

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

**CHAPTER 411
DIVISION 68**

REGISTRATION OF ROOM AND BOARD FACILITIES

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(Effective 07/01/2022)

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**CHAPTER 411
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REGISTRATION OF ROOM AND BOARD FACILITIES

411-068-0000 Definitions Relating to Room and Board Facilities
(Amended 07/01/2022)

(1) "Abuse" means "abuse" as defined in [OAR 411-020-0002](#) (Adult Protective Services).

(a) PHYSICAL ABUSE.

(A) Physical abuse includes:

(i) The use of physical force that may result in bodily injury, physical pain, or impairment; or

(ii) Any physical injury to an adult caused by other than accidental means.

(B) For purposes of these rules, conduct that may be considered physical abuse includes, but is not limited to:

(i) Acts 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 force-feeding or physical punishment.

(C) 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 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) Results in physical harm, significant emotional harm, unreasonable discomfort, or serious loss of personal dignity to the adult; or

(ii) Creates the risk of serious harm to the adult.

(B) The expectation for care may 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) ABANDONMENT. Abandonment includes 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 includes 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) For the purposes of these rules:

(i) Conduct that may be considered verbal or emotional abuse includes, but is not limited to, the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance, regardless of their ability to comprehend.

(ii) The emotional harm that may result from verbal or emotional abuse includes, but is not limited to, anguish, distress, fear, unreasonable emotional discomfort, loss of personal dignity, or loss of autonomy.

(e) FINANCIAL EXPLOITATION. Financial exploitation including:

(A) Wrongfully taking, 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 maybe carried out;

(C) Misappropriating or misusing any money from any account held jointly or singly by an adult;

(D) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult; or

(E) The taking, borrowing, or accepting of assets, funds, property, or medications from an adult residing in a facility by an employee of the facility, unless the adult and employee are related, and the action described in this paragraph does not constitute a wrongful taking as described in paragraph (A).

(f) SEXUAL ABUSE. Sexual abuse including:

(A) Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act. Consent,

for purposes of this definition, means a voluntary agreement or concurrence of wills. Mere 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, or inappropriate exposure of an adult to sexually explicit material or language;

(C) Sexual exploitation of an adult;

(D) Any sexual contact between an employee of a facility and an adult residing in the facility 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](#), or [163.525](#) 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) "Administration of Medication" means the act of placing a medication in, or on, a tenant's body.

(3) "Aid to Physical Functioning" means any special equipment utilized by the tenant such as a hearing aid, cane, walker, etc., which maintains or enhances the tenant's physical functioning.

(4) "Applicant" means an individual, partnership, corporation, or other entity who completes an application to own or operate a Room and Board Facility.

(5) "Application for Registration" means an application form ([APD 0926](#)) provided by the Department to register room and board facilities.

(6) "Assistance with Activities of Daily Living" means those personal functional activities required by an individual for continued well-being including, but not limited to the following;

- (a) Bathing and personal hygiene;
- (b) Dressing and grooming;
- (c) Eating;
- (d) Mobility;
- (e) Bowel and bladder management; and
- (f) Cognition.

(7) "Background Check" means a criminal record check and abuse check as defined in [OAR 407-007-0210](#). An approved "Background Check" means a final determination, made by an authorized agency or district that the subject individual is fit to:

- (a) Hold a position, paid or unpaid;
- (b) Obtain or retain credentials;
- (c) Have direct access to; or
- (d) Otherwise provide services necessary for the health, welfare, maintenance or protection of an individual.

(8) "Background Check Rules" means the rules in [OAR 407-007-0200 to 407-007-0370](#).

(9) "Care" means the performance of certain tasks by an individual for the benefit of a tenant including supervision, protection, assistance with

activities of daily living, administration of medication, nursing assistance, and management of money or other financial resources.

(10) "Certificate of Registration (Registration)" means a certificate issued by the Department to applicants who have completed an application for registration and meet all applicable requirements of [ORS 443.480 to 443.500](#) and these rules.

(11) "Compensation" means payments or services provided by or on behalf of a person in exchange for other services provided by another person.

(12) "Complaint" means an allegation of abuse, a violation of these rules, or an expression of dissatisfaction relating to a tenant or the condition of a Room and Board facility.

