

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

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| <u>Department of Human Services, Aging and People with Disabilities (APD)</u> | <u>411-054</u>  |                     |
| Agency and Division Name  | Administrative Rules Chapter Number   |                     |
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**FILING CAPTION**

Requires licensing of residential care facility administrators by Health Licensing Office, implementing HB 4129 (2018).

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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:** 411-054-0005; 411-054-0012; 411-054-0065

**SUSPEND:**

**RULE SUMMARY:**

*Include a summary for each rule included in this filing.*

**411-054-0005: Adds definition of residential care facility administrator, as licensed per OAR chapter 035, which is regulated by the Health Licensing Office**

**411-054-0012: Requires facilities to provide credentials of proposed facility administrator, when new facility is seeking licensure.**

**411-054-0065: Requires all facility administrators to obtain license by January 1, 2022, per OAR chapter 853, as issued by Health Licensing Office.**

**STATEMENT OF NEED AND JUSTIFICATION**

Need for the Rule(s):

The Department needs to immediately amend rule to be in compliance with HB 4129 (2018).

Justification of Temporary Filing:

Failure to act promptly and immediately amend OAR chapter 411, division 054 may result in serious prejudice to the public interest, the Department, and residents of residential care and assisted living facilities. These rules need to be adopted promptly so that these facilities will be run by licensed administrators, as regulated by the Health Licensing Office.

OAR chapter 411, division 054 needs to be amended promptly so that residents will be in the care of a facility overseen by a licensed administrator who has successfully completed a rigorous review before receiving a license. Obtaining a license requires completing training, taking a test, and completing ongoing education, per OAR chapter 853 as regulated by HLO. Every administrator must have successfully obtained a license by January 1, 2022, as required by HB 4129 (2018).

Documents Relied Upon, and where they are available:

<https://olis.oregonlegislature.gov/liz/2018R1/Measures/Overview/HB4129>  
[https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2018orlaw0061.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2018orlaw0061.pdf)

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Signature

Date

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

**CHAPTER 411  
DIVISION 54**

**RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES**

**411-054-0005 Definitions**

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

For the purpose of these rules, the following definitions apply:

- (1) "Abuse" means abuse as defined in OAR 411-020-0002 (Adult Protective Services).
- (2) "Activities of Daily Living (ADL)" mean those personal functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing and grooming, bathing and personal hygiene, mobility, elimination, and cognition.
- (3) "Acute Sexual Assault" means any non-consensual or unwanted sexual contact that warrants medical treatment or forensic collection.
- (4) "Administrator" means the person who is designated by the licensee that is responsible for the daily operation and maintenance of the facility as described in OAR 411-054-0065.
- (5) "Advance Directive" means a document that contains a health care instruction or a power of attorney for health care.
- (6) "Aging and People with Disabilities (APD)" means the program area of Aging and People with Disabilities, within the Department of Human Services.

(7) "Applicant" means the individual, individuals, or entity, required to complete a facility application for license.

(a) Except as set forth in OAR 411-054-0013(1)(b), applicant includes a sole proprietor, each partner in a partnership, and each member with a 10 percent or more ownership interest in a limited liability company, corporation, or entity that:

(A) Owns the residential care or assisted living facility business;  
or

(B) Operates the residential care or assisted living facility on behalf of the facility business owner.

(b) Except as set forth in OAR 411-054-0013(1)(b), for those who serve the Medicaid population, applicant includes a sole proprietor, each partner in a partnership, and each member with a five percent or more ownership interest in a limited liability company, corporation, or entity that:

(A) Owns the residential care or assisted living facility business;  
or

(B) Operates the residential care or assisted living facility on behalf of the facility business owner.

(8) "Approved Dementia Training" means a dementia training curriculum approved by an entity selected by the Department to be an approving entity pursuant to a Request for Application (RFA) process.

(9) "Area Agency on Aging (AAA)" as defined in ORS 410.040 means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and B Area Agencies on Aging that contract with the Department to

perform specific activities in relation to residential care and assisted living facilities including:

- (a) Conducting inspections and investigations regarding protective service, abuse, and neglect.
- (b) Monitoring.
- (c) Making recommendations to the Department regarding facility license approval, denial, revocation, suspension, non-renewal, and civil penalties.

