Table of Contents

309-035-0100 – Purpose and Scope ................................................................. 1
309-035-0105 – Definitions .............................................................................. 2
309-035-0110 – Required Home-like Qualities ............................................... 11
309-035-0115 – Licensing .............................................................................. 15
309-035-0120 – Contracts and Rates ................................................................. 21
309-035-0125 – Administrative Management ................................................... 22
309-035-0130 – Records ................................................................................ 25
309-035-0135 – Staffing ................................................................................ 28
309-035-0140 – Setting Requirements ............................................................... 30
309-035-0145 – Safety .................................................................................. 37
309-035-0150 – Sanitation ............................................................................ 40
309-035-0155 – Individual Furnishings ............................................................. 42
309-035-0163 – Admission to Program ............................................................. 43
309-035-0165 – Residency Agreement ............................................................... 49
309-035-0170 – Termination of Residency ......................................................... 52
309-035-0175 – Individual Rights .................................................................. 55
309-035-0183 – Individual Grievances and Appeals .......................................... 58
309-035-0185 – Individual Assessment and Residential Service Plan ................ 60
309-035-0190 – Person-Centered Service Plan ................................................. 62
309-035-0195 – Individually-Based Limitations ............................................... 66
309-035-0200 – Individual Services and Activities ........................................... 69
309-035-0205 – Use of Seclusion or Restraints ............................................... 70
309-035-0210 – Food Services ..................................................................... 71
309-035-0215 – Health Services ................................................................. 72
309-035-0220 – Civil Penalties ................................................................. 75
309-035-0225 – Criminal Penalties ......................................................... 78
309-035-0157, 309-035-0159, 309-035-0160, 309-035-0161, 309-035-0167, 309-035-
0250 through 309-035-0600................................................................. 79
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0100 – Purpose and Scope

(1) These rules prescribe standards by which the Health Systems Division (Division) of the Oregon Health Authority (Authority) licenses community based residential treatment facilities and community based residential treatment homes for adults with mental health disorders. The standards promote optimum health, mental and social well-being, and recovery for adults with mental health disorders through the availability of a wide range of home and community based residential settings and services. They prescribe how services will be provided in safe, secure, and homelike environments that recognize the dignity, individuality, and right to self-determination of each individual.

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for Home and Community-Based Services (HCBS) authorized under section 1915(i) of the Social Security Act;

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as individuals not receiving HCBS, consistent with the standards set out in OAR chapter 411, division 4.

(2) These rules apply to all Residential Treatment Homes (RTH) and Residential Treatment Facilities (RTF) providing services to adults with mental health disorders regardless of whether the program receives public funds. These rules prescribe distinct standards in some areas for Secure Residential Treatment Facilities (SRTF) or are based on the number of individuals receiving services in the program.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991
309-035-0105 – Definitions

As used in these rules, the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including but not limited to any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual.

(2) "Program Administrator" means the individual designated by the provider as responsible for the daily operation and maintenance of the RTH or RTF or the program administrator’s designee.

(3) "Adult" means an individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for an individual by a Licensed Medical Professional (LMP) or other qualified health care professional that maintains or enhances the individual’s physical functioning.

(5) "Applicant" means the individual or entity, including the Division, who owns, seeks to own or operate, or maintains and operates a program and is applying for a license.

(6) "Approved" means authorized or allowed by the Authority or designee.

(7) "Authority" means the Oregon Health Authority or designee.

(8) "Building Code" means the Oregon Structural Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.
(9) "Care" means services including but not limited to supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

(10) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for individuals with mental health disorders, operated by, or contractually affiliated with, a local mental health authority. CMHP's operate in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(12) "Competitive Integrated Employment" means work in a competitive labor market that is performed on a full-time or part-time basis and includes self-employment. Competitive Integrated Employment also means individuals are compensated as rates set forth by federal, state or local minimum wage law and eligible for benefits and opportunities for advancement.

(13) "Contract" means a formal written agreement between the CMHP, CCO, Oregon Health Plan contractor, or the Division and a provider.

(14) "Coordinated Care Organization (CCO)" means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the CCO's members.

(15) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 943-007-0001 through 943-007-0501.

(16) "Crisis-Respite Services" means providing services to individuals who are RTF residents for up to 30 days.

