

Agency and Division Name

#### NOTICE OF PROPOSED RULEMAKING HEARING

Oregon Department of Human Services (ODHS)
Office of Developmental Disabilities Services (ODDS)

411

India Van Natta

Administrative Rules Chapter Number

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#### **FILING CAPTION**

ODDS: HB 3256 (2023) Foster Homes for Children with Intellectual or Developmental Disabilities (411-346)

Last Date and Time for Public Comment: [ May 21, 2024 at 11:00 p.m.]

May 17, 2024 1:30 p.m. Rule Hearing - Zoom Staff

Register to provide comments:

https://www.zoomgov.com/meeting/register/vJlt

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Join by phone (audio only): 1-669-254-5252, 160 809 4760

5:30 p.m. Rule Hearing - Zoom Staff

Register to provide comments:

https://www.zoomgov.com/meeting/register/vJls

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Join by phone (audio only): 1-669-254-5252, 161 045 8795

Hearing Date Time Address/Teleconference Hearings Officer

**RULE HEARING NOTES**: A rule hearing is for people to provide comments about proposed rule changes. If you wish to attend the rule hearing, please join no later than 15 minutes after the hearing has started.

Questions about the rule content or other developmental disabilities services are not answered during a rule hearing. If you need help or have questions, please email <u>Julie.L.Vannette@odhs.oregon.gov</u> or call (971) 388-9726.

WRITTEN COMMENTS: Comments about the proposed rule changes may also be made in writing. Written comments may be sent by email to <a href="mailto:ODDS.Rules@odhs.oregon.gov">ODDS.Rules@odhs.oregon.gov</a> or mailed to ODDS Rules, 500 Summer Street NE, E-09, Salem, Oregon, 97301-1073. Written comments must be received by 11:00 p.m. on May 21, 2024.

**LANGUAGE ACCESS AND ACCOMODATIONS**: We provide free help so everyone can use our services.

Español | اللغة العربية | 简体中文 | 繁體中文 | Foosun Chuuk | हिन्दी | Lus Hmoob | 한국어 | Kajin Majol | Português | Русский | Soomaali | Tiếng Việt

For people who speak or use a language other than English, people with disabilities or people who need additional support, we can provide free help. Some examples:

- Sign language and spoken language interpreters
- Written materials in other languages
- Braille
- Real-time captioning (CART)
- Large print
- Audio and other formats

If you need accommodations, please email <a href="mailto:ODDS.Rules@odhs.oregon.gov">ODDS.Rules@odhs.oregon.gov</a> or call (971) 413-4225. We accept all relay calls.

#### RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

#### AMEND:

411-346-0110, 411-346-0150, 411-346-0180, 411-346-0190, 411-346-0200, 411-346-0210, 411-346-0250

#### STATEMENT OF NEED AND RULE SUMMARIES

The Oregon Department of Human Services (ODHS), Office of Developmental Disabilities Services (ODDS) needs to make changes to the rules in **OAR chapter 411**, division 346 about foster homes for children with intellectual or developmental disabilities to:

- Implement House Bill 3256 (2023) that went into effect on January 1, 2024; and
- Revise the rules about the definitions and acronyms, general requirements for certification, professional responsibilities of a foster provider, standards and practices for care and services, environmental standards, variances, and foster provider eligibility for Medicaid service payment.

HB 3256 (2023) gives ODDS statutory authority through ORS 443.836 to set standards to:

- Approve an individual, who turns 18 years old, to continue to reside in their current child foster home until the individual turns 26 years old.
- Allow a child's parent or guardian to attend to their child in a child foster home setting when appropriate.

**OAR 411-346-0110 about definitions and acronyms** is being amended to implement HB 3256 (2023) and improve the accuracy, structure, and clarity of the rule by adding and revising the definitions and acronyms used throughout the child foster home rules.

**OAR 411-346-0150 about general requirements for certification** is being amended to comply with ORS 443.830 by specifying a foster provider may not be the relative of any child placed in their home for foster care services funded by ODHS.

OAR 411-346-0180 about professional responsibilities of a foster provider is being amended to implement HB 3256 (2023) by extending the age an individual may continue to reside in their current child foster from 21 years of age to 26 years of age, when specific conditions are met.

OAR 411-346-0190 about standards and practices for care and services is being amended to:

- Implement HB 3256 (2023) by allowing a child's parent or guardian to attend to their child in a foster home while the foster provider continues to serve as the primary person responsible for the child's supervision.
- Specify that a foster provider must respect, accept, and support a child's race, spiritual beliefs, sexual orientation, gender identity and gender expression, national origin, and cultural identities, and provide opportunities to enhance the positive self-concept and understanding of the child's heritage.
- Clarify that alternate caregivers, consultants, and volunteers must complete mandatory reporter training prior to caring for a child.

- Update the section about clothing to support a school-age child's personal choice, style, and culture.
- Specify that a foster provider cannot deny or withhold the personal funds of a child as a behavior support practice.

**OAR 411-346-0200 about environmental standards** is being amended to add the requirement that a poster for the Residential Facilities Ombudsman Program must be posted in a conspicuous location in a child foster home, in accordance with ORS 443.392.

**OAR 411-346-0210 about variances** is being amended to clarify the variance process and identify the specific form that must be completed when submitting a variance request.

OAR 411-346-0250 about foster provider eligibility for Medicaid service payment is being amended to require a foster provider to maintain and keep current progress notes to support each claim the foster provider submits in ODDS' electronic payment and reporting system (eXPRS).

Other technical changes may be made to these rules to make the rules easier to understand and implement, correct grammatical errors, ensure consistent terminology, and address issues identified during the public comment period. Technical rule changes will not affect services or introduce additional requirements or processes.

#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- 1. Enrolled HB 3256 (2023). Available at: <a href="https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB3256/Enrolled">https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB3256/Enrolled</a>
- 2. Overview and Measure History of HB 3256 (2023). Available at: https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB3256
- 3. ORS Chapter 443. Available at: <a href="https://www.oregonlegislature.gov/bills\_laws/ors/ors443.html">https://www.oregonlegislature.gov/bills\_laws/ors/ors443.html</a>

#### RACIAL EQUITY IMPACT STATEMENT

Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in this state:

The proposed rule changes impact children and young adults with intellectual or developmental disabilities. These children and young adults may be members of one or more of the following communities:

- Tribes.
- Racial, ethnic, and culturally-based communities.
- People who identify as LGBTQIA2S+.

- Religious minorities.
- People with limited English proficiency.
- Immigrants.
- Refugees.

The proposed rule changes improve inclusivity and diversity in child foster homes by specifying that a foster provider must:

- Respect, accept, and support a child's race, spiritual beliefs, sexual orientation, gender identity and gender expression, national origin, and cultural identities, and provide opportunities to enhance the positive self-concept and understanding of the child's heritage.
- Support a school-age child's personal choice, style, and culture in regard to a child's clothing needs.

#### FISCAL AND ECONOMIC IMPACT

ODDS does not anticipate a fiscal and economic impact from the proposed rule changes based on information currently available to ODDS. The fiscal and economic impact was evaluated as part of the Rules Advisory Committee (RAC) process.

#### 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).

ODDS does not anticipate any cost of compliance for ODDS, other state agencies, case management entities (units of local government), individuals receiving ODDS services, foster providers, or members of the public because the proposed rule changes expand services currently being provided.

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

There are approximately 174 child foster homes certified by ODDS. A foster provider may be considered a small business as defined in ORS 183.310.

- (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); ODDS does not anticipate any effect on small businesses because the proposed rule changes clarify existing expectations and practices.
- (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

ODDS does not anticipate any cost of compliance for small businesses because the proposed rule changes clarify existing expectations and practices.

Describe how small businesses were involved in the development of these rule(s)?

Small businesses as defined in ORS 183.310 were invited to participate in the RAC and are included in the public review and comment period.

Was an Administrative Rule Advisory Committee consulted? Yes or No? If not, why not?

Yes. An invitation for RAC participants was posted to the ODDS Engagement and Innovation website on November 21, 2023. The RAC was held on December 14, 2023 and was open to the public.

# OREGON DEPARTMENT OF HUMAN SERVICES OFFICE OF DEVELOPMENTAL DISABILITIES SERVICES OREGON ADMINISTRATIVE RULES

# CHAPTER 411 DIVISION 346

# FOSTER HOMES FOR CHILDREN WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

### 411-346-0110 Definitions and Acronyms

In addition to the following definitions <u>and acronyms</u>, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 346. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

- (1) "Alternate Caregiver" means any person 18 years of age and older responsible for the care or supervision of a child in foster care.
- (2) "Alternative Educational Plan" means any school plan that does not occur within the physical school setting.
- (3) "Appeal" means the process for a contested hearing under ORS chapter 183 that a foster provider may use to petition the suspension, denial, non-renewal, or revocation of their certificate or application.
- (4) "Applicant" means a person who wants to become a foster provider, lives at the residence where a child in foster care is to live, and is applying for, or renewing, a certificate for a child foster home.
- (5) "Attend To" means a child's parent or guardian works in partnership with their child's foster provider to build skills and help provide the supports necessary to meet their child's needs.
- (56) "Case Plan" means the goal-oriented, time-limited, individualized plan of action for a child and the child's family of the child developed by the family and QDHS-CW for promotion of the safety, permanency, and wellbeing of the child.

(67) "Case Worker" means an employee of ODHS-CW. (78) "CDDP" means "Community Developmental Disabilities Program" as defined in OAR 411-317-0000 (89) "Certificate" means the document issued by the Department that notes approval to operate a child foster home for a period not to exceed two years. (910) "Certifying Agency" means the Department, CDDP, or an agency approved by the Department who is authorized to gather required documentation to issue or maintain a certificate. (1011) "Child" means: (a) An individual who is less than 18 years of age who has a provisional determination of an intellectual or developmental disability by the a CDDP; or (b) An individual 18 to 21 years of age with an intellectual or developmental disability who: (A) ils 18 years of age, but less than 26 years of age; and (B) Continues to reside remaining in their current child foster home through a variance approved by the Department according to OAR 411-346-0210. for the purpose of completing their IEP based on the recommendation of their ISP team and an approved certification variance. (1112) "Child Foster Home" means a home certified by the Department that is maintained and lived in by the person named on the certificate. A child foster home is considered a provider owned, controlled, or operated residential setting.