(10) "Assisted Living Facility (ALF)" means a building, complex, or distinct part thereof, consisting of fully, self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.

(11) "Building Codes" are comprised of the set of specialty codes, including the Oregon Structural Specialty Code (OSSC), Oregon Mechanical Specialty Code (OMSC), Oregon Electrical Specialty Code (OESC), Oregon Plumbing Specialty Code (OPSC), and their reference codes and standards.

(12) "Caregiver" means a facility employee who is either direct care staff or a universal worker, who is trained in accordance with OAR 411-054-0070 to provide personal care services to residents.

(13) "Change in Use" means altering the purpose of an existing room, within the facility, that requires structural changes.

(14) "Change of Condition - Short-Term" means a change in the resident's health or functioning, that is expected to resolve or be reversed with

minimal intervention, or is an established, predictable, cyclical pattern associated with a previously diagnosed condition.

(15) "Change of Condition - Significant" means a major deviation from the most recent evaluation, that may affect multiple areas of functioning or health, that is not expected to be short-term, and imposes significant risk to the resident. Examples of significant change of condition include, but are not limited to:

- (a) Broken bones.
- (b) Stroke, heart attack, or other acute illness or condition onset.
- (c) Unmanaged high blood sugar levels.
- (d) Uncontrolled pain.
- (e) Fast decline in activities of daily living.
- (f) Significant unplanned weight loss.
- (g) Pattern of refusing to eat.
- (h) Level of consciousness change.
- (i) Pressure ulcers (stage 2 or greater).

(16) "Choice" means a resident has viable options that enable the resident to exercise greater control over their life. Choice is supported by the provision of sufficient private and common space within the facility that allows residents to select where and how to spend time and receive personal assistance.

(17) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(18) "Competency" means to possess specific knowledge, technical skill, and the ability to perform tasks related to the role and responsibilities of direct care staff.

(19) "Competency Assessment" means an evaluation of knowledge, technical skill and ability to carry out care pursuant to the requirements in OAR 411-054-0070. Evaluation shall include verification and documentation of direct care staff competency through observation, written testing or verbal testing.

(20) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

(21) "Conversion Facility (CF)" means a nursing facility that has followed the requirements in these rules to become a residential care facility through the conversion facility process.

(22) "Department" means the Department of Human Services (DHS).

(23) "Designated Representative" means:

(a) Any adult, such as a parent, family member, guardian, advocate, or other person, who is:

(A) Chosen by the individual or, as applicable, the legal representative;

(B) Not a paid provider for the individual; and

(C) Authorized by the individual, or as applicable the legal representative, to serve as the representative of the individual, or as applicable the legal representative, in connection with the provision of funded supports.

(D) The power to act as a designated representative is valid until the individual modifies the authorization or notifies the

agency that the designated representative is no longer authorized to act on his or her behalf.

(b) An individual or the legal representative of the individual is not required to appoint a designated representative.

(24) "Dignity" means providing support in such a way as to validate the self-worth of the individual. Dignity is supported by creating an environment that allows personal assistance to be provided in privacy and by delivering services in a manner that shows courtesy and respect.

(25) "Direct Care Staff" means a facility employee whose primary responsibility is to provide personal care services to residents. These personal care services may include:

- (a) Medication administration.
- (b) Resident-focused activities.
- (c) Assistance with activities of daily living.
- (d) Supervision and support of residents.
- (e) Serving meals, but not meal preparation.

(26) "Directly Supervised" means a qualified staff member maintains visual contact with the supervised staff.

(27) "Director" means the Director of the Department or that individual's designee.

(28) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or man-made, that renders the licensee unable to operate the facility or makes the facility uninhabitable.

(29) "Disclosure" means the written information the facility is required to provide to consumers to enhance the understanding of facility costs, services, and operations.

(30) "Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation of a state.

(31) "Exception" means a written variance granted by the Department from a regulation or provision of these rules.

(32) "Facility" means the residential care or assisted living facility licensee and the operations, policies, procedures, and employees of the residential care or assisted living facility. For purposes of HCBS, "facility" can also mean "provider".

(33) "FPS" means the Facilities, Planning, and Safety Program within the Public Health Division of the Oregon Health Authority (OHA).

(34) "HCB" means "Home and Community-Based".

