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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 411
DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

FILED: 07/28/2026 7:46 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: APD: Updating APS rules to align with policy, clarify jurisdiction, and revise confidentiality provisions

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/28/2026 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT:
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500 Summer Street NE, E-02
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Filed By:
Kristina Krause
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/21/2026
TIME: 1:30 PM
OFFICER: Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
SPECIAL INSTRUCTIONS:
Please join within the first 15 minutes if planning to speak. The hearing will end after 30 minutes if no one joins or provides comments.

Written Comments: Written comments must be received by 5 p.m. on August 28, 2026. Email comments to apd.rules@odhsoha.oregon.gov or mail comments to ODHS APD Rules Coordinator, 500 Summer Street NE, E-02, Salem, OR 97301.

Everyone has a right to know about and use ODHS programs and services. ODHS offers free help, so services are available to all. Support may include:

- American Sign Language (ASL) or spoken language interpreters
- Live captioning
- Written materials in other languages
- Braille, large print, audio, or other formats

For help with understanding these rules or to request support, contact Kristen Hibberds at 503-856-2806 or Kristen.l.hibberds@odhs.oregon.gov at least five business days before the hearing.

ODHS accepts calls through all types of relay services.

NEED FOR THE RULE(S):

The APS OAR 411 020 rules are being updated to integrate substantive policy directives issued since the prior rule revision in 2019, and to revise confidentiality provisions governing the disclosure of screening determinations and investigation outcomes.

Note: Other changes may be made to these rules to fix grammar, improve word choices, make terms consistent, respond to public comments, or improve how clear and accurate the rules are.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statute – Chapter 124 – Abuse Prevention and Reporting
https://www.oregonlegislature.gov/bills_laws/ors/ors124.html

Oregon Revised Statute Chapter 443 – Residential Care; Adult Foster Homes; Hospice Programs
https://www.oregonlegislature.gov/bills_laws/ors/ors443.html

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

Adoption of this rule update includes the addition of policies and procedures that were adopted after the last rule update in 2019. This update ensures APS continues to provide transparent access to APS processes to Oregonians.

These updated rules incorporate requirements for REALD and SOGI data collection. REALD stands for Race, Ethnicity, Language, and Disability. It is a demographic data standard that was initiated by Oregon community leaders (spearheaded by the Asian Pacific American Network and the Oregon Health Equity Alliance). They pointed out that our previous data categories were overly broad and sometimes overlooked whole groups of people. The REALD standards became Oregon law with the passage of House Bill 2134 (2013) and part of ODHS policy in 2020. The system is based on local, state and national best practices and informed by community input and rigorous academic research.

SOGI stands for Sexual Orientation and Gender Identity. It is an additional set of questions that became Oregon law with the passage of House Bill 3159 (2021) and were added to the REALD question standards in July of 2024. Also known as the Data Justice Act, it too was driven by concerns raised by community leaders that our agencies' data standards overlooked those with diverse gender and sexual orientation identities.

This data matters because it identifies avoidable inequities because of implicit bias, racism, disablism and lack of language access. There is significant evidence showing that those who are Black and other people of color, members of Tribal nations, those who are most comfortable using languages other than English, those with functional challenges, and

people who identify as LGBTQIA2S+ living in Oregon face bias, prejudice, and discrimination.

This data will help our program more clearly understand and develop culturally specific and accessible services in partnership with the communities we are here to serve. The data will help us reach our Equity North Star vision of making sure all who live in Oregon can achieve well-being.

These rules include important updates to language surrounding 2023 Senate Bill 99, the Bill of Rights for LGBTQIA2S+ older adult residents of Long Term and Community Based Care. This included the expansion of harassment to include harassment related to gender identity and sexual orientation to constitute abuse under these rules.

The APD Equity Review Team (ERT) conducted a review of the rules on Aug. 29, 2025. The review recommended using more plain language in the rules to increase ease of understanding rule requirements and intent. A plain language review and revision was completed and plainer language used when possible. The ERT recommended involving people and communities in RACs or other community participation activities and offering ADA accommodations. They also recommended adding language to the rules that the Department will offer accommodation when accepting reports of abuse.

In an ongoing effort to consult with the Nine Federally Recognized Tribes of Oregon and confer with the Urban Indian Health Program on issues impacting Tribes and the well-being of their members, communication was sent to the Tribes in October and November 2025 based on the proposed updates to the APS OARs.

APD APS has engaged in conversations with tribal leaders about the clarification needed in OARs regarding jurisdictional understanding in APS matters and Tribal impacts. Additionally, APD will be working with individual local offices to establish or update official agreements related to APS with each of the Nine Federally Recognized Tribes in Oregon.

FISCAL AND ECONOMIC IMPACT:

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

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). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(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 no foreseeable economic impact on state agencies.
Units of Local Government: The Department estimates no foreseeable economic impact on units of local government.
Consumers: The Department estimates no foreseeable economic impact on consumers.
Providers: The Department estimates no foreseeable economic impact on providers.
Public: The Department estimates no foreseeable economic impact on the public.

(2) Effect on Small Businesses:
(a) Estimate the number and type of small businesses subject to the rule(s);

The Department estimates no foreseeable economic impact on small businesses.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);
The Department estimates no foreseeable economic impact associated with this rule update.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).
The Department estimates no foreseeable economic impact associated with this rule update.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were part of the community outreach solicitation for the OAR update and RAC member participation. Small businesses will also be included in the public review and comment period.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
411-020-0000, 411-020-0002, 411-020-0010, 411-020-0015, 411-020-0020, 411-020-0025, 411-020-0030, 411-020-0040, 411-020-0055, 411-020-0060, 411-020-0070, 411-020-0080, 411-020-0085, 411-020-0090, 411-020-0095, 411-020-0100, 411-020-0110, 411-020-0120, 411-020-0121, 411-020-0123, 411-020-0126, 411-020-0130

AMEND: 411-020-0000

RULE SUMMARY: Updated to incorporate “Oregon” into Department of Human Services and to reference the NAPSA Code of Ethics and ODHS Equity North Star. A new section was added emphasizing commitment to partnering with affected communities (e.g., LGBTQIA2S+) and collaborating with other agencies that have investigative authority over certain populations.

CHANGES TO RULE:

411-020-0000
Purpose and Scope of Program ¶

(1) RESPONSIBILITY. The Oregon Department of Human Services (Department), Office of Aging and People with Disabilities ~~program~~(APD), Adult Protective Services (AP~~D~~S) has the responsibility and authority as described in OAR 411-020-0010, Authority and Responsibility to provide Adult Protective Services (APS) to older adults and to adults with physical disabilities whose situation is within APD's jurisdiction to investigate. ¶
(2) INTENT. The intent of the APS Program is to provide prevention, protection, and intervention for older adults and adults with physical disabilities ~~who are unable to protect themselves from abuse and self-neglect.~~ ¶
(3) SCOPE OF SERVICES. ~~The scope of services includes:¶~~
~~(a) Receiv~~Adult Protective Services include but is not limited to: ¶
(a) Receiving and documenting reports of abuse or self-neglect; ¶
(b) Providing and documenting risk assessment of alleged victims;¶
(c) Conducting and documenting investigations of alleged abuse and self-neglect; ¶
(d) Providing appropriate resources and interventions for victim safety; ~~and~~¶
(e) Collecti~~on of~~ng statewide APS data ~~of Adult Protective Services~~in the Centralized Abuse Management (CAM) system; and¶
(f) Providing educational materials and activities to strengthen abuse reporting and prevention.¶
(4) AVAILABILITY. Adult Protective Services are available from ~~the Department~~APD to any adult resid~~ent of a licensed care facility, to nursing facility residents regardless of age, and to any adult residing in the community~~ing in an APD-licensed residential setting, and to any adult residing in the community, including individuals living in residential settings licensed or certified by other licensing authorities, who meets the eligibility criteria in OAR 411-020-0015. ¶

(5) INTERVENTION MODEL. ¶
(a) As a human services agency, the Department embraces a ~~social~~person-centered model ~~of~~for intervention with a primary focus on offering safety and protection to the alleged victim. The over-arching ethical value in Adult Protective Services is the obligation to balance the duty to protect older adults and adults with physical disabilities with the duty to protect their right to self-determination. The APS program adopts and aligns with the National Adult Protective Services Association (NAPSA) Code of Ethics and the Department's Equity North Star.¶
(b) The Department relies upon other key sources, such as law enforcement, legal, medical, and regulatory professionals, to assist in responding to ~~the overall problems associated with~~ abuse and self-neglect~~, and encourages~~. Local offices must actively participat~~ion~~e and ~~sharing of appropriate information by APS staff on multidisciplinary teams.¶~~
~~(c) The Department supports efforts to promote education and outreach services that help identify and prevent abuse and self-neglect of older adults and adults with physical disabilities~~can share confidential information with multidisciplinary teams established under OAR 411-020-0025. ¶
(6) COORDINATION WITH OTHER PROTECTIVE AGENCIES.¶
(a) The Department commits to partnering with communities to develop and deliver policies and programs that are equitable and supports efforts to promote education and outreach services that help identify and prevent abuse and self-neglect of older adults and adults with physical disabilities, including adults in LGBTQIA2S+ communities.¶
(b) When other agencies have the authority to respond to reports of abuse or self-neglect of APS-eligible adults, the Department refers to those agencies as appropriate to provide protective services and investigation.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 179.040, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.435, 443.450, 443.500, 443.765, 443.767

AMEND: 411-020-0002

RULE SUMMARY: Reduced several abuse type definitions to single paragraphs, to eliminate confusion over which subsection to cite in allegations. In several abuse types, language was added for situations where an adult without capacity or the ability to express themselves can be abused under these rules and how determination is made.

Included "Harassment of a sexual nature related to gender identity or sexual expression" in Sexual Abuse definition.

Sexual exploitation of an adult was updated to include the use of electronic means to expose and adult during ADLs.

Added new definitions for "Business Hours," "Business Day," "CAM,", "Caregiver", "Consumer," "Facility Abuse Investigation," "Gender Expression," "Gender Identity," "Gender Nonconforming," "Gender Transition," "Harassment," "Intake," "LGBTQIA2S+," "Natural Supports," Notification," "REALD," "Referral," "Severity," "Sexual Conduct," "Sexual Contact" and "SOGI."

Substantially revised or clarified prior definitions of "Physical Disability," "Preponderance of the Evidence," "Self-Determination," "Self-Neglect," "Substantiated," and "Unsubstantiated."

CHANGES TO RULE:

411-020-0002
Definitions ¶

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 020:¶
(1) "Abuse" means any of the following:¶
(a) PHYSICAL ABUSE~~:~~¶
~~(A) Physical abuse includes:¶~~
~~(i) The~~ means intentionally causing physical pain or injury to an adult or the non-accidental use of physical force that results, or may result, in~~ bodily injury,~~ physical pain, or i~~mpairment; or¶~~
~~(ii) Any physical injury to an adult caused by other than accidental means~~njury.¶
(~~B~~A) For the purposes of these rules, conduct that may be considered physical abuse includes, but is not limited to:¶
(i) Act~~s~~ of violence, such as~~,~~ striking ~~(with or without an object)~~, hitting,~~ beating,~~ punching, shoving, shaking,~~ kicking,~~ pinching, choking~~,~~ or burning; or ¶
(ii) ~~The use of~~Care provided to an adult with physical force that may result in harm or risk of serious harm, including but not limited to careless or rough handling, force-feeding, or physical punishment. ¶
(~~C~~B) ~~Physical abuse is presumed to cause physical injury, including pain, to adults in a coma or adults otherwise incapable of expressing injury or pain.¶~~
~~(b) NEGLECT.¶~~
~~(A) For the purposes of these rules, neglect~~An adult without capacity or the ability to express themselves can be physically abused. This determination is made by evaluating the totality of the circumstances. ¶
(b) NEGLECT means the active or passive failure to provide the basic care or services necessary to maintain the health and safety of an adult, when that failure~~:¶~~
~~(i) R~~ results in physical harm, significant emotional harm, unreasonable discomfort, or serious loss of personal dignity to the adult; or¶
~~(ii) C~~creates ~~the~~a risk of serious harm to the adult.¶
(A) For the purposes of these rules, an adult without capacity or the ability to express themselves can be neglected. This determination is made by evaluating the totality of the circumstances. ¶
(B) The expectation for care m~~ay~~ust exist because of an assumed responsibility or a legal or contractual agreement, including, but not limited to, where an individual has a fiduciary responsibility to assure the continuation of necessary care or services.¶
(C) An adult, who in good faith, is voluntarily under treatment solely by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination shall, for this reason alone, not be considered subjected to abuse by reason of neglect as defined in these rules.¶

(~~c~~D) ~~ABANDONMENT. Abandonment includes~~Failure by an APD-licensed facility or a Regulated Provider to prevent abuse due to not meeting licensing or other regulatory requirements may constitute neglect.¶
(c) ABANDONMENT means the desertion or willful forsaking of an adult for any period of time by an individual who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.¶
(d) VERBAL OR EMOTIONAL ABUSE~~.¶~~
~~(A) Verbal or emotional abuse include~~ means threatening ~~significant~~ physical harm~~,~~ or threatening or causing ~~significant~~ emotional harm to an adult ~~using:¶~~
~~(i) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or¶~~
~~(ii) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.~~¶
(~~B~~A) For the purposes of these rules~~:¶~~
~~(i) Conduct that may be considered,~~ verbal ~~or~~and emotional abuse includes~~,~~ but is not limited to~~, the use of~~ oral, written, electronic or gestured communication ~~that is~~ directed a~~t~~o an adult or within their hearing distance, regardless of their ability to respond or comprehend.¶
(~~ii) The emotional harm that may result from verbal or~~B) Verbal and emotional abuse includes~~,~~ but is not limited to~~, anguish, distress, fear, unreasonable emotional discomfort, loss of personal dign~~ the use of derogatory or inappropriate names, insults, verbal assaults, spitting, profanity, ridicule, harassment, coercion, or threats. It also includes intimidation, humiliation, mental cruelty, or harassment related to gender identity, sexual orientation, and other protected statuses.¶
(C) An adult without capacity~~,~~ or ~~loss of autonomy.¶~~
~~(e) FINANCIAL EXPLOITATION. Financial exploitation including:¶~~
~~(A) Wrongfully taking,~~the ability to express themselves can be verbally and emotionally abused. This determination is made by evaluation of the totality of the circumstances.¶
(e) FINANCIAL EXPLOITATION means one or more of the following:¶
(A) Wrongfully taking the assets, funds, or property (including medications belonging to or intended for the use of an adult) by means including, but not limited to, deceit, trickery, subterfuge, coercion, harassment, duress, fraud, or undue influence~~, the assets, funds, property, or medications belonging to or intended for the use of an adult~~;¶
(B) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult reasonably believes the threat conveyed may be carried out;¶
(C) Misappropriating or misusing any money from any account held jointly or singly by an adult~~;~~, even if the alleged victim and the alleged perpetrator are married; ¶
(D) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult, even if the alleged victim and the alleged perpetrator are married; or¶
(E) The taking, borrowing, or accepting of assets, funds, or property~~, or~~ (including medications) from an adult residing in a facility by an employee of the facility, or from a caregiver paid to provide services in the individual's home, unless the adult and employee are related and the action described in this paragraph does not constitute a wrongful taking as described in (A) through (D).¶
(f) SEXUAL ABUSE~~. Sexual abuse includ~~ means one or more of the following:¶
(A) Sexual contact or conduct with a non-consenting adult ~~or with~~, including an adult considered incapable of consenting to a sexual act as described in ORS 163.315. Consent, for purposes of this definition, means a voluntary agreement or concurrence of wills. ~~Mere f~~Failure to object does not, in and of itself, constitute an expression of consent;¶
(B) Verbal or physical harassment of a sexual nature, including, but not limited to severe, threatening, pervasive, unwanted, or unwelcome harassment, or inappropriate exposure of an adult to sexually explicit material or language~~;¶~~
~~(C) Sexual exploitation of an adult,~~ regardless of the adult's ability to comprehend;¶
(C) Sexual exploitation of an adult, including but not limited to the use of any electronic means to expose an adult while personal care or assistance is being performed and provided;¶
(D) Any sexual contact or conduct between an employee of a facility, and an adult residing in the facility, or a paid caregiver in the individua's home, unless the two are spouses or domestic partners;¶
(E) Any sexual contact that is achieved through force, trickery, threat, or coercion; or¶
(F) An act that constitutes a crime under ORS 163.375~~, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467~~ - Rape in the first degree, 163.405 - Sodomy in the first degree, 163.411 - Unlawful sexual penetration in the first degree, 163.415 - Sexual abuse in the third degree, 163.425 - Sexual abuse in the second degree, 163.427 - Sexual abuse in the first degree, 163.465 - Public indecency, 163.467 - Private indecency, or 163.525 - Incest, except for incest due to marriage alone.¶
(g) INVOLUNTARY SECLUSION~~. Involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult.¶~~
~~(A) Involuntary seclusion may include:¶~~