(4213) "Child Foster Home Contract" means the agreement between a foster provider and the Department that describes the responsibility of the

foster provider and the Department.

- (1314) "Child Placing Agency" means the Department, CDDP, or the OYA.
- (14) "Clinical Criteria" means the criteria used by the Department or the Medically Fragile Children's Unit as described in OAR 411-300-0150 to assess the private duty nursing support needs of a child.
- (15) "Commercial Basis" means providing and receiving compensation for the temporary care of individuals not identified as members of the household.
- (16) "Community Nursing Services" mean the nursing services that focus on the chronic and ongoing health and safety needs of a child. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.
- (17) "Denial" means the refusal of the certifying agency to issue a certificate to operate a child foster home because the certifying agency has determined that the home or the applicant is not in compliance with one or more of these rules.
- (18) "Department" means the Oregon Department of Human Services, including the Office of Developmental Disabilities Services.
- (19) "DHS-CW" means the child welfare program area within the Oregon Department of Human Services, Child Welfare Division.
- (20) "Director" is the Director of the Oregon Department of Human Services, Office of Developmental Disabilities Services, or the designee of the Director, which may include Department Staff.
- (2021) "Educational Surrogate" means the person who acts in place of a parent in safeguarding the rights of a child in the public education decision-making process:
  - (a) When the parent of the child cannot be identified or located after reasonable efforts;

- (b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or
- (c) At the request of the parent of the child or young adult student.
- (2122) "Emergency Certificate" means a certificate issued for 30 calendar days.
- (2223) "Foster Care" means a child is placed away from their parent or guardian in a certified child foster home.
- (2324) "Foster Provider" means the certified care provider who resides at the address listed on a certificate. A foster provider is a mandatory reporter.
- (2425) "Home Inspection" means the on-site, physical review of the home of an applicant to assure the applicant and the home meets all health and safety requirements within these rules.
- (2526) "Home Study" means the assessment process used for the purpose of determining the ability of an applicant to care for a child in need of foster care placement.
- (2627) "ICWA" means the Indian Child Welfare Act.
- (2728) "IEP" means "Individualized Education Program" as defined in OAR 411-317-0000.
- (2829) "Involuntary Seclusion" means the confinement of a child alone in a room or an enclosed space from which the child is prevented from leaving by any means. Involuntary seclusion does not include time-out if the time-out is in a common area of the home from which the child is not prevented from leaving by any means and used as a positive behavior support practice that meets the requirements in OAR 411-346-0190(9)(c)(A)-(C).
- (2930) "ISP" means "Individual Support Plan" as defined in OAR 411-317-0000.

- (3031) "Licensed Medical Practitioner" means a person who meets the following:
  - (a) Holds at least one of the following valid licensures or certifications:
    - (A) Physician licensed to practice in Oregon;
    - (B) Nurse practitioner certified by the Oregon State Board of Nursing according to ORS 678.375; or
    - (C) Physician's assistant licensed to practice in Oregon; and
  - (b) Whose training, experience, and competence demonstrate expertise in children's mental health and the ability to conduct a mental health assessment and provide psychotropic medication management for a child in foster care.
- (3132) "MAR" means medication administration record.
- (3233) "Member of the Household" means any adult or child living in a child foster home, including an employee or volunteer assisting in the care provided to a child placed in the child foster home. A child in foster care is not considered a member of the household.
- (3334) "Mental Health Assessment" means the assessment used to determine the need for mental health services by interviewing a child and obtaining all pertinent biopsychosocial information as identified by the child, the family of the child, and collateral sources. A mental health assessment:
  - (a) Addresses the condition presented by the child;
  - (b) Determines a diagnosis; and
  - (c) Provides treatment direction and individualized services and supports.
- (3435) "Misuse of Funds" includes, but is not limited to, a foster provider or employee:

- (a) Borrowing from, or loaning money to, a child in foster care;
- (b) Witnessing a will in which the foster provider or employee is a beneficiary;
- (c) Adding the name of the foster provider or employee to the bank account of a child or other titles for personal property without approval of the child when of age to give legal consent, or the guardian of the child and authorization of the ISP team;
- (d) Inappropriately expending or theft of the personal funds of a child;
- (e) Using the personal funds of a child for the benefit of the foster provider or employee; or
- (f) Commingling the funds of a child with the funds of the foster provider or the funds of another child.

# (3536) "Monitoring" means:

- (a) The observation of a certified child foster home by the Department or the designee of the Department to determine continuing compliance with these rules; and
- (b) The periodic review of the implementation of services and supports identified in an ISP and the quality of services delivered.
- (3637) "Nursing Services" mean the provision of individual-specific advice, plans, or interventions by a nurse at a child foster home based on the nursing process as outlined by the Oregon State Board of Nursing.

# (38) "OAR" means Oregon Administrative Rule.

(3739) "Occupant" means any person having official residence in a certified child foster home.

(3840) "ODDS" means the Oregon Department of Human Services, Office of Developmental Disabilities Services.

(41) "ODHS-CW" means the Oregon Department of Human Services, Child Welfare Division. (39) "OHA" means "Oregon Health Authority". (42) "ORS" means Oregon Revised Statute. (4043) "OYA" means "Oregon Youth Authority". OYA is the agency that has been given commitment and supervision responsibilities over a youth offender by order of the juvenile court according to ORS 137.124 or other statute, until the time that a lawful release authority authorizes release or terminates the commitment or placement. (4144) "Permanent Foster Care" means the long term contractual agreement between a foster provider and ODHS-CW, approved by the juvenile court that specifies the responsibilities and authority of the foster provider and the commitment by the permanent foster provider to raise a child until the age of majority or until the court determines that permanent foster care is no longer the appropriate plan for the child. (4245) "Private Duty Nursing" means the state plan nursing services described in OAR chapter 410, division 132 and OAR 411-300-0150, that are determined medically necessary to support a child or young adult in a child foster home. (4346) "Prone Restraint" means a restraint in which a child is held face down on the floor or other surface. (4447) "Protected Health Information" means any oral or written health information that identifies a child and relates to the past, present, or future physical or mental health condition, health care treatment, or payment for health care treatment. (4548) "Punishment" means the imposition of a penalty as retribution for an

(4649) "Qualified Mental Health Professional" means a licensed medical practitioner or any other meeting the minimum qualifications specified in

offense or unwanted behavior.

OAR 309-019-0125.

(50) "Relative" means a person related to another person by blood, marriage, or adoption.

(47<u>51</u>) "Restraint" means the physical restriction of a child's actions or movements by holding the child, using pressure, or other means.

(48<u>52</u>) "Revocation" means the action taken by the certifying agency to rescind a certificate after the certifying agency has determined that a foster provider or a child foster home is not in compliance with one or more of these rules.

(4953) "Serious Bodily Injury" means any significant impairment of the physical condition of a child or others, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

### (54) "Services Coordinator" is defined in OAR 411-317-0000.

(5055) "Significant Medical Needs" includes, but is not limited to, total assistance required for all activities of daily living, such as access to food or fluids, daily hygiene that is not attributable to the chronological age of a child, and frequent medical interventions required by a Nursing Service Plan or ISP for health and safety of the child.

(5156) "Supine Restraint" means a restraint in which a child is held face up on the floor or other surface.

(5257) "Suspension" means an immediate, temporary withdrawal of the approval to operate a child foster home after the certifying agency determines a foster provider or the child foster home is not in compliance with one or more of these rules or there is a threat to the health, safety, or welfare of a child.

(5358) "These Rules" mean the rules in OAR chapter 411, division 346.

(5459) "Unauthorized Absence" means any length of time when a child is absent from a child foster home without prior approval as specified in the ISP for the child.

(5560) "Urgent Medical Need" means the onset of psychiatric or medical symptoms requiring attention within 48 hours to prevent a serious deterioration in the mental or physical condition of a child.

(5661) "Variance" means the <u>a</u> temporary exemption from a regulation or provision of these rules that may be granted by the Department <u>according</u> to OAR 411-346-0210 upon written application by the certifying agency.

Statutory/Other Authority: ORS 409.050, 427.104, 430.662, 443.835, 443.836

Statutes/Other Implemented: ORS 409.010, 418.519-418.523, 427.007, 427.101, 427.104, 430.215, 430.610, 430.662, 443.830, 443.835-443.836

# 411-346-0150 General Requirements for Certification

- (1) An applicant or foster provider must participate in certification and certification renewal studies and in the ongoing monitoring of their home.
- (2) An applicant or foster provider must give the information required by the Department to verify compliance with all applicable rules, including change of address and change of number of people in the household, such as relatives, employees, or volunteers.
- (3) An applicant seeking certification from the Department must complete the applicable Department forms. When two or more adults living in a home share foster provider responsibilities to any degree, each adult must be listed on the application as applicant and co-applicant.
- (4) An applicant must disclose each state or territory the applicant has lived in the last five years and for a longer period if requested by the certifying agency. The disclosure must include the address, city, state, and zip code of previous residences.
- (5) An applicant must provide the following information:
  - (a) Names and addresses of any agencies in the United States where any occupant of the home has been licensed or certified to provide care to children or adults and the status of such license or

certification, such as licenses or certificates for residential care, nurse, nurse's aide, and foster care.

- (b) Proposed number, gender, age range, disability, and support needs of children to receive services in foster care.
- (c) School reports for any school-age child living in the home at the time of initial application. School reports for any school-age child living in the home within the last year may also be required.
- (d) Names and addresses of at least four people, three of whom are unrelated, who have known each applicant for two years or more and who can attest to the character of the applicant and the ability of the applicant to care for children. The Department may contact schools, employers, adult children, and other sources as references.
- (e) Reports of all criminal charges, arrests, or convictions, including the date of offense and the resolution of those charges, for all people living in the home, as well as all employees and volunteers. If the minor children of the applicant are living in the home, the applicant must also list reports of all criminal or juvenile delinquency charges, arrests, or convictions, including the date of offense and the resolution of those charges.
- (f) Founded reports of child abuse or substantiated abuse, including dates, locations, and resolutions of those reports, for all people living in the home, as well as all employees, independent contractors, and volunteers.
- (g) Demonstration, upon initial certification, of successful completion of 15 hours of pre-service training.
- (h) Demonstration, upon initial certification, of income sufficient to meet the needs and to ensure the stability and financial security of the family independent of the foster care payment.
- (i) All child support obligations in any state, including whether the obligor is current with payments or in arrears, and whether any wages

of the applicant or foster provider are being attached or garnished for any reason.