(35) "HCBS" means "Home and Community-Based Services." HCBS are services provided in the home or community of an individual. DHS, Office of Licensing and Regulatory Oversight and OHA provide oversight and license, certify, and endorse programs, settings, or settings designated as HCB.

(36) "Homelike Environment" means a living environment that creates an atmosphere supportive of the resident's preferred lifestyle. Homelike environment is also supported by the use of residential building materials and furnishings.

(37) "Hospice Program" means a coordinated program of home and inpatient care, available 24 hours a day, that utilizes an interdisciplinary team of personnel trained to provide palliative and supportive services to a patient-family unit experiencing a life-threatening disease with a limited

medical prognosis. A hospice program is an institution for purposes of ORS 146.100.

(38) "Immediate Jeopardy" means a situation where the failure of a residential care facility to comply with a Department rule has caused, or is likely to cause, a resident:

- (a) Serious injury;
- (b) Serious harm;
- (c) Serious impairment; or
- (d) Death.

(39) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interests.

(40) "Independence" means supporting resident capabilities and facilitating the use of those abilities. Creating barrier free structures and careful use of assistive devices supports independence.

(41) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(42) "Individual" means a person enrolled in or utilizing HCBS.

(43) "Individually-Based Limitation" means any limitation to the qualities outlined in OAR 411-004-0020 (1)(d) and (2)(d) to (2)(j), due to health and safety risks. An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual, or as applicable the legal representative, as described in OAR 411-004-0040.

(44) "Informed Consent" means options, risks, and benefits have been explained to an individual, and, as applicable, the legal representative of

the individual, in a manner that the individual, and, as applicable, the legal representative, comprehends.

(45) "Individuality" means recognizing variability in residents' needs and preferences and having flexibility to organize services in response to different needs and preferences.

(46) "Intensive Intervention Community (IIC)" means an RCF endorsed to house fewer than six socially dependent individuals or individuals with physical disabilities. The purpose of the IIC is to serve individuals with co-occurring mental, emotional, or behavioral disturbances who are more appropriately served in smaller settings.

(47) "Licensed Nurse" means an Oregon licensed practical or registered nurse.

(48) "Licensee" means the entity that owns the residential care or assisted living facility business, and to whom an assisted living or residential care facility license has been issued.

(49) "Legal Representative" means a person who has the legal authority to act for an individual.

(a) The legal representative only has authority to act within the scope and limits of his or her authority as designated by the court or other agreement. Legal representatives acting outside of his or her authority or scope must meet the definition of designated representative.

(b) For an individual 18 years of age and older, a guardian appointed by a court order or an agent legally designated as the health care representative, where the court order or the written designation provide authority for the appointed or designated person to make the decisions indicated where the term "legal representative" is used in this rule.

(50) "Major Alteration":

(a) Means:

(A) Any structural change to the foundation, floor, roof, exterior, or load bearing wall of a building;

(B) The addition of floor area to an existing building; or

(C) The modification of an existing building that results in a change in use where such modification affects resident services or safety.

(b) Does not include, cosmetic upgrades to the interior or exterior of an existing building (for example: changes to wall finishes, floorings, or casework).

(51) "Management" or "Operator" means possessing the right to exercise operational or management control over, or directly or indirectly conduct, the day-to-day operation of a facility.

(52) "Modified Special Diet" means a diet ordered by a physician or other licensed health care professional that may be required to treat a medical condition (for example: heart disease or diabetes).

(a) Modified special diets include, but are not limited to:

(A) Small frequent meals;

(B) No added salt;

(C) Reduced or no added sugar; and

(D) Simple textural modifications.

(b) Medically complex diets are not included.

(53) "New Construction" means:

(a) A new building.

(b) An existing building or part of a building that is not currently licensed.

(c) A major alteration to an existing building.

(d) Additions, conversions, renovations, or remodeling of existing buildings.

(54) "Nursing Care" means the practice of nursing as governed by ORS chapter 678 and OAR chapter 851.

(55) "OHA" means the Oregon Health Authority.

(56) "Owner" means an individual with an ownership interest.

(57) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.

(58) "Person-Centered Service Plan" means the details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety, as described in OAR 411-004-0030.

(a) FOR INDIVIDUALS RECEIVING MEDICAID. The person-centered service plan coordinator completes the person-centered service plan.