(i) Confinement or restriction of an adult to their room or a specific area; or¶
(ii) Placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.¶
(B) In a facility, emergency or short-term monitored separation from other residents may be permitted if used for a limited period of time when:¶
(i) Used as part of the care plan after other interventions have been attempted;¶
(ii) Used as a de-escalating intervention until the facility evaluates the behavior and develops care plan interventions to meet the resident's needs; or¶
(iii) The resident needs to be secluded from certain areas of the facility when their presence in the specified areas poses a risk to health or safety.¶
(h) WRONGFUL USE OF A PHYSICAL OR CHEMICAL RESTRAINT OF AN ADULT.¶
(A) A wrongful use of a physical or chemical restraint includes situations where:¶
(i) A licensed health professional has not conducted a thorough assessment before implementing a licensed physician's prescription for restraint;¶
(ii) Less restrictive alternatives have not been evaluated before the use of the restraint; or¶
(iii) The restraint is used for convenience or discipline.¶
(B) Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.¶
(2) "Administrative Closure" means an abuse or self-neglect investigation was initiated and closed with no determination as to whether abuse or self-neglect occurred or not.¶
(3) "Adult" means an individual who is 18 years of age or older.¶
(4) "Aging and People with Disabilities (APD)" means the Aging and People with Disabilities program within the Department of Human Services.¶
(5) Alleged Perpetrator (AP)" means the licensee, employees, volunteers, or contracted personnel of the facility, or any adult reported to have committed abuse.¶
(6) "Alleged Victim (AV)" means the individual against whom abuse or self-neglect is reported to have been committed.¶
(7) "Adult Protective Services (APS)" means APD program services to respond to abuse and self-neglect of older adults and adults with physical disabilities as described in these rules, including screening, triage or consultation, on-site assessment, investigation, intervention, documentation, and APS risk management.¶
(8) "APS Risk Management" means the process by which Adult Protective Services staff provide short-term, active assessment and intervention with an alleged victim who is at serious risk of harm, or continues to be at serious risk of harm, after an investigation is complete.¶
(9) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of service to individuals in a planning and service area.¶
(10) "Authority" means the Oregon Health Authority.¶
(11) "Basic Care" means care essential to maintain the health and safety needs of an adult, but is not limited to, assistance with medication administration, medical needs, nutrition, supervision for safety, as well as activities of daily living including assistance with bathing, dressing, hygiene, eating, mobility, and toileting.¶
(12) "Community-Based Care Facility" means an assisted living facility, residential care facility, or adult foster home.¶
(13) "Conclusion" means a determination of whether abuse or self-neglect occurred.¶
(14) "Conservatorship" means a court has issued an order appointing and investing an individual with the power and duty of managing the property of another individual.¶
(15) "Department" means the Department of Human Services (DHS).¶
(16) "Evidence" means material gathered, examined, or produced during an APS investigation. Evidence includes, but is not limited to, witness statements, documentation, photographs, audio or video recordings, and relevant physical evidence.¶
(17) "Financial Institution" has the meaning given in ORS 192.583.¶
(18) "Financial Records" has the meaning given in ORS 192.583.¶
(19) "Guardianship" means a court has issued an order appointing an individual with the power and duty of managing the care, comfort, or maintenance of an incapacitated adult.¶
(20) "Health Care Provider" has the meaning given that term in ORS 192.556.¶
(21) "Imminent Danger" means there is reasonable cause to believe an adult's life, physical well-being, or resources are in danger if no intervention is initiated immediately.¶
(22) "Inconclusive" means that after a careful analysis of the evidence gathered in an investigation, a determination of whether abuse or self-neglect occurred cannot be reached by a preponderance of the evidence.¶
(23) "Informed Choice" means the individual has the mental capacity, adequate information, and freedom from undue influence to understand the current situation, understand the options available and their likely consequences, be able to reasonably choose from among those options, and communicate that choice.¶

(24) "Investigation" means the process of determining whether abuse or self-neglect occurred. The investigation results in a conclusion as to whether the alleged abuse or self-neglect is substantiated, unsubstantiated, inconclusive, or administratively closed.¶
(25) "Law Enforcement Agency" means:¶
(a) Any city or municipal police department;¶
(b) Any county sheriff's office;¶
(c) The Oregon State Police;¶
(d) Any district attorney; or¶
(e) The Oregon Department of Justice.¶
(26) "Licensed Care Facility" means a facility licensed by, APD including assisted living facilities, residential care facilities, and adult foster homes. For these rules "licensed care facility" does not include nursing facilities.¶
(27) "Local Office" means the local service staff of the Department or Area Agency on Aging.¶
(28) "Mandatory Abuse Reporter" for the purpose of these rules, means any public or private official who is required by state abuse statutes to report alleged abuse. The public or private officials who are mandatory reporters are:¶
(a) Physicians, psychiatrists, naturopathic physicians, osteopathic physicians, chiropractors, podiatric physicians, physician assistants, or surgeons, including any interns or residents;¶
(b) Licensed practical nurses, registered nurses, nurse practitioners, nurse's aides, home health aides, or employees of an in-home health service;¶
(c) Employees of DHS, community developmental disabilities programs, or Area Agencies on Aging;¶
(d) Employees of the Oregon Health Authority, county health departments, or community mental health programs;¶
(e) Employees of a nursing facility or an individual who contracts to provide services to a nursing facility;¶
(f) Peace officers;¶
(g) Members of the Clergy;¶
(h) Regulated social workers, licensed professional counselors, or licensed marriage and family therapists;¶
(i) Physical, speech, or occupational therapists, audiologists, or speech language pathologists;¶
(j) Senior center employees;¶
(k) Information and referral or outreach workers;¶
(l) Firefighter or emergency medical services providers;¶
(m) Psychologists;¶
(n) Licensees of an adult foster home or an employee of the licensee;¶
(o) Attorneys;¶
(p) Dentists;¶
(q) Optometrists;¶
(r) Members of the Legislative Assembly;¶
(s) Personal support workers;¶
(t) Home care workers;¶
(u) Referral Agents as defined in OAR 411-058-0000(12); and¶
(v) For nursing facilities, all of the above, plus legal counsel, guardians, or family members of the resident.¶
(29) "Multidisciplinary Team (MDT)" means a county-based investigative and assessment team that coordinates and collaborates for allegations of adult abuse and self-neglect. The team may consist of personnel of law enforcement, the local district attorney office, local Department or AAA offices, community mental health and developmental disability programs, plus advocates for older adults and individuals with disabilities, and individuals specially trained in abuse.¶
(30) "Multidisciplinary Team (MDT) Member" means an individual or a representative of an agency that is allowed by law and recognized to participate on the multidisciplinary team.¶
(31) "Older Adult" means any individual 65 years of age or older.¶
(32) "Physical Disability" means any physical condition or cognitive condition such as brain injury or dementia that significantly interferes with an adult's ability to protect themselves from abuse or self-neglect.¶
(33) "Preponderance of the Evidence" means the majority of the evidence collected during an investigation supports a particular conclusion.¶
(34) "Protected Health Information" has the meaning given in ORS 192.556.¶
(35) "Protective Services" means a service provided by the Department, directly or through type B AAAs, in response to the need to protect elderly persons and persons with physical disabilities from harm or neglect.¶
(36) "Regulated Providers" means service providers regulated through licensing, certification, registration, contracts, provider enrollment agreements, and other means over which the Department and Authority have administrative authority and responsibility.¶
(37) "Reporter" means the individual or entity who reports alleged abuse or self-neglect to the Department or a law

~~enforcement agency.¶~~
~~(38) "Required Reporter" means the individual or entity who is required by the Department's or the Authority's administrative rules, contracts, or policy to report alleged abuse or self-neglect to the Department. "Required reporter" is also used when other agencies or entities internally require their own abuse reporting to the Department.¶~~
~~(39) "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.¶~~
~~(40) "Risk Assessment" means the process by which an individual is evaluated for risk of harm and for the physical and cognitive abilities to protect their interests and personal safety. The individual's living situation, support system, and other relevant factors are evaluated to determine the impact on the individual's ability to become or remain safe.¶~~
~~(41) "Risk of Serious Harm" means that without intervention, the individual is likely to incur substantial injury or loss.¶~~
~~(42) "Self-Determination" means an adult's ability to decide their own fate or course of action without undue influence.¶~~
~~(43) "Self-Neglect" means the inability of an adult to understand the consequences of their actions or inaction when that inability leads to or may lead to harm or endangerment to self.¶~~
~~(44) "Services" as used in the definition of abuse includes, but is not limited to, the provision of food, clothing, medicine, housing, medical services, housekeeping, and transportation as well as assistance with bathing or personal hygiene, or any other service essential to the well-being of an adult.¶~~
~~(45) "Substantiated" means the preponderance of the evidence gathered and analyzed in an investigation indicates the allegation is true.¶~~
~~(46) "These Rules" mean the rules in OAR chapter 411, division 020.¶~~
~~(47) "Undue Influence" means the process by which an individual uses their role and power to exploit the trust, dependency, and fear of another individual and to deceptively gain control over the decision making of the second individual.¶~~
~~(48) "Unsubstantiated" means the preponderance of the evidence gathered and analyzed in an investigation indicates the allegation is not true~~ means preventing an adult from associating, interacting, or communicating with other individuals to discipline the adult or for the convenience of a caregiver. ¶
(A) For the purposes of these rules, conduct that may be considered involuntary seclusion includes, but is not limited to, confinement or restriction of an adult to or from their room or a specific area, or placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.¶
(B) In a facility or home setting, an emergency or monitored separation from other individuals may be permitted for a limited duration when:¶
(i) Used as a part of a service or care plan or an Individually Based Limitation (IBL) as defined in OAR 411-004-0040, after other interventions have failed;¶
(ii) Used as a de-escalating intervention until the individual is assessed, and appropriate interventions are developed to address the individual's needs; or¶
(iii) The individual needs to be restricted from certain areas of a facility when their presence in the specified areas poses a risk to the health or safety of themselves or others. ¶
(h) WRONGFUL USE OF A PHYSICAL OR CHEMICAL RESTRAINT OF AN ADULT means the restriction of an individual's freedom of movement in the following situations: when a licensed health professional has not conducted a person-centered assessment before implementing a licensed physician's prescription for restraint; when less restrictive alternatives have not been evaluated before the use of the restraint; or the restraint is used to discipline the adult or for the convenience of a caregiver.¶
(A) For the purposes of these rules, physical restraints may be permitted if used when an individual's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.¶
(B) An individual has the right to make an informed choice regarding the use of restraints. Individuals may also choose supportive devices with restraining qualities, provided these devices are intended to enhance their independence.¶
(2) "Administrative Closure" means an abuse or self-neglect investigation was initiated and then closed without an evidence-based conclusion being reached, based on OAR 411-020-0121, Administrative Closure.¶

(3) "Adult" means an individual who is 18 years of age or older.¶
(4) "Adult Protective Services (APS)" means APD program services that respond to reports of abuse and self-neglect of older adults and adults with physical disabilities as described in these rules. APD Adult Protective Services are provided either directly by the Department or through Type B Area Agencies on Aging (AAA).¶
(5) "Aging and People with Disabilities (APD)" means the Aging and People with Disabilities program within the Oregon Department of Human Services.¶
(6) Alleged Perpetrator (AP)" means any adult or entity reported to have committed abuse against an APS-eligible adult under these rules.¶
(7) "Alleged Victim (AV)" means an APS-eligible adult who is reported to have been abused or to be self-neglecting. ¶
(8) "APS Risk Management" means the process by which Adult Protective Services staff provide short-term, active assessment and intervention with an alleged victim who is at risk of serious harm.¶
(9) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of service to individuals in a planning and service area.¶
(10) "Authority" means the Oregon Health Authority.¶
(11) "Basic Care" means care essential to maintain the health and safety of an adult who cares for themselves or for whom a caregiver has assumed responsibility. This care includes, but is not limited to, assistance with medication administration, medical needs, nutrition, supervision for safety, and providing a safe environment, as well as activities of daily living including assistance with bathing, dressing, hygiene, eating, mobility, and toileting.¶
(12) "Business Day" means weekdays, Monday through Friday, excluding legal holidays as determined by the state in accordance with ORS 187.010 and 187.020.¶
(13) "Business Hours" means 8:00 AM to 5:00 PM on a Business Day.¶
(14) "CAM" means the Centralized Abuse Management system, the software application provided by the Department to local offices for documenting APS activities and maintaining associated records.¶
(15) "Caregiver" means an individual who assists an adult with basic care, either for pay or as a natural support.¶
(16) "Community Abuse Investigation" means the process of determining whether abuse or self-neglect occurred to an APS-eligible adult who:¶
(a) Resides in a private home or other non-facility setting;¶
(b) Resides in a non-APD licensed facility;¶
(c) Resides in an ODHS and OHA licensed facility and the alleged perpetrator is not employed by, contracted by, or otherwise associated with the facility; or¶
(d) Receives Medicaid-funded services from an enrolled provider that is not regulated by APD's Office of Safety, Regulatory and Oversight (SOQ).¶
(17) "Community-Based Care (CBC) Facility" means an adult residential care setting which provides Home and Community-Based Services (HCBS) as licensed through APD. CBC settings include assisted living facilities, residential care facilities, endorsed memory care units, and adult foster homes as defined in OAR 411-020-0010(2) Authority and Responsibility.¶
(18) "Conclusion" means a determination based on evidence gathered, of whether abuse or self-neglect occurred.¶
(19) "Conservatorship" means a court has appointed an individual with the power and duty of managing the property of another individual.¶
(20) "Consumer" means an individual who receives, or is eligible to receive, APS and other Department services and benefits.¶
(21) "Department" or "ODHS" means the Oregon Department of Human Services (ODHS).¶
(22) "Evidence" means material gathered, examined, or produced during an APS investigation. Evidence includes, but is not limited to, witness statements, documentation, photographs, and audio or video recordings.¶
(23) "Facility Abuse Investigation" means:¶
(a) The process of determining whether abuse occurred to an alleged victim who resides in an APD licensed residential setting, when the alleged perpetrator is a licensee, employee, volunteer, contract staff, or otherwise associated with the facility; or¶
(b) The process of assessing potential neglect by the facility when a resident is alleged to have been abused in the facility by an alleged perpetrator who is another facility resident or a community member unassociated with the facility.¶
(24) "Financial Institution" has the meaning given in ORS 192.583.¶
(25) "Gender Expression" for the purposes of these rules has been defined in OAR 411-049-0102 and 411-054-0005 and means an individual's gender-related appearance and behavior, whether or not these are stereotypically associated with the sex the individual was assigned at birth.¶
(26) "Gender Identity" for the purposes of these rules has been defined in OAR 411-049-0102 and 411-054-0005 and means an individual's internal, deeply held knowledge or sense of the individual's gender, regardless of physical appearance, surgical history, genitalia, legal sex, sex assigned at birth or name and sex as it appears in medical

