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

CHAPTER 411
DIVISION 90

NURSING FACILITIES/LICENSING - VENTILATOR ASSISTED PROGRAM

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(Adopted 2/1/2019)

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411-090-0100 Statement of Purpose *(Adopted 2/1/2019)*

(1) The purpose of the rules in OAR chapter 411, division 90 is to establish standards for the endorsement of Ventilator Assisted Programs. The Ventilator Assisted Program provides specialized services for individuals dependent on invasive mechanical ventilation as a means of life support, individuals who are dependent on BiPAP or CPAP due to acute respiratory failure, and individuals who are transitioning from mechanical ventilation.

(2) These rules are designed to ensure residents living in nursing facilities who receive services under the Ventilator Assisted Program have a positive quality of life, consumer protection, and person-centered care. Residents' rights, dignity, choice, comfort, and independence are promoted in this setting. The endorsement of a nursing facility Ventilator Assisted Program does not constitute a recommendation of the nursing facility by the Department of Human Services, Aging and People with Disabilities Program.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0110 Definitions *(Adopted 2/1/2019)*

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-085-0005 apply to these rules:

(1) "Advertise" means to make publicly and generally known, usually by printed notice, broadcast, verbal marketing, website, or electronic communication.

(2) "Applicant" means the person, persons, or entity, submitting a complete facility application for endorsement as a Ventilator Assisted Program. Applicant includes a sole proprietor, each partner in a partnership, and each member in a limited liability company, corporation, or entity that owns a nursing facility. Applicant also includes the sole proprietor, each partner in a partnership, and each member in a limited liability company, corporation, or entity that operates a nursing facility on behalf of the facility business owner.

(3) BiPAP/ST means bi-level positive airway pressure/spontaneous timed.

(4) CPAP means continuous positive airway pressure.

(5) "Department" means the Department of Human Services, Aging and People with Disabilities Program (APD).

(6) "Emergency Situation" means a disruption to normal care and services caused by an unforeseen occurrence, whether natural, technological, or manmade, that is beyond the control of the licensee and the staff that are trained to work in the Ventilator Assisted Program are not available.

(7) "Endorsement" means a nursing facility has received and maintained approval from the Department to provide specialized services in a Ventilator Assisted Program pursuant to these rules.

(8) "Facility" means a nursing facility.

(9) "Invasive Mechanical Ventilation" means a life support system designed to replace or support normal ventilation lung function.

(10) "Licensee" means the entity that owns the nursing facility business, and to whom a nursing facility license has been issued.

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

(12) "Nursing Facility" means a nursing facility as defined in OAR chapter 411, division 85.

(13) "Pre-Service Training" means training that is completed before staff takes responsibility of their job duties.

(14) "Resident" means any individual dependent on invasive mechanical ventilation as a means of life support, individuals who are dependent on BiPAP or CPAP due to acute respiratory failure, and individuals who are transitioning from invasive mechanical ventilation who live in a nursing facility.

(15) "Tracheostomy" means the surgical creation of an opening into the trachea through the neck, with tracheal mucosa being brought into continuity with the skin; also, the opening so created. The term is also commonly used to refer to a tracheotomy done for insertion of a tube.

(16) "These Rules" mean the rules in OAR chapter 411, division 90.

(17) "Ventilator" means a device to provide breathing assistance to individuals. This includes both positive and negative pressure devices.

(18) "Ventilator Assisted Program" means the program that provides services to residents who are dependent on invasive mechanical ventilation as a means of life support.

(19) "Ventilator Assisted Program Unit" means a unit that meets the Ventilator Assisted Program criteria described in these rules.

(20) "Ventilator Assisted Program Unit Staff" means a facility employed or contracted person who has the required training, and whose primary responsibility is to provide services to residents' dependent on invasive mechanical ventilation as a means of life support.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0120 Endorsement Requirements and Approval *(Adopted 2/1/2019)*

(1) ENDORSEMENT REQUIRED. Any Title XVIII and XIX certified nursing facility that provides care to residents as a Ventilator Assisted Program must be endorsed pursuant to these rules.

(2) The facility may not admit any ventilator dependent residents until they receive an approved endorsement from the Department.