(13) " Department " means the Aging and People with Disabilities program within the Oregon Department of Human Services.

(14) "Facility" means a room and board facility unless the specific context indicates otherwise.

(15) "House Rules" means written and posted procedures and standards for the daily operation of a room and board facility and include any restrictions or limitations on the use of the facility by tenants.

(16) "Living Accommodations" means tenant facilities including a place to sleep and common living areas.

(17) "Meals" means the provision of food by the operator or other employee for the consumption by tenants one or more times per day.

(18) "Operator" means an individual, partnership, corporation, or other entity who owns or operates a room and board facility.

(19) "Privately Arranged Housing" means the voluntary sharing of living accommodations and common expenses between two or more adults in a residence or apartment that does not offer such accommodations to the general public.

(20) "Resident" is synonymous with "Tenant" as defined in this rule.

(21) "Residency Agreement" means an agreement or contract entered into by a tenant and the operator which specifies the terms and conditions of residency in the facility. The Residency Agreement identifies the policies of the home, services to be provided, and the rights and responsibilities of the individual, and the operator. The Residency Agreement provides the individual protection from eviction substantially equivalent to landlord tenant laws.

(22) "Retirement Facility" means a facility that:

(a) Is exempt from the requirement for registration in [OAR 411-068-0005](#); and

(b) Meets all of the following criteria:

(A) Offers to the general public for compensation individual dwelling units that include a private bathroom and a meal preparation and storage area;

(B) Represents itself to the public as a retirement facility; and

(C) A majority of the residents are 62 years of age or older.

(23) "Rights" means civil, legal or human rights guaranteed by Federal and State law and afforded to all persons.

(24) "Room and Board Facility (RB)" means a facility that offers to the general public living accommodations and meals for compensation to two or more adults who are elderly or disabled, as defined in [ORS 443.480](#), not related to the operator by blood or marriage. For the purposes of these rules, a registered RB facility does not include the following:

(a) Any facility operated by an institution of higher education.

(b) Any private RB facility approved by an institution of higher education which houses tenants, students or an employee of the institution.

(c) Any private or nonprofit retirement facility which does not fall under the generally understood definition of an " RB facility," a "boarding house" or a "boarding hotel" and where a majority of the tenants are retirees;

(d) Any privately arranged housing the occupants of which may not be related by blood or marriage; and

(e) Any facility which is licensed or registered under any other law of this state or city or county ordinance or regulation.

(25) "Self-administration of Medication" means the act of a resident placing a medication in, or on, his/her own body.

(26) "Services" means living accommodations and meals provided by the operator and non-care related tasks such as housekeeping, laundry, transportation or recreation performed by an operator or employee for the benefit of tenants.

(27) "Subject Individual (SI)" has the meaning as given in [OAR 407-007-0210](#), and means any person 16 years of age or older, including:

(a) Any registered operator and registration applicants;

(b) All persons intending to work in, or currently working in an RB facility, including, but not limited to, tenant managers, including trainees, and licensed healthcare workers when employed by or contracted with the registrant or RB facility.

(28) "Tenant" means a person who is receiving living accommodations and meals in an RB facility, for compensation who is elderly or disabled as defined in [ORS 443.480](#), and who is not related to the operator by blood or marriage.

(29) "Tenant Manager" means a person employed by the operator who resides at the facility and who is responsible for the day-to-day operation or management of the facility.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0005 Certificate of Registration Required

(Amended 07/01/2022)

(1) Any person who operates a RB facility as defined in these rules must obtain a Certificate of Registration (registration) for the facility from the Department prior to providing services and prior to receiving compensation for the services provided.

(2) If an operator runs more than one RB facility, each facility must have a separate registration.

(3) A change of ownership of a facility requires both a new registration application and a new registration. A registration is non-transferable and does not apply to any location or person other than those indicated on the registration obtained by the Department.

(4) When an RB facility is to be sold or otherwise transferred or conveyed to another operator, the new operator must apply for and obtain a new registration prior to the transfer of operation to a new operator.