- (j) A statement from a physician, on the applicable Department form, that each applicant is physically and mentally capable of providing care.
- (k) A floor plan of the house showing the location of all of the following:
  - (A) Rooms, indicating the bedroom for the child in foster care, caregiver, and other occupants of the home;
  - (B) Windows;
  - (C) Exit doors;
  - (D) Smoke alarms and fire extinguishers; and
  - (E) Wheel chair ramps, if applicable.
- (I) A diagram of the house and property showing safety devices for fire places, wood stoves, water features, outside structures, and fencing.
- (6) Falsification or omission of any of the information for certification may be grounds for denial or revocation of the certificate.
- (7) Applicants must be at least 21 years of age. Applicants who are "Indian" as defined in the ICWA may be 18 years of age or older if an Indian child to be placed is in the legal custody of ODHS-CW.
- (8) Applicants, foster providers, alternate caregivers, employees of foster providers, volunteers, other occupants in the child foster home who are 18 years of age or older, other adults having regular contact in the child foster home with a child in foster care, and any subject individual as defined in OAR 407-007-0210, must consent to a background check by the Department in accordance with OAR 407-007-0200 through 407-007-0370 and under ORS 181A.195. The Department may require a background

check on a member of the household less than 18 years of age if there is reason to believe that a member of the household may pose a risk to a child placed in the home. All people subject to a background check are required to complete an Oregon background check and a national background check as described in OAR 407-007-0200 through 407-007-0370, including the use of fingerprint cards.

- (a) Alternate caregivers, employees of foster providers, and volunteers may be approved to work in multiple homes within a county only when working in the same employment role at each home. The indication of worksite location must be included in the background check request for each alternate caregiver, employee of the foster provider, or volunteer who intends to work at various child foster homes within the licensing jurisdiction of the county.
- (b) Effective July 28, 2009, public funds may not be used to support, in whole or in part, a person described in section (8) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in ORS 443.004.
- (c) A person does not meet qualifications as described in this rule if the person has been convicted of any of the disqualifying crimes listed in ORS 443.004.
- (d) Sections (8)(b) and (c) of this rule do not apply to employees hired prior to July 28, 2009 that remain in the current position for which the employee was hired.
- (e) Any person as described in section (8) of this rule must self-report any potentially disqualifying crimes in OAR 407-007-0281 and potentially disqualifying conditions in OAR 407-007-0290. The person must notify the Department or the designee of the Department within 24 hours.
- (9) The Department may not issue or renew a certificate if an applicant or member of the household meets any of the following:
  - (a) After completing the background check, a fitness determination of "denied".

- (b) Been convicted of a felony in Oregon or any jurisdiction that involves:
  - (A) Child abuse;
  - (B) Spousal abuse;
  - (C) Criminal activity against a child, including child pornography; or
  - (D) Rape, sexual assault, or homicide.
- (c) Within the past five years from the date the background check was signed, been convicted of a felony in Oregon or any jurisdiction that involves:
  - (A) Physical assault or battery (other than against a spouse or child); or
  - (B) Any drug-related offense.
- (d) Determined by the Department to be responsible for abuse as defined in OAR 411-317-0000.
- (e) Within the past five years from the date the child foster home application was signed, been found to have abused a child or adult in the United States as defined by that jurisdiction or any other jurisdiction.
- (10) An applicant or foster provider may request to withdraw an application any time during the certification process by notifying the certifying agency in writing. Written documentation by the certifying agency of oral notice may substitute for written notification.
- (11) The Department may suspend or revoke a certificate or may not issue or renew a certificate for at least five years, if an applicant or foster provider is found to have a license or certificate to provide care to children or adults suspended, revoked, or not renewed by other than voluntary request.

- (12) The Department may not issue or renew a certificate based on an evaluation of any negative references, school reports, statement of a physician, or previous licensing or certification reports from other agencies or states.
- (13) A Department employee may be a foster provider, or an employee of an agency that contracts with the Department as a foster provider, if their position with the Department does not influence referral, regulation, or funding of such activities. Prior to engaging in such activity, the employee must obtain written approval from the Director of the Department. The written approval must be on file with the Director of the Department and in the certification file maintained by the Department.
- (14) An application is incomplete and void unless all supporting materials are submitted to the Department within 90 calendar days from the date of the application.
- (15) An application may not be considered complete until all required information is received and verified by the Department. A decision to approve or deny certification is made by the Department within 60 calendar days from the receipt of the completed application.
- (16) Compliance with these rules is determined by the Department based on receipt of the completed application material, an investigation of information submitted, an inspection of the home, a completed home study, and a personal interview with the foster provider. A certificate issued on or after February 1, 2010 is valid for a maximum of two years unless revoked or suspended.
- (17) A child foster home certificate is not transferable or applicable to any location or people other than those specified on the certificate.
- (18) A foster provider who cares for a child funded by the Department must enter into a Child Foster Home Contract with the Department and follow the Department rules governing reimbursement for services and refunds.

- (19) A foster provider may not be the parent, or guardian, or relative of any child placed in their home for foster care services funded by the Department.
- (20) If an applicant or foster provider intends to provide care for a child with significant medical needs, the applicant or foster provider must have the following:
  - (a) An equivalent of one year of full-time experience in providing direct care to individuals;
  - (b) Health care professional qualifications, such as a registered nurse (RN) or licensed practical nurse (LPN), or the equivalent of two additional years full-time experience providing care and support to an individual who has a medical condition that is serious and may be life-threatening;
  - (c) Copies of all current health-related licenses or certificates and provide those documents to the certifying agency;
  - (d) Current certification in First Aid and Cardiopulmonary Resuscitation (CPR). The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the age of the child with significant medical needs;
  - (e) Current satisfactory references from at least two health care providers, such as a physician and registered nurse, who have direct knowledge of the ability of the applicant or foster provider and their past experiences as a caregiver. The health care providers' references may serve as two of the four references in section (5)(d) of this rule; and
  - (f) Positive written recommendation from the Medically Fragile Children's Unit (MFCU) of the Department if the foster provider or applicant has provided services through the MFCU or if the foster provider or applicant has a child in the family home or child foster home that has historically received services through the MFCU.

(21) A foster provider may not accept a child with significant medical needs unless an initial Nursing Service Plan for the child is in place at the time of placement that addresses the health and safety supports for the child.

Statutory/Other Authority: ORS 409.050, 427.104, <u>430.662</u>, 443.835 Statutes/Other Implemented: ORS <u>409.010</u>, 427.007, <u>427.101</u>, 427.104, 430.215, <u>430.610</u>, 430.662, 443.830, <u>443.835</u>-443.836

# 411-346-0180 Professional Responsibilities of a Foster Provider

- (1) TRAINING AND DEVELOPMENT. A foster provider must:
  - (a) Complete at least 15 hours of pre-service training prior to initial certification and 10 hours annually for certification renewal. The Department or certifying agency may require the foster provider to complete additional training based on the needs of a child receiving services in their child foster home.
  - (b) Participate in training provided or approved by the Department or certifying agency. Such training must include educational opportunities designed to enhance the awareness, understanding, and skills of the foster provider to support the needs of a child placed in their child foster home.
  - (c) Complete mandatory reporter training prior to initial certification and annually thereafter. Mandatory reporter training must be appropriate to the ages of the individuals living in the child foster home.
- (2) RELATIONSHIP WITH THE CHILD PLACING AGENCY. A foster provider must:
  - (a) Take part in planning, preparation, pre-placement activities, and visitation for a child placed in their child foster home.
  - (b) Participate as a team member in developing and implementing a child's ISP when initiated by the child's CDDP services coordinator.

- (c) In advance or within one business day, notify the certifying agency of changes likely to affect the life and circumstances of the foster provider's family or the safety in the child foster home including, but not limited to, any of the following:
  - (A) Foster family illness.
  - (B) Divorce, legal separation, or loss of a member of the household.
  - (C) Significant change in financial circumstances.
  - (D) New members of the household or placement of a child in foster care by another agency, including relief care.
  - (E) Arrests or criminal involvement.
  - (F) The addition of hunting equipment and weapons.
  - (G) The addition of a swimming pool.
  - (H) The addition of a pet.
- (d) Sign and abide by the responsibilities described in a Child Foster Home Contract.
- (e) Allow a certifying agency and child placing agency reasonable access to the child foster home and to a child placed in the care of the foster provider. Allow a child's family members reasonable access to the child foster home and the child when placement is voluntary. For the purpose of these rules, reasonable access means with advance notice unless there is cause for not giving such notice.
- (f) Allow the Department, designee of the Department, or certifying agency access to:
  - (A) Investigate reports of abuse and violations of a regulation or provision of these rules;

- (B) Inspect or examine the child foster home, the records and accounts of a child, and the physical premises including the buildings, grounds, equipment, and any vehicles; and
- (C) Interview the child, adult, or alternate caregivers.
- (g) Participate in interviews conducted by the Department or the certifying agency.
- (h) Authorize alternate caregivers to permit entrance by the Department or the certifying agency for the purpose of inspection and investigation.