records or as it is described by any other individual, including a family member, conservator, or legal representative of the individual. An individual's gender identity is the most recent gender identity communicated by an individual who lacks the present ability to communicate.¶
(27) "Gender Nonconforming" for the purposes of these rules has been defined in OAR 411-049-0102 and 411-054-0005 and means having a gender expression that does not conform to stereotypical expectations of the individual's gender.¶
(28) "Gender Transition" for the purposes of these rules has been defined in OAR 411-049-0102 and 411-054-0005 and means a process by which an individual begins to live according to that individual's gender identity rather than the sex the person was assigned at birth. The process may include changing the individual's clothing, appearance, name, or identification documents or undergoing medical treatments.¶
(29) "Guardianship" means a court has appointed an individual with the power and duty of managing the care, comfort, or maintenance of an incapacitated adult.¶
(30) "Harass" or "harassment" for the purposes of these rules has been defined in OAR 411-49-0102 and 411-054-0005 and means to act in a manner that is unwanted, unwelcomed, or uninvited, or that demeans, threatens or offends an APS-eligible adult. Harassment can include but is not limited to, bullying, denigrating, or threatening an individual based on that individual's actual or perceived status as a member of one of the protected classes in Oregon.¶
(31) "Health Care Provider" is any occupation listed in ORS 192.556.¶
(32) "Imminent Danger" means there is reasonable cause to believe an adult's life, physical or emotional well-being, or resources is at risk of serious harm or loss if no intervention is initiated immediately.¶
(33) "Inconclusive" means that after analysis of the evidence gathered in a complete and thorough investigation, a determination of whether abuse or self-neglect occurred cannot be reached by a preponderance of the evidence.¶
(34) "Informed Choice" means an individual has adequate information about available options, the capacity to make the decision, and the choice is voluntary and made without undue influence. A person making an informed choice is able to understand their current situation, understand their options and likely consequences, reasonably choose from among those options, and communicate their choice and any risks associated with it.¶
(35) "Investigation" means the process of determining whether abuse or self-neglect occurred. The investigation results in a conclusion as to whether the alleged abuse or self-neglect is substantiated, unsubstantiated, inconclusive, or administratively closed.¶
(36) "Intake" means a record created in the Centralized Abuse Management (CAM) system by an APS worker when APS receives a report of alleged abuse, self-neglect, or other concerns involving an older adult or an adult with a physical disability.¶
(37) "Law Enforcement Agency" has the meaning given in ORS 124.050(6).¶
(38) "Licensed Facility" means a facility licensed by APD including assisted living facilities, residential care facilities, and adult foster homes. For these rules "APD licensed facility" does not include nursing facilities.¶
(39) "LGBTQIA2S+" means lesbian, gay, bisexual, transgender, queer, intersex, asexual, Two Spirit, nonbinary or other minority gender identity or sexual orientation. The terms used below, for the purposes of these rules have been defined in OAR 411-049-0102 and 411-054-0005:¶
(a) "Lesbian" means the sexual orientation of a person who is female, feminine, or nonbinary and who is physically, romantically, or emotionally attracted to other women. Some lesbians may prefer to identify as gay, a gay woman, queer or in other ways. ¶
(b) "Gay" means the sexual orientation of a person attracted to people of the same gender. Although often used as an umbrella term, it is used more specifically to describe men attracted to men.¶
(c) "Bisexual" means a person who has the potential to be physically, romantically and/or emotionally attracted to people of more than one gender, not necessarily at the same time, in the same way or to the same degree.¶
(d) "Transgender" means having a gender identity or gender expression that differs from the sex one was assigned at birth, regardless of whether an individual has undergone or is in the process of undergoing gender-affirming care. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.¶
(e) "Queer" means individuals who do not identify as exclusively straight or individuals who have non-binary or gender-expansive identities and is often used as a catch-all to refer to the LGBTQIA2S+ population as a whole. This term was previously used as a slur but has been reclaimed by many parts of the LGBTQIA2S+ movement. It can also include transgender people who identify as male or female. The term should only be used to refer to a specific person if that person self- identifies as queer. ¶
(f) "Intersex" means someone born with a variety of differences in their sex traits and reproductive anatomy. Intersex traits greatly vary, including differences in, but limited to, hormone production and reproductive anatomy. ¶
(g) "Asexual" or "Ace" means a complete or partial lack of sexual attraction or lack of interest in sexual activity with others. Asexuality exists on a spectrum, and asexual people may experience no, little, or conditional sexual

attraction. Many people who are asexual still identify with a specific romantic orientation. ¶
(h) "2S" or "Two-Spirit" means a term within some indigenous communities, encompassing cultural, spiritual, sexual and gender identity. The term reflects complex indigenous understandings of gender roles, spirituality, and the long history of sexual and gender diversity in indigenous cultures. The definition and common use of the term two-spirit may vary among Tribes and Tribal communities. ¶
(i) "+" means all other identities and expressions of gender, romantic and sexual orientation, including minority gender identities.¶
(j) "Nonbinary" means a person who does not identify exclusively as a man or a woman. Non-binary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all non-binary people do. Non-binary can also be used as an umbrella term encompassing identities such as agender, bigender, genderqueer or gender-fluid.¶
(40) "Local Office" means the local. service staff of the Aging and People with Disabilities (APD) program and the staff of the Area Agencies on Aging (AAA), in areas where AAA's provide APS services.¶
(41) "Mandatory Abuse Reporter," for the purpose of these rules, means any public or private official who is required by state abuse statutes to report alleged abuse. The public or private officials who are mandatory reporters are listed in ORS 124.050(9).¶
(42) "Multidisciplinary Team (MDT)" means a county-based investigative and assessment team established under OAR 411-020-0025 that coordinates and collaborates for allegations of adult abuse and self-neglect. ¶
(43) "Natural Supports" or "Natural Support System" means resources and supports (for example. relatives, friends, significant others, neighbors, roommates, or the community) who are willing to voluntarily provide support and services to an individual without the expectation of compensation.¶
(44) "Not Substantiated" means the same as "unsubstantiated" in these rules. ¶
(45) "Notification" means when an APS worker informs a person or entity of APS-related activity and shares information with no expectation of action. Notifications may be required by law, policy, or agreement with another agency or program. ¶
(46) "Older Adult" means any individual 65 years of age or older.¶
(47) "Physical Disability" means any physical condition, or cognitive condition such as brain injury or dementia, that potentially interferes with an adult's ability to protect themselves from abuse or self-neglect. ¶
(48) "Preponderance of the Evidence" means that the evidence supporting an investigative conclusion outweighs the evidence against it.¶
(49) "Protected Health Information" has the meaning given in ORS 192.556.¶
(50) "REALD" means Race, Ethnicity, Language, and Disability. It is a demographic data standard that is established and defined in ORS 413.161 and OAR chapter 950 division 130.¶
(51) "Referral" means the act of APS providing information to another person or entity with the expectation that they review the information and take appropriate action.¶
(52) "Regulated Providers" means service providers regulated through licensing, certification, registration, contracts, provider enrollment agreements, and other means over which the Department and Authority have administrative authority and responsibility.¶
(53) "Reporter" means an individual or entity who provides notification of alleged abuse or self-neglect to the Department or a law enforcement agency.¶
(54) "Required Reporter" means the individual or entity who is required by Department or Authority administrative rules, contracts, or policy to notify the Department of .alleged abuse or self-neglect. "Required reporter" also includes when other agencies or entities internally require their own abuse notifications to the Department. ¶
(55) "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 movement or normal access of the individual to the individual's body. A manual method of restraint is anytime an individual is physically restrained by someone using their hands or other body part to hold the individual in a manner that restricts their ability to move.¶
(b) Chemical restraints are any substance or drug used for the purpose of discipline or convenience of the caregiver 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.¶
(56) "Risk Assessment" means the process by which an individual is evaluated for potential harm and for physical and cognitive abilities to protect their interests and personal safety. The individual's living situation, support system, and other relevant factors are evaluated to determine the impact on the individual's ability to become or remain safe.¶
(57) "Risk of Serious Harm" means that without intervention, the individual is likely to incur substantial injury or loss.¶

(58) "Self-Determination" means an adult's ability to understand the consequences of their actions or inactions, and to decide and direct their desired outcome without undue influence.¶
(59) "Self-Neglect" means an adult lacks self-determination and is unable to protect themselves from harm or risk of serious harm. ¶
(60) "Services" as used in chapter 411, division 020 means, but is not limited to, the provision of food, clothing, medicine, housing, medical services, housekeeping, and transportation as well as assistance with bathing or personal hygiene, or any other service necessary for the safety, health, and well-being of an adult.¶
(61) "Severity", as used in these rules, refers to whether an event's effect or potential effect were "significant", "serious", or "substantial". These terms are used to describe the degree of the harm to the individual or degree of potential risk of harm. Severity is specific to the alleged victim's experiences. The level of negative impact is determined through the assessment process outlined in in OAR 411-020-0090. ¶
(62) "Sexual Conduct" as used in these rules, includes any behavior of a sexual nature that is intended to arouse, gratify, or harass and does not require physical contact to be considered abuse. ¶
(63) "Sexual Contact" has the meaning given that term in ORS 163.305.¶
(64) "SOGI" means Sexual Orientation and Gender-Identity. It is a demographic data standard established in ORS 413.161 and OAR chapter 950, division 130.¶
(65) "Substantiated" means the preponderance of the evidence gathered and analyzed in a complete and thorough investigation indicates the alleged abuse or self-neglect occurred.¶
(66) "These Rules" mean the rules in OAR chapter 411, division 020.¶
(67) "Undue Influence" means the process by which someone uses their role and power to exploit the trust, dependency, or fear of another individual to deceptively gain control over the decision making of the individual.¶
(68) "Unsubstantiated" means the alleged abuse or self-neglect did not occur by the preponderance of the evidence gathered and analyzed in a complete and thorough investigation.
Statutory/Other Authority: ORS 124.05, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 125.005, 192.583, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.435, 443.450, 443.500, 443.765, 443.767, Or~~egon~~ Laws 2013~~Chapter~~, ch. 352

AMEND: 411-020-0010

RULE SUMMARY: Added language clarifying that the Department retains authority to interpret APS related statutes, rules, and policies, as well as to establish standardized work procedures. Expanded authority to include investigations within certified Room and Board settings. Added explicit authority to investigate reported abuse involving individuals with physical disabilities.

CHANGES TO RULE:

411-020-0010
Authority and Responsibility ¶

The Department is granted ~~with the~~ statutory authority and responsibility for the delivery and administration of programs and services ~~relating to~~for older adults and adults with physical disabilities, including ~~a~~Adult ~~p~~Protective ~~s~~Services~~. These rules detail the components of the Adult Protective Services~~ (APS). The Department has the authority to interpret APS-related statutes, rules, and policies, and set standardized work procedures. These rules detail the APS process. Specific authorizing statutes include: ¶
(1) GENERAL ADULT PROTECTIVE SERVICES. ¶
(a) ORS 409.010, authorizing Adult Protective Services for older adults and adults with disabilities.¶
(b) ORS 410.020, authorizing the protection of older adults and adults with disabilities from physical and mental abuse and from fraudulent practices.¶
(c) ORS 410.040, defining Adult Protective Services as a service to be provided by the Department directly or through type B area agencies, in response to the need for protection from harm or neglect to older adults and adults with disabilities.¶
(d) ORS 410.070, authorizing the Department to serve as an advocate for older adults and adults with disabilities by conducting investigations concerning matters affecting the health, safety, and welfare of older adults and adults with disabilities, and to adopt rules for providing Adult Protective Services.¶
(2) ADULT FOSTER HOMES. ¶
(a) ORS 443.767 requires the Department to promptly investigate any complaint that a resident of an adult foster home has been injured, abused, or neglected and is in imminent danger, or has died or been hospitalized~~, and~~. Requires the Department to promptly investigate any complaint alleging the existence of any circumstances that may result in injury, abuse, or neglect of a resident and may place the resident's health or safety in imminent danger.¶
(b) OAR 411-05~~0~~2-0~~66~~005 details the steps for filing, investigating, and documenting complaints in Adult Foster Homes. ¶
(3) RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES. ¶
(a) ORS 443.4~~35~~16 allows the Department access to a facility to determine whether it is maintained and operated in accordance with ORS 443.400 to 443.455 and 443.991(2) and the rules in OAR chapter 411, division 054. ¶
(b) OAR 411-054-0105 details methods for conducting inspections and investigations in residential care and assisted living facilities.¶
(4) ROOM AND BOARD living situations that serve older adults and adults with physical disabilities that are certified by APD under OAR chapter 411, division 068.¶
(5) ELDER ABUSE. ¶
(a) ORS 124.050 to 124.095 mandates reports and investigations of ~~reportedly~~alleged abuse of older adults. ¶
(b) These rules detail the procedures for reporting, investigating, and documenting alleged abuse~~d~~ of older adults.¶ ~~(b~~ ¶
(6) ADULTS WITH PHYSICAL DISABILITIES.¶
(a) ORS 409.010, ORS 410.020, ORS 410.040, and ORS 410.070 mandate the Department to provide Adult Protective Services and investigation to adults with physical disabilities. ¶
(b) ORS 124.050 (4) and (13) mandates reports and investigations of reportedly abused adults with physical disabilities for Financial Exploitation and Verbal Abuse. ¶
(c) These rules detail the procedures for reporting, investigating, and documenting alleged abuse or self-neglect of ~~older adults.¶~~
~~(5)~~adults with physical disabilities.¶
(7) APS-ELIGIBLE ADULTS WHO RECEIVE MEDICAID SERVICES.¶
(a) Section 1915(c) of the Social Security Act, Home and Community-Based Services (HCBS) Waiver (see Waiver Survey, Appendix Item G-1-a) mandates the Department to take reports of and investigate critical incidents~~ (e.g., abuse, neglect, and exploitation)~~, including abuse, that reportedly occur to Medicaid recipients, and develop

strategies to reduce or prevent future incidents.¶
(b) ORS 124.070, 409.010, 410.020, 410.040, 410.070, and 443.767 provide the Department with authority to designate Adult Protective Services as under these rules.¶
(c) OAR 411-065-0000 to 411-065-0050 details APD contracted services for recipients of Medicaid services.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 179.040, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116

AMEND: 411-020-0015

RULE SUMMARY: Clarified that adults who are reported to have, or who self-report, a physical disability are eligible for APS services. Added that APS eligibility is not affected by an individual's citizenship or immigration status. Specified that, in reports involving multiple alleged victims, information for each individual is documented in a separate intake and investigation.