(b) FOR NON-MEDICAID INDIVIDUALS. The person-centered service plan may be completed by the resident, and as applicable, the representative of the individual, and others as chosen by the individual. The licensee may assist non-Medicaid individuals in developing person-centered service plans when no alternative resources are available. The elements of the individual's person-centered service plan may be incorporated into the resident's care plan.

(59) "Person-Centered Service Plan Coordinator" means a:

Resident's AAA or APD case manager assigned to provide case management services or person-centered service planning for and with individuals; or

(b) Person of the individual's choice for individuals who pay privately.

(60) "Personal Incidental Funds (PIF)" means the monthly amount allowed each Medicaid resident for personal incidental needs. For purposes of this definition, personal incidental funds include monthly payments, as allowed, and previously accumulated resident savings.

(61) "Pre-Service Training" means training that must be completed before direct care staff provide care to residents.

(62) "Primary Care Provider" means the health care provider primarily responsible for the on-going diagnosis and treatment of the resident where they currently reside.

(63) "Privacy" means a specific area or time over which the resident maintains a large degree of control. Privacy is supported with services that are delivered with respect for the resident's civil rights.

(64) "Provider" means any person or entity providing HCBS.

(65) "P.R.N." means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.

(66) "Psychotropic Medications" means any drug that affects brain activities associated with mental processes and behavior. These drugs include, but are not limited to, drugs in the following categories:

(a) Anti-psychotic.

(b) Anti-depressant.

(c) Anti-anxiety.

(d) Hypnotic.

(67) "Quality Measurement Program" means the quality metrics program, as described in OAR 411-054-0320.

(68) "Quality Measurement Council" means a group of individuals appointed by the Governor to develop and oversee the Quality Metric Reporting Program as described in OAR 411-054-0320.

(69) "Remodel" means a renovation or conversion of a building that requires a building permit and meets the criteria for review by the Facilities Planning and Safety Program as described in OAR 333-675-0000.

(70) "Renovate" means to restore to good condition or to repair.

(71) "Residency Agreement" means the written, legally enforceable agreement between a facility and an individual, or legal representative receiving services in a residential setting.

(72) "Resident" means any individual who is receiving room, board, care, and services on a 24-hour basis in a residential care or assisted living facility for compensation.

(73) "Resident Evaluation" means an evaluation that uses the information obtained when addressing the elements required in OAR 411-054-0034(5).

(74) "Residential Care Facility (RCF)" means a building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding, where six or more seniors and adult individuals with disabilities may reside. The residential care facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.

(75) "Residential Care Facility Administrator (RCFA)" means an administrator of a residential care facility or assisted living facility, as defined in ORS 678.710 and licensed by the Oregon Health Licensing Office, according to OAR chapter 853.

(75)(76) "Restraint" means:

(a) Physical restraints are any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the individual's body that the individual cannot remove easily, which restricts freedom of movement or normal access of the individual to the individual's body. Any manual method includes physically restraining someone by manually holding someone in place.

(b) Chemical restraints are any substance or drug used for the purpose of discipline or convenience that has the effect of restricting the individual's freedom of movement or behavior and is not used to treat the individual's medical or psychiatric condition.

(76)(77) "Retaliation" means to threaten, intimidate, or take an action that is detrimental to an individual (for example, harassment, abuse, or coercion).

(77)(78) "Risk Agreement" means a process where a resident's high-risk behavior or choices are reviewed with the resident. Alternatives to and consequences of the behavior or choices are explained to the resident and the resident's decision to modify behavior or accept the consequences is documented.

(78)(79) "Service Plan" means a written, individualized plan for services, developed by a service planning team and the resident or the resident's legal representative, that reflects the resident's capabilities, choices, and if applicable, measurable goals, and managed risk issues. The service plan defines the division of responsibility in the implementation of the services.

(79)(80) "Service Planning Team" means two or more individuals, as set forth in OAR 411-054-0036, that assist the resident in determining what services and care are needed, preferred, and may be provided to the

resident. For IICs, the term "interdisciplinary team" is synonymous with "service planning team."

~~(80)~~(81) "Services" mean supervision or assistance provided in support of a resident's needs, preferences, and comfort, including health care and activities of daily living, that help develop, increase, maintain, or maximize the resident's level of independent, psychosocial, and physical functioning.