### (3) CAPACITY.

- (a) The capacity of a certified child foster home includes all children living in the home and may not exceed the following, except as described in subsection (c) of this section:
  - (A) A total of four children when one certified adult lives in the child foster home.
  - (B) A total of seven children when two certified adults live in the child foster home.
- (b) The capacity of a child foster home is limited to two children less than three years of age.
- (c) A foster provider certified prior to July 1, 2007 with a capacity greater than the numbers listed in subsection (a) of this section must meet the standard through attrition as children move out of the child foster home.
- (d) At the time of a child's referral, a foster provider must be given available information about the child including, but not limited to, the child's strengths and what is important to the child, as well as behavior, skill level, medical status, and other relevant information. A foster provider is obligated to decline the referral of any child based on the referral information, parameters of the certification of the child

- foster home, or if the foster provider feels their skill level may not safely or effectively support the child.
- (e) A foster provider may provide relief care in the child foster home for a child upon approval by the certifying agency or the Department.
- (f) An child individual who turns 18 years of age may continue to reside in their current child foster home until turning 21-26 years of age under the following conditions when the following conditions are met:
  - (A) The individual is participating in one of the following activities:
    - (Ai) The child-individual is working on completion of their Individualized Education Program-;
    - (ii) The individual is enrolled part-time or full-time in a university, college, vocational school, or trade school;
    - (iii) The individual is participating in a job training or apprenticeship program; or
    - (iv) The individual is working on building skills to increase or maintain independence.
  - (B) The child's individual's ISP team signed an ISP addendum noting the ISP team's agreement that it is in the child's best interest to remain supports the individual's continued placement in their current child foster home as documented in the individual's ISP.
  - (C) The certifier of the child foster home and the individual's services coordinator support the individual's continued placement in their current child foster home as indicated on form 6001A (ODDS Variance Supplement Safety Assessment Provider Serving Children and Adults in the Same Home).

- (CD) A variance request is completed and submitted to the Department in accordance with OAR 411-346-0210. The variance request must include the completed 6001A form. A copy of the ISP addendum must be included with the variance request.
- (DE) The Department has approved the variance request.
- (g) Any variance to subsections (a) through (f) of this section must take into consideration the maximum safe physical capacity of a child foster home including, but not limited to, the following:
  - (A) Sleeping arrangements.
  - (B) The ratio of adults to children.
  - (C) The level of available supervision.
  - (D) The foster provider's skill level.
  - (E) Individual plans for egress during fire.
  - (F) The needs of other children in the child foster home.
  - (G) The desirability of keeping siblings placed together.
- (h) A foster provider may not care for unrelated adults on a commercial basis in the child foster home and the child foster home may not be used as a site type of shelter or day care without the written approval of the Department.
- (4) RELATIONSHIP WITH A CHILD'S FAMILY. In accordance with a child's ISP and the child's guardian, a foster provider must:
  - (a) Support the child's relationship with their family members, including siblings;
  - (b) Assist the CDDP staff and the guardian in planning visits with the child and the child's family members; and

(c) Provide the child reasonable opportunities to communicate with the child's family members.

# (5) CONFIDENTIALITY.

- (a) A foster provider and the foster provider's family must treat personal information about a child or the child's family in a confidential manner. Confidential information is to be disclosed on a need to know basis to law enforcement, certifying agency staff, CDDP staff, ODHS-CW child protective services staff, ODHS-CW case workers, and licensed health care providers who are treating or providing services to the child. The information shared must be limited to the child's health, safety, and service needs.
- (b) In addition to the requirements in subsection (a) of this section, a foster provider and the foster provider's family must comply with the provisions of ORS 192.553 through 192.568 and therefore may use or disclose a child's protected health information only:
  - (A) To law enforcement, certifying agency staff, CDDP staff, and ODHS-CW staff;
  - (B) As authorized by the child's personal representative or guardian appointed under ORS 125.305, 419B.372, 419C.481, or 419C.555;
  - (C) For purposes of obtaining health care treatment for the child;
  - (D) For purposes of obtaining payment for health care treatment; or
  - (E) As permitted or required by state or federal law or by order of a court.
- (c) A foster provider must keep all written records for each child in a manner that ensures their confidentiality.

Statutory/Other Authority: ORS 409.050, 427.104, <u>430.662</u>, 443.835 Statutes/Other Implemented: ORS <u>409.010</u>, 427.007, <u>427.101</u>, 427.104, 430.215, <u>430.610</u>, 430.662, 443.830, <u>443.835</u>-443.836

#### 411-346-0190 Standards and Practices for Care and Services

- (1) A foster provider is responsible for supervision and must:
  - (a) Provide structure and daily activities designed to promote a child's physical, social, intellectual, cultural, spiritual, and emotional development.
  - (b) Provide playthings and activities in the child foster home, including games, recreational and educational materials, and books, appropriate to a child's chronological age, culture, and developmental level.
  - (c) In accordance with a child's ISP and as defined in an ODHS-CW Case Plan (if applicable), encourage the child to participate in age-appropriate and developmentally-appropriate activities including, but not limited to, extracurricular, enrichment, cultural, and social activities, and support the child's participation in such activities with the child's family, friends, and on the child's own when appropriate.
  - (d) Promote a child's independence and self-sufficiency by encouraging and assisting the child to develop new skills and perform age-appropriate tasks.
  - (e) In accordance with a child's ISP and as defined in an ODHS-CW Case Plan (if applicable), ask the child to participate in household chores appropriate to the child's age and ability that are commensurate with household chores expected of the foster provider's children.
  - (f) Provide a child with reasonable access to a telephone and to writing materials.

- (g) In accordance with a child's ISP and as defined in an ODHS-CW Case Plan (if applicable), permit and encourage the child to have visits with the child's family and friends.
- (h) Allow a child regular contact and private visits or phone calls with their CDDP services coordinator and ODHS-CW case worker (if applicable).
- (i) Not allow a child in foster care to baby-sit in the child foster home or elsewhere without the permission of their CDDP services coordinator and guardian.
- (j) When appropriate, allow a child's parent or guardian to attend to their child in the foster home when prior approval from the Department has been granted.
  - (A) The foster home provider must request Department approval using the "Child Foster Home Parent/Guardian Attending to Child Request for Approval" form.
  - (B) The CDDP managing the child's case must submit the form to the Department for review.
  - (C) If Department approval is granted, the foster provider shall continue to serve as the primary person responsible for the child's supervision.
- (2) RIGHTS OF A CHILD. The rights of a child are described in OAR 411-318-0010.
- (3) INDIVIDUALLY-BASED LIMITATIONS.
  - (a) A foster provider may not place any limitations on a child's home and community-based freedoms described in OAR 411-004-0020 without an individually-based limitation consistent with OAR 411-415-0070(3), except when all of the following conditions have been met:
    - (A) The child is under the age of 18.

- (B) The limitation is consistent with community parenting standards for children of the same age who do not experience disabilities.
- (C) The foster provider, child's parent or legal guardian, and the ISP team identify and agree upon the limitation appropriate for the child.
- (b) A foster provider may not place limitations on a child's freedom from restraint, except in accordance with the standards for developmental disabilities services set forth in OAR chapter 411, the relevant Title XIX Medicaid-funding authority, or OAR 411-346-0195(2).
- (c) Prior to implementation, an individually-based limitation must be authorized and documented in the child's ISP in accordance with OAR 411-415-0070.
- (d) When an individually-based limitation is implemented for a child, a foster provider is responsible for all of the following:
  - (A) Maintaining a copy of the completed and signed form documenting informed consent to the individually-based limitation.
  - (B) Regular collection and review of data to measure the ongoing effectiveness of, and the continued need for, the individually-based limitation.
  - (C) Requesting a review of the individually-based limitation when a change or removal of the individually-based limitation is needed.
- (4) RELIGIOUS, ETHNIC, AND CULTURAL HERITAGE.
  - (a) A foster provider must recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity, and language of a child and their family respect, accept, and support a child's race, spiritual beliefs, sexual orientation, gender identity and gender

<u>expression, national origin, and cultural identities, and provide</u> <u>opportunities to enhance the positive self-concept and understanding</u> <u>of the child's heritage</u>

- (b) In accordance with a child's ISP and the preferences of their guardian, a foster provider must participate with the child's ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from those of the foster provider.
- (c) A foster provider may not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.
- (5) PUBLIC EDUCATION. A foster provider:
  - (a) Must enroll each school-age child in public school within five school days of their placement and arrange for the child's transportation to school.
  - (b) Must comply with any Alternative Educational Plan described in a child's Individualized Education Program.
  - (c) Must be actively involved in a child's school program and must participate in the development of the child's Individualized Education Program. A foster provider may apply to be a child's educational surrogate if requested by the child's parent or guardian.
  - (d) Must consult with school personnel when there are issues with a child in school and report to the child's guardian and CDDP services coordinator any serious situations that may require Department involvement.
  - (e) Must support a child in the child's school or educational placement.
  - (f) Must assure a child regularly attends school or educational placement and monitor the child's educational progress.
  - (g) May sign consent to any of the following school-related activities:

- (A) School field trips within Oregon.
- (B) Routine social events.
- (C) Sporting events.
- (D) Cultural events.
- (E) School pictures for personal use only, unless prohibited by the court or a child's guardian.
- (h) Must support the involvement of a child's parent (unless limited by court order) and CDDP services coordinator in the child's public education decision-making process.

# (6) ALTERNATE CAREGIVERS.

- (a) A foster provider must arrange for safe and responsible alternate care.
- (b) A child care plan for a child in foster care must be approved by the Department, the CDDP, or ODHS-CW, before the child care plan may be implemented. When a child is cared for by a child care provider or child care center, the child care provider or child care center must be certified as required by the State Child Care Division (ORS 329A.280) or be a certified foster provider.
- (c) A foster provider must have a Relief Care Plan approved by a certifying agency or the Department when using alternate caregivers.
- (d) A foster provider must assure alternate caregivers, consultants, and volunteers meet the following requirements:
  - (A) 18 years of age or older.
  - (B) Capable of assuming foster care responsibilities.
  - (C) Present in the home.

- (D) Physically and mentally capable to perform the duties of the foster provider as described in these rules.
- (E) Cleared by a background check as described in OAR 411-346-0150, including an ODHS-CW background check.
- (F) Able to communicate with the child, agencies delivering services to the child, the CDDP services coordinator, and appropriate others.
- (G) Trained on fire safety and emergency procedures.
- (H) Trained on the child's ISP, Positive Behavior Support Plan, and any related protocols.
- (I) Able to provide the care needed for the child.
- (J) Trained on the required documentation for the child's health, safety, and behavioral needs.
- (K) A driver's license and vehicle insurance in compliance with the laws of the Driver and Motor Vehicle Services Division when transporting a child by motorized vehicle.
- (L) Not be a person who requires care in a foster care or group home.
- (M) Not be the child's parent or guardian.
- (N) Complete mandatory reporter training prior to caring for a child.
- (e) When a foster provider uses an alternate caregiver and a child is staying at the alternate caregiver's home, the foster provider must assure the alternate caregiver's home meets the child's necessary health, safety, and environmental needs.