(17) "Controlled" means a provider requires an individual to receive services from the provider or requires the individual to receive a particular service as a condition of living or remaining in the HCB setting.

(18) "Designated Representative" means:

(a) Any adult who is not the individual's paid provider who the individual or the individual's representative has authorized to serve as the individual's representative;

(b) The power to act as a designated representative is valid until modified or rescinded. The individual or representative must notify the Division or provider of any change in designation. The notice shall include the individual's or the representative’s signature as appropriate;
(c) An individual or the individual’s legal representative is not required to appoint a designated representative.

(19) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-V)" published by the American Psychiatric Association.

(20) "Deputy Director" means the deputy director of the Health Systems Division of the Oregon Health Authority or designee.

(21) "Division" means the Health Systems Division of the Oregon Health Authority or designee.

(22) "Division Staff" means individuals employed by the Division or individuals delegated by the Division to conduct licensing activities under these rules.

(23) "Direct Care Staff" means program staff responsible for providing services for an individual.

(24) "Emergency Admission" means an admission to a program made on an urgent basis due to the pressing service needs of the individual.

(25) "Employee" means an individual employed by a provider who receives wages, a salary, or is otherwise paid by the provider for providing the service.

(26) "Evacuation Capability" means the ability of occupants, including individuals and program staff as a group, to evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

   (a) Impractical (SR-2): A group, even with staff assistance, who cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes;

   (b) Slow (SR-1): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes;

   (c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division shall determine evacuation capability for programs in accordance with the NFPA 101A 2000 edition. Programs that are determined to be "Prompt" may be used in Group R occupancies classified by the building official in accordance with the building code.

(27) "Fire Code" means the Oregon Fire Code as adopted by the State of Oregon Fire Marshal.
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

(28) "HCB" means Home and Community-Based.

(29) "HCBS" means Home and Community-Based Services; services provided in the individual's home or community.

(30) “Home and Community-Based Settings” or “HCB Settings” means a physical location meeting the requirements of OAR 411-004-0020 where an individual receives Home and Community-Based Services.

(31) "Home-like" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized care and services and encourages independence, choice, and decision-making by the individual.

(32) “Individual" means any individual being considered for placement or is currently residing in a licensed program receiving residential services regulated by these rules on a 24-hour basis, except as excluded under ORS 443.400.

(33) “Individual Service Record” means an individual’s records maintained by the program pursuant to OAR 309-035-0130(4).

(34) "Individually-Based Limitation" means any limitation to the qualities outlined in OAR 309-035-0195, due to health and safety risks. An individually-based limitation is based on a specific assessed need and only implemented with the individual's or individual's representative's informed consent as described in OAR 309-035-0195.

(35) "Informed Consent" means:

(a) That options, risks, and benefits of the services outlined in these rules have been explained to an individual or the individual's legal representative in a manner that the individual comprehends; and

(b) That the individual or legal representative consents to a person-centered service plan of action including any individually-based limitations to the rules prior to implementation of the initial or updated person-centered service plan or any individually-based limitation.

(36) "Legal Representative" means an individual with the legal authority to act for an individual and only within the scope and limits to the authority designated by the court or other agreement. A legal representative may include:

(a) For an individual under the age of 18, the parent, unless a court appoints another individual or agency to act as the guardian; or

(b) For an individual 18 years of age or older, a guardian appointed by a court order or an agent legally designated as the health care representative.
(37) "Licensed Medical Professional (LMP)" means an individual who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

   (A) Physician licensed to practice in the State of Oregon;

   (B) Nurse Practitioner licensed to practice in the State of Oregon; or

   (C) Physician's Assistant licensed to practice in the State of Oregon.

(b) Whose training, experience, and competence demonstrate the ability to conduct a comprehensive mental health assessment and provide medication management.

(38) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties operating a CMHP or MHO or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation that contracts with the Division to operate a CMHP or MHO for that county.

(39) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any individual.

(40) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

(41) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional (QMHP) of an individual's need for mental health services. It involves collection and assessment of data pertinent to the individual's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services or a written statement that the person is not in need of community mental health services.

(42) "Mistreatment" means the following behaviors displayed by program staff when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm;

(b) "Financial Exploitation" means:

   (A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual;
(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out;

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual;

(D) Failing to use the individual's income or assets effectively for the support and maintenance of the individual. “Effectively” means use of income or assets for the benefit of the individual.

