

**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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Rules Coordinator	Telephone
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Filing Contact	Telephone

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
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 86**

**NURSING FACILITIES/LICENSING –
ADMINISTRATION AND SERVICES**

411-086-0040 Admission of Residents

(1) Admission Conditions:

(a) The facility shall not accept or retain residents whose care needs cannot be met by the facility;

(b) No person shall be admitted to the facility except on the order of a physician;

(c) Admission medical information shall include a statement concerning the diagnosis and general condition of the resident, a medical history and physical, or a medical summary. Other pertinent medical information, orders for medication, diet, and treatments shall also be provided;

(d) No resident shall be admitted to a bed in any location other than those locations shown in the most recent floor plan filed with the Division and under which the license was issued;

(e) No facility shall admit an individual who is mentally ill or mentally retarded unless the Division or local representative thereof has determined that such placement is appropriate.

(f) 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.

(2) Admission Status, Preliminary Care Plan, Preliminary Nursing Assessment:

(a) A licensed nurse shall document the admission status of the resident within eight hours, including but not limited to skin condition, nutritional status, hydration status, mental status, vital signs, mobility, and ability to perform ADLs. This review of resident status shall be sufficient to ensure that the immediate needs of the resident are met;

(b) A licensed nurse shall develop a preliminary resident care plan within 24 hours of admission. Staff providing care for the resident shall have access to, be familiar with, and follow this plan;

(c) Social services shall be provided to the resident in accordance with the preliminary resident care plan not later than three days after admission;

(d) A registered nurse shall complete and document a comprehensive nursing assessment within 14 days of admission; (e) A resident care plan shall be completed pursuant to OAR 411- 086-0060.

(3) Directives for Medical Treatment. Each resident shall be provided the following information and materials in written form within five days of admission, but in any event before discharge:

(a) A copy of "Your Right to Make Health Care Decisions in Oregon," copyright 1991, by the Oregon State Bar Health Law Section, which summarizes the rights of individuals to make health care decisions, including the right to accept or refuse any treatment or medication and the right to execute directives and powers of attorney for health care;

(b) Information on the facility's policies with respect to implementation of those rights;

(c) A copy of the Advance Directive form set forth in ORS 127.531 and a copy of the Power of Attorney for Health Care form set forth in ORS 127.610, along with a disclaimer attached to each form in at Page 8 least 16-point bold type stating "You do not have to fill out and sign this form"; and

(d) The name and location of a person who can provide additional information concerning the forms for directives and powers of attorney for health care.

(4) Contracts, Agreements. Contracts, agreements and all other documents provided to, or required to be signed by, the resident shall not misrepresent or be inconsistent with the requirements of Oregon law. See OAR 411-085-0300 - 411-085-0350.

Stat. Auth.: ORS 410.070, 410.090, 441.055

Stats. Implemented: ORS 441.055, 441.615