CHANGES TO RULE:

411-020-0015
Eligibility Criteria ¶

(1) The Adult Protective Services ~~as~~ described in OAR 411-020-0040 are available for: ¶
(a) Adults aged 65 and older; ¶
(b) Adults aged 18 and older who ~~have~~are reported to have, or self-report having, a physical disability as defined in these rules; ~~and~~¶
(c) Any adult living in an APD- licensed ~~care facility.~~facility who is not eligible for an abuse investigation by another Department or Authority program; and¶
(d) Older adults and adults with physical disabilities who receive services from the Department or Authority regulated providers and are not eligible for abuse investigation by another Department or Authority program.¶
(2) Eligibility for Adult Protective Services is not dependent upon income or source of income.
Statutory/Other Authority: ORS 410.070, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 410.070, 411.116

AMEND: 411-020-0020

RULE SUMMARY: Added that every person who reports an incident must be entered in CAM as a reporter. Clarified rules on confidentiality and when reporters may remain anonymous. Added that APS must report financial exploitation to DCBS when the alleged perpetrator is a stockbroker, financial advisor, or similar professional.

CHANGES TO RULE:

411-020-0020
Reporting of Abuse and Self-Neglect ¶

(1) Every person who reports an allegation of abuse or self-neglect must be documented as a reporter of that allegation in the Centralized Abuse Management (CAM) system, even if the same allegation has already been reported by another reporter. ¶
(2) The identity of the individual or entity reporting the alleged abuse must be kept confidential from public records disclosure as described in OAR 411-020-0030 (6).¶
(3) APS accepts anonymous reports of abuse, documenting the reporter as "Anonymous." Anonymity cannot be provided retroactively. Once the reporter provides their identity to the Department it must be documented by APS. This information will still be kept confidential, however, as described in OAR 411-020-0030(6).¶
(4) Reports can be made to the Department in any language or alternative formats or communication, (for example, via phone calls, writing, in person, electronic means, or any other means reasonably likely to communicate the alleged abuse or self-neglect). ¶
(5) For the purpose of these rules, mandatory abuse reporters are those "public and private officials" listed in ORS 124.050(9). Mandatory reporters must immediately report instances of alleged elder abuse to the Department, local office, or a local law enforcement agency. ¶
(a) A mandatory reporter must report if they come into contact with~~,~~ an older adult in any setting and have reasonable cause to believe~~,~~ th~~at an older adult in any set~~e older adult has suffered abuse. ¶
(b) A mandatory reporter must report if they come into contact with any person or entity who shares information indicating tha~~s suffered abuse or neglec~~t they have, or may have, abused an older adult.¶
(~~b~~c) Definitions of abuse ~~or neglect~~ for mandatory reporting are defined in ORS 124.050~~ to 124.095~~(1).¶
(~~c~~d) A~~nyone~~ mandatory reporter making a mandatory ~~report of abuse~~elder abuse report with reasonable grounds and good faith ~~sh~~a~~ll have~~s immunity from ~~any~~ civil or criminal liability. The same immunity applies to participating in any judicial proceeding resulting from the report.¶
(~~d~~e) ~~Exceptions to~~Psychiatrists, psychologists, attorneys, and members of the clergy may be exempt from mandatory reporting requirements. A psychiatrist, psychologist, attorney, or member of the clergy does not have to report privileged information covered under ORS 40.225 to 40.295. An attorney is not required to make a report of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.¶
(~~2~~6) ~~Some~~Certain individuals are also required under~~, law,~~ Department~~'s~~ administrative rules, contracts, or policy to report abuse. These required reporters must report instances of alleged abuse of older adults and persons with physical disabilities to the Department or local APS office. Required abuse report~~ing~~ers includes, but is not limited to:¶
(a) An individual who works, volunteers or is contracted personnel in an Assisted Living or Residential Care Facility under OAR ~~411-054-0028(2)(a)(b)~~chapter 411, division 54 and ha~~ve~~s reasonable cause to suspect abuse has occurred to a resident in those ~~community-based~~ settings.¶
(b) ~~Many DHS and OHA~~Department and Authority contractors ~~have~~with requirements in their contracts to report abuse.¶
(c) ~~Oregon law mandates that stock brokers, financial advisors, and other professionals regulated by the Department of Consumer Business Services (DCBS) shall report financial abuse to DCBS. DCBS then shall notify the Department or local office~~The APS Program must refer Financial Exploitation reports to the Department of Consumer Business Services (DCBS) if the alleged perpetrator is a stockbroker, financial advisor, or other professional regulated by the DCBS under ORS 59.005 to 59.451. The APS program must not investigate these allegations without consulting with DCBS. Once notified by DCBS to proceed, the local ~~APS~~ office ~~shall~~must inform DCBS of the screening outcome.~~¶~~
~~(3) Reporting of instances involving abuse or self-neglect of older adults and adults with physical disabilities is highly encouraged for non-mandatory reporters.¶~~
~~(4) The identity of the individual reporting the alleged abuse shall be confidential and may be disclosed only with the consent of that individual, by judicial process, or exceptions in law, e.g., a law enforcement agency~~ and share investigation information and the report.

Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.116, 443.435, 443.450, 443.500, 443.765

AMEND: 411-020-0025

RULE SUMMARY: Added the statutory authority for MDT and provided a definition of MDT member.

CHANGES TO RULE:

411-020-0025
Multidisciplinary Team (MDT) ¶

(1) Where a county district attorney or delegated designee has developed a multidisciplinary team (MDT) under ORS 430.739, the local office must participate to coordinate and collaborate on allegations of abuse and self-neglect of older adults and adults with physical disabilities. Adult Protective Services, when provided by the local office in conjunction with their participation on their county MDT, shall be provided as described in these rules.¶
(2) "Multidisciplinary Team Member" means an individual or a representative of an entity that is allowed by law to participate on the multidisciplinary team. Permissible members include law enforcement personnel, the local district attorney's office, local Department or AAA offices, community mental health and developmental disability programs, advocates for older adults and individuals with disabilities, and individuals with specialized training in adult abuse.¶
(3) All information that is obtained by the MDT members and shared in the exercise of their duties on the MDT is confidential and may not be further disclosed except as permitted by law, authorizationed by the adultindividual or their legal representative, or by court order.¶
(34) Upon request, the local office must annually provide the MDT with the number of substantiated allegations of abuse of adults investigated by APS and the number of APS cases referred to law enforcement according to reporting procedures developed by the MDT.
Statutory/Other Authority: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, Oregon Laws 2009, chapter, 837, section 8, Oregon Laws 2013 Chapter 352, Section 10Or Laws 2013, ch. 352

AMEND: 411-020-0030

RULE SUMMARY: Reorganized and strengthened the content for clarity and ease of use. Added a new section called General Confidentiality Considerations to provide an overview of core privacy principles. Clearly separated who may receive Full Disclosure, Limited Internal Disclosure, and Limited External Disclosure of APS records. Added a new section describing how to handle Other APS Records Requests and clarified the role of the Public Records Unit (PRU) in those situations. This rule title was changed from, "Confidentiality," to "Confidentiality and Information Sharing."

CHANGES TO RULE:

411-020-0030
Confidentiality and Information Sharing ¶

(1) ~~Oregon and federal statutes provide for the confidentiality of the identity of certain individuals an~~All APS reports and records compiled under these rules are confidential and are not accessible for public inspection. ¶
(2) APS-related information ~~obtained as a result of an APS intervention. Confidentiality of information is critical to protect the privacy of~~and records may be disclosed only by judicial process, as required by specific exceptions under state and federal law, or with the consent of the alleged victim. No names may be released externally without the consent of the individual~~s, to encourage~~ named except as provided in these r~~eporting of abuse and self-neglect, and to facilitate obtaining information.¶~~
~~(2) All information involving investigations that do not involve allegations against regulated providers is confidential, except for disclosure of the conclusion under OAR 411-020-0100(7), and may be disclosed only by judicial process, as required by specific exceptions under state and federal law, or with the consent of the victim. No names may be released without the consent of~~ules. ¶
(3) Unless an exception is specified in these rules, the Department must not acknowledge to the public the existence of any open or closed APS reports concerning an alleged victim, alleged perpetrator, or any report made to APS.¶
(4) Any agency or entity who receives confidential APS records and information under an exception described below must maintain the confidentiality of the information as required by ORS 124.090, unless superseded by other state or federal law.¶
(5) GENERAL CONFIDENTIALITY CONSIDERATIONS. ¶
(a) When disclosing APS information as allowed by these rules, the Department must limit the amount of information disclosed to that which is reasonably necessary to accomplish the intended purpose of the disclosure. This limit is known as the Minimally or Reasonably Necessary Standard, outlined in OAR 407-014-0040.¶
(b) The term "reasonably necessary" applies to both gathe~~r~~rin~~dividual named except as provided in section (5) of this rule.¶~~
~~(3) If an~~g and sharing of information related to APS activities. "Necessary" applies to the information required to ensure thorough and complete investigation~~involves a regulated provider, the following provisions apply:¶~~
~~(a) Information and records regarding~~s and protective services, without hindering lawful access to APS records and information. ¶
(c) Unless otherwise required by law, the ~~r~~Dep~~o~~art ~~of alleged abuse and subs~~ment discloses only the specific APS records requested to a requestor. If a requen~~s~~t ~~findings may be made available internally to the appropriate regulating authority upon request or by operational procedures.¶~~
~~(b) Redacted copies of investigations involving regulated providers may also be made available to the provider and alleged perpetrai~~s valid, but non-specific, only the redacted APS report is disclosed. Additional records may be provided as appropriate, considering the requestor and the purpose of the request. ¶
(6) When disclosure of APS information is allowed by statute and rule, the amount of information shared by APS depends on the recipient:¶
(a) FULL DISCLOSURE. The following authorities are granted full access to all APS records, including the identity of the reporter when necessary:¶
(A) Law Enforcement Agencies (LEA) as defined in OAR 411-020-0002, including prosecutors, when the in~~vestigation is the basis for regulatory action or when providing the information to the provider is necessary for safety or protective purposes~~formation is related to criminal investigations or prosecutions. LEA requests unrelated to specific APS cases are treated as external disclosure and require legal authorization, such as a subpoena or other court order.¶
(B) The Oregon Department of Justice (ODOJ) Medicaid Fraud Unit and the ODHS Fraud Unit.¶
(~~c~~C) ~~Redacted copies of investigations involving APD-licensed facilities may be made available to the general public upon request or by operational procedures.¶~~

~~(d) Any~~The Department of Consumer and Business Services (DCBS), when they are investigating Financial Exploitation where the alleged perpetrator is a stockbroker, financial advisor, or other professional regulated by the DCBS under ORS 59.005 to 59.451.¶
(D) Courts pursuant to a court order for disclosure~~s~~ of APS information ~~and reports involving regulated providers must comply with applicable St~~.¶
(E) ODOJ, when representing or advising the Department on APS matters. For all other ODOJ requests, APS information is treated a~~nd Fed~~s a limited external ~~confidentiality and privacy laws.~~disclosure requiring legal justification to disclose. This rule also applies to the legal counsel of Area Agencies on Aging (AAA). ¶
(~~4~~F) The Department ~~shall make the APS r~~and AAA Directors offices, the Depo~~a~~rtment and ~~underlying investigatory materials available to~~OHA Executive Administration, and APD/AAA managers and their delegates.¶
(G) The Governor's Advocacy Office.¶
(H) The Oregon Background Check Unit.¶
(I) The APD Safety, Oversight, and Quality Unit.¶
(J) Disability Rights Oregon, which is the protection and advocacy system designated by ORS 192.517, ~~e.g. Disability Rights Oregon,~~ when the alleged victim is an individual with a disability or mental illness as identified by ORS 192.517.¶
(~~5~~b) ~~Where the law and the Department deem appropriate, for the purpose of furthering a protective service, when it is necessary to prevent or treat abuse, or when d~~LIMITED INTERNAL DISCLOSURE. Internal agency sharing of APS records and information is permitted within the Department and with Authority programs as nee~~m~~ded ~~to be in the best interest of an alleged victim, the names of the alleged victim, witnesses (ot~~for the administration of services and to ensure consumer safety.¶
(c) LIMITED EXTERNAL DISCLOSURE. Where the law and the ~~r~~Depo~~a~~rt~~er except as expressly per~~ment deem appropriate, limit~~t~~ed ~~below), any investigative~~external disclosure of APS report~~,~~s and ~~any records compiled during an investigation, may be made available to:¶~~
~~(a) Any law enforcement agency, to which the name of the reporter may also be made available.~~information is allowed to arrange protective services or ensure safety. Limited external disclosure, not including reporter details (unless noted below) is permitted to the following individuals and entities:¶
(~~b~~A) ~~An~~External agenc~~y~~ies that license~~s~~ or certif~~ies~~y a facility where the alleged abuse occurred, or license~~s~~ or certif~~ies the~~y an individual who practices ~~there.~~in the facility. ¶
(~~c~~B) ~~A p~~Public agenc~~y that~~ies responsible for license~~s~~ing or certif~~ies~~ying an individual ~~that~~who has ~~abus~~committed or is alleged to have ~~abused an older adult.¶~~
~~(d~~committed abuse, such as the Oregon State Board of Nursing.¶
(C) APD-licensed facilities for the purpose of regulatory action and safety planning. ¶
(D) The Department of Consumer and Business Services (DCBS).¶
(E) A Multi-Disciplinary Team (MDT) as described in OAR 411-020-0025.¶
(F) The Long-Term Care Ombudsman (LTCO) and the LTCO Deputies.¶
(~~e~~G) A~~ny~~ governmental or private non-profit agency providing Adult Protective Services to the alleged victim ~~when that agency meets the confidentiality standards of ORS 124.090, including~~. This includes, but is not limited to, other states' APS programs, the Nine Federally Recognized Tribes of Oregon, and any federal law enforcement agency with~~at has~~ jurisdiction to investigate or prosecute ~~for~~ abuse as defined in these rules~~,~~. Examples includ~~ing~~e, but are not limited to, Oregon Tribal police, the Federal Bureau of Investigation (FBI), the Federal Trade Commission, ~~or the~~Social Security Administration (SSA), and Federal Office~~s~~ of Inspector General (OIG).¶
(~~f~~H) ~~An MDT as describ~~The Oregon Public Guardian, as required ~~in OAR 411-020-0025.¶~~
~~(g) A court, pursuant to court order, to which the name of the complainant may also be made available as required by the court order.¶~~
~~(h) An administrative law judge in an administrative proceeding when necessary to provide protective services, investigate, prevent, or treat abuse of an older adult o~~by ORS 125.683, and as necessary to ensure the care and safety of the protected person.¶
(I) A court or petitioning attorney pursuant to ORS 125.012 (guardianship and conservatorship proceedings).¶
(7) OTHER APS RECORD REQUESTS. ¶
(a) When a member of the public contacts an APD or AAA local office to request APS-related records or information, the local office must refer ~~w~~then ~~in the best interest of an older adult.¶~~
~~(i) The Oregon Public Guardian as required by ORS chapter 125.¶~~
~~(j) A court or petitioning attorney pursuant to ORS 125.012 (guardians and conservators).~~ requestor to the ODHS Public Records Unit (PRU). ¶
(A) PRU is responsible for responding to requests from the general public and from individual parties to an APS case, including alleged victims and their representatives, alleged perpetrators and their representatives, and reporters of abuse, unless otherwise authorized by these rules. ¶
(~~6~~B) ~~The Department shall limit the use and disclosure of APS reports and~~PRU refers requests from other agencies

or entities that are authorized by these rules to receive APS information to th~~at which is reasonably necessary to accomplish the intended purpose of the disclosure~~e local office for response.¶
(b) Certain APS record requests must be directed to the following designated Department authorities. These authorities must be provided with any requested unredacted APS records.¶
(~~7~~A) ~~Recipients of information disclosed under section (4) of this rule must maintain the confidentiality of the information as required by Oregon statute unless superseded by other state or federal law~~The Department Legal Unit for subpoenas, torts, and other court matters. AAAs respond to their own subpoenas and court matters but must forward all torts regarding APS to the Department Legal Unit.¶
(B) Department executive and communications staff for inquiries from the media.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767, 45 CFR 164.512(j)
Statutes/Other Implemented: ORS 124.020, 124.050 - 124.095, 125.012, 125.683, 192.355, 192.517, 409.010, 410.020, 410.040, 410.070, 410.150, 411.060, 411.116, 443.769, Or~~egon~~ Laws 2013~~ Chapter~~, ch. 352, 45 CFR 164.512(j)

AMEND: 411-020-0040

RULE SUMMARY: Clarified that local offices must follow Department APS-related policies and procedures and added training requirements for all staff who perform APS functions.