(3) Application for Endorsement. At least 60 days prior to the anticipated unit opening, the applicant must submit, to the Department, a completed Ventilator Assisted Program endorsement application and any other information or documentation determined necessary by the Department to assess whether the applicant qualifies for program endorsement, including, but not limited to:

(a) Staffing plan for the Ventilator Assisted Program.

(b) Staff training plan specific to ventilator care, including, but not limited to:

(A) Cardiopulmonary Resuscitation.

(B) Basic Life Support.

(C) Mechanical Ventilation.

(D) Tracheostomy management.

(E) Pulmonary Hygiene.

(F) Emergency Response.

(c) Name of the physicians who will provide oversight of the ventilator dependent residents and their current Medicaid provider number.

(d) Name of the Ventilator Assisted Program Unit Director and current license number.

(e) Valid written addendums to nursing facility agreements that support appropriate care for residents in the Ventilator Assisted Program with the following, a local:

(A) Emergency transportation provider; and

(B) Hospital capable of providing 24 hours a day, seven days a week care that is necessary for Ventilator Assisted Program participants.

(f) A copy of the contract with a Ventilator Assisted Program unit contractor, if the facility is using a contractor to provide their Ventilator Assisted Program services. If a licensee contracts with an agency to provide the Ventilator Assisted Program services, the contract shall include:

(A) An outline of the services the contractor shall provide.

(B) The contractor's responsibilities for determining the Ventilator Assisted Program plan of care.

(C) How communication between the facility and the contractor will be documented.

(g) A statement on the Ventilator Assisted Program's mission, commitment to person-centered care, weaning, and the promotion of Ventilator Assisted Program residents to be as independent in respiratory function as medically feasible.

(h) Plans including, but not limited to:

(A) Infection Control.

(i) Actions to investigate, control, and prevent infections;

(ii) Isolation procedures; and

(iii) Standard precautions.

(B) Maintenance and care requirements of equipment and disposal of supplies.

(C) Emergency Plan.

(D) Floor plan of the Ventilator Assisted Program unit designated area.

(E) Copy of the care planning tool.

(i) Copies of brochures or advertisements used to advertise the facility and the facility's services.

(j) Endorsement application fee as described in section (6) of this rule.

(4) The Department shall notify the applicant within 60 days after receiving the completed application for endorsement of the decision to approve or deny the endorsement for a Ventilator Assisted Program.

(5) The Department shall return incomplete applications to the applicant.

(6) Endorsement Fee. The non-refundable endorsement application fee is due upon receipt of the application for an initial endorsement and whenever the facility's license and endorsement are renewed. Endorsement application fees are in addition to the fees required for licensure. Fees shall be as follows:

(a) $1000 for each facility applying for endorsement of a Ventilator Assisted Program.

(b) $500 for each facility applying for re-endorsement of a Ventilator Assisted Program.

(7) DEMONSTRATED CAPACITY. In addition to the application requirements described in these rules, the applicant must demonstrate to the satisfaction of the Department, the ability to provide services in a manner consistent with the requirements of these rules. The Department shall consider the following criteria, including, but not limited to:

(a) The long-term care experience of the applicant.

(b) The compliance history of the applicant for endorsement, of the management company in the operation of any care facility licensed, certified, or registered under federal or state laws, to the extent the compliance history may indicate the applicant is not able to comply with these rules or provide quality care to residents in the Ventilator Assisted Program.

(c) If the Department identifies compliance issues, the applicant must submit a plan to the Department addressing the compliance issues and the Department may require the applicant to employ a consultant or management company for a specified period.

(8) Prior to issuing the endorsement, the Department shall conduct an on-site inspection to ensure the facility complies with the physical plant requirements outlined in these rules.

(9) Even if an applicant meets the application requirements described in this rule, the Department may deny approval of an application for endorsement based on:

(a) Existing geographic coverage of nursing facility ventilator services;

(b) Market saturation; or

(c) The ability of the facility to demonstrate and maintain compliance with requirements that apply to endorsed facilities.

(10) The Department shall conduct an on-site inspection within 90 days of the admission of the first resident in a Ventilator Assisted Program to ensure quality of care.

(11) The licensee shall be responsible for the operation of the unit and quality of care rendered in the unit.

(12) The endorsement shall be identified on the facility's license.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.087, 441.615

411-090-0130 Endorsement Renewal and Relinquishment *(Adopted 2/1/2019)*

(1) ENDORSEMENT RENEWAL. Endorsement renewal must be made at the same time as the facility's license renewal.