~~(81)~~(82) "Subject Individual" means any individual 16 years of age or older on whom the Department may conduct a background check as defined in OAR 407-007-0210 and from whom the Department may require fingerprints for the purpose of conducting a national background check.

(a) For the purpose of these rules, subject individual includes:

(A) All applicants, licensees, and operators of a residential care or assisted living facility.

(B) All individuals employed or receiving training in an assisted living or residential care facility.

(C) Volunteers, if allowed unsupervised access to residents.

(b) For the purpose of these rules, subject individual does not apply to:

(A) Residents and visitors of residents.

(B) Individuals that provide services to residents who are employed by a private business not regulated by the Department.

~~(82)~~(83) "Substantial Compliance" means a level of compliance with state law and rules of the Department such that any identified deficiencies pose a risk of no more than negligible harm to the health or safety of residents of a facility.

~~(83)~~(84) "Supportive Device" means a device that may have restraining qualities that supports and improves a resident's physical functioning.

~~(84)~~(85) "These Rules" mean the rules in OAR chapter 411, division 054.

~~(85)~~(86) "Underserved" means services are significantly unavailable within the service area in a comparable setting for:

(a) The general public.

(b) A specific population, for example, residents with dementia or traumatic brain injury.

~~(86)~~(87) "Unit" means the personal and sleeping space of an individual receiving services in an RCF or ALF setting, as agreed to in the Residency Agreement.

~~(87)~~(88) "Universal Worker" means a facility employee whose assignments include other tasks (for example, housekeeping, laundry, or food service) in addition to providing direct resident services. Universal worker does not include administrators, clerical or administrative staff, building maintenance staff, or licensed nurses who provide services as specified in OAR 411-054-0034.

Stat. Auth.: ORS 410.070, 443.450, 443.738

Stats. Implemented: ORS 443.400 - 443.455, 443.738, 443.991, 678.710

**411-054-0012 Requirements for New Construction or Initial Licensure**  
(Temporary effective 01/01/2020 to 06/28/2020)

(1) An applicant requesting approval of a potential license for new construction or licensing of an existing building that is not operating as a licensed facility, must communicate with the Department before submitting a letter of intent as described in section (3) of this rule.

(2) Before beginning new construction of a building, or purchase of an existing building with intent to request a license, the applicant must provide

the following information for consideration by the Department for a potential license:

(a) Demonstrate a past history, if any, of substantial compliance with all applicable state and local laws, rules, codes, ordinances, and permit requirements in Oregon, and the ability to deliver quality services to citizens of Oregon; and

(b) Provide a letter of intent as set forth in section (3) of this rule.

(3) LETTER OF INTENT. Before applying for a building permit, a prospective applicant, with intent to build or operate a facility, must submit to the Department a letter of intent that includes the following:

(a) Identification of the potential applicant.

(b) Identification of the city and street address of the intended facility.

(c) Intended facility type (for example, RCF, ALF, IIC, or memory care), the intended number of units, and maximum resident capacity.

(d) Statement of whether the applicant is able to provide care and services for an underserved population and a description of any underserved population the applicant is able to serve.

(e) Indication of whether the applicant is able to provide services through the state medical assistance program.

(f) Identification of operations within Oregon or within other states that provide a history of the applicant's ability to serve the intended population.

(g) An independent market analysis completed by a third-party professional that meets the requirements of section (4) of this rule.

(4) Conversion Facility Letter of Intent. If a nursing facility licensee has elected to convert the license to a residential care facility through the conversion facility process, the licensee must submit a conversion facility "Letter of Intent" to the Department at least 90 days prior to the planned closure of the nursing facility. This letter must outline the:

(a) Effective date of the proposed conversion; and

(b) Licensee's intent to follow OAR 411-085-0025(2) regarding nursing facility closure requirements.

(5) MARKET ANALYSIS. The applicant must submit a current market analysis to the Department before applying for a building permit. A market analysis is not required for CFs or change of owner applicants of existing licensed buildings. The market analysis must include:

(a) A description of the intended population to be served, including underserved populations and those eligible to receive services through the state medical assistance program, as applicable.

(b) A current demographic overview of the area to be served.