CHANGES TO RULE:

411-020-0040
Services Provided ¶

(1) Local offices must follow ~~procedural guidelines consistent with Department policies guiding APS response activities. Although the role of APS is civil rather than criminal investigation, cooperative agreements with~~Department policies and procedures governing Adult Protective Services (APS) functions. ¶
(2) APS functions consist of a standard series of activities, including screening, triage or consultation, on-site assessment, investigation, intervention, notifications and referrals, documentation, and APS Risk Management.¶
(3) All APS workers who perform APS functions and their supervisors must complete APS-related trainings as directed by the Department.¶
(4) APS does not conduct criminal investigations but works collaboratively with other regulatory and enforcement agencies~~,~~ such as APD Safety, Oversight and Quality (SOQ) and local law enforcement~~,~~ and district attorneys~~, and licensing agencies are desirable~~. ¶
(~~2~~5) The Department ~~shall~~must establish and maintain agreements and understandings with other key agencies ~~having~~that have a role in protecting the interests and rights of individuals who are the subject of these rules~~, including the Oregon State Police and the Department of Justice.¶~~
~~(3) The Adult Protective Services function consists of a standard series of activities, including screening, triage or consultation, on-site assessment, investigation, intervention, documentation, and APS risk management.¶~~
~~(4) Deviations from these rules may be warranted to protect the safety of any party or as otherwise allowed by policy. The reasons for these deviations must be reviewed with a supervisor or designee and properly documented in the investigative record.~~¶
(6) With limited exceptions, APS has the authority and responsibility to investigate all reports of abuse it receives, when initial screening determines that the alleged victim is APS-eligible, the report meets APS screening criteria, and the reported situation falls under APS jurisdiction as described in OAR 411-020-0055.¶
(~~5~~7) Adults have the right to make informed choices (as defined in OAR 411-020-0002)~~ that do not conform to societal norms~~ as long as those decisions are not harmful to others or present an immediate threat to the individual's life. This includes the right to refuse participation in APS assessments, investigation,~~ or~~ intervention, or risk management. This does not include the right to prevent an APS investigation from occurring.¶
(~~6~~8) The ~~local office~~Department must retain records that document the APS functions within the Centralized Abuse Management system (CAM) for a period of 15 years after last activity.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116

ADOPT: 411-020-0055

RULE SUMMARY: This new section was created to capture current APS policies related to APS jurisdictional matters into the OAR.

CHANGES TO RULE:

411-020-0055
APS Jurisdiction
(1) Jurisdiction means the APS program's scope of authority and responsibility as defined in state and federal laws and these rules. OAR 411-020-0055 describes APS jurisdiction for protective services and investigations of abuse and self-neglect.¶
(2) The APS program's authority and responsibility to provide protective services is broader than its responsibility to investigate abuse. Even if a report of abuse is not assigned for investigation, the report must be screened for other APS activities such as APS Consultation or APS Risk Management, and all required notifications and referrals made.¶
(3) The APS program's investigative jurisdiction is limited to abuse or self-neglect reported to have occurred in Oregon. ¶
(4) Within Oregon, the APS program has jurisdiction to investigate all reported abuse or self-neglect to APS-eligible alleged victims, with the following exceptions:¶
(a) Reports of abuse of residents of Nursing Facilities , when the alleged perpetrator is Nursing Facility staff, contractors, volunteers, or others associated with the Nursing Facility. APS conducts Community APS Investigations when the alleged perpetrator is not associated with the Nursing Facility, such as a family member;¶
(b) Reports involving adults eligible for abuse investigations from other Department or Authority programs; ¶
(c) Reports regarding Medicaid enrolled individuals alleging self-neglect who receive APD case management services. Those reports are referred to the APD case manager for assessment and intervention.¶
(d) Reports where the APS investigator determines that the Alleged Perpetrator likely has cognition impairments that impact their ability to participate meaningfully in an abuse investigation, including the ability to understand the role of an APS investigator, understand the implications of APS allegations and findings, and give informed consent to be interviewed.¶
(e) Reports involving an alleged perpetrator who is a minor at the time of the reported abuse.¶
(5) APS does not investigate the professional conduct of staff of the following entities while working in their official capacity:¶
(a) Nine Federally Recognized Tribes in Oregon;¶
(b) Federal agencies;¶
(c) Oregon Long Term Care Ombudsman Office (LTCO);¶
(d) Oregon Public Guardian and Conservator; ¶
(e) Oregon Health Care Facilities and Agencies, including hospitals, clinics, and other health care entities providing medical care regulated by the Authority;¶
(f) Oregon courts and judges; or ¶
(g) Law enforcement agencies (LEA), other public safety responders (emergency medical, firefighters), and correctional facilities.¶
(6) APS does not investigate non- abuse related conduct of licensed or certified professionals regulated by the state unless:¶
(a) The alleged perpetrator was working in their professional capacity while being paid by or through the Department or the Authority to serve APS-eligible consumers; or¶
(b) The reported conduct occurred while the alleged perpetrator was not working in their official capacity. ¶
(7) APS does not investigate benefit fraud. Alleged fraud involving receipt of Medicaid or other government benefits must be reported to the ODOJ Medicaid Fraud Unit or the Department Fraud Unit.¶
(8) APS does not investigate overcharging of hours by Home Care Workers (HCW) or other irregularities with Provider Time Capture as Financial Exploitation. APS must consider these reports for other abuse types (for example, neglect by a HCW who was charging for days not actually worked).¶
(9) APS does not investigate reported abuse if the reported conduct or incident occurred after the alleged victim's death.¶
(10) The Department, in recognition of Tribal Sovereignty, may provide Adult Protective Services as defined in these rules to individuals on land under the authority or control of one of the Nine Federally Recognized Tribes in Oregon, with Tribal authorization.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 179.040, 182.162 - 182.168, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767

Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.500, 443.767

AMEND: 411-020-0060

RULE SUMMARY: Reorganized this section substantially and provided timeframes for response to reports received by voicemail during Business Hours, and timeframes for making a screening decision. Clarified requirements for APS notifications and referrals to other entities in different situations. This rule title was changed from, “Screening,” to “Intakes and Screening.”

CHANGES TO RULE:

411-020-0060
Intakes and Screening ¶

(1) A~~ll calls or contacts~~ separate intake must be created in the Centralized Abuse Management system for each alleged victim, known or unknown.¶
(2) All calls or contacts (phone, in person, email, or by any other means) involving the possibility of abuse or self-neglect must be directed to ~~APS screening.¶~~
~~(2) Screening is the skilled interviewing process used to gather and assess information in order to determine eligibility for Adult Prot~~the local APS office screeners for intake and screening, unless the call or contact has already been screened by Central APS staff. ¶
(3) INTAKE TIMELINES.¶
(a) APS staff must be available in local offices during state Business Hours to receive intakes. If a report is left on voicemail, staff will respond within two Business Hours or by the end of the Business Day, whichever comes first. ¶
(b) Each office must provide after-hours reporting systems such as email and voicemail to allow reports to be made after Business Hours. ¶
(c) Once an intake is rec~~t~~eive~~ Services. This activity includ~~d, APS staff must reach a screening decision by the end of the next Business Day unless a ~~determination of whether the reported concern meets the defini~~timeline deviation is approved by the supervisor.¶
(4) SCREENING AND DOCUMENTING INTAKES¶
(a) Screening is the process used to gather and evaluate information to determine APS eligibility for services and the investigation of abuse or self-neglect.¶
(~~3~~b) ~~All complaints regarding a person receiving services in a Nursing Facility must be referred immediately to the APD Nursing Facility Survey Unit (NFSU) for screening, triage, and Facility investigation. NFSU will refer any concerns regarding external parties (e.g. family members) back to~~If the following screening criteria are met, the intake must be assigned for investigation:¶
(A) The alleged victim is eligible for APS as described in OAR 411-020-0015;¶
(B) The reported concern, if assumed to be true, would meet the definition of abuse or self-neglect as defined in OAR 411-020-0002; and¶
(C) The situation falls under APS investigative jurisdiction as described in OAR 411-020-0055.¶
(c) If the assignment criteria in (5)(b) are not met, APS workers must still assess whether some other action should be taken by APS (for ~~screening and potential investigation under Community APS rules.¶~~
~~(4) If the reported concern meets the definition of abuse or self-neglect, screening activities may~~example, referral to case management, notification or referral to another agency, APS consultation, APS Risk Management, etc.) and document the actions taken in CAM.¶
(d) APS staff must document a comprehensive explanation for all screening decisions in CAM.¶
(5) ASSIGNING AND CLOSING INTAKES¶
(a) APS activities when making a screening decision include, but are not limited to, the following:¶
(~~a~~A) Gathering information about the alleged victim's current level of functioning.¶
(~~b~~B) Gathering demographic information and the history of the ~~current problem~~reported concern.¶
(~~c~~C) Reviewing any agency records related to the reported concern. ¶
(~~d~~D) Gathering information from collateral sources.¶
(~~5~~b) ~~If the reported concern does not meet the definition of abuse or self-neglect, but requires intervention, response shall include referral to o~~Prior to closing an intake, APS workers must determine if notifications or referrals should be made as a result of the~~r~~ re~~sources, including case management, licensing, APS risk management, or o~~ported concern. ¶
(6) OTHER NOTIFICATIONS AND REFERRALS.¶
(a) Regardless of the~~r~~ s~~ervices as appropriate.¶~~
~~(6) l~~creening decision, if the reported concern ~~does not meet the definition of abuse or self-neglect or require intervention, but may be addressed by specialized information or assistance, a referral to APS consultation may be~~

~~appropriate.¶~~
~~(7) If the reported abuse involves a~~involves any individual who is:¶
(A) Residing in a Nursing Facility, the report must be referred immediately to the APD Nursing Facility Survey Unit (NFSU). NFSU will refer any concerns regarding external parties (for example family members) back to APS for screening and potential investigation ~~i~~under ~~ividual who is currently:~~er Community APS rules. ¶
(~~a~~B) Receiving APD case management ~~or eligibility~~ services, the assigned APD worker must be notified.¶
(~~b~~C) An adult foster home resident, the local licens~~e~~ing manager must be notified.¶
(~~c~~D) Receiving services from a regulated provider, ~~the appropriate regulating authority must be notified.¶~~
~~(d) Receiving services from an APD contracted provider, then the appropriate Central APD unit~~including APD contracted providers (for example specialized living), the appropriate regulating authority or program staff must be notified.¶
(~~e~~E) A minor with Child Welfare involvement or an individual up to age 21 receiving services from a Child Caring Agency, then Child Welfare must be notified.¶
(~~8~~b) ~~The local office must give the reporter of abuse enough information to re-contact the office to determine the disposition of the report, e.g. contact information and intake number for the report.¶~~
~~(9) Each local office must establish an afterhours reporting system~~All notifications and referrals must be documented in CAM and provide enough information to understand what services are being sought and how it impacts the safety of alleged victim, if applicable.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.116, 443.767

AMEND: 411-020-0070

RULE SUMMARY: General housekeeping changes were made, nothing substantive.

CHANGES TO RULE:

411-020-0070
APS Consultation ¶

(1) APS consultation is the ~~process~~activity by which APS provides specialized information or assistance, enhanced referral, or technical assistance via electronic means, including telephone, fax, or e-mail, to assist in harm reduction. ¶
(2) APS consultation, as an alternative to ~~assessment or investigation~~investigation or protective services, is only appropriate when the reported concern does not meet ~~eligibility~~ criteria for abuse or self-neglect~~.~~ investigation or for APS Risk Management. ¶
(3) The local office must maintain a record of reports resolved by APS consultation in CAM by creating a new intake for each consultation.
Statutory/Other Authority: ORS 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.116, 443.767

AMEND: 411-020-0080

RULE SUMMARY: General housekeeping changes were made, nothing substantive.

CHANGES TO RULE:

411-020-0080
Triage ¶

(1) Triage is the APS ~~process~~activity of determining the nature and severity of risk to individuals and the immediacy of response required. ¶
(2) The local office ~~shall~~must provide for a prompt and timely initial response to all APS re~~ferral~~ports meeting the eligibility and jurisdiction criteria established in these rules. The specific times for response are governed by the nature and severity of the reported abuse ~~and the rules and laws related to the category of reported abuse.~~or self-neglect. ¶
(3) General time frames for response as determined by the Department are as follows: ¶
(a) COMMUNITY CASES.¶
(A) IMMEDIATELY FOR EMERGENCY SITUATIONS: Immediately contact 911 when the evidence presented suggests an emergency ~~situation~~ exists, such as the following:¶
(i) A human life is in jeopardy. ¶
(ii) The individual is in the process of being harmed due to criminal activity.¶
(iii) A medical emergency.¶
(iv) A fire.¶
(v) There is a clear and present danger of harm to self or others. ¶
(B) BY THE END OF THE SAME ~~WORKING~~BUSINESS DAY: Initiate an investigation by the end of the same ~~working d~~Business Day when the alleged victim has been identified as being in imminent danger.¶
(C) BY THE END OF THE NEXT ~~WORKING~~BUSINESS DAY: Initiate an investigation by the end of the next ~~working d~~Business Day when the individual is identified as being in a ~~hazardous~~ situation that may lead to increased harm or risk. ¶
(D) WITHIN FIVE ~~WORKING~~BUSINESS DAYS: Initiate an investigation within five ~~working d~~Business Days when screening determines the situation is problematic, one that is chronic or ongoing, or is a situation where an immediate response is unlikely to change the alleged victim's risk level. ¶
(b) ASSISTED LIVING, RESIDENTIAL CARE, AND ADULT FOSTER HOME CASES.¶
(A) IMMEDIATELY FOR EMERGENCY SITUATIONS: Immediately contact 911 when the evidence presented suggests an emergency ~~situation~~ exists, such as the following:¶
(i) A human life is in jeopardy. ¶
(ii) The individual is in the process of being harmed due to criminal activity.¶
(iii) A medical emergency.¶
(iv) A fire.¶
(v) There is a clear and present danger of harm to self or others.¶
(B) BY THE END OF THE SAME ~~WORKING~~BUSINESS DAY: Initiate an investigation by the end of the same ~~working d~~Business Day when the alleged victim has been identified as being in imminent danger.¶
(C) BY THE END OF THE NEXT ~~WORKING~~BUSINESS DAY: Initiate an investigation by the end of the next ~~working d~~Business Day when the individual is identified as being in a ~~hazardous~~ situation that may lead to increased harm or risk.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.500, 443.767

AMEND: 411-020-0085

RULE SUMMARY: Clarified that APS must still conduct APS investigations even if law enforcement is investigating criminal activity related to the APS allegation, collaborating with law enforcement so as not to interfere with their investigation. The rule title was changed from, “Law Enforcement Notification,” to “Law Enforcement Notification and Collaboration.”