(2) If the initial endorsement approval falls within three months of the facility's license renewal, an automatic exception shall be granted and the endorsement renewal shall be made at the time of the next renewal of the facility's license.

(3) RELINQUISHMENT OF ENDORSEMENT. The licensee must notify the Department in writing at least 90 days prior to the voluntary relinquishment of the endorsement of a Ventilator Assisted Program. For voluntary relinquishment, the facility must comply with OAR chapter 411, division 88, along with the additional following requirements:

(a) Give all residents and their designated representatives 60-day written notice. The written notice must include:

(A) The proposed effective date of the relinquishment.

(B) Reference to other Ventilator Assisted Programs.

(b) Submit a transition plan to the Department that demonstrates how the current residents shall be evaluated and assessed to reside in a different Ventilator Assisted Program unit or would require move-out or transfer to other settings.

(c) Change care plans, as appropriate, to address any needs the residents may have with the transition.

(d) Notify the Department when the relinquishment process is complete.

(e) Revise advertising materials to remove any reference that the facility is an endorsed Ventilator Assisted Program.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0140 Advertising of a Ventilator Assisted Program *(Adopted 2/1/2019)*

(1) An applicant may not advertise as an endorsed Ventilator Assisted Program facility until the applicant has obtained an endorsement from the Department. A prospective Ventilator Assisted Program facility may advertise as such if they have submitted an endorsement application to the Department.

(2) A facility with a valid endorsement may advertise it has an endorsement. However, the advertising materials may not imply or state the Department recommends or supports a specific facility.

(3) All advertising material must be truthful and may not include or use coercive or misleading information about the endorsement of the facility.

(4) Upon the determination that a non-endorsed facility implies or advertises they have an endorsement, the Department shall send a notice to the licensee to cease the advertising immediately. Failure to comply may result in a civil penalty as outlined in OAR 411-089-0030.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055

411-090-0150 Licensee Requirements *(Adopted 2/1/2019)*

(1) The licensee must follow the licensing rules in OAR chapter 411, divisions 86 through 89, and these rules.

(2) The licensee agrees to provide room, care, and services for all Ventilator Assisted Program residents in a distinct area within the facility.

(3) The licensed respiratory therapists and registered nursing staff, on staff or on contract with the facility, must maintain documentation of resident care including weekly status updates of each resident. Documentation required by this paragraph shall be kept in the resident's clinical record and shall be sufficient to:

(a) Determine the needs of the resident are being met;

(b) Support the appropriateness of invasive mechanical ventilation; and

(c) Justify the Ventilator Assisted Program payment determination in accordance with these rules.

(4) The licensee must make accessible to the Department all provider, resident, and other records maintained pursuant to these rules.

(5) The licensee shall participate in the Department's annual review of the facility license renewal prior to the extension of the endorsement term. The licensee shall provide the Department with any business records requested by the Department for evaluation of licensee performance.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0160 Staffing *(Adopted 2/1/2019)*

(1) STAFFING. The unit must employ or contract with a full-time Ventilator Assisted Program Unit Director.

(2) In a designated Ventilator Assisted Program unit, the following staffing requirements apply:

(a) Licensed Nurses.

(A) A licensed nurse must be on duty 24 hours a day, seven days a week.

(i) A registered nurse must be on duty at least 16 hours a day.

(ii) Other types of licensed nurses may cover the other 8 hours in the 24-hour period.

(B) The facility shall not assign more than 15 Ventilator Assisted Program residents per Ventilator Assisted Program trained licensed nurse.

(C) These hours do not include the Resident Care Manager functions and oversight of care plans for non-Ventilator Assisted Program residents.

(b) The facility shall not assign more than 12 Ventilator Assisted Program residents per licensed respiratory therapist and must have an on-site, licensed respiratory therapist 24 hours a day, seven days a week in the designated area.

(c) Certified Nursing Assistants (CNA). The facility must have Ventilator Assisted Program trained CNAs in the ratios noted below:

(A) Day Shift: 1 nursing assistant per 6 residents.

(B) Evening Shift: 1 nursing assistant per 9 residents

(C) Night Shift: 1 nursing assistant per 12 residents.