(5) A registration is valid for one year unless revoked or suspended at an earlier date.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0008 Background Check

(Adopted 07/01/2022)

(1) All SI's must have an approved background check, which for non-operators or non-operator applicants, may include an approved preliminary fitness determination, prior to operating, training in, working in or living in an RB facility.

(a) Operators must maintain documentation of preliminary and final fitness determinations with RB facility records in accordance with these rules and the background check rules.

(b) Verification may include printed or electronic documentation, which must be readily accessible upon request.

(2) The background check may not to be used as a screening tool for hiring. New employees may be offered a position contingent upon passing the background check.

(3) A new background check must be completed:

(a) Every two years;

(b) Prior to any SI's change in employment position;

(c) If the Department has reason to believe a new background check is needed.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0010 Application and Fees (Amended 07/01/2022)

(1) An application for a registration shall be submitted by the operator in writing on a form [APD 0926](#). The application shall include but not be limited to:

(a) A description of the property or place in or upon which the applicant proposes to maintain or conduct an RB facility.

(b) A complete and accurate floor plan that indicates:

(A) The size of rooms.

(B) Which bedrooms are to be used by tenants, the operator, and the tenant manager.

(C) The location of all exits and emergency exits such as windows.

- (D) The location of fire extinguishers, smoke alarms, and carbon monoxide alarms, planned evacuation routes and designated smoking areas in or on the RB facility premises.
- (c) The maximum number of tenants who can reside at the facility.
- (d) The names of all tenants residing at the facility at the time of application.
- (e) The number of floors to be occupied.
- (f) The number of beds on each floor.
- (g) The name, address, telephone number and birth date of the applicant.
- (h) The names, addresses, telephone numbers and birth dates of any partner, corporate officer or other persons having a financial interest in the property, including but not limited to a landlord or mortgage holder of the property.
- (i) The name, address, telephone number and birth date of the tenant manager, if applicable.
- (j) A written plan describing the administrative responsibilities, staff coverage and services which will be offered to tenants.
- (k) A copy of the residency agreement as described in [OAR 411-068-0040](#).
- (l) Documentation of the initiation of a background check or a copy of an approved background check for all SI's as defined in [OAR 411-068-0000](#).
- (m) A signed and dated statement from the operator stating that the operator and the facility are in compliance with all the requirements of these rules.
- (n) A copy of an official document from a financial institution or local government or a fully executed contract evidencing the operator's

right to occupy the property designated as the proposed RB facility, such as a recorded deed, sale agreement, lease agreement between current property owner and applicant. The right to occupy the premises must be concurrent with at least the term of the registration.

(2) The registration fee shall be \$20 per year, per facility, and shall accompany the application.

(3) Applications are not complete until all required information, the application, and registration fee are received by the Department. Incomplete initial applications are void after 60 calendar days from the date the Department receives the application form and registration fee. Failure to provide complete and accurate information may result in a denial of the application.

(4) An applicant may withdraw their application at any time during the application process by submitting written notice to the Department.

(5) An applicant whose registration has been suspended, revoked or non-renewed, or has been voluntarily surrendered during a suspension, revocation or non-renewal process, or whose application for a registration has been denied, shall not be permitted to make a new application for one year from the date the action was final, or for a longer period if specified in the final order.

(6) After receipt of the completed initial application materials, including the registration fee, the Department or its authorized representative must investigate the information submitted, including pertinent information received from outside sources, conduct a personal interview with the applicant, and conduct a physical inspection of the home identifying any deficiencies in writing, and specify a time frame for correction not to exceed 60 calendar days.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0015 Issuance of Certificate of Registration
(Amended 07/01/2022)

(1) If the Department determines that all requirements of [ORS 443.480 to 443.500](#) and these rules have been met, it shall issue a registration to the applicant for the facility within 60 calendar days of receipt of the completed application and the registration fee.

(2) If the Department determines that any of the requirements for registration have not been met, the Department shall notify the applicant within 60 calendar days of receipt of the application materials and the registration fee. The applicant shall have 30 calendar days to come into compliance with the requirements. If the requirements are not met within the time allowed the Department shall issue an order denying the registration.