CHANGES TO RULE:

411-020-0085
Law Enforcement Notification and Collaboration ¶

(1) The Department or local office shall immediately notify law enforcement if any of the following conditions exist:¶
(a) Reasonable cause to believe a crime has been committed;¶
(b) Access to the allegedly abused individual is denied and legal assistance is needed in gaining access;¶
(c) The situation presents a credible danger to the Department worker or others and police escort is advisable; ¶
(d) Forensic photographic or other evidence is needed; or¶
(e) ~~Thos~~Notifications for records are required under OAR 411-020-0123 or 411-020-0126.¶
(2) The Department ~~or local office shall~~is required to provide protective services to alleged victims and conduct a separate abuse investigation even if law enforcement is investigating potential criminal activity related to a report of abuse. The local office must proceed collaboratively with law enforcement in a way that does not further endanger the alleged victim~~.~~ or interfere with the criminal investigation. ¶
(3) Any law enforcement officer accompanying ~~the~~an APS investigator must be identified as such to any party being interviewed.¶
(~~3~~4) Written notice, regardless of any verbal notice given, ~~shall~~must be provided to law enforcement for all instances when the Department finds there is reasonable cause to believe a crime has been committed.¶
(~~4~~5) When the local office notifies a law enforcement agency of a suspected crime committed against an alleged victim, the local office ~~shall~~must retain any record of the law enforcement agency's confirmation of receipt of notification.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.060, 410.070, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.060, 410.070, 411.116, 443.500, 443.767

AMEND: 411-020-0090

RULE SUMMARY: Clarified that APS workers use detailed interviews and observations to assess an alleged victim's ability to make informed choices, and not clinical tools. Clarified a key element of assessment is the worker's determination of the impact of the reported abuse on the alleged victim, and its severity.

CHANGES TO RULE:

411-020-0090
Assessment ¶

(1) Assessment is the ~~process by which the APS worker~~Adult Protective Services (APS) activity by which APS determines the alleged victim's degree of risk, level of functioning, adequacy of information, and ability to protect their own interests. Assessment additionally determines the alleged victim's ability to reduce the risk of harm in their environment and to make informed choices and understand the consequences of those choices. These factors are evaluated in relation to the allegation of abuse or self-neglect~~.~~ or in relation to the APS Risk Management plan. ¶
(2) Assessment in APS cases ~~shall~~must be conducted in person, face-to-face with the alleged victim, usually in the alleged victim's home or the facility where the alleged victim lives. ¶
(3) ~~The assessment may include:~~Assessment may include: ¶
(a) The APS worker's detailed interviews and observations to determine the alleged victim's safety, functional abilities, understanding of risks, and ability to make informed choices.¶
(~~a~~b) Consultation with family, neighbors, law enforcement, ~~ment~~behavioral health, hospice, in-home services, ~~medical practition~~health providers, domestic violence providers, and other relevant individuals, in keeping with Department confidentiality guidelines~~.¶~~
~~(b) The use of accepted screening tools as well as the worker's professional judgment to determine the alleged victim's safety and functional abilities.¶~~
~~(4) If~~, when there is evidence th~~e~~at an alleged victim's ~~cognitive abilities may be impaired, recognized assessment tools may be administered to gauge those abilities. The initial assessment results shall be used as a screening to determine the ne~~inability to make informed choices is resulting in harm or risk of serious harm. ¶
(4) Assessment also includes the APS worker's determination of the impact of the reported ~~for professional diagnostic or clinical evaluation of the alleged victim's capacity to make informed choices, and to determine an appropriate cou~~investigated harm or risk on the alleged victim, and its severity. The assessed severity of an incident or situation depends upon diverse ~~of action if clinical evaluation is not available.¶~~
~~(5) Upon comple~~factors specific to each individual impacted, including but not limited to the history, lifestyle, and functioning of the ~~initial assessment, APS involvement shall be continued for investigation where there is an alleged perpetrat~~alleged victim; the length of time the incident or impact lasted; and how much harm (damage, discomfort, ~~or shall proceed directly to intervention where self-neglect is establish~~loss, hardship, etc.) resulted or could have likely resulted. ¶
(~~6~~5) Results of the APS assessment of the alleged victim ~~shall~~must be recorded in the Centralized Abuse Management (CAM) system.
Statutory/Other Authority: ORS 410.070, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 410.070, 411.116, 443.767

ADOPT: 411-020-0095

RULE SUMMARY: This rule isn't new but was renumbered from OAR 411-020-0110 to better reflect its position in the APS process.

CHANGES TO RULE:

411-020-0095
Intervention
(1) Intervention is the Adult Protective Services (APS) activity by which an APS worker assists the alleged victim, as appropriate, to reduce or remove the threat of harm that has placed the alleged victim at risk.¶
(2) Intervention is applicable to both Facility and Community APS cases. Intervention includes but is not limited to:¶
(a) Arranging for emergency services, such as law enforcement and medical care as needed. ¶
(b) Developing safety planning with the alleged victim and other parties as appropriate to prevent or mitigate risk.¶
(c) Facilitating, as needed, the delivery of available support services, including legal, medical, personal care, etc., and options for alternative living arrangements or alternate decision makers including assistance with applying for Medicaid services.¶
(d) Providing advocacy to assure the rights of the alleged victim are protected. ¶
(e) Making referrals and notifications as required to lessen the risk and strengthen safety and well-being.¶
(A) If not completed during screening, notifying the programs listed in OAR 411-020-0060 (8)(a) is required. ¶
(B) Referring or cross-reporting to other internal and external programs who may act based on the APS information. Intervention also includes information and resources given to the alleged victim and involved parties, so they may take protective measures.¶
(3) All APS interventions (protective services, notifications, referrals, and cross-reports) must be documented in CAM with enough information to understand what was shared and how the intervention is expected to lessen the risk.¶
(4) Intervention may happen one or more times, both during the assessment or investigation process, or at its conclusion. Initial APS interventions are designed to be a short-term crisis response. Longer term interventions may be made available through service referrals, non-APS case management or APS Risk Management, and the engagement of the alleged victim's natural supports. ¶
(5) An alleged victim who can make an informed choice may decline assistance or intervention. In this case, the worker must provide the alleged victim with appropriate resource information and a way to re-contact APS if a threat of harm recurs or reaches a level unacceptable to the individual. ¶
(6) If the alleged victim lacks appropriate information to make an informed choice, the worker must provide or arrange for the provision of relevant information in a manner that is timely, accessible to the individual, and balanced, to support their right to make an informed choice. ¶
(7) If the alleged victim is unable to make an informed choice due to an observed lack of decisional capacity, appropriate intervention, if available, may include medical assessment to determine whether the alleged victim's capacity to make decisions may be improved or restored.¶
(8) If the alleged victim is unable to consent to assessment or treatment and is at risk of serious harm, consideration may be given to involuntary intervention, including, as appropriate, guardianship, conservatorship, protective orders, or civil commitment. In all such cases, the intervention initiated must be:¶
(a) The least restrictive available; ¶
(b) Respectful of the values of the alleged victim; and ¶
(c) Sought only when it has been determined that there is no supported or surrogate decision maker in place, or that the existing surrogate decision maker is not acting consistently with those duties.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 125.012, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 125.012, 409.010, 410.020, 410.040, 410.070, 411.116, 443.767

AMEND: 411-020-0100

RULE SUMMARY: Added requirement to gather REALD and SOGI information and enter it in CAM. Clarified that alleged perpetrators (AP) be advised of their status as an AP and the nature of the allegation. Added that notes and records be entered or uploaded into CAM within ten business days unless entry is needed sooner to support regulatory action. Added requirements around recording interviews. Added situations where supervisor-approved deviations from completion timelines are acceptable. This rule title was changed from, "Community Investigation, Documentation, and Notification," to "APS Investigations – Community."

CHANGES TO RULE:

411-020-0100
~~Community~~APS Investigation~~, Documentation, and Notification~~s -- Community ¶

(1) Community investigation~~s shall be objective, professional, and thorough.¶~~
~~(2) A community abuse~~ is the Adult Protective Services (APS) activity of investigati~~on shall be conducted and documented when the alleged perpetrator is reported to have abused:¶~~
~~(a) An older adult or adult with a physical disability residing in a non-facility setting.¶~~
~~(b) An adult residing in an APD licensed facility setting when the alleged perpetrator is not employed by, volunteers for, or is contracted personnel with the facility.¶~~
~~(c) An adult with Medicaid services who receives services from a regulated provider.~~ng allegations in the settings or locations defined in OAR 411-020-0002(17). By investigation the Department determines if reported allegations of abuse or self-neglect as defined in these rules are substantiated, unsubstantiated, inconclusive, or require administrative closure. ¶
(~~3~~2) ~~A c~~Community ~~self-neglect~~APS investigation~~ shall be conducted and documented when an adult eligible for Adult Protective Services is reported to be unable to understand the consequences of their actions or inaction, and that inability leads to, or may lead to, harm or endangerment to themselves. Assessment is a key element of self-neglect investigations~~s must be objective, professional, thorough, and documented in the Centralized Abuse Management System (CAM). ¶
(3) APS workers must ask for Race, Ethnicity, Language, and Disability (REALD) and Sexual Orientation and Gender Identity (SOGI) from alleged victims in Community investigations and enter the data into CAM every calendar year.¶
(4) ~~I~~When co~~mple~~nducting a ~~c~~Community APS investigation, the APS worker must use due diligence in the following:¶
(a) Identifying the alleged victim, any alleged perpetrators, and any other parties ~~reported to~~(including the reporter) that may have information relevant to ~~proving or disproving~~ the allegations.¶
(b) Conducting interviews with the parties described in section (a) of this section to gather all ~~relevant~~ available evidence. All interviews must be private unless the individual being interviewed requests the presence of someone else. Any individual~~s~~ who listen~~ings~~ to the interview must be advised of the confidential nature of the investigation.~~¶~~
~~(c) Interview the alleged victim and any alleged perpetrators~~ and have their presence documented in the interview. Deviation from this contact may be approved when:¶
(A) The relevant witness cannot be identified.¶
(B) The relevant witness has unknown whereabouts.¶
(C) Law enforcement or district attorney request.¶
(c) Alleged victims must be interviewed unannounced and in~~-~~ person, face-to-face, unless a deviation ~~under OAR 411-020-0040(4) is required for the safety of any party, an in-person interview is unable to be obtained,~~ is applicable. In addition, for accurate assessment of the alleged victim's safety, alleged victims must be interviewed on-site, preferably at their residence. Deviations from these requirements may be approved when:¶
(A) The alleged victim is not accessible in person, has unknown whereabouts, or declines in-person contact.¶
(B) Substantive safety concerns exist for either the alleged victim or the APS worker, or¶
(C) Law enforcement request.¶
(d) Alleged perpetrators must be interviewed unannounced and in person, face-to-face, and be advised of their status as an alleged perpetrator a~~t~~nd the ~~request of law enforcement. Key witnesses should be interviewed in person~~nature of the allegation, unless a deviation is applicable. Deviations from these requirements may be approved when:¶
(A) The alleged perpetrator is not accessible in person, has unknown whereabouts, or declines in-person contact.¶
(B) Substantive safety concerns exist for either the alleged victim or the APS worker, or¶

(C) Law enforcement request.¶
(~~d~~e) Obtaining and reviewing all available ~~documentary or physical~~ evidence relevant to reaching a finding, including any information that exists to establish~~ing~~ the severity of the incident under investigation. ¶
(~~e~~f) ~~The Department may p~~Photographing, or ~~cause~~requesting to have photographed, any alleged victim for the purposes of preserving evidence of the alleged victim's condition observed at the time of the investigation~~. The~~, with the alleged victim's consent. Any photographs ~~shall~~taken must be considered records and subject to confidentiality ~~rule~~laws.¶
(~~f~~g) Gathering and include~~e~~ing evidence relevant to determining the conduct of any alleged perpetrators and the severity of the risk or outcome to the alleged victim.¶
(~~g~~h) Creat~~e~~ing additional investigatory aids, such as maps or drawings that may aid in proving or disproving the allegations.¶
(~~h~~i) ~~Maintain a record of interviews and evidentiary review, in notes, recor~~Entering or uploading all evidence collected during an investigation, includings~~, records, photographs, scanned documents, or other appropriate mea~~but not limited to, interviews, observations, and documents, to CAM by the end of ten Business Days following the day it was obtained, or sooner as needed to support emergency regulatory or law enforcement actions.¶
(~~i~~j) Determin~~e~~ing the facts of the ~~case~~investigation based on a fair and objective review of ~~the~~all available relevant evidence.¶
(~~j~~k) Conclud~~e~~ing whether the preponderance of the evidence indicates ~~whether~~that abuse or self-neglect is substantiated or unsubstantiated, that the evidence is inconclusive, or that the investigation will be ~~closed~~ administratively closed without a ~~determination.¶~~
~~(5) I~~n evidence-based conclusion.¶
(5) RECORDING INTERVIEWS¶
(a) Interviews in APS investigations m~~ust~~ay be ~~documented and closed in the Centralized Abuse Management (CAM) system.¶~~
~~(6) The local office must complete community investigations on or before 120 days from date of screening decision (unless delayed by a concurrent criminal investigation or otherwise by policy) and prepare a final report that includes, but is not limited to, the following information:~~recorded (audio or video) by APS staff when verbal notice is provided to the interviewee and all participants. Verbal permission must be requested prior to recording. If permission is granted, re-confirm the permission with all participants on the recording.¶
(~~a~~b) The ~~dates, locations, and description of the initial reported abuse.¶~~
~~(b) The date that the~~ interview must not be recorded if the interviewee decli~~n~~v~~e~~s~~tigation was commenced and completed, and by whom.¶~~
~~(c) Characteristics of the alleged victim inclu~~ to be recorded.¶
(c) APS staff must use an agency-approved recording ~~i~~d~~entified language, race, and ethnicity.¶~~
~~(d) Relationship of the alleged victim to the~~vice to record an APS interview.¶
(d) APS staff must also allow interviewees to re~~p~~cor~~ter, witnesses, and any alleged perpetrators~~d interviews when requested.¶
(~~e~~6) ~~A statement of the specific allegations investigated.¶~~
~~(f) The statements of all parties interviewed regarding the allegat~~INVESTIGATIVE COMPLETION TIMELINES ¶
(a) Timelines for completing APS investigative activities begin from the date of the screening decision~~s~~.¶
(~~g~~b) ~~A description of the documents and records reviewed during the investigation, summarizing their content to the extent necessary to explain their relevance to the investigation and support the findings of fact~~The end of APS investigative activities is captured when the investigation completion date field in CAM is completed.¶
(c) The timeline for completion of Community APS investigative activities is 120 Business Days.¶
(~~h~~7) A ~~summary of any direct observ~~llowable deviations ~~by the~~for investigat~~or that are relevant to the investigation and its findings~~ive timelines are:¶
(a) A critical witness has been identified and additional time is needed to interview them.¶
(~~i~~b) A ~~statement of the factual basis for any findings and a summary of the findings made as a result of~~ dditional time is needed for forensic consultation.¶
(c) Coordination with law enforcement causing a delay.¶
(d) Additional time is needed to coordinate with another investigati~~on, including attributions to witness statements, documents, or observations that support each finding of fact~~ve agency.¶
(e) Safety concerns for victim or APS worker are causing delay.¶
(~~j~~f) ~~A conclus~~Reassignment of investigation.¶
(~~k~~8) ~~A summary of protective services offered to the alleged victim, with outcomes, if known.¶~~
~~(l) A summary of referrals to other agencies or authorities resulting from the investigation, with outcomes, if known.¶~~
~~(m) Reasons for any deviati~~Timeline deviations must not be used for overall difficulty in meeting timelines due to the volume of referrals or staffing issues.¶