(d) At all times the facility must have at least two Ventilator Assisted Program trained staff present within the designated area.

(e) The facility shall ensure the 24 hour on-call availability of the Medical Director or designated physician for the Ventilator Assisted Program in the event the resident's primary care physician is not available.

(f) The facility shall ensure the availability of a licensed pulmonologist on sight in the designated unit at least one time per week and ensure the on-call availability of a pulmonologist.

(g) Within this unit, staffing levels must be sufficient to meet the scheduled and unscheduled needs of residents.

(h) The facility must maintain separate staffing records posted within the unit for the nursing and respiratory staff responsible for the ventilator dependent residents.

(i) The facility shall report monthly, to the Department, their staffing levels for first year of their endorsement, or until the Department has found them to be sufficient in maintaining required staffing levels, whichever date comes later.

(j) In an emergency situation, as defined in OAR 411-090-0110, when trained CNA staff are not available to provide services, the facility may assign staff who have not completed the required training in accordance with this rule. The emergency must be documented and immediately reported to relevant APD local office staff and the Department. The documentation must address:

(A) The nature of the emergency.

(B) How long the emergency lasted.

(C) The names and positions of staff that provided coverage.

(D) The contingency plan.

(3) The facility shall notify the Department on official letterhead within 10 days of any change related to use of on-sight and contracted Ventilator Assisted Program Unit staff caring for residents.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0170 Staff Training *(Adopted 2/1/2019)*

(1) STAFF TRAINING. The facility must provide residents with trained staff who have been instructed in invasive mechanical ventilation services and have ongoing training.

(2) The administrator of the facility must complete and document an additional six hours of their required annual continuing educational requirements, related to the care of individuals who are dependent on an invasive mechanical ventilation as a means of life support. Continuing education credits must be documented and may include:

(a) College courses.

(b) Preceptor credits.

(c) Self-directed activities.

(d) Course instructor credits.

(e) Corporate training.

(f) In-service training.

(g) Professional association trainings.

(h) Web-based trainings.

(i) Correspondence courses,

(j) Tele-courses

(k) Seminars.

(l) Workshops.

(3) Except in an emergency situation, and as defined in OAR 411-090-0110, staff caring for Ventilator Assisted Program residents must complete eight hours of pre-service training in the care of ventilator dependent individuals.

(a) The training must be conducted by a registered respiratory therapist, who has at least one year of experience in the care of ventilator dependent individuals.

(b) These training requirements are in addition to the facility licensing requirements for training.

(c) Documentation of this training shall include:

(A) Name and qualification of the trainer.

(B) Date of the training.

(C) Duration and content of the training.

(D) Signature and position of all participants.

(4) In addition to the pre-service training described in this rule, staff caring for Ventilator Assisted Program residents must complete eight hours of annual in-service training in the care of ventilator dependent individuals.

(5) Unless an exception is granted, the Ventilator Assisted Program Director shall have at least three years of direct care experience and knowledge in the care of ventilator dependent individuals.

(6) The Ventilator Assisted Program Licensed Respiratory Therapy Trainer shall have at least three years of direct care experience and knowledge in the care of ventilator dependent individuals, and one year of experience in training.

(7) Pre-service and annual in-service training may include various methods of instruction, including, but not limited to classroom style, web-based training, videos, or one-on-one training.

(a) The facility must have a method for determining and documenting each staff person's knowledge and understanding of the training provided.

(b) All training must be documented, and documentation maintained and provided to the Department when requested.

(8) The qualified Ventilator Assisted Program Licensed Respiratory Therapist Trainer shall provide pre-service training for the licensed staff, and basic training for all others responsible for care and ancillary services within the Ventilator Assisted Program designated area before the facility admits its first resident dependent on invasive mechanical ventilation.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0180 Resident Services in a Ventilator Assisted Program Unit *(Adopted 2/1/2019)*

(1) Individuals who are dependent on invasive mechanical ventilation as a means of life support and individuals who are transitioning from mechanical ventilation, may participate in the Ventilator Assisted Program.

(2) Individuals who are dependent on BiPAP or CPAP due to acute respiratory failure or exacerbation of chronic illness, may participate in the Ventilator Assisted Program for a period of time as determined by a physician or Pulmonologist.