(f) When a foster provider arranges for a child's social activities for less than 24 hours, including an overnight arrangement, the foster provider must assure the person is responsible and capable of assuming child care responsibilities and is present at all times. The foster provider still maintains primary responsibility for the child.

# (7) FOOD AND NUTRITION.

- (a) A foster provider must offer three nutritious meals daily at times consistent with those in the community.
  - (A) Daily meals must include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a health care provider.
  - (B) There must be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements.
  - (C) Consideration must be given to cultural and ethnic background in food preparation.
- (b) A child must be permitted to acquire, store, and access personal food in the child foster home in a manner consistent with age-typical practices for children living in the community and in accordance with the child's ISP.
- (c) Any home canned food used must be processed according to the guidelines of Oregon State University extension services (http://extension.oregonstate.edu/fch/food-preservation).
- (d) All food items must be used prior to their expiration date.
- (e) A foster provider must implement special diets only as prescribed in writing by a health care provider.
- (f) A foster provider must prepare and serve meals in the child foster home. Payment for meals eaten away from the child foster home (e.g. restaurants) for the convenience of the foster provider (for

<u>example, meals from a restaurant)</u>, is the <u>a</u> foster provider's responsibility.

- (g) When serving milk, a foster provider must only use pasteurized liquid or powdered milk for consumption by a child in foster care.
- (h) A child who must be bottle-fed and cannot hold the bottle, or is 11 months or younger, must be held during bottle-feeding.

# (8) CLOTHING AND PERSONAL BELONGINGS.

- (a) A foster provider must assure each child has their own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, the child's individual needs, and comparable to the community standards.
- (b) A <u>foster provider must support a school-age child's must</u> participate participation in choosing selecting their own clothing-whenever possible that supports the child's personal choice, style, and culture.
- (c) A foster provider must allow a child to bring and acquire appropriate personal belongings.
- (d) A foster provider must assure when a child leaves their child foster home, the child's belongings, including all personal funds, medications, and personal items, remain with the child. This includes all items brought with the child and obtained while living in the child foster home.

# (9) BEHAVIOR SUPPORT PRACTICES.

- (a) A foster provider must teach and support a child with respect, kindness, and understanding, using positive behavior theory and practice. Behavior support practices must not include any of the following:
  - (A) Physical force, spanking, or threat of physical force inflicted in any manner upon a child.

- (B) Verbal abuse, including derogatory remarks about a child or their family that undermine the child's self-respect.
- (C) Denial of food, clothing, or shelter.
- (D) Denial of visits or contacts with family members, except when otherwise indicated in the child's ISP or the ODHS-CW Case Plan (if applicable).
- (E) Assignment of extremely strenuous exercise or work.
- (F) Threatened or unauthorized use of safeguarding intervention.
- (G) Use or threatened use of mechanical restraints.
- (H) Punishment for bed-wetting or punishment related to toilet training.
- (I) Delegating or permitting punishment of a child by another child.
- (J) Threat of removal from the child foster home as a punishment
- (K) Use of shower as punishment.
- (L) Group punishment for misbehavior of one child.
- (M) Locking a child in a room or area inside or outside of the child foster home.
- (N) Involuntary seclusion or isolation of a child from others.
- (O) Punishing a child by intentionally inflicting emotional or physical pain or suffering.
- (P) Use or threatened use of a prone restraint.

- (Q) Use or threatened use of a supine restraint.
- (R) Use of practices that are abusive, aversive, coercive, disciplinary, demeaning, retaliatory, or for convenience.
- (S) Denying or withholding the personal funds of a child.
- (b) A foster provider must set clear expectations, limits, and consequences of behavior in a non-punitive manner.
- (c) A foster provider may use a time-out only for the purpose of giving a child a short break for the child to regain control. If a foster provider uses time-out, all of the following conditions apply:
  - (A) Use of time-out must be approved by the child's ISP team and documented in their ISP.
  - (B) Only common-use living areas of the home are to be used for time-out.
  - (C) Time-out is to be used for short duration and frequency as approved by the child's ISP team. The duration must be appropriate to the child's chronological age, emotional condition, and developmental level.
- (d) POSITIVE BEHAVIOR SUPPORT PLAN. For a child who has demonstrated a serious threat to self, others, or property and for whom it has been decided a Positive Behavior Support Plan is needed, the Positive Behavior Support Plan must be developed by a behavior professional in accordance with OAR chapter 411, division 304 with the approval of the child's ISP team.
- (10) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT. For the purpose of this rule, a designated person is the person implementing the behavior supports identified in a child's Positive Behavior Support Plan.
  - (a) A safeguarding intervention must meet the requirements of OAR 411-346-0195.

- (b) A designated person must only use a safeguarding intervention or safeguarding equipment according to OAR 411-346-0195.
- (c) Prior to the use of a safeguarding intervention or safeguarding equipment, a foster provider must have a copy of a completed and signed form documenting informed consent for an individually-based limitation in accordance with OAR 411-415-0070(3) and section (3) of this rule.
- (d) Prior to using a safeguarding intervention or safeguarding equipment, a designated person must be trained.
  - (A) For a safeguarding intervention, the designated person must be trained in intervention techniques using an ODDS-approved behavior intervention curriculum and trained to the child's specific needs. Training must be conducted by a person who is appropriately certified in an ODDS-approved behavior intervention curriculum.
  - (B) For safeguarding equipment, the designated person must be trained on the use of the identified safeguarding equipment.
- (e) A designated person must not use any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule or OAR 411-346-0195 even when the use is directed by the child or the child's parent, guardian, or representative, regardless of the child's age.
- (11) RESTRAINT. The use of a restraint must meet the requirements in OAR 411-346-0195.
- (12) MEDICAL AND DENTAL CARE. A foster provider must:
  - (a) Provide care and services as appropriate to a child's chronological age, developmental level, and condition, and as identified in the child's ISP.

- (b) Assure the orders of a health care provider are implemented as written;.
- (c) Inform health care providers of a child's current medications, changes in health status, and if the child refuses care, treatments, or medications.
- (d) Inform the guardian and CDDP services coordinator of any changes in a child's health status, except as otherwise indicated in the ODHS-CW Permanent Foster Care contract agreement and as agreed upon in the child's ISP.
- (e) Obtain the necessary medical, dental, therapies, and other treatments of care including, but not limited to, all of the following:
  - (A) Making appointments.
  - (B) Arranging for or providing transportation to appointments.
  - (C) Obtaining emergency medical care.
- (f) Have prior consent from a child's guardian for medical treatment that is not routine, including surgery and anesthesia, except in cases where an ODHS-CW Permanent Foster Care contract agreement exists;.
- (g) Keep current medical records. The records must include all of the following, when applicable:
  - (A) Any history of physical, emotional, and medical problems, illnesses, and mental health status.
  - (B) Current orders for all medications, treatments, therapies, use of safeguarding intervention, safeguarding equipment, special diets, adaptive equipment, and any known food or medication allergies.
  - (C) Completed medication administration record (MAR) from previous months.

- (D) Pertinent medical and behavioral information, such as hospitalizations, accidents, immunization records, including Hepatitis B status and previous TB tests, and incidents or injuries affecting the child's health, safety, or emotional wellbeing.
- (E) Documentation or other notations of guardian consent for medical treatment that is not routine, including surgery and anesthesia.
- (F) Record of medical appointments.
- (G) Medical appointment follow-up reports provided to the foster provider.
- (H) Copies of previous mental health assessments, assessment updates including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services.
- (h) Provide, when requested, copies of medical records and medication administration records to the child's guardian, CDDP services coordinator, and ODHS-CW caseworker.
- (i) Provide copies, as applicable, of the medical records described in subsection (g)(H) of this section to a licensed health care provider prior to a medical appointment or no later than the time of the appointment.
- (j) Support the involvement of the child's parent (unless limited by court order) and CDDP services coordinator in the child's medical and dental care coordination.

# (13) MEDICATIONS AND MEDICAL ORDERS.

(a) An authorization by a licensed health care provider must be in a child's file prior to the usage of, or implementation of, any of the following:

- (A) All prescription medications.
- (B) Nonprescription medications except over the counter topicals.
- (C) Treatments other than basic first aid.
- (D) Therapies and use of safeguarding equipment as a health and safety related protection.
- (E) Modified or special diets.
- (F) Prescribed adaptive equipment.
- (G) Aids to physical functioning.
- (b) A foster provider must have any of the following:
  - (A) A copy of the authorization in the format of a written order signed by a licensed health care provider.
  - (B) Documentation of a telephone order by a licensed health care provider with changes clearly documented on the MAR, including the name of the person giving the order, the date and time, and the name of the person receiving the telephone order.
  - (C) A current prescription or label from the manufacturer as specified by the order of a licensed health care provider on file with the pharmacy.
- (c) A foster provider or alternate caregiver must carry out orders as prescribed by a licensed health care provider. Changes may not be made without the authorization of a licensed health care provider.
- (d) Each medication for a child, including refrigerated medication, must be clearly labeled with the label of the pharmacist or in the originally labeled container from the manufacturer and kept in a

locked location or stored in a manner that prevents access by children.

- (e) Unused, outdated, or recalled medications may not be kept in the child foster home and must be disposed of in a manner that prevents illegal diversion into the possession of people other than for which the medication was prescribed.
- (f) A foster provider must keep a MAR for each child. The MAR must be kept for all medications administered by the foster provider or alternate caregiver to that child, including over the counter medications and medications ordered by licensed health care providers and administered as needed (PRN) for the child.
- (g) The MAR must include all of the following:
  - (A) The name of the child in foster care.
  - (B) A transcription of the written order of the licensed health care provider, including the brand or generic name of the medication, prescribed dosage, frequency, and method of administration.
  - (C) A transcription of the printed instructions from the package for topical medications and treatments without an order from a licensed health care provider.
  - (D) Times and dates of administration or self-administration of the medication.
  - (E) Signature of the person administering the medication or the person monitoring the self-administration of the medication.
  - (F) Method of administration.
  - (G) An explanation of why a PRN medication was administered.
  - (H) Documented effectiveness of any PRN medication administration.