(c) “Involuntary Restriction” means the involuntary restriction of an individual for the convenience of a program staff or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual’s freedom of movement by restriction to his or her room or a specific area or restriction from access to ordinarily accessible areas of the setting, residence, or program, unless agreed to by the service plan.

(d) “Neglect” means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the individual's well-being;

(e) “Verbal Mistreatment” means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory statements, inappropriate names, insults, verbal assaults, profanity, or ridicule;

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments;

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. “Services” include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other service essential to the individual's well-being;

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of the individual’s ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard;

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.
(f) “Wrongful Restraint” means the use of physical or chemical restraint except for:

(A) An act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730; or

(B) A physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(43) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to an individual other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

(44) Person-Centered Service Plan" means written documentation that includes details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety as described in OAR 411-004-0030.

(45) "Person-Centered Service Plan Coordinator" means the individual, which may be a case manager, service coordinator, personal agents or other individual, designated by the Division to provide case management services or person-centered service planning for and with an individual.

(46) "P.R.N. (pro re nata) Medications and Treatments" means those medications and treatments that have been ordered to be given as needed.

(47) "Program" means the Residential Treatment Facility or Residential Treatment Home licensed by the Division and may refer to the setting grounds, caregiver, staff, or services as applicable to the context.

(48) “Program Staff" means an employee, volunteer, direct care staff, or individual who, by contract with a program, provides a service to an individual.

(49) "Progress Notes" means the notations in the individual’s record documenting significant information concerning the individual and summarizing progress made relevant to the objectives outlined in the residential service plan.

(50) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the individual to prevent self-destructive acts and to safeguard the individual’s property and funds when used in the relevant context.

(51) “Provider” means the program administrator, individual, or organizational entity licensed by the Division which operates the program and provides services to individuals.
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

(52) “Representative” refers to both “Designated Representative” and “Legal Representative” as defined in these rules, unless otherwise stated.

(53) "Residency Agreement" means the written, legally enforceable agreement between a provider and an individual or the individual's representative when the individual receives services. The Residency Agreement identifies the rights and responsibilities of the individual and the provider. The Residency Agreement provides the individual protection from eviction substantially equivalent to landlord-tenant laws.

(54) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to an individual in or through the program based upon an individual assessment of needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the program is operated by a mental health service agency that provides other services to the individual.

(55) "Residential Treatment Facility (RTF)" means a program licensed by the Division to provide services on a 24-hour basis for six to 16 individuals as described in ORS 443.400(9). An RTF does not include the entities set out in ORS 443.405.

(56) “Residential Treatment Home (RTH)" means a program that is licensed by the Division and operated to provide services on a 24-hour basis for up to five individuals as defined in ORS 443.400(10). A RTH does not include the entities set out in ORS 443.405.

(57) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of an individual.

(58) "Room and Board" means compensation for the provision of meals, a place to sleep, and tasks such as housekeeping and laundry.

(59) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(60) "Secure Residential Treatment Facility (SRTF)" means any Residential Treatment Facility, or portion thereof, approved by the Division that restricts an individual's exit from the setting through the use of approved locking devices on individual exit doors, gates, or other closures.

(61) “Services and Supports” means those services defined as habilitation services and psychosocial rehabilitation services under OAR 410-172-0700(1), (2) & 410-172-0710(1), (2).

(62) "Setting" means one or more buildings and adjacent grounds on contiguous properties that are used in the operation of a program.
(63) "Supervision" means a program staff’s observation and monitoring of an individual or oversight of a program staff by the program administrator applicable to the context.

(64) "Termination of Residency" means the time at which the individual ceases to reside in the program and includes the transfer of the individual to another program, but does not include absences from the setting for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(65) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emotional, physical or other symptoms or social, educational or vocational disabilities resulting from or related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

(66) "Unit" means the bedroom and other space of an individual receiving services from a program, as agreed to in the Residency Agreement. Unit includes private single occupancy spaces and shared units with roommates.

(67) “Volunteer” means an individual who provides a service or takes part in a service provided to an individual receiving supportive services in a program or other provider and who is not a paid employee of the program or other provider.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0110 – Required Home-like Qualities

This rule becomes effective July 1, 2016, and enforceable pursuant to OAR 309-035-0115 (17).

