianship or conservatorship, if applicable. Copies of these documents must be placed in a prominent place in the resident's record and sent with the resident if the resident is transferred for medical care.

(d) The licensee or administrator must review the home's current Residency Agreement with the resident and the resident's representative, as appropriate. These reviews must be documented by having the resident, or the resident's representative, sign and date a copy of the Residency Agreement. A copy of the signed and dated Residency Agreement must be maintained in the resident's record.

(e) Upon admission of a resident, the facility shall provide the resident with printed material supplied by the Long-Term Care Ombudsman. This material describes the ombudsman program and gives contact information. The facility shall document and maintain a copy of the resident's receipt of this information.

(3) SCREENING BEFORE RE-ADMISSION. When a resident temporarily leaves the home including, but not limited to, a resident's hospitalization, the licensee or administrator shall conduct the necessary elements of the pre-admission and screening assessment requirements, and document those findings to:

(a) Determine whether readmission to the home is appropriate for the classification of the home.

(b) Determine whether the licensee or administrator can continue to meet the resident's care and safety needs in addition to those of the other residents.

(c) Demonstrate compliance with these rules.

(d) If applicable, demonstrate the basis for refusing the resident's re-admission to the home according to reasons identified in OAR 411-050-0760(3).

Stat. Auth.: ORS 127.520, 409.050, 410.070, 413.085, 441.373, 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 409.050, 410.070, 413.085, 441.373, 443.001 - 443.004, 443.705 - 443.825, 443.875, 443.991