(3) The registration shall include but not be limited to: the name, address and phone number of the operator of the facility; the address and phone number of the facility; the maximum number of tenants who can reside at the facility; the effective date and expiration date of the registration; and a statement in a prominent location and typeface that states: **"A certificate of registration does not constitute approval, recommendation or endorsement of a room and board facility by Aging and People with Disabilities program within the Oregon Department of Human Services."**

(4) The issuance of a registration shall not mean that the Department has inspected, approved or made any representation regarding the quality of a RB facility.

(5) A RB facility operator shall not advertise, represent or imply that a home has been inspected or approved by the State of Oregon.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0020 Renewal

(Amended 07/01/2022)

(1) At least 30 days prior to the expiration of the registration, a reminder notice and application for renewal will be sent by the Department to the current operator. If the Department receives the application for renewal and the annual registration fee of \$20 prior to the expiration date, the facility's

registration shall remain in force until the Department acts on the application for renewal. If the application for renewal and the fee are not submitted prior to the expiration date, the facility shall be considered an unregistered facility subject to civil penalties.

(2) The application for renewal shall include the same information as the original application for registration as specified in [OAR 411-068-0010\(1\)](#).

(3) The Department shall respond to the application for renewal in the same manner and within the same periods of time specified in [OAR 411-068-0015](#).

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0025 Exceptions

(Amended 07/01/2022)

(1) An operator or applicant may apply to the Department for an exception from the provisions of these rules. An exception may be granted if the operator proves to the Department by clear and convincing evidence that such an exception will not jeopardize the health, safety, and welfare of the tenants.

(2) Any exception will be granted in writing and reviewed at each renewal period.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0030 Waiver of Registration Requirement

(Amended 07/01/2022)

(1) Any city or county that requires registration or licensure of RB facilities may request a waiver of the requirements of [ORS 443.480 to 443.500](#) for facilities within its jurisdiction. Such a request shall be made in writing to the Department and shall include a copy of the ordinance or regulation and an explanation of why the city or county believes the requirements are substantially similar or superior to the requirements of [ORS 443.480 to 443.500](#) and these rules.

(2) If the Department finds that the requirements of the local jurisdiction are substantially similar or superior to [ORS 443.480 to 443.500](#) and these rules, it shall issue a waiver in writing to the local jurisdiction. Such a waiver shall be reviewed by the Department upon amendment of the local ordinance or regulation, or upon amendment of [ORS 443.480 to 443.500](#) or these rules.

(3) If the Department finds that the local requirements are not substantially similar or superior to [ORS 443.480 to 443.500](#) and these rules, the Department shall issue a written order to the local jurisdiction denying the request for a waiver.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0035 Identification

(Amended 07/01/2022)

The Department shall establish and maintain a statewide registry of RB facilities which shall be made available upon request.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0040 Residency Agreement

(Amended 07/01/2022)

(1) Prior to accepting compensation from or providing services to any elderly or disabled person, the operator or tenant manager and the person seeking residence at the facility shall both sign a residency agreement. Such an agreement shall include:

(a) Disclosure of all monthly charges and other fees;

(b) A description of all services to be provided.

(c) A copy of the house rules, including any restrictions or limitations on the use of the facility by tenants such as use of tobacco or alcohol,

use of telephones, visitors, etc. House rules shall not violate landlord tenant laws or these administrative rules;

(d) The terms and conditions under which the agreement may be terminated by either party, including any policy on refunds; and

(e) If the tenant chooses to have the operator act as representative payee for the payment of the tenant's Social Security benefits, the residency agreement shall indicate this choice.

(2) The residency agreement shall conform to [ORS Chapter 90](#) and [ORS 91](#), and all other state, federal or local statutes, rules or ordinances relating to the rights and responsibilities of landlords and tenants.