(9) Timeline deviations must be approved by a supervisor and documented in CAM with enough case specific detail to explain the reasons ~~from required timelines or standard practices.¶~~
~~(7~~or the deviation. ¶
(10) When a ~~c~~Community ~~complaint~~APS investigation has been ~~completed, the reporter, the alleged v~~through all final review processes and has been marked as "Final" ("finalized") in CAM, notificati~~m, and the alleged perpetrators~~ons may occur: ¶
(a) For all finalized cases, the local office may ~~be~~ inform~~ed (~~ the alleged victim of the outcome verbally, unless notification in writing is requested~~) that:¶~~
~~(a) There was an allegation of abuse or self-neglect and the type of abuse or self-neglect being investigated.¶~~
~~(b) Appropriate action is being taken.¶~~
~~(c) The outcome of the investigation as one of the following:¶~~
~~(A) No abuse or self-neglect was found (unsubstantiated).¶~~
~~(B) Abuse or self-neglect was found (substantiated).¶~~
~~(C) The investigation was 'inconclusive'.¶~~
~~(D) The investigation was closed without a determination of whether abuse or self-neglect occurred (Administrative Closure).~~¶
(b) For substantiated cases, all notifications to alleged perpetrators are done by Central APS as described in OAR 411-020-0105.¶
(c) Local offices may inform the alleged perpetrator of unsubstantiated, inconclusive, and administratively closed outcomes verbally (or in writing if requested) once a case is finalized in CAM.¶
(~~8~~11) When the ~~community~~ investigation is ~~clos~~finalized, the ~~local office must retain case records for a period of 15 years after last activity. Final community APS records are maintained and distributed by the local office, as appropriate.¶~~
~~(9) The Department must collect statewide data on all aspects of Adult Protective Services as specified by Department policy and procedure. As reasonably requested, the local offices shall provide data not otherwise available through centralized Department data systems~~case records are maintained in CAM for a period of 15 years after last activity.
Statutory/Other Authority: ORS 124.055, 124.065, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.500, 443.767

REPEAL: 411-020-0110

RULE SUMMARY: This section was renumbered (see OAR 411-020-0095) to better reflect its position in the APS process.

CHANGES TO RULE:

~~411-020-0110~~
~~Intervention ¶~~

~~(1) Intervention is the process by which APS assists the victim to reduce or remove the threat of harm that has placed the victim at risk.¶~~
~~(2) Intervention may include, but is not limited to:¶~~
~~(a) Arranging for emergency services, such as law enforcement and emergency medical care as needed.¶~~
~~(b) Providing education and counseling to the individual at risk and other parties, as appropriate.¶~~
~~(c) Facilitating the delivery of additional available support services, including legal, medical, and other services, and helping to arrange for possible alternative living arrangements or alternate decision makers, as needed.¶~~
~~(d) Providing advocacy to assure the rights of the alleged victim are protected.¶~~
~~(3) Intervention may happen one or more times during the assessment or investigation process, or as an end result of the assessment or investigation. The initial APS intervention is designed to be a short-term crisis response. Longer term interventions may be made available through APS risk management or through non-APS case management.¶~~
~~(4) An individual who can make an informed choice may refuse assistance or intervention. In this case, the worker shall provide the individual with appropriate resource information and a way to re-contact APS if a threat of harm recurs or reaches a level unacceptable to the individual.¶~~
~~(5) If the individual lacks appropriate information to make an informed choice, the worker must provide or arrange for the provision of relevant information in a manner that is timely, accessible to the individual, and balanced, in order to support the individual's right to make an informed choice.¶~~
~~(6) If the individual at risk is unable to make an informed choice due to a lack of capacity, appropriate intervention, if available, may include medical assessment to determine whether capacity may be improved or restored.¶~~
~~(7) If the individual at risk is unable to consent to assessment or treatment, consideration may be given to involuntary intervention, including, as appropriate, guardianship, conservatorship, protective orders, or civil commitment. In all such cases, the intervention initiated must be:¶~~
~~(a) The least restrictive available;¶~~
~~(b) Respectful of the values of the individual at risk; and¶~~
~~(c) Sought only when it has been determined that there is no surrogate decision maker in place, or that such individual is not acting responsibly in that role.~~
~~Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 125.012, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767~~
~~Statutes/Other Implemented: ORS 124.050 - 124.095, 125.012, 409.010, 410.020, 410.040, 410.070, 411.116, 443.767~~

AMEND: 411-020-0120

RULE SUMMARY: Added requirement to gather REALD and SOGI information and enter it in CAM. Clarified that APS workers are clearly identified and inform facility administrators of the investigation and the nature of the allegation.

Clarified that alleged individual perpetrators (AP) be advised of their status as an AP and the nature of the allegation. Added that notes and records be entered or uploaded into CAM within ten business days unless entry is needed sooner to support regulatory action. Added that facility records must be provided to APS at the time of the initial visit or, if unable to do so, no later than 48 hours after. Added that the timeline for completion of Facility investigation is 60 Business Days. Clarified that SOQ reviews the report and provides notification of the outcome to providers and any individuals named APs, informing them of any available opportunities for review.

This rule title was changed from, "Facility Investigation, Documentation, and Notification," to "APS Investigations – Facility."

CHANGES TO RULE:

411-020-0120
~~Facility~~APS Investigation~~, Documentation, and Notification~~s -- Facility ¶

(1) Facility investigation~~s shall be objective, professional, and complete.¶~~
~~(2) A facility~~ is the Adult Protective Services (APS) activity of investigati~~on shall be conducted and documented when a resident of a facility licensed by APD is reported to have been abused by a licensee, staff member, contractor or volunteer of the facility.¶~~
~~(3) Facility investigations may also occur when a facility resident is reported to have been abused by an alleged perpetrator not employ~~ng allegations of abuse in community-based care facilities as defined in OAR 411-020-0002(16). The APS investigation determines if reported allegations as defined in these rules are substantiated, unsubstantiated, incon~~tracted or supervised by the facility, to determine whether the licensee or facility staff failed to protect the resident.¶~~
~~(4) In completing a facility investigation, the~~clusive, or require administrative closure. ¶
(2) Facility APS investigations must be objective, professional, thorough, and documented in the Centralized Abuse Management System (CAM). ¶
(3) APS worker~~s~~ must~~:¶~~
~~(a) Identify the alleged victim, the alleged perpetrators, and any parties reported to have information relevant to proving or disproving the allegation.¶~~
~~(b) Conduct interviews with the parties described in section (a) above to gather all relevant available evidence. Interviews shall be in person and unannounced whenever possible. All interviews must be private unless the individual being interviewed requests the presence of someone else. Any individuals listening to the interview must be advised of t~~ ask for Race, Ethnicity, Language, and Disability (REALD) and Sexual Orientation and Gender Identity (SOGI) from alleged victims in Facility investigations and enter the data into CAM every calendar year.¶
(4) Wh~~fidential nature of the~~en con~~ducting APS~~ investigation.~~¶~~
~~(c) Obtain and review any available and relevant documentary or physical evidence.¶~~
~~(d) Gather and include evidence relevant to determining the conduct of~~s in facilities, APS workers must clearly identify that the~~lleged perpetrators and severity of the risk or outcome to the alleged victim.¶~~
~~(e) The Department may photograph, or cause to have photographed, any alleged victim for the purposes of preserving evidence of the alleged victim's condition observed at the time of the investigation. The photographs shall be considered records and subject to confidentiality rule~~re with APS and inform the facility administrator or provider of the purpose of their investigation and the nature of the allegations.¶
(~~f~~5) ~~Create additional investigatory aids, such as maps or drawings, that may aid in proving or disproving the allegations.¶~~
~~(g) Maintain a record of interviews and evidentiary review, in notes, recordings, photographs, scanned documents, or other appropriate means.¶~~
~~(h) D~~In Facility investigations, APS must name the facility licensee as the first alleged perpetrator in the investigation to establish whether~~mine the fa~~ neglect~~s~~ of~~n~~ the ~~case based on a fair and objective review of the available relevant evidence; and¶~~
~~(i) Conclude whether the preponderance (majority) of the evidence indicates that abuse was substantia~~part of the

facility licensee contributed to the incident(s) being investigated. APS must then name any reported or ~~unsubstantiated, that the evidence is inconclusive, or that the investigation should be closed administratively without a determination~~suspected employees, contractors, or volunteers of the facility as additional alleged perpetrators.¶
(~~5~~6) In conducting ~~f~~Facility ~~abuse~~ investigations, ~~the Department protocols governing activities of investigations further include:~~APS workers must: ¶
(a) Notify~~ing~~ the Department's ~~Office of~~ Safety, Oversight and Quality (SOQ) if a situation exists in a licensed care facility that may cause SOQ to conduct a survey or provide an immediate regulatory response. This includes reports of facility-wide issues. ¶
(b) Provid~~ing~~e an opportunity for the reporter, a designee of the reporter, or both, to accompany the investigator to the site of the reported ~~violation~~incident for the sole purpose of identifying individuals or objects relevant to the investigation. ¶
(c) Conduct~~ing~~ an unannounced site visit to the facility. ¶
(d) Confirm~~ing~~ that any needed immediate protection for facility residents is in place. The APS worker must obtain and document a safety plan from the provider to correct any problem immediately~~,~~ and communicate with SOQ as needed. ¶
(~~6~~e) ~~Investigations must be documented and closed in the Centralized Abuse Management (CAM) system.¶~~
~~(7) The local office must comp~~Enter or upload all evidence collecte ~~the facility~~d during an investigation ~~within the timelines determined by the Department and relevant statute (unless delayed by a concurrent criminal investigation or otherwise by policy) and prepare a preliminary report that includes, but is not limited to, the following informa~~, including, but not limited to, interviews, observations, and documents, to CAM by the end of ten Business Days following the day it was obtained, or sooner as needed to support emergency regulatory or law enforcement action~~:~~s.¶
(~~a~~7) ~~T~~Whe ~~dates, locations, and a description of the initial reported abuse.¶~~
~~(b) The date that the investigation was commenced and completed, and by whom.¶~~
~~(c) Characteristics of the alleged victim including identified language, race, and ethnicity.¶~~
~~(d) Relationship of the alleged victim to the reporter, witnesses, and alleged perpetrator~~n assessing facility licensee responsibility for abuse of a resident, APS workers are assessing the overall action or inaction of facility management staff to provide for the health and safety of residents.¶
(~~e~~a) ~~A statement of the specific allegations investigated.¶~~
~~(f) The statements of all parties interviewed regarding the allegation.¶~~
~~(g) A description of documents and records reviewed during the investigation, summarizing their content to the extent necessary to explain their relevance to the investigation, and support the findings of fact~~To make their assessment, APS workers must conduct interviews, make observations, and gather documentary evidence to determine whether actions or inactions by the facility management more likely than not constituted Neglect as defined in OAR 411-020-0002(1)(b).¶
(~~h~~b) ~~A summary of any direct observations by the investigator that are relevant to the investigation and its findings.¶~~
~~(i) A statement of the factual basis for any findings and a summary of the findings made as a result of the investigation, including attributions to witness statements, documents, or observati~~When assessing facility licensee responsibility, APS workers must also consider whether any individual member of facility management or administrative staff should be considered an individual alleged perpetrator based on~~s~~ th~~at support each finding of fact.¶~~
~~(j) A conclus~~eir own actions or inaction~~s~~.¶
(~~k~~c) ~~A summary of actions taken by the licensee or provider to ensure the safety~~Facility records relevant to the allegation must be collected by APS o~~f~~n the ~~victim and other residents of the facility.¶~~
~~(l) A summary of protective services offered to the alleged victim, with outcomes, if known.¶~~
~~(m) A summary of referrals to other agencies or authorities resulting from the investigation, with outcomes, if known~~initial visit to the facility. If the facility is unable to provide records while APS is on-site, then they must provide the records to APS as soon as possible but, at a minimum, not to exceed 48 hours from the date of the request.¶
(~~n~~8) ~~Reasons for any deviations from required timelines or standard practice~~The timeline for completion of Facility APS investigative activities is 60 Business Days.¶
(~~8~~9) When the ~~preliminary f~~Facility APS investigati~~on is closed~~ve activities are completed the report is submitted to SOQ in CAM, the local office ~~shall~~must distribute a copy of any substantiated preliminary redacted reports to the facility for their information and safety planning~~. The local office must retain facility investigation records for a period of 15 years after last activity.¶~~
(~~9~~ purposes. ¶
(10) Upon receipt of the preliminary report from the local office in CAM, SOQ will review ~~and finalize the report.~~

~~Final facility reports are maintained and distributed by APD central office. When abuse is substantiated, findings may be used to support civil or criminal sanctions against the perpetrators or the care facility.¶~~
~~(10) The Department must collect statewide data on all aspects of Adult Protective Services as specified by Department policy and procedure. As reasonably requested, the local offices shall provide data not otherwise available through centralized Department data systems~~the report for any necessary regulatory action, provide notification to providers or individuals of the outcome and any available opportunities for review as described in OAR chapter 411, divisions 052 and 054, and finalize the case in CAM when the process is complete.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.09~~0~~5, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.500, 443.767

AMEND: 411-020-0121

RULE SUMMARY: Reworded for clarity some of the reasons for Administrative Closure. Added requirements for documentation of Admin Closure in CAM.