(1) A program, except for a SRTF, must have all of the following qualities:

(a) The setting is integrated in and supports the individual’s same degree of access to the greater community as individuals’ not receiving HCBS including opportunities for an individual to:

(A) Seek employment and work in competitive integrated employment settings:

(i) For which an individual is compensated at a rate that:

(I) Is not less than the higher of the rate specified in federal, state, or local minimum wage law;

(II) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not persons with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(III) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.

(ii) For which an individual is eligible for the level of benefits provided to other employees;

(iii) At a location where the individual interacts with other individuals who are not individuals with disabilities. This does not include supervisory personnel or individuals providing services to the individual to the same extent as individuals without disabilities and who are in comparable positions who interact with others; and

(iv) That present opportunities for advancement similar to those for other employees who are not individuals with disabilities and who have similar positions.

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.
(b) The program is selected by an individual or legal or designated representative from among available setting options for which the individual meets medical necessity criteria including non-disability specific settings and an option for a private unit in a residential setting. The setting options shall be:

(A) Identified and documented in the individuals' person-centered service plan;

(B) Based on the individual's needs and preference; and

(C) Based on the individual's available resources for room and board.

c) The program ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint;

d) The program optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact;

e) The program facilitates individual choice regarding services and supports and individual choice as to who provides the services and supports.

(2) The individual or the individual's representative shall have the opportunity to select from among available setting options including non-disability specific settings and an option for a private unit in a setting. The setting options shall be:

(a) Identified and documented in the person-centered service plan for the individual;

(b) Based on the individual's needs and preferences; and

(c) Based on the individual's available resources for room and board.

(3) The provider shall take reasonable steps to ensure that the program maintains the qualities identified in sections (2) and (3) of this rule. Failure to take reasonable steps may include but is not limited to:

(a) Failure to maintain a copy of the person-centered service plan at the setting;

(b) Failure to cooperate or provide necessary information to the person-centered planning coordinator; or

(c) Failure to attend or schedule a person-centered planning meeting where applicable.

(4) A program shall maintain the following:

(a) The setting shall be physically accessible to an individual;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(b) The provider shall provide the individual a unit of specific physical place that the individual may own, rent, or occupy under a legally enforceable Residency Agreement;

(c) The provider shall provide and include in the Residency Agreement that the individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord-tenant law of Oregon and other applicable laws or rules of the county, city, or other designated entity. For a setting in which landlord-tenant laws do not apply, the Residency Agreement shall provide substantially equivalent protections for the individual and address eviction and appeal processes. The eviction and appeal processes shall be substantially equivalent to the processes provided under landlord-tenant laws;

(d) The provider shall provide each individual with privacy in their own unit;

(e) The provider shall maintain units with entrance doors lockable by the individual. The program shall ensure that only the individual, the individual’s roommate, where applicable, and only appropriate staff as described in the individual’s person-centered plan have keys to access the unit;

(f) The provider shall ensure that individuals sharing units have a choice of roommates;

(g) The provider shall provide and include in the Residency Agreement that individuals have the freedom to decorate and furnish their own unit;

(h) The provider shall allow each individual to have visitors of their choosing at any time;

(i) The provider shall ensure each individual has the freedom and support to control their own schedule and activities;

(j) The provider shall ensure each individual has the freedom and support to have access to food at any time.

(5) A SRTF is not required to maintain the qualities or meet the obligations identified in section (4)(d)(e)(f)(h)(i) of this rule. The provider is not required to seek an individually-based limitation to comply with these rules.

(6) A provider is not required to maintain the qualities or meet the obligations identified in section (4) (b) or (c) of this rule when providing crisis-respite services to an individual. The provider is not required to seek an individually-based limitation for such an individual to comply with these rules.

(7) When a provider is unable to meet a qualities outlined under section (4)(e) through (4)(j) of this rule due to threats to the health and safety of the individual or others, the provider may seek an individually-based limitation with the consent of the individual or
the individual’s legal representative. The provider may not apply an individually-based limitation until the limitation is approved, consented and documented as outlined in OAR 309-035-0195.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0115 – Licensing

(1) The Division shall license a program that meets the definition of a RTF or RTH and demonstrates compliance with these and all applicable laws and rules. No person or governmental unit acting individually or jointly with any other person or governmental unit shall establish, maintain, manage, or operate a program without a license issued by the Division.