(3) The operator shall maintain a record of the original signed residency agreement(s) for each tenant.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0045 Standards for Operators of Room and Board Facilities (Amended 07/01/2022)

(1) The Department may deny registration to an applicant if any of the following conditions apply:

(a) The applicant or tenant manager, if applicable, has been convicted of one or more crimes described in [OAR 407-007-0281](#) or

(b) The applicant has had a certificate to operate a RB facility, or a license to operate a foster home or residential care facility denied, suspended, revoked or non-renewed in this or any other state/county if the denial, suspension, revocation or non-renewal was due to abuse of the tenants or a threat to the health and safety of the tenants. The applicant or operator is required to establish to the Department by clear and convincing evidence his/her ability and fitness to operate a RB facility. If the applicant or operator does not meet this burden, the Department shall deny, suspend, revoke or refuse to renew the registration;

(A) The applicant or operator is associated with a person whose registration or license for a RB facility, a foster home or residential care facility was denied, suspended, revoked or not renewed due to abuse of the tenants or a threat to the health and safety of the tenants within three years preceding the application, unless the applicant or operator can demonstrate to the Department by clear and convincing evidence that the person does not pose a threat to the tenants;

(B) For purposes of this subsection, an applicant or operator is "associated with" a person as described in paragraph (1)(b)(A) of this rule if the applicant or operator:

(i) Resides with the person;

(ii) Employs the person in the RB facility;

(iii) Receives financial backing from the person for the benefit of the facility;

(iv) Receives managerial assistance from the person for the benefit of the facility; or

(v) Knowingly allows the person to have access to the facility.

(2) If a new tenant manager begins employment in that capacity during the time period covered by the registration, the operator shall submit that person's name, birth date, and evidence of a completed background check for the new tenant manager.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0050 Standards for a Room and Board Facility

(Amended 07/01/2022)

(1) Each facility shall meet applicable local zoning and building codes, and state and local fire, sanitary and safety regulations.

(2) Bedrooms for all household occupants must have:

- (a) Been constructed as a bedroom when the building was built or remodeled under permit;
- (b) A finished interior with walls or partitions of standard construction that extend from floor to ceiling;
- (c) A door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;
- (d) Be adequately ventilated, heated, and lighted and have at least one window that opens to the outside;
- (e) Be separate from the operator, members of the operator's family or other employees;
- (f) At least 70 square feet of usable floor space of one tenant or 120 square feet for two tenants excluding any area where a sloped ceiling does not allow a person to stand upright;
- (g) Have a bed with adequate bedding and linens available; and
- (h) No more than two occupants per room.

(3) A telephone must be available for use by tenants. A listing of emergency telephone numbers, including the numbers of the local police, fire department, ambulance, Adult Protective Services, the Local Licensing Authority, and Aging and People with Disabilities program within the Department shall be placed in plain view on or next to the telephone.

(4) Bathing and toilet areas shall be private, clean, in good repair, and shall be accessible at all times. There shall be adequate supplies of toilet paper and soap for each bathroom.

(5) FIRE SAFETY. Operators must meet minimal fire safety standards including:

(a) Within 24 hours of arrival to the RB facility each tenant shall be shown how to utilize all exits from the facility. The operator must have a safe evacuation plan and may be required to demonstrate the evacuation plan.

(b) A functional smoke alarm with back-up battery must be installed in all bedrooms and hallways or access ways that adjoin sleeping areas.

(c) A functional carbon monoxide alarm with back-up battery must be installed within 15 feet of each bedroom and at a height as recommended by the manufacturer.

(d) At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a visible and readily accessible location on each floor, including basements, and be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose.

(e) Smoking is prohibited in any bedroom, including that of the tenant, the operator, tenant manager, occupants, and in any room where oxygen is used or stored.

(f) Sleeping quarters shall be confined to the first floor for non-ambulatory tenants and others with substantial disabling conditions.

(g) Recommendations of the local fire department or State Fire Marshal shall be enforced. The Department may request an inspection for fire safety upon receipt of a complaint regarding a facility.

(6) Food Preparation and Storage:

(a) All food and drink shall be clean; free from spoilage, pathogenic organisms, toxic chemicals, and other harmful substances; and shall be prepared, stored, handled, and served so as to be safe for human consumption. Food storage and preparation areas shall be kept in clean and sanitary condition. The temperature of potentially hazardous food shall be maintained at 41 degrees Fahrenheit or

below, or at 135 degrees Fahrenheit or above at all times. (see the [Oregon Health Authority's Food Sanitation Rule](#)).

(b) Employees or tenants engaged in food handling shall observe sanitary methods, including hand washing as appropriate. Employees or tenants with diseases which can be transmitted by foods shall not be assigned to food handling duties.