(3) At time of move-in, the facility must make reasonable attempts to identify the customary routines of each resident and the resident's preferences in how services may be delivered. Minimum services to be provided include:

(a) Assistance with activities of daily living that addresses the needs of each resident dependent on invasive mechanical ventilation as a means of life support. These services must meet or be in addition to the requirements in the licensing rules for the facility. Services must be provided in a manner that promotes resident choice, dignity, and sustains the resident's abilities.

(b) Health care services provided in accordance with the licensing rules of the facility, along with the following additional health services:

(A) Lab services related to the Ventilator Assisted Program.

(B) Speech services related to the Ventilator Assisted Program.

(C) Respiratory therapy related to the Ventilator Assisted Program.

(c) Physician provided oversight of the resident who is dependent on invasive mechanical ventilation as a means of life support. A physician may delegate a task in a Ventilator Assisted Program Unit only if it is for tasks within the scope of a Respiratory Therapists or Registered Nurses license.

(d) The Ventilator Assisted Program Licensed Respiratory Therapist may participate in the delivery of unit services that are ancillary to respiratory care for the residents, including, but not limited to social work, discharge planning, and training of primary caregivers or family members in care of discharged residents.

(4) An RN shall ensure completion and documentation of a comprehensive assessment of the resident's capabilities and needs as described in 411-086-0060(1).

(5) The facility shall establish a care plan for long-term respiratory stability for individuals and utilize mechanical ventilation capacity efficiently and effectively.

(a) The goal is to wean individuals from mechanical ventilator dependency, when medically appropriate, and to transition them into a lower level of care.

(b) The facility shall be proactive in identifying an individual's potential to be weaned and in applying weaning techniques according to evidence-based, nationally accepted practice guidelines.

(6) The facility shall ensure and document that sufficient ventilator equipment is maintained in good working order as recommended by the manufacturer including, but not limited to:

(a) Primary ventilators.

(b) Back-up ventilators.

(c) Emergency batteries.

(d) Oxygen tanks.

(e) Suction machines.

(f) Nebulizers.

(g) Manual resuscitator.

(h) Pulse oximetry monitoring equipment.

(i) Nutrient infusion pumps.

(j) Any medically necessary durable medical equipment (DME) and supplies.

(7) The facility shall maintain and keep general maintenance records on all ventilators and general equipment. Resident in-room specific records must be maintained and provided to the Department when requested.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0190 Physical Design, Environment, and Safety *(Adopted 2/1/2019)*

(1) The intent of this rule is for the physical environment and design of the Ventilator Assisted program designated area to support the needs of the residents in the Ventilator Assisted Program who are dependent on invasive mechanical ventilation as a means of life support. The physical environment should maximize functional abilities, accommodate ventilator equipment, promote safety, enhance personal dignity, and encourage independence. These physical plant adaptation requirements are in addition to the requirements already established in OAR chapter 411, division 87.

(2) Each ventilator must be equipped with an alarm per ventilator mode and with internal batteries to provide a short-term back-up system in case of a total loss of power. The battery must be checked and documented as recommended by the manufacturer.

(3) The facility must have an audible, redundant, external alarm system located outside the resident's room to alert of ventilator failure.

(4) The facility must have a means of notification to Ventilator Assisted Program direct care staff when a ventilator dependent resident is in distress. Examples include, installing an alarm system to the ventilator machine and designating rooms near a place where staff can easily hear the alarm on the ventilator machine.

(5) RESIDENT ROOMS. The Ventilator Assisted Program Unit area shall have rooms and restrooms that are of sufficient proportion to accommodate ventilator equipment and extra staff.

(6) COMMON AREAS. Dining, activity, and lounge spaces must be of sufficient proportion to accommodate staff and residents' individual and equipment needs at all times.

(7) EQUIPMENT. The Ventilator Assisted Program Unit area shall have rooms equipped with:

(a) All the equipment necessary for tracheostomy and ventilator care, at the resident's bedside, and within easy reach.

(b) Tracheostomy kits available at all times for all residents.

(c) Operable wall or portable suction equipment and necessary supplies.

(d) Operable wall or portable emergency oxygen equipment and necessary supplies.

(8) EMERGENCY BACKUP EQUIPMENT. The Ventilator Assisted Program Unit area shall have emergency back-up generators, batteries, and back-up equipment, along with the service and maintenance policies and plans for the equipment.