(c) A description of the area and regional economy and the effect on the market for the project.

(d) Identification of the number of individuals in the area to be served who are potential residents.

(e) A description of available amenities (for example, transportation, hospital, shopping center, or traffic conditions).

(f) A description of the extent, types, and availability of existing and proposed facilities, as described in ORS 443.400 to 443.455, located in the area to be served.

(g) The rate of occupancy, including waiting lists, for existing and recently completed developments competing for the same market segment.

(6) The Department shall issue a written decision of a potential license within 60 days of receiving all required information from the applicant.

(a) If the applicant is dissatisfied with the decision of the Department, the applicant may request a contested case hearing in writing within 14 calendar days from the date of the decision.

(b) The contested case hearing shall be in accordance with ORS chapter 183.

(7) Before issuing a license, the Department shall consider the applicant's stated intentions and compliance with the requirements of this rule and all structural and other licensing requirements as stated in these rules.

(8) BUILDING DRAWINGS. After the letter of intent has been submitted to the Department, one set of building drawings and specifications must be submitted to FPS and must comply with OAR chapter 333, division 675.

(a) Building drawings must be submitted to FPS:

(A) Before beginning construction of any new building;

(B) Before beginning construction of any addition to an existing building;

(C) Before beginning any remodeling, modification, or conversion of an existing building that requires a building permit; or

(D) After application for an initial license of a facility not previously licensed under this rule.

(b) Drawings must comply with the building codes and the Oregon Fire Code (OFC) as required for the occupancy classification and construction type.

(c) Drawings submitted for a licensed assisted living or residential facility must be prepared by and bear the stamp of an Oregon licensed architect or engineer.

(9) 60 DAYS BEFORE LICENSURE OR OPENING A CONVERSION FACILITY. At least 60 days before anticipated licensure, the applicant must submit to the Department:

(a) A completed application form with the required fee.

(b) A copy of the facility's written rental agreements.

(c) Disclosure information.

(d) Facility policies and procedures to ensure the facility's administrative staff, personnel, and resident care operations are conducted in compliance with these rules.

(10) 30 DAYS BEFORE LICENSURE. 30 days before anticipated licensure the applicant must submit:

(a) To the Department, one of the following pieces of documentation concerning the individual designated as facility administrator: a completed and signed Administrator Reference Sheet that reflects the qualifications and training of the individual designated as facility administrator and a background check request.

(A) Verification of a valid Residential Care Facility Administrator (RCFA) license issued by the Oregon Health Licensing Office, pursuant to OAR chapter 853.

(B) Verification of a provisional Residential Care Facility Administrator license issued by the Oregon Health Licensing Office and valid until December 31, 2021. As of January 1, 2022, the individual must have successfully obtained the RCFA license defined in subsection (A).

(C) A completed and signed Administrator Reference Sheet that reflects the qualifications of the individual and a background check request. This documentation will be valid until December 31, 2021. As of January 1, 2022, the individual must have successfully obtained the RCFA license defined in subsection (A).

(b) To FPS, a completed and signed Project Substantial Completion Notice that attests substantial completion of the building project and requests the scheduling of an onsite licensing inspection.

(11) TWO-DAYS BEFORE LICENSURE. At least two working days before the scheduled onsite licensing inspection of the facility, the applicant must

submit, to the Department and FPS, a completed and signed Project Completion/Inspection Checklist that confirms the building project is complete and fully in compliance with these rules.

(a) The scheduled, onsite licensing inspection may not be conducted until the Project Completion/Inspection Checklist has been received by both FPS and the Department.

(b) The onsite licensing inspection may be rescheduled at the Department's convenience if the scheduled, onsite licensing inspection reveals the building is not in compliance with these rules as attested to on the Project Completion/Inspection Checklist.

(12) CERTIFICATE OF OCCUPANCY. The applicant must submit to the Department and FPS, a copy of the Certificate of Occupancy issued by the building codes agency having jurisdiction that indicates the intended occupancy classification and construction type.

(13) CONFIRMATION OF LICENSURE. The applicant, before admitting any resident into the facility, must receive a written confirmation of licensure issued by the Department.