CHANGES TO RULE:

411-020-0121
Administrative Closure
(1) A~~dministrative closure is a mechanism by which a DHS supervisor or designee may close a~~fter an abuse or self-neglect report has been assigned for APS investigation~~ without the investigation reaching a conclusion as to if abuse or self-neglect occurred.~~¶
~~(2),~~ Administrative Closure (AC) is one of the (4) possible conclusions provided by these rules. Administrative ~~c~~Closure is a~~pplicable only for specific administrative purposes when it is not feasible to reach an evidentiary conclusion. It is not intended to replace "inconclusive" or "unsubstantiated" findings, which are evidence-based conclusions. As appropriate,~~ closure used in certain situations, including when the basis for assigning the investigation is found to be invalid, or when the assigned investigation cannot reach an evidentiary conclusion of substantiated, not substantiated, or inconclusive. ¶
(2) Prior to administratively closing an assigned case, the APS worker must contact and assess the alleged victim for safety and offer protective services ~~of assessment~~ and intervention ~~must be provided~~as appropriate.¶
(3) To qualify for administrative closure, an investigation must be completed to the extent necessary to determine that one or more of the following situations exist: ¶
(a) INVALID: The basis for assigning and conducting the investigation is discovered to be invalid, because:¶
(A) The alleged victim does not meet eligibility criteria under ~~these rules.~~¶
~~(B) Additional information is discovered that clearly indicates the report of abuse or self-neglect does not meet criteria for an abuse investigation.¶~~
~~(C) The alleged perpetrator is deceased or a minor.¶~~
~~(D~~OAR 411-020-0015. ¶
(B) The Department does not have jurisdiction as described in OAR 411-020-0055 to conduct an APS investigation.¶
(C) The reported abuse or self-neglect would clearly lead to a repeat investigation. To qualify, the situation must be the same abuse type, substantially the same allegations, and involve the same alleged victim and perpetrators as a currently open or ~~a~~ previous investigation. A new assessment of the alleged victim must also indicate that there has been no significant negative change in the alleged victim's capacity or risk level since the previous investigation. ¶
(b) U~~nable to determine~~NABLE TO DETERMINE because:¶
(A) Necessary material evidence exceeds the Department's scope~~ of services and its,~~ expertise, and authority to ~~reasonably~~ investigate ~~the allegation, including, but not limited to:~~¶
~~(i) Complex legal matters customarily requiring an attorney.¶~~
~~(ii) Court findings.¶~~
~~(iii) Commercial business deals.¶~~
~~(iv) Professional standards and performance.¶~~
~~(v) Medical malpractice.¶~~
~~(vi) The Federal Government or the Oregon Legislature has authorized other entities to respond to the reported concerns, including, but not limited to:~~and come to an evidence-based conclusion. ¶
(~~I~~B) ~~Investigative agencies (e.g. Oregon Department of Justice, Federal Bureau of Investigations, and Inspector General's Offices);¶~~
~~(II) Licensing bodies (e.g. Medical Board, State Bar, and the Construction Contractors Board); and¶~~
~~(III) The legal system (e.g. attorneys and courts).¶~~
~~(B) S~~After due diligence is done, significant, substantial or essential material witnesses and evidence are verified to be unavailable to such an extent that an evidence-based conclusion may not be reached. ¶
(C) ~~Verifiable s~~Safety concerns ~~relating to deviations under OAR 411-020-0040(4) extensively prevent adequate gathering of necessary material~~prevent gathering relevant evidence to determine an evidence-based conclusion.¶
(D) The investigation has been open more than one year and is not being acted upon or there is no pending action by the Department~~. The local and centr~~ and the investigation is unlikely to proceed to an evidence-based conclusion . ¶
(E) Before using Administrative Closure under (D), the local office~~s~~ must ~~both determine~~receive Central Office agreement that the investigation ~~may~~ cannot reasonably proceed to an evidence~~d~~-based conclusion~~.~~ and assure that the provisions of (2) of this rule will be met and documented. ¶
(4) Before closing an investigation administratively, the following conditions must be met:¶

(a) A recent face-to-face assessment of the alleged victim was completed ~~and, as appropriate, protective services provided.¶~~
~~(b) Reasonable diligence~~. There may be exceptions based on the Department's jurisdiction.¶
(b) Reasonable diligence, as described in OAR 411-020-0100, was applied to complete the investigation to the extent circumstances allowed or ~~were~~ warranted. ¶
(c) As appropriate, subject matter experts were consulted, including, but not limited to law enforcement, domestic violence service providers, health providers, or attorneys representing the alleged victim.¶
(d) If there is a reasonable cause to believe a crime has been committed, law enforcement was notified. ¶
(e) A~~s a~~ppropriate~~,~~ interventions were provided, and notifications and referrals were made to other investigati~~on~~ve and regulatory entities and advocacy resources.¶
(5) Administrative ~~c~~Closure ~~shall~~must be documented in the Centralized Abuse Management (CAM) system in~~cluding, but not limited to the following information:¶~~
~~(a) Documentation of interview statements and evidence gathered.¶~~
~~(b) Explanation of any deviations from these rules and the reasonable diligence taken to comply with rules.¶~~
~~(c) J~~ a way that clearly explains the reasons and justification for the ~~a~~Administrative ~~c~~Closure ~~with supporting evidence and consultation.¶~~
~~(d) Identification of protective services provided to the alleged victim and referrals made to others in response to the situation.¶~~
~~(e) Identification of the supervisors who approved the administrative closure, and date of approval~~, citing the applicable rule section.
Statutory/Other Authority: ORS 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.500, 443.767

AMEND: 411-020-0123

RULE SUMMARY: No substantive changes.

CHANGES TO RULE:

411-020-0123
Accessing Protected Health Information, including Records ¶

Protected health information from a health care provider may be obtained during an APS investigation either from a mandatory reporter performing that reporter's duties required by Oregon statute or as follows:¶
(1) DISCLOSURE BY HEALTH CARE PROVIDER. A health care provider may disclose, in accordance with 45 CFR 164.512(j), protected health information to APS staff to prevent or lessen a serious and imminent threat to the health or safety of a person or the public if the health care provider, in good faith, believes the disclosure is necessary to prevent or lessen the threat. APS may request protected health information during a self-neglect or abuse investigation under this provision to prevent or lessen a serious and imminent threat.¶
(2) COMMUNITY ABUSE INVESTIGATION. During a~~n~~ Community APS investigation into abuse ~~in a community-based setting~~or self-neglect where the process under section (1) of this rule does not apply or is declined by the health care provider:¶
(a) CONSENT BY ALLEGED VICTIM. APS staff may obtain an alleged victim's protected health information for an APS investigation with the alleged victim's consent.¶
(b) DECLINED CONSENT. If an alleged victim can make an informed choice and declines to consent to APS staff obtaining protected health information, APS may not obtain the alleged victim's protected health information beyond the information a mandatory reporter is required to disclose.¶
(c) ALLEGED VICTIM INCAPABLE OF CONSENT. If an alleged victim is an older adult and does not have the ability to make an informed choice to consent to APS staff obtaining the alleged victim's protected health information, and the alleged victim does not have a fiduciary or legal representative that consents to APS staff accessing the alleged victim's protected health information, or when the fiduciary or legal representative is an alleged perpetrator and refuses to consent to APS accessing the alleged victim's protected health information, then the following procedure must be followed in order for APS to obtain the protected health information:¶
(A) APS must request that the appropriate law enforcement agency submit a written request to the health care provider to allow the law enforcement agency to inspect and copy, or otherwise obtain, the protected health information.¶
(B) APS shall inform the law enforcement agency that the written request must state that an investigation into abuse is being conducted under ORS 124.070 (elder abuse)~~ or ORS 441.650 (nursing facility resident abuse)~~.¶
(3) HEALTH CARE PROVIDER NOTICE. In investigations where APS is seeking disclosure of protected health information by a health care provider under sections (1) or (2) of this rule, APS s~~hall~~taff must inform the health care provider, either directly or through the law enforcement agency requesting the information, that ~~the~~a health care provider ~~is required, in accordance with 45 CFR 164.512(c)(2),~~who makes a permitted disclosure under 45 CFR 164.512(c)(1) must comply with 45 CFR 164.512(c)(2), which requires the disclosing entity to promptly inform the individual to whom the protected health information pertains that information has been or ~~shall~~must be disclosed, unless:¶
(a) The health care provider, in the exercise of their professional judgment, believes that informing the individual may place the individual at risk of serious harm; or¶
(b) The health care provider is planning to inform a personal representative of the individual and the health care provider reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and informing such person is not in the best interests of the individual as determined by the health care provider in the exercise of their professional judgment.¶
(4) LICENSED CARE FACILITY INVESTIGATIONS. During an APS investigation into abuse in a licensed care facility:¶
(a) OBTAINING RESIDENT RECORDS MAINTAINED BY A LICENSED CARE FACILITY. Licensed care facilities must provide ~~DHS~~the Department access to all resident and facility records, including protected health information, maintained by the facility as required by their respective Oregon Administrative Rules.¶
(b) DISCLOSURE BY HEALTH CARE PROVIDER. A health care provider, such as a hospital, a medical office, or a provider other than a licensed care facility, may disclose, in accordance with 45 CFR 164.512(d), an alleged victim's protected health information to APS as a health oversight agency for purposes of oversight of that facility, including oversight through investigation of reports of abuse of residents in such facility. APS s~~hall~~taff must inform the health care provider of its authority as a health oversight agency and that ~~such disclosures are permitted in accordance~~health care provider disclosures that are consistent with 45 CFR 164.512(d) are permitted.¶

(c) HEALTH CARE PROVIDER REFUSAL TO DISCLOSE. If a health care provider refuses to disclose protected health information to APS as a health oversight agency, APS may follow the procedure set forth in section (2)(c) of this rule if the alleged victim is an older adult.
Statutory/Other Authority: ORS 124.05~~5~~0, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, ~~ORS~~ 411.060, ~~411.116,~~ 443.450, 443.765, 443.767, 45 CFR 164.512(j)
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.116, 443.450, 443.500, 443.767, Or~~egon~~ Laws 2012 ~~Chapter~~, ch. 70, 45 CFR 164.512(j)

AMEND: 411-020-0126

RULE SUMMARY: No substantive changes.

CHANGES TO RULE:

411-020-0126
Accessing Financial Records ¶

(1) Financial records may be obtained from a financial institution during an APS investigation into alleged abuse.¶
(2) DEFAULT STANDARD. APS may not request financial records from a financial institution unless one of the following ~~exceptions~~ applies and the corresponding procedures are followed:¶
(a) CUSTOMER AUTHORIZATION. APS staff may request and receive financial records from a financial institution when the customer authorizes such disclosure in accordance with ORS 192.593. The authorization must:¶
(A) Be in writing, signed, and dated by the customer.¶
(B) Identify with detail the records authorized to be disclosed.¶
(C) Name the Department or Area Agency on Aging to whom disclosure is authorized.¶
(D) Contain notice to the customer that the customer may revoke such authorization at any time in writing.¶
(E) Inform the customer as to the reason for such request and disclosure.¶
(F) Not be a condition of doing business with the financial institution.¶
(b) FINANCIAL INSTITUTION INITIATES CONTACT. Where a financial institution initiates contact with APS or a law enforcement agency regarding suspected financial exploitation, the financial institution may share financial records with APS or the law enforcement agency and is not otherwise precluded from communicating with and disclosing financial records to APS or the law enforcement agency.¶
(c) CUSTOMER INCAPABLE OF AUTHORIZING. If a financial institution has not initiated contact with APS or a law enforcement agency and the alleged victim does not have the ability to make an informed choice to consent to APS obtaining the alleged victim's financial records, a fiduciary or legal representative who is an alleged perpetrator refuses to authorize disclosure, or the account is jointly held by an alleged perpetrator as well as the alleged victim and the alleged perpetrator refuses to authorize disclosure of the alleged victim's financial records, these procedures must be followed:¶
(A) APS ~~shall~~must work with the appropriate law enforcement agency to obtain a subpoena issued by a court or on behalf of a grand jury to request financial records of the alleged victim.¶
(B) APS ~~shall~~must:¶
(i) Confirm to the law enforcement agency that an investigation under ORS 124.070 ~~(elder abuse, including older adult residents in a community-based care facility) or under ORS 441.650 (abuse of a nursing facility resident)~~ is open and the individual about whom financial records are sought is the alleged victim in the abuse investigation.¶
(ii) Provide or work with the law enforcement agency to obtain the name and social security number of the individual about whom financial records are sought.¶
(C) A financial institution, before making disclosures pursuant to a subpoena described in this section, may require reimbursement to produce records, ~~in accordance with~~as permitted under ORS 192.602.
Statutory/Other Authority: ORS 59.480 - 59.505, 124.055, 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 192.583, 192.586, 192.593, 192.597, 192.600, 192.602, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.500, ~~ORS~~ 443.767, Or~~egon~~ Laws 2012 ~~Chapter~~, ch. 70

AMEND: 411-020-0130

RULE SUMMARY: Rewritten for clarity, no substantive changes.

CHANGES TO RULE:

411-020-0130
APS Risk Management ¶

(1) APS ~~r~~Risk ~~m~~Management is the ~~process by which APS~~Adult Protective Services (APS) activity by which an APS worker provides short-term active assessment and protective interventions to an ~~alleged victim.¶~~
~~(2) Referral to~~APS-eligible adult. ¶
(2) APS ~~r~~Risk ~~m~~Management ~~is appropriate~~cases are assigned in the following situations:¶
(a) After ~~the abuse and self-neglect investigation is completed.¶~~
~~(b) When the alleged victim~~completing and closing an APS investigation, when it is beneficial for the alleged victim to continue to receive intervention and protective services.¶
(b) When a screened report does not meet APS criteria for an abuse or self-neglect investigation, but the alleged victim is eligible for APS and would benefit from protective services~~, but.~~ In th~~e~~is situation ~~does not meet criteria for an investigation and all of the following apply:~~, the APS Risk Management case may be assigned directly without first opening an APS abuse or self-neglect investigation.¶
(c) When directed by APD or AAA executive management to respond to reported serious harm of a vulnerable adult.¶
(~~A~~3) ~~Assessment indicates the alleged victim is at~~Referral to or assigning APS Risk Management is appropriate when all the following apply:¶
(a) The alleged victim is experiencing harm or risk of serious harm.¶
(~~B~~b) The alleged victim is eligible for A~~dult Protective Services~~PS under OAR 411-020-0015.¶
(~~C~~c) ~~Continued p~~Protective services may reduce the ~~risk of~~harm or risk of serious harm.¶
(~~D~~d) There ~~is~~are no other source~~s~~ of case management or protective services available to the alleged victim~~.¶~~
~~(c) W~~, or w~~h~~en ~~o~~th~~erwise directed by APD or AAA executive management to respond to reported serious harm of a vulnerable adult.¶~~
~~(3)~~ alleged victim is eligible for case management, but the services have not begun yet, and APS support is needed in the interim. ¶
(4) Once assigned, an APS ~~r~~Risk ~~m~~Management ~~includes~~Plan must be developed, documented in CAM and contain the following information:¶
(a) The development and implementation of an individualized plan to reduce the risk of harm to the alleged victim~~;~~, including support to apply for Medicaid services; ¶
(b) Regular active contact with the alleged victim to reassess the risk of harm and the effectiveness of interventions; and¶
(c) Documentation of assessments and interventions. ¶
(4~~5~~) APS ~~r~~Risk ~~m~~Management continues until assessment demonstrates that:¶
(a) The level of ~~harm~~risk has been reduced to an acceptable level; ~~or~~¶
(b) ~~APS involvement no longer benefits the alleged victim.¶~~
~~(5) Approval by a supervisor or designee must be required to continue an APS risk management case beyond one year~~For situations of self-neglect, in which the individual is applying for Medicaid as a mitigation strategy, the individual's Medicaid application has been approved.¶
(c) APS involvement no longer benefits the alleged victim.
Statutory/Other Authority: ORS 124.065, 124.070, 409.010, 410.020, 410.040, 410.070, 411.060, 411.116, 443.450, 443.765, 443.767
Statutes/Other Implemented: ORS 124.050 - 124.095, 409.010, 410.020, 410.040, 410.070, 411.060, ~~ORS~~ 411.116, 443.767