(9) EMERGENCY PLAN. The facility must have an updated, specific plan addressing emergency needs and equipment for each type of resident approved to receive nursing facility Ventilator Assisted Program services.

(10) EMERGENCY ELECTRICAL SERVICES. All resident rooms, as well as communal areas where the resident may choose to go, must have red duplex electrical outlets connected to the emergency electrical service.

(11) AGREEMENT WITH LOCAL ELECTRIC COMPANY. The facility shall request to have priority for service restoration during a major outage.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0200 Exceptions *(Adopted 2/1/2019)*

Requests for exceptions to these rules shall be reviewed by the Department and processed in accordance with these rules and the licensing rules in OAR chapter 411, divisions 85 through 88.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0210 Reporting Requirements *(Adopted 2/1/2019)*

(1) REPORTING REQUIREMENTS. Endorsed Ventilator Assisted Program facilities shall report information to the Department in the form and format determined by the Department.

(2) Facilities shall provide a quarterly Ventilator Assisted Program Client Utilization Report that contains the following data elements:

(a) Client Name.

(b) Valid ICD-9 CM diagnosis.

(c) Type of respiratory services provided to the resident and the previous care setting if other than a hospital.

(d) Summary of respiratory interventions.

(e) Response to, or effectiveness of, ventilator or tracheotomy weaning.

(f) Number of, and reasons for, respiratory hospitalizations.

(g) Number of program residents who left the program, reason for leaving (death, weaned, or on a ventilator), and place of discharge.

(h) Listing of trend data, by facility and resident, of reportable incidents including, but not limited to:

(A) Unplanned ventilator "disconnects".

(B) Resident removal of their own trach tube.

(C) Paramedic calls.

(D) Resident deaths.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615
Stats. Implemented: ORS 409.050, 410.070, 441.055, 441.615

411-090-0220 Administrative Review, Complaints, Inspections, and Sanctions *(Adopted 2/1/2019)*

(1) COMPLAINTS AND INVESTIGATIONS. The Department shall investigate complaints regarding an endorsed Ventilator Assisted Program in accordance with the Nursing Facility Licensing complaint and investigation procedures documented in OAR chapter 411, division 89.

(2) INSPECTIONS. At the time of the Ventilator Assisted Program's regular license renewal, the Department shall inspect the Ventilator Assisted Program to determine compliance with these rules.

(3) SANCTIONS. Sanctions for failure to comply with these rules may include the imposition of civil penalties, licensing conditions, suspension, denial, non-renewal, or revocation of the endorsement. Sanctions involving the endorsement shall be in accordance with the Nursing Facility Licensing Rules in OAR 411-089-0020 (Sanctions) applicable to the type of sanction imposed.

(a) SUSPENSION. The Department may immediately suspend a Ventilator Assisted Program endorsement if the Department finds a serious threat to the public health and safety and sets forth the specific reasons for such findings.

(b) DENIAL AND NON-RENEWAL OF ENDORSEMENT APPLICATION. The Department may deny or refuse to renew an endorsement under the following circumstances:

(A) Failure to demonstrate capacity as required in OAR 411-090-0120(7).

(B) Substantial failure to comply with Department rules.

(C) Failure to provide complete and accurate information on the application.

(D) When the State Fire Marshal, or authorized representative, certifies there is failure to comply with all applicable ordinances and rules pertaining to fire safety.

(E) Failure to:

(i) Implement a plan of correction;

(ii) Comply with a licensing or endorsement condition that ensures the safety and security of residents; or

(iii) Provide the care to residents living within the Ventilator Assisted Program, such that the health, safety, or welfare of the residents is jeopardized.

(c) REVOCATION. The Department may issue a notice of revocation of endorsement upon finding there is substantial failure to comply with these rules.

(4) The licensee is entitled to a hearing in accordance with the provisions of ORS chapter 183 when the Department takes enforcement action on the endorsement of a Ventilator Assisted Program.

Stat. Auth.: ORS 409.050, 410.070, 441.055, 441.615, 441.637

Stats. Implemented: ORS 409.050, 410.070, 441.030, 441.055, 441.087, 441.615, 441.650, 441.665, 441.677, 441.676, 441.690, 441.695, 441.710, 441.715, 441.990