(c) Poisonous or toxic materials shall be prominently and distinctly labelled for easy identification of contents, and shall not be used in a way that contaminates food equipment, or utensils, nor in a way that constitutes a hazard to employees or tenants.

(d) Meals provided by the facility shall be nutritionally balanced and shall provide the recommended daily allowance of vitamins, minerals, and calories.

(7) Medication storage and administration:

(a) Tenant medications must be stored separately from medications belonging to the operator, tenant manager, and all other non-tenants.

(b) All tenant medications, including over-the-counter medications, must be stored as directed by the manufacturer in the original labeled container unless stored in a seven-day closed container manufactured for the advanced set-up of medications. Stored medications must be kept in a locked location in the tenant's bedroom, or a locked central location that is cool, clean, dry, not subject to direct sunlight or fluctuation in temperature.

(c) Medications requiring refrigeration must remain refrigerated and must also be locked and stored separately from non-tenant medications.

(d) Facility staff must know the location of the medications and must have the key to the medication cabinet. Facility staff may assist a tenant with self-administration of medications if a tenant has elected to have the facility store medication on behalf of the tenant. Facility staff may assist by dispensing a tenant's medication that is locked in

a central location but shall not administer medications to tenant by placing medications in or on a tenant's body.

(8) Operators shall maintain a record of all compensation received from a tenant in return for services, and a record of all compensation paid to a tenant for work or other services performed by a tenant.

(9) Tenants shall be allowed to exercise all civil and human rights accorded to other citizens, such as voting, privacy, and sending and receiving mail unopened.

(10) An operator and other employee of a facility shall not abuse tenants and shall exercise reasonable precautions against any other conditions which threaten the health, safety or welfare of tenants.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0055 Limitation on the Provision of Services in a Room and Board Facility

(Amended 07/01/2022)

(1) No operator or other employee of a RB facility shall provide care as defined in OAR 411-068-0000 to any tenant of a RB facility.

(2) No residency agreement of a RB facility shall contain any promise to provide any service that falls within the definition of care specified in [OAR 411-068-0000](#).

(3) Nothing in these rules is meant to prohibit an operator or other employee from aiding a tenant in the self-administration of medication provided that the tenant requests such assistance.

(4) Nothing in these rules is meant to prohibit an operator or employee from providing non-care related services to a tenant.

(5) No operator or other employee of a RB facility shall provide services or engage in behavior that constitutes a financial conflict of interest including: borrowing from or loaning money to tenants; witnessing wills in which the operator or employee is beneficiary; adding the operator's or employee's

name to a tenant's bank accounts or other personal property; inappropriately expending a tenant's personal funds; co-mingling the tenant's funds with the operator's or other tenants' funds; or becoming guardian or conservator for a tenant.

(6) Operators shall make reasonable efforts to refer tenants in need of care services to appropriate social service agencies or medical facilities. If a tenant needs protective services, through self-neglect or inability to provide for his or her own care needs, the operator shall call the Department or the Local Licensing Authority.

(7) Operators who wish to provide care to tenants as defined in [OAR 411-068-0000](#) must apply for licensure as an adult foster home or a residential care facility.

Stat. Auth.: [ORS 410.070](#), [443.485](#)
Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0060 Complaints *(Amended 07/01/2022)*

(1) The Department shall issue a notice to each RB facility, which shall include the telephone number of the Department and the Local Licensing Authority and the procedures for making complaints. The notice shall be posted in a conspicuous place available to tenants.

(2) Complaints regarding a facility may be made to the Department or Local Licensing Authority by any person, including a tenant of the facility. When a complaint is received, the Department or authorized representative shall investigate the complaint.

(3) No operator or employee of a facility shall retaliate against a tenant by increasing charges, decreasing services, rights or privileges; threatening to increase charges or decrease services, rights or privileges; taking or threatening to take any action to coerce or compel the tenant to leave the home; or by harassing, abusing, or threatening to harass or abuse a tenant in any manner related to the filing, or possible filing, of a complaint with the Department.