- (I) An explanation of all medication administration or documentation irregularities.
- (J) Any known allergy or adverse drug reactions and procedures that maintain and protect the child's physical health.
- (h) Any errors in the MAR must be corrected by circling the error and then writing on the back of the MAR what the error was and why.
- (i) Treatments, medication, therapies, and special diets must be documented on the MAR when not used or applied according to the order of licensed health care provider.
- (j) SELF-ADMINISTRATION OF MEDICATION. For any child who is self-administering medication, a foster provider must:
  - (A) Have documentation that a training program was initiated with approval of the child's ISP team or that training for the child was unnecessary;
  - (B) Have a training program that provides for retraining when there is a change in dosage, medication, and time of delivery;
  - (C) Provide for an annual review, at least as part of the ISP process, upon completion of the training program;
  - (D) Assure the child is able to handle the child's own medication regime;
  - (E) Keep medications stored in a locked area inaccessible to others; and
  - (F) Maintain written documentation of all training in the child's medical record.
- (k) A foster provider may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic

remedies, without direction and supervision of a licensed health care provider.

- (I) Any medication used with the intent to alter a child's behavior must be documented in the child's ISP.
- (m) BALANCING TEST. When a psychotropic medication is first prescribed and annually thereafter, a foster provider must obtain a signed balancing test from the prescribing health care provider using the Balancing Test Form (form 4110). A foster provider must present the licensed health care provider with a full and clear description of the behavior and symptoms to be addressed as well as any side effects observed.
- (n) PRN prescribed psychotropic medication is prohibited.
- (o) A mental health assessment by a qualified mental health professional or licensed medical practitioner must be completed, except as noted in subparagraph (A) of this subsection, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in foster care.
  - (A) A mental health assessment is not required in any of the following situations:
    - (i) In a case of urgent medical need.
    - (ii) For a substitution of a current medication within the same class.
    - (iii) A medication order given prior to a medical procedure.
  - (B) When a mental health assessment is required, a foster provider:
    - (i) Must notify the ODHS-CW caseworker when a child is in legal custody of ODHS-CW; or

- (ii) Must arrange for a mental health assessment when a child is a voluntary care placement.
- (C) The mental health assessment:
  - (i) Must have been completed within three months prior to the prescription; or
  - (ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.
- (D) Whenever possible, information from the mental health assessment must be communicated to the licensed health care provider prior to the issuance of a prescription for psychotropic medication.
- (p) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for a child in foster care, a foster provider must notify:
  - (A) The CDDP services coordinator; and
  - (B) The child's parent when the parent retains legal guardianship or the child's guardian; or
  - (C) ODHS-CW when ODHS-CW is the child's guardian.
- (q) A foster provider's notification to a child's parent or guardian and their CDDP services coordinator must contain all of the following:
  - (A) Name of the prescribing licensed health care provider.
  - (B) Name of the medication.
  - (C) Dosage, any change of dosage, suspension, or discontinuation of the current psychotropic medication.
  - (D) Dosage administration schedule prescribed.

- (E) Reason the medication was prescribed.
- (r) A foster provider must get a written informed consent prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need from ODHS-CW when ODHS-CW is a child's guardian.
- (s) A foster provider must cooperate as requested when a review of psychotropic medications is indicated.
- (14) NURSING SERVICES. When nursing services are provided to a child, a foster provider must:
  - (a) Coordinate with a registered nurse and the child's ISP team to ensure the nursing services being delivered are sufficient to meet the child's health needs; and
  - (b) Implement the child's Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.
- (15) COMMUNITY NURSING SERVICES.
  - (a) Community nursing services include all of the following:
    - (A) Nursing assessments, including medication reviews.
    - (B) Care coordination.
    - (C) Monitoring.
    - (D) Development of a Nursing Service Plan.
    - (E) Delegation and training of nursing tasks to a foster provider or alternate caregiver.
    - (F) Teaching and education of a foster provider and identifying supports that minimize health risks while promoting a child's autonomy and self-management of healthcare.

- (G) Collateral contact with a CDDP services coordinator regarding the community health status of a child to assist in monitoring safety and well-being and to address needed changes to the child's ISP.
- (b) Community nursing services exclude direct nursing services.
- (c) When Department funds are used for community nursing services, prior authorization for community nursing services must be in accordance with OAR 411-048-0180.
- (d) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in medical condition requires an update to a Nursing Service Plan.
- (e) When community nursing services are provided to a child, a foster provider must:
  - (A) Coordinate with a registered nurse and the child's ISP team to ensure the nursing services being delivered are sufficient to meet the child's health needs; and
  - (B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the child's ISP team and registered nurse.
- (f) A registered nurse providing community nursing services must:
  - (A) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048;
  - (B) Meet the qualifications described in OAR 411-048-0210; and
  - (C) Submit a resume to the CDDP indicating the education, skills, and abilities necessary to provide nursing services in accordance with Oregon law, including at least one year of

- experience with individuals with intellectual or developmental disabilities.
- (g) A registered nurse providing community nursing services must comply with:
  - (A) Provider record and documentation requirements referenced in OAR 407-120-0100 through 407-120-1505 for financial, clinical, and other records including the Provider Enrollment Agreement and electronic billing procedures;
  - (B) Department direct contracts (if applicable); and
  - (C) Service record requirements outlined in this rule.
- (16) PRIVATE DUTY NURSING. As defined in OAR chapter 410, division 132 and the Medicaid State Plan, a child or young adult aged 0 through 20 that resides in a child foster home may receive private duty nursing services in accordance with OAR 411-300-0150.
  - (a) When private duty nursing services are provided, a foster provider must:
    - (A) Coordinate with a registered nurse and a child's ISP team to ensure the nursing services being provided are sufficient to meet the child's health needs; and
    - (B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.
  - (b) A nurse providing private duty nursing services must be an enrolled Medicaid Provider as described in OAR 410-132-0200.
- (17) DELEGATION AND SUPERVISION OF NURSING TASKS. Nursing tasks must be delegated by a registered nurse to a foster provider or alternate caregiver in accordance with the rules of the Oregon State Board of Nursing in OAR chapter 851, division 047.
- (18) CHILD RECORDS.

- (a) GENERAL INFORMATION OR SUMMARY RECORD. A foster provider must maintain a record for each child receiving foster care services in their child foster home. The record must include all of the following:
  - (A) Child's name, date of entry into the child foster home, date of birth, gender, religious preference, and guardianship status.
  - (B) Names, addresses, and telephone numbers of the child's guardian, family, or other significant person.
  - (C) Name, address, and telephone number of the child's preferred primary health care provider, designated back up health care provider and clinic, dentist, preferred hospital, medical card number and any private insurance information, and Oregon Health Plan choice.
  - (D) Name, address, and telephone number of the child's school program.
  - (E) Name, address, and telephone number of the child's CDDP services coordinator and representatives of other agencies providing services to the child.
- (b) EMERGENCY INFORMATION. A foster provider must maintain emergency information for each child receiving foster care services in their child foster home. The emergency information must be kept current and must include all of the following:
  - (A) The child's name.
  - (B) The child's address and telephone number.
  - (C) The child's physical description, which may include a picture and the date it was taken, and identification of the following:
    - (i) Race, gender, height, weight range, and color of hair and eyes.

- (ii) Any other identifying characteristics that may assist in identifying the child if the need arises, such as marks or scars, tattoos, or body piercing.
- (D) Information on the child's abilities and characteristics including, but not limited to, the following:
  - (i) How the child communicates.
  - (ii) The language the child uses or understands.
  - (iii) The child's ability to know how to take care of bodily functions.
  - (iv) Any additional information that may assist a person not familiar with the child to understand what the child may do for himself or herself.
- (E) The child's health support needs including, but not limited to the following:
  - (i) Diagnosis.
  - (ii) Allergies or adverse drug reactions.
  - (iii) Health issues that a person needs to know when taking care of the child.
  - (iv) Special dietary or nutritional needs, such as requirements around textures or consistency of foods and fluids.
  - (v) Food or fluid limitations due to allergies, diagnosis, or medications the child is taking that may be an aspiration risk or other risk.

- (vi) Additional special requirements the child has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the child.
- (vii) Physical limitations that may affect the child's ability to communicate, respond to instructions, or follow directions.
- (viii) Specialized equipment needed for mobility, positioning, or other health-related needs.
- (ix) The child's emotional and behavioral support needs including, but not limited to, the following:
  - (I) Mental health or behavioral diagnosis and the behaviors displayed by the child.
  - (II) Approaches to use when supporting the child to minimize emotional and physical outbursts.
- (x) Any court ordered or guardian authorized contacts or limitations.
- (xi) The child's supervision requirements and why.
- (xii) Any additional pertinent information the foster provider has that may assist in the child's care and support if a natural or man-made disaster occurs.
- (c) EMERGENCY PLANNING. A foster provider must post emergency telephone numbers in close proximity to all phones used by the foster provider or alternate caregivers. The posted emergency telephone numbers must include, but not be limited to, all of the following:
  - (A) Telephone numbers of the local fire, police department, and ambulance service if not served by 911 emergency services.

- (B) The telephone number of any emergency health care providers and additional people to be contacted in the case of an emergency.
- (d) WRITTEN EMERGENCY PLAN. A foster provider must:
  - (A) Develop, maintain, update, and implement a written Emergency Plan for the protection of all children in foster care in the event of an emergency or disaster. The Emergency Plan must:
    - (i) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the responsibilities of the foster provider and alternative caregiver.
    - (ii) Consider a child's needs and address all natural and human-caused events identified as a significant risk for the child foster home, such as a pandemic or an earthquake.
    - (iii) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place when unable to relocate for at least three calendar days under the following conditions:
      - (I) Extended utility outage.
      - (II) No running water.
      - (III) Inability to replace food supplies.
      - (IV) An alternate caregiver is unable to provide relief care or additional support and care.
    - (iv) Include provisions for evacuation and relocation that identifies all of the following:

- (I) The duties during evacuation, transporting, and housing of a child, including instructions to notify the child's parent or guardian, the Department or the Department's designee, the CDDP services coordinator, and ODHS-CW as applicable, of the plan to evacuate or the evacuation of the child foster home as soon as the emergency or disaster reasonably allows.
- (II) The method and source of transportation.
- (III) Planned relocation sites that are reasonably anticipated to meet a child's needs.
- (IV) A method that provides people unknown to the child the ability to identify each child by name and to identify the name of the child's supporting provider.
- (V) A method for tracking and reporting to the Department or the Department's designee and the local CDDP, the physical location of each child in foster care until a different entity resumes responsibility for the child.
- (v) Address a child's needs including provisions for all of the following:
  - (I) Immediate and continued access to medical treatment, information necessary to obtain care, treatment, food, and fluids for the child during and after an evacuation and relocation.
  - (II) Continued access to life-sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation.
  - (III) Behavior support needs anticipated during an emergency.

