

**NOTICE OF PROPOSED RULEMAKING FILING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT**

For internal agency use only.

Department of Human Services, Aging and People with Disabilities (APD)	411
Agency and Division Name	Administrative Rules Chapter Number
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FILING CAPTION

(Must be 15 words or fewer)

Requires facilities distribute Long-Term Care Ombudsman information to residents at admission to implement HB2524.

Last Date and Time for Public Comment: Written comments may be submitted via email to Kristina.R.Krause@dhsoha.state.or.us, faxed to 503-373-7823, or mailed to Kristina Krause, APD Rules Coordinator, 500 Summer Street NE, E2, Salem, OR 97301 until **05/21/2020 at 5 p.m.**

CALL-IN ONLY DUE TO CDC/GOVERNOR'S GUIDANCE			
05/15/2020	1 p.m. – 2 p.m.	+1 (971) 673-8888, Conference ID: 70246239#	Staff
Hearing Date	Time	Address	Hearings Officer

Note to attendees: If you wish to provide comment at the hearing, please call in to the number above by no later than 15 minutes after the start time listed.

Everyone has a right to know about and use DHS|OHA programs and services. DHS|OHA provides free help. Some examples of the free help DHS|OHA can provide are sign language and spoken language interpreters, written materials in other languages, braille, large print, audio and other formats. If you need help or have questions, please contact Lynn Beaton at 503-509-7076, 711 TTY, lynn.d.beaton@dhsoha.state.or.us at least 48 hours before the meeting.

RULEMAKING ACTION

List each rule number separately (000-000-0000) below.

Attach proposed, tracked changed text for each rule at the end of the filing.

ADOPT:

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

REPEAL:

RULE SUMMARY:

HB 2524 (2019 Regular Session) requires the following long-term care facilities to provide residents with information supplied by the Long-Term Care Ombudsman:

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 FISCAL IMPACT

Need for Rule(s):

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

Fiscal and Economic Impact:

The Fiscal and Economic Impact is stated below in the Department's statement of Cost of Compliance.

Statement of Cost of Compliance:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

State Agencies: The Department estimates there will be no fiscal impact on state agencies.

Units of Local Government: The Department estimates there will be no fiscal impact on the units of local government.

Consumers: The Department estimates there will be no fiscal impact on consumers.

Providers: The Department estimates there will be no fiscal or economic impact on providers.

Public: The Department estimates there will be no fiscal or economic impact on the public.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

Approximately 1,700 small businesses would be affected by this rule. Almost all adult foster homes and many assisted living facilities, residential care facilities, and nursing facilities are small businesses.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The proposed changes impact providers as described above in the Department's statement of cost of compliance. We believe the required record keeping is minimal and that there would be no additional cost incurred by facilities.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The proposed changes impact providers as described above in the Department's statement of cost of compliance. We do not anticipate this additional requirement will result in any additional costs of services or supplies to facilities.

Describe how small businesses were involved in the development of these rule(s)?

Several small businesses were sent the draft language for comment as part of the email rule advisory committee (RAC) process. In addition, advocacy groups representing each of the facility types were also sent the information and invited to participate. OHCA, the Long-Term Care Ombudsman, and a limited number of small business providers offered comments to the draft rules on behalf of small businesses.

Documents Relied Upon, and where they are available:

HB 2524 Enrolled (2019 Regular Session

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

Oregon Laws 2019, Chapter 117

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

Was an Administrative Rule Advisory Committee consulted? Yes or No?

If not, why not?

Yes.

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

**CHAPTER 411
DIVISION 54**

RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES

411-054-0030 Resident Services

(1) The residential care or assisted living facility must provide a minimum scope of services as follows:

(a) Three daily nutritious, palatable meals with snacks available seven days a week, in accordance with the recommended dietary allowances found in the United States Department of Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables;

(A) Modified special diets that are appropriate to residents' needs and choices. The facility must encourage residents' involvement in developing menus.

(B) Menus must be prepared at least one week in advance, and must be made available to all residents. Meal substitutions must be of similar nutritional value if a resident refuses a food that is served. Residents must be informed in advance of menu changes.

(C) Food must be prepared and served in accordance with OAR 333-150-0000 (Food Sanitation Rules).

(b) Personal and other laundry services;

(c) A daily program of social and recreational activities that are based upon individual and group interests, physical, mental, and psychosocial needs, and creates opportunities for active participation in the community at large;

(d) Equipment, supplies and space to meet individual and group activity needs;

(e) Services to assist the resident in performing all activities of daily living, on a 24-hour basis, including:

(A) Assistance with mobility, including one-person transfers;

(B) Assistance with bathing and washing hair;

(C) Assistance with personal hygiene (e.g., shaving and caring for the mouth);

(D) Assistance with dressing and undressing;

(E) Assistance with grooming (e.g., nail care and brushing/combing hair);

(F) Assistance with eating (e.g., supervision of eating, cueing, or the use of special utensils);

(G) Assistance with toileting and bowel and bladder management;

(H) Intermittent cuing, redirecting and environmental cues for cognitively impaired residents; and

(I) Intermittent intervention, supervision and staff support for residents who exhibit behavioral symptoms.

(f) Medication administration; and

(g) Household services essential for the health and comfort of the resident that are based upon the resident's needs and preferences (e.g., floor cleaning, dusting, bed making, etc.)

(2) The facility must provide or arrange for the following:

(a) Transportation for medical and social purposes; and

(b) Ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, barber or beauty services, social or recreational opportunities, hospice, and home health) and other services necessary to support the resident.

(3) Upon admission of a resident, the facility shall provide the resident or the resident's representative with information developed by the Long-Term Care Ombudsman describing the availability and services of the ombudsman. The facility shall document that the facility provided this information as required.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991