Stat. Auth.: [ORS 410.070, 443.485](#)
Stats. Implemented: [ORS 443.480, 443.500](#)

411-068-0065 Complaint Records
(Amended 07/01/2022)

(1) A record shall be maintained by the Department of all complaints and any action taken on the complaint. Any information regarding the investigation of the complaint shall not be filed in the public file until the investigation has been completed.

(2) The name, addresses, and other identifying information of the complainant, the tenant, and any witnesses are confidential and shall not be placed in the public record.

(3) Any person has the right to inspect and photocopy the public complaint files maintained by the Department. Disclosure of information for the public complaint file shall be governed by relevant statutes concerning public records and confidentiality.

Stat. Auth.: [ORS 410.070, 443.485](#)
Stats. Implemented: [ORS 443.480, 443.500](#)

411-068-0070 Access and Inspection
(Amended 07/01/2022)

(1) Department staff or authorized representative of the Department shall be permitted access to enter and inspect all registered facilities upon receipt of a complaint or other information that gives the Department cause to believe there exists a threat to the health, safety or welfare of the tenants.

(2) If an authorized representative of the Department is denied access to enter and inspect a registered facility when investigating a complaint, such denial shall be grounds for suspension, revocation, or non-renewal of registration.

(3) When investigating a complaint, an authorized representative of the Department shall be permitted access to the tenants of the facility in order

to interview tenants privately and to inspect copies of the residency agreement and other records maintained by the operator.

(4) Upon receipt of a complaint or request of the Department, state and local fire inspectors shall be permitted access to enter and inspect a facility regarding fire safety.

(5) Upon receipt of a complaint or request of the Department, the Local Licensing Authority, the Oregon Health Authority, state and local authorities shall be permitted access to enter and inspect a facility regarding health and sanitation.

(6) If the Department or authorized representative has reasonable cause to believe a facility subject to the requirements of [ORS 443.480 to 443.500](#) is operating without registration, it may request permission to enter the facility to determine if it is in violation of [ORS 443.480 to 443.500](#) and/or it may apply to the district or circuit courts for a search warrant.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0075 Procedures for Correction of Violations

(Amended 07/01/2022)

(1) If the Department or its authorized representative determines that abuse has occurred in an RB facility, the operator must be notified verbally and in writing to immediately cease the abusive act or to take action to prevent further abuse.

(2) If the Department or its authorized representative determines a violation of these rules has occurred, the Department shall notify the operator in writing, by hand delivery, or by regular mail.

(3) The notice of violation shall state the following:

(a) A description of each condition that constitutes a violation;

(b) Each regulation that has been violated;

(c) Except in cases of imminent danger, a specific time frame for correction, but no later than 60 calendar days after receipt of the notice;

(d) Sanctions that may be imposed against the facility for failure to correct the violations; and

(e) Right to contest the violations if an administrative sanction is imposed.

(4) During the time frame for correction specified in the notice of violation, the operator or the Department may request a conference to discuss the findings. The conference shall be scheduled within 10 calendar days of a request by either party.

(5) The purpose of the conference is to discuss the findings and to provide information to assist the operator in complying with the requirements of these rules.

(6) The request by an operator or the Department for a conference shall not extend any previously established time limit for correction.

(7) The operator shall notify the Department in writing of correction of violations no later than the date specified in the notice of violation.

(8) The Department may conduct an inspection of the facility after the date the Department receives the notice of compliance or after the date by which violations must be corrected as specified in the notice of violation.

(9) For violations that present an imminent danger to the health, safety or welfare of tenants, the notice of violation shall order the operator to correct the violations and abate the conditions no later than 24 hours after receipt of the notice of violation, either verbally or in writing. The Department may inspect the home after the 24-hour period to determine if the violations have been corrected as specified in the notice.

(10) If tenants are in immediate danger, the registration may be suspended or revoked, and the Department or authorized representative may make arrangements to voluntarily move the tenants.

(11) If the violations have not been corrected by the date specified in the notice of violation or if the Department has not received a report of compliance, the Department may institute one or more administrative sanctions.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0080 Administrative Sanctions

(Amended 07/01/2022)

(1) An administrative sanction may be imposed for non-compliance with these rules. An administrative sanction includes one or more of the following actions:

(a) A civil penalty.

(b) A denial, suspension, revocation, or non-renewal of a registration.