(2) Where a program serves or seeks to serve another category of individuals, in addition to adults with a mental health disorder, the directors of the Authority and the Department shall determine the department responsible for licensure.

(3) An application for a license must be accompanied by the required fee and submitted to the Division using the forms or format required by the Division. The following information must be included in the application:

   (a) Full and complete information as to the identity and financial interest of each individual, including stockholders, having a direct or indirect ownership interest of five percent or more in the program and all officers and directors in the case of a program operated or owned by a corporation;

   (b) Name and resume of the program administrator;

   (c) Physical address of the setting and mailing address;

   (d) Maximum number of individuals to be served at any one time, their age range and evacuation capability;

   (e) Proposed annual budget identifying sources of revenue and expenses;

   (f) Signed criminal record authorizations for all individuals involved in the operation of the program who will have contact with the individuals including but not limited to caregivers;

   (g) A complete set of policies and procedures;

   (h) Setting plans and specifications; and

   (i) Such other information as the Division may reasonably require.

(4) A complete set of plans and specifications must be submitted to the Division at the time of initial application, whenever a new structure or addition to an existing structure is proposed, or when significant alterations to an existing facility are proposed. Plans shall meet the following criteria:
(a) Plans shall be prepared in accordance with the Building Code and as outlined in OAR 309-035-0140;

(b) Plans shall be to scale and sufficiently complete to allow full review for compliance with these rules; and

(c) Plans shall bear the stamp of an Oregon licensed architect or engineer when required by the Building Code.

(5) Prior to approval of a license for a new or renovated setting, the applicant shall submit the following to the Division:

(a) One copy of written approval to occupy the setting issued by the city or county building codes authority having jurisdiction;

(b) One copy of the fire inspection report from the State Fire Marshal or local jurisdiction indicating that the setting complies with the Fire Code;

(c) When the setting is not served by an approved municipal water system, one copy of the documentation indicating that the state or county health agency having jurisdiction has tested and certified safe the water supply in accordance with OAR chapter 333, Health Services rules to public water systems;

(d) When the setting is not connected to an approved municipal sewer system, one copy of the sewer or septic system approval from the Department of Environmental Quality or local jurisdiction.

(6) The following fees shall be submitted with an initial or renewal application:

(a) The RTF license application fee for initial or renewal licensing is $60. No fee is required in the case of a governmentally operated RTF.

(b) The RTH license application fee for initial or renewal licensing is $30. No fee is required in the case of a governmentally operated RTH.

(7) A license is renewable upon submission of a renewal application in the form or format required by the Division and a non-refundable fee as set out in section (6), except that no fee shall be required of a governmentally operated program:

(a) Filing of an application for renewal 60 days before the date of expiration extends the effective date of the current license until the Division takes action upon the renewal application;

(b) The Division shall deny renewal of a license if the program is not in substantial compliance with these rules or if the State Fire Marshal or authorized representative has given notice of noncompliance.
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

(8) Upon receipt of an application and fee, the Division shall conduct an application
review. Initial action by the Division on the application shall begin within 30 days of
receipt of all application materials. The review shall:

(a) Include a complete review of application materials;

(b) Determine whether the applicant meets the qualifications outlined in ORS
443.420 including:

(A) Demonstrates an understanding and acceptance of these rules;

(B) Is mentally and physically capable of providing services for individuals;

(C) Employs or utilizes only persons whose presence does not jeopardize the
health, safety, or welfare of individuals; and

(D) Provides evidence satisfactory to the Division of financial ability to comply
with these rules.

(c) Include a site inspection; and

(d) Conclude with a report stating findings and a decision on licensing of the
program.

(9) Findings of Noncompliance. The provider shall submit and complete a plan of
correction for each finding of noncompliance:

(a) If the findings of noncompliance substantially impact the welfare, health, and
safety of individuals, the provider shall submit a plan of correction that shall be
approved by the Division prior to issuance of a license. In the case of a currently
operating program, the findings may result in suspension or revocation of a license;

(b) If it is determined that the findings of noncompliance do not threaten the welfare,
health, or safety of individuals and the program meets other requirements of
licensing, the Division may issue or renew a license with the plan of correction
submitted