Stat. Auth.: ORS 410.070, 443.450

Stats. Implemented: ORS 443.400 - 443.455, 443.991

#### **411-054-0065 Administrator Qualifications and Requirements**

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

(1) FULL-TIME ADMINISTRATOR. Each licensed residential care and assisted living facility must employ a full-time administrator. The administrator must be scheduled to be on-site in the facility at least 40 hours per week.

(2) ADMINISTRATOR QUALIFICATIONS. The administrator must:

(a) Be at least 21 years of age:

(b) Possess a high school diploma or equivalent; and

(A) Have at least two years professional or management experience that has occurred within the last five years, in a health or social service related field or program, or have a combination of experience and education; or

(B) Possess an accredited Bachelor's Degree in a health or social service related field.

(3) ADMINISTRATOR LICENSING REQUIREMENTS. By January 1, 2022, all individuals serving as administrators must hold a Residential Care Facility Administrator (RCFA) license issued by the Oregon Health Authority according to OAR chapter 853.

(3)(4) ADMINISTRATOR REQUIREMENTS.

(a) Before employment, Facility facility administrators must meet the following training requirements before employment: (A) Complete a Department approved at least 40 hours of classroom administrator training pursuant to OAR 853-035-0010, as approved by the Health Licensing Office. program of at least 40 hours;

~~(B) Complete a Department approved administrator training program that includes both a classroom training of less than 40 hours and a Department approved 40-hour internship program with a Department approved administrator; or~~

~~(C) Complete another Department approved administrator training program.~~

(b) CONTINUING EDUCATION. Administrators must have 20 hours of documented ~~Department approved~~ continuing education credits each year pursuant to OAR 853-050-0005, as approved by the Health Licensing Office. The approved administrator training program fulfills the 20-hour continuing education requirement for the first year.

(c) Persons who have met Department approved training program requirements, but have been absent from an administrator position for five years or less, do not have to re-take the administrator training, but must provide evidence of 20 hours of annual continuing education

until January 1, 2022, by which date all administrators must have obtained a license as described in section (3).

(d) Before employment as a facility administrator, persons must complete the criminal records check requirements in OAR 407-007-0200 to 407-007-0370 and comply with the tuberculosis screening recommendations in OAR 333-019-0041. An administrator of a facility may not have convictions of any of the crimes described in OAR 407-007-0275.

(e) STANDARDS OF PRACTICE. Administrators must comply with standards of practice and professional conduct, as required by OAR 853-060-0000.

~~(e)~~(f) ADMINISTRATOR REFERENCE SUMMARY. Newly hired administrators are responsible for the completion of form SDS 0566, Administrator Reference Summary, and are required to email or fax the completed form to the Department upon hire. The Department may reject a form that has been falsified or is incomplete.

~~(f)~~(g) DESIGNEE WHEN ADMINISTRATOR OFF-DUTY. The administrator must appoint a staff member as designee to oversee the operation of the facility when the administrator is not on duty in the administrator's absence. The administrator, or a designee, must at all times:

- (A) Be in charge on-site;
- (B) Ensure there are sufficient, qualified staff; and
- (C) Ensure the care, health, and safety needs of the residents are met.

(h) DESIGNEE DURING TRANSITIONS AND EMERGENCIES. The facility is responsible for providing administrator functions when a licensed administrator is not available due to a transitional or emergency situation. In such a situation, the facility must contact the Department immediately and provide documentation of the background and qualifications of the acting individual as well as a background check request.

~~(4)(5)~~ ADMINISTRATOR TRAINING COURSE STANDARDS.

(a) The training curriculum for the administrator training course must comply with OAR 853-035-0010 and be approved by the Health Licensing Office.~~Department and shall be re-evaluated by the Department at periodic intervals.~~

~~(b) Individuals, companies, or organizations providing the administrator training course must be approved by the Department. The Department may withdraw approval under the following conditions:~~

~~(A) Failure to follow Department approved curriculum;~~

~~(B) The trainer demonstrates lack of competency in training;~~

~~(C) There is insufficient frequency of training to meet the need;  
or~~

~~(D) Facilities owned or operated by the training entity have a pattern of substantial non-compliance with these rules.~~

~~(e)~~(b) Approved training must be open and available to all applicants and may not be used to orient trainees to a specific company's management or operating procedures.

Stat. Auth.: ORS 410.070, 443.450

Stats. Implemented: ORS 443.400-443.455, 443.991