(2) If the Department imposes an administrative sanction, it shall serve a notice of administrative sanction upon the operator personally or by certified mail.

(3) The notice of administrative sanction shall state all elements required by [ORS 183.415](#) including but not limited to:

(a) Each sanction imposed;

(b) A short and plain statement of each condition or act that constitutes a violation;

(c) Each statute or rule allegedly violated;

(d) A statement of the operator's right to a contested case hearing;

(e) A statement of the authority and jurisdiction under which the hearing is to be held;

(f) A statement that the Department's files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case;

(g) A statement that the notice becomes a final order upon default if the operator fails to request a hearing within the specified time; and

(h) A statement of the operator's right to request an informal conference in addition to, or in-lieu of, a contested case hearing. An operator may request an informal conference with the Department to discuss sanctions imposed.

(4) If an administrative sanction is imposed for reasons other than abuse, it shall be preceded by a hearing if the operator requests the hearing in writing within 60 calendar days after receipt of the notice.

(5) If an operator fails to request the hearing within the 60 calendar days, the notice of administrative sanction shall become a final order of the Department by default.

Stat. Auth.: [ORS 410.070, 443.485](#)

Stats. Implemented: [ORS 443.480, 443.500](#)

411-068-0085 Denial, Suspension, Revocation or Refusal to Renew Registration

(Amended 07/01/2022)

(1) The Department may immediately suspend, revoke, or non-renew a registration for reason of abuse, neglect or exploitation of a tenant as defined in [OAR 411-020-0002](#). The operator may request a review of the decision by submitting a request, in writing, within 10 calendar days of the notice and order of suspension, revocation or non-renewal.

(2) Within 10 calendar days of receipt of the operator's request for a review, the Department administrator or designee shall review all material relating to the allegation of abuse and to the suspension, revocation or non-renewal, including any written documentation submitted by the operator within that time frame. The administrator or designee shall determine, based on a review of the material, whether to sustain the decision. If the administrator or designee does not sustain the decision, the suspension,

revocation or non-renewal shall be rescinded immediately. The decision of the administrator or designee is subject to a contested case hearing under [ORS 183](#) if requested within 90 calendar days.

(3) The Department may also deny, suspend, revoke, or non-renew a registration where it finds:

(a) An operator has failed to provide an approved background check in accordance with [OAR 411-068-0008\(1\)](#).

(b) There has been substantial failure to comply with these rules or where there is substantial non-compliance with local codes and ordinances or any other state or federal law or rule applicable to the health and safety of the tenants in a RB facility.

(c) An operator or employee refuses to allow access and inspection by an authorized representative of the Department.

(d) The application or renewal for the registration contains fraudulent information or material misrepresentations.

(e) An operator has failed to comply with a final order of the Department to correct a violation of these rules for which an administrative sanction has been imposed.

(f) An operator has failed to comply with a final order of the Department imposing an administrative sanction.

(4) If registration is suspended, revoked, or non-renewed, the Department or an authorized representative may arrange for tenants to voluntarily move for their protection.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)

411-068-0090 Civil Penalties

(Amended 07/01/2022)

(1) Civil penalties, not to exceed \$200 per violation per day, may be assessed for a facility operating without a current registration.

(2) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Department. The notice shall be sent by registered or certified mail and shall include all elements required by [ORS 183.415](#) including but not limited to:

(a) A reference to applicable sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(3) The person to whom the notice is addressed shall have 10 calendar days from the date of service in which to make written application for a contested case hearing.

(4) All hearings shall be conducted according to the applicable provisions of ORS 183 relating to contested cases before the Department.

(5) If the person notified fails to request a hearing within the time specified; or if after a hearing the person is found to be in violation of a statute, rule, or order, an order may be entered assessing a civil penalty.

(6) Unless the penalty is paid within 10 calendar days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the operator.

(7) Civil penalties are subject to judicial review under [ORS 183.480](#), except that the court may, at its discretion, reduce the amount of the penalty.

(8) All penalties recovered under [ORS 443.480 to 443.500](#) shall be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: [ORS 410.070](#), [443.485](#)

Stats. Implemented: [ORS 443.480](#), [443.500](#)