- (IV) The supports needed to meet a child's lifesustaining and safety needs.
- (B) Provide and document all training to alternate caregivers regarding the alternate caregiver's responsibilities for implementing the Emergency Plan.
- (C) Re-evaluate and revise the Emergency Plan at least annually or when there is a significant change in the child foster home.
- (D) Complete the Emergency Plan Summary, on the form supplied by the Department, and send the Emergency Plan Summary to the Department annually and upon change of foster provider or location of the child foster home.
- (e) INDIVIDUAL SUPPORT PLAN (ISP). Within 60 calendar days of placement, the ISP for a child must be prepared and updated at least annually.
  - (A) If requested by a child or the child's guardian, a foster provider must participate with an ISP team in the development and implementation of the child's ISP to address the child's behavior, medical, social, financial, safety, and other support needs.
  - (B) Prior to, or upon entry to, or exit from a child foster home, a foster provider must participate in the development and implementation of a Transition Plan for the child.
    - (i) The Transition Plan must include a summary of the services necessary to facilitate a child's adjustment to the child foster home or after care plan; and
    - (ii) Identify the supports necessary to ensure the child's health, safety, and any assessments and consultations needed for ISP development.
- (f) FINANCIAL RECORDS.

- (A) A foster provider must maintain a separate financial record for each child in foster care. Errors must be corrected with a single strike through and initialed by the person making the correction. The child's financial record must include all of the following:
  - (i) Date, amount, and source of all income received on the child's behalf.
  - (ii) Room and board fee paid to the foster provider at the beginning of each month.
  - (iii) Date, amount, and purpose of funds disbursed on the child's behalf.
  - (iv) Signature of the person making the entry.
- (B) Any single transaction more than \$25 purchased with a child's personal funds, unless otherwise indicated in the child's ISP, must be documented in the child's financial record and include the receipt.
- (C) A child's ISP team may address how the personal spending money of a child is managed.
- (D) If a child has a separate commercial bank account, records from the account must be maintained with the child's financial record.
- (E) A child's personal funds must be maintained in a safe manner and separate from the funds of other members of the household.
- (F) Misuse of funds may be cause for suspension, revocation, or denial of renewal of a certificate.
- (g) PERSONAL PROPERTY RECORD.

- (A) A foster provider must maintain a written record of a child's property with a monetary value of more than \$25 or that has significant personal value to the child, parent, or guardian, or as determined by the ISP team. Errors must be corrected with a single strike through and initialed by the person making the correction.
- (B) Personal property records are not required for a child who has a court approved ODHS-CW Permanent Foster Care contract agreement, unless requested by the child's guardian.
- (C) The personal property record must include all of the following:
  - (i) A description and identifying number, if any.
  - (ii) The date the personal property was brought into the child foster home or purchased.
  - (iii) The date and reason for the removal of a child's personal property from the record.
  - (iv) The signature of the person making the entry.
- (h) EDUCATIONAL RECORDS. A foster provider must maintain the following educational records when available:
  - (A) A child's report cards.
  - (B) Any reports received from a child's teacher or the school.
  - (C) Any evaluations received as a result of educational testing or assessment.
  - (D) A child's disciplinary reports.
- (i) Child records must be available to representatives of the Department, the certifying agency, and ODHS-CW conducting

inspections or investigations, as well as to the child, if appropriate, and the child's guardian or other legally authorized people.

- (j) Child records must be kept for a period of three years. If a child moves or the child foster home closes, copies of pertinent information must be transferred to the new home of the child.
- (19) COVID-19. A foster provider must implement all directives related to a child foster home to reduce the spread of the Coronavirus (COVID-19) issued by any of the following:
  - (a) Governor's Executive Order.
  - (b) Written instruction to the foster provider from the Local Public Health Authority or the Oregon Health Authority Public Health Division.
  - (c) Written guidance directed at the foster provider through Department policy.

Statutory/Other Authority: ORS 409.050, 427.104, <u>430.662</u>, 443.835 Statutes/Other Implemented: ORS 409.010, 418.519-418.523, 427.007, 427.101, 427.104, 430.215, <u>430.610</u>, <u>430.662</u>, 443.830, <u>443.835</u>-443.836

#### 411-346-0200 Environmental Standards

- (1) GENERAL CONDITIONS.
  - (a) The buildings and furnishings must be clean and in good repair and grounds must be maintained and accessible according to the needs of the children residing in the home.
  - (b) Walls, ceilings, windows, and floors must be of such character to permit frequent washing, cleaning, or painting.
  - (c) There must be no accumulation of garbage, debris, or rubbish.
  - (d) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by the child in

foster care must be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer heat, the foster provider must make reasonable effort to make the child comfortable using available ventilation, fans, or air-conditioning.

#### (2) EXTERIOR ENVIRONMENT.

- (a) The premises must be free from objects, materials, and conditions that constitute a danger to the occupants.
- (b) Swimming pools, wading pools, ponds, hot tubs, and trampolines must be maintained to assure safety, kept in clean condition, equipped with sufficient safety barriers or devices to prevent injury, and used by a child in foster care only under direct supervision by the foster provider or approved alternate caregiver.
- (c) The home must have a safe outdoor play area on the property or within reasonable walking distance.

#### (3) INTERIOR ENVIRONMENT.

## (a) KITCHEN.

- (A) Equipment necessary for the safe preparation, storage, serving, and cleanup of meals must be available and kept in working and sanitary condition.
- (B) Meals must be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness.
- (C) If the washer and dryer are located in the kitchen or dining room area, soiled linens and clothing must be stored in containers in an area separate from food and food storage prior to laundering.
- (b) DINING AREA. The home must have a dining area so the child in foster care may eat together with the foster family.

- (c) LIVING OR FAMILY ROOM. The home must have sufficient living or family room space that is furnished and accessible to all members of the household, including the child in foster care.
- (d) BEDROOMS. Bedrooms used by the child in foster care must:
  - (A) Have adequate space for the age, size, and specific needs of each child;
  - (B) Be finished and attached to the house, have walls or partitions of standard construction that go from floor to ceiling;
  - (C) Have an entrance door that:
    - (i) Opens directly to a hallway or common use room without passage through another bedroom or common bathroom; and
    - (ii) Meets the following requirements for the use of locks:
      - (I) Locks must be single action release; and
      - (II) For a child under the age of 18, a lock is only permitted when the ISP team has determined that a lock is a safe and appropriate means to support the privacy and independence of the child; or
      - (III) For a child aged 18 or older, a lock is required unless there is a health or safety risk and an individually-based limitation has been implemented in accordance with OAR 411-004-0040.
  - (D) Have windows that open, provide sufficient natural light, and ventilation with window coverings that take into consideration the safety, care needs, and privacy of the child;
  - (E) Have no more than four children to a bedroom;

- (F) Have safe, age appropriate furnishings that are in good repair provided for each child, including:
  - (i) A bed or crib with a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, and a water proof mattress cover if the child is incontinent;
  - (ii) A private dresser or similar storage area for personal belongings that is readily accessible to the child;
  - (iii) A closet or similar storage area for clothing that is readily accessible to the child; and
  - (iv) An adequate supply of clean bed linens, blankets, and pillows. Bed linens are to be properly fitting and provided for each child's bed.
- (G) Be on the ground level for a child who is non-ambulatory or has impaired mobility;
- (H) Provide flexibility in the decoration for the personal tastes and expressions of the child;
- (I) Be in close enough proximity to the foster provider to alert the foster provider to nighttime needs or emergencies or be equipped with a working audio monitor;
- (J) Have no three-tier bunk beds in bedrooms occupied by a child in foster care; and
- (K) Not be located on the third floor or higher from the ground level.
- (e) A child of the foster provider may not be required to sleep in a room also used for another purpose in order to accommodate a child in foster care.

- (f) The foster provider may not permit the following sleeping arrangements for a child placed in their home:
  - (A) Children of different sexes in the same room when either child is over five years of age; and
  - (B) Children over the age of 12 months sharing a room with an adult.

## (g) BATHROOMS.

- (A) Bathrooms must have:
  - (i) Bathtubs or showers, toilets, and sinks operable and in good repair;
  - (ii) Bathtubs, showers, and sinks with hot and cold water;
  - (iii) A sink located near each toilet;
  - (iv) At least one toilet, one sink, and one bathtub or shower for each six household occupants, including the foster provider and family;
  - (v) Hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing and cleaning areas that are accessible by the child in foster care may not exceed 120 degrees F;
  - (vi) Grab bars and non-slip floor surfaces for toilets, bathtubs, or showers for the child's safety as necessary for the child's care needs; and
  - (vii) Barrier-free access to toilet and bathing facilities with appropriate fixtures for a child who uses a wheel chair or other mechanical equipment for ambulation. Barrier free must be appropriate for the non-ambulatory child's needs for maintaining good personal hygiene.

- (B) The foster provider must provide each child with the appropriate personal hygiene and grooming items that meet each child's specific needs and minimize the spread of communicable disease.
- (C) Window coverings in bathrooms must take into consideration the safety, care needs, and privacy of the child.

(h) A poster for the Residential Facilities Ombudsman Program must be posted in a conspicuous location in the foster home in accordance with ORS 443.392

## (4) GENERAL SAFETY.

- (a) The foster provider must protect the child from safety hazards.
- (b) Stairways must be equipped with handrails.
- (c) A functioning light must be provided in each room and stairway.
- (d) Stairways must be protected with a gate or door if a child in foster care is three years of age or less or has impaired mobility.
- (e) Hot water heaters must be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.
- (f) Adequate safeguards must be taken to protect a child who may be at risk for injury from electrical outlets, extension cords, and heatproducing devices.
- (g) The child foster home must have operable phone service at all times that is available to all persons in the child foster home, including when there are power outages. The home must have emergency phone numbers readily accessible and in close proximity to the phone.

- (h) The foster provider must store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by a child.
- (i) The foster provider must restrict a child's access to potentially dangerous animals. Only domestic animals may be kept as pets. Pets must be properly cared for and supervised.
- (j) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by local ordinances must be made available to the Department upon request.
- (k) The foster provider must take appropriate measures to keep the house and premises free of rodents and insects.
- (I) To protect the safety of a child in foster care, the foster provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the child.
- (m) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults.
- (n) There must be emergency access to any room that has a lock.
- (o) An operable flashlight, at least one per floor, must be readily available in case of emergency.
- (p) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles.

# (5) FIRE SAFETY.

- (a) Smoke alarms must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.
  - (A) A smoke alarm must be installed in each bedroom, adjacent hallways leading to the bedrooms, common living areas,

basements, and at the top of every stairway in multi-story homes.

- (B) Ceiling placement of smoke alarms is recommended. If wall-mounted, smoke alarms must be mounted as per the manufacturer's instructions.
- (b) At least one fire extinguisher, minimally rated 2:A:10:B:C, must be visible and readily accessible on each floor, including basements. A qualified professional who is well versed in fire extinguisher maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing must be completed by a qualified entity properly trained and equipped for this purpose.
- (c) Use of space heaters must be limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. Extension cords may not be used with space heaters. Freestanding kerosene, propane, or liquid fuel space heaters may not be used in a child foster home.
- (d) An Emergency Evacuation Plan must be developed, posted, and rehearsed at least once every 90 calendar days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other employees must be familiar with the Emergency Evacuation Plan and a new child placed in foster care must be familiar with the Emergency Evacuation Plan within 24 hours. Fire drill records must be retained for one year.
  - (A) Fire drill evacuation rehearsal must document the date, time for full evacuation, location of proposed fire, and names of all persons participating in the evacuation rehearsal.
  - (B) The foster provider must be able to demonstrate the ability to evacuate all children in foster care from the home within three minutes.
- (e) A child foster home must have two unrestricted exits in case of fire. A sliding door or window that may be used to evacuate a child may be considered a usable exit.

- (f) Barred windows or doors used for possible exit in case of fire must be fitted with operable quick release mechanisms.
- (g) Every bedroom used by a child in foster care must have at least:
  - (A)  $\Theta$  ne operable window, of a size that allows safe rescue, with safe and direct exit to the ground, or
  - (B) aA door for secondary means of escape or rescue.
- (h) All external and inside doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the home. A home with a child that is known to leave their place of residence without permission must have a functional and activated alarm system to alert the foster provider.
- (i) Fireplaces and wood stoves must include secure barriers to keep a child safe from potential injury and away from exposed heat sources.
- (j) Solid or other fuel-burning appliances, stoves, or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable. All applicants applying for a new certificate after July 1, 2007 must have at least one carbon monoxide sensor installed in the child foster home in accordance with manufacturer's instructions if the child foster home has solid or other fuel-burning appliances, stoves, or fireplaces. All foster providers certified prior to July 1, 2007 and moving to a new location that uses solid or other fuel-burning appliances, stoves, or fireplaces, must install a carbon monoxide sensor in the child foster home in accordance with manufacturer's instructions prior to being certified at the new location.
- (k) Chimneys must be inspected at the time of initial certification and if necessary, the chimney must be cleaned. Chimneys must be inspected annually unless the fireplace and or solid fuel-burning appliance was not used through the certification period and may not be used in the future. Required annual chimney inspections must be made available to the certifying agency during the certification renewal process.

- (I) A signed statement by the foster provider and certifying agency assuring that the fireplace, or solid fuel-burning appliance, or both may not be in use must be submitted to the Department with the renewal application if a chimney inspection is not completed.
- (m) Flammable and combustible materials must be stored away from any heat source.

#### (6) SANITATION AND HEALTH.

- (a) A public water supply must be used if available. If a non-municipal water source is used, the water source must be tested for coliform bacteria by a certified agent yearly and records must be retained for two years. Corrective action must be taken to ensure potability.
- (b) All plumbing must be kept in good working order. If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.
- (c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and removed weekly.

# (d) SMOKING.

- (A) A foster provider may not provide tobacco products in any form to a child under the age of 21.
- (B) A child in foster care may not be exposed to second hand smoke in the child foster home or when being transported.

# (7) TRANSPORTATION SAFETY.

- (a) The foster provider must ensure that safe transportation is available for children to access schools, recreation, churches, scheduled medical care, community facilities, and urgent care.
- (b) If there is not a licensed driver and vehicle at all times there must be a plan for urgent and routine transportation.

- (c) The foster provider must maintain all vehicles used to transport a child in a safe operating condition and must ensure that a first aid kit is in each vehicle.
- (d) All motor vehicles owned by the foster provider and used for transporting a child must be insured to include liability.
- (e) Only licensed adult drivers may transport a child in foster care in a motor vehicle. The motor vehicle must be insured to include liability.
- (f) When transporting a child in foster care, the driver must ensure that the child uses seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting a child in accordance with the Department of Transportation according to ORS 815.055.

Statutory/Other Authority: ORS 409.050, 427.104, <u>430.662</u>, 443.835 Statutes/Other Implemented: ORS <u>409.010</u>, 427.007, <u>427.101</u>, 427.104, 430.215, <u>430.610</u>, 430.662, 443.830, <u>443.835</u>-443.836

#### 411-346-0210 Variances

- (1) The Department may grant a variance to these rules based upon a demonstration by the a foster provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety, or rights of a child or violate state or federal laws.
- (2) The A foster provider requesting a variance must submit a completed ODDS Variance Request (form 6001) to their CDDP. certifying agency, a Department variance request form that contains The completed variance request (form 6001) must contain all of the following:
  - (a) The section of the rule from which the variance is sought.
  - (b) The reason for the proposed variance;
  - (c) The alternative practice, service, method, concept, or procedure proposed; and.

- (d) If the variance applies to the services of a child, evidence that the variance is consistent with the <u>child's</u> currently approved ISP for the child.
- (3) The certifying agency must forward the signed variance request form to the Department within 30 days from the receipt of the request indicating the position of the certifying agency on the proposed variance. Within 30 days from receipt of the variance request (form 6001), the CDDP must indicate their recommendation to approve or deny the proposed variance and forward the signed variance request (form 6001) to the Department.
- (4) The request for a variance is approved or denied by the Department. The <a href="Department">Department</a>'s decision of the Department is sent to the foster provider, the <a href="CDDPcertifying agency">CDDPcertifying agency</a>, and to all relevant Department programs or offices within 30 days from the <a href="Department's">Department's</a> receipt of the variance request.
- (5) The foster provider may request an administrative review of the denial of a variance request wWithin 30 days from the receipt of the a denial, a foster provider may request an administrative review by sending a written request for review to the Department's Director and a copy of the request to the certifying agency. The decision of the Director is the final response from the Department.
- (6) The Department determines the duration of the variance.
- (7) Granting a variance does not set a precedent that must be followed by the <u>a</u> child placing agency when evaluating subsequent requests for variances.
- (8) The A foster provider may implement a variance only after written approval from the Department.

Statutory/Other Authority: ORS 409.050, <u>427.104</u>, <u>430.662</u>, <u>443.835</u> Statutes/Other Implemented: ORS <u>409.010</u>, <u>427.007</u>, <u>427.101</u>, <u>427.104</u>, 430.215, <u>430.610</u>, <u>430.662</u>, 443.830, <u>443.835</u>-443.836

411-346-0250 Foster Provider Eligibility for Medicaid Service Payment

- (1) A foster provider must have an approved prior authorization for services in the Department's electronic payment and reporting system prior to entering a claim for a day of service. The prior authorization includes the dates of authorized services and the funding amount allocated for the services.
- (2) A foster provider may only enter a claim for a day of service when:
  - (a) A child sleeps in the child foster home overnight; or
  - (b) A child does not sleep in the child foster home overnight, but intends to return to the child foster home, and the foster provider was responsible for and provided an accumulated period of eight hours for the primary care, support, safety, and well-being of the child, including any of the following:
    - (A) Providing intermittent physical support or care.
    - (B) Providing stand-by support with the ability to respond in person within the response times agreed upon by the ISP team.
    - (C) Being responsible to communicate reciprocally within the response times agreed upon by the ISP team based on a child's identified support need and as documented in the child's most current ISP.
- (3) A foster provider is not eligible to enter a claim for a day of service when a child:
  - (a) Has been admitted to an acute care hospital unless the child's ISP authorizes attendant care for the child in an acute care hospital and the day of service criteria in section (2)(b) of this rule is met. An ISP may only authorize attendant care for a child who has been admitted to an acute care hospital when the support is not a duplication of service that the hospital provides and the child has one of the following:

- (A) Challenging behavior that interferes with getting medical care. The challenging behavior must require specific training or experience to support and must be able to be mitigated by the foster provider to an extent that medical care is improved.
- (B) An inability to independently communicate with hospital staff that interferes with getting medical care. This must not be solely due to limited or emerging English proficiency.
- (C) Support with one or more activities of daily living that may only be adequately met by someone familiar with the child.
- (b) Has been admitted to a nursing facility;
- (c) Has been admitted to a mental health facility;
- (d) Is held in detention or jail; or
- (e) Is outside the United States.
- (4) PROGRESS NOTES. A foster provider must maintain and keep current progress notes regarding the delivery of foster care services. Progress notes must demonstrate the supports provided to a child are consistent with, and within the scope of, the supports authorized in the child's ISP.
  - (a) At a minimum, progress notes must include all of the following:
    - (A) Child's name.
    - (B) Dates the supports were provided.
    - (C) Description of the supports provided.
  - (b) Progress notes must support each claim a foster provider submits in the Department's electronic payment and reporting system.

Statutory/Other Authority: ORS 409.050, 427.104, <u>430.662</u>, 443.835 Statutes/Other Implemented: ORS 409.010, 427.007, <u>427.101</u>, 427.104, 430.215, <u>430.610</u>, <u>430.662</u>, 443.830, <u>443.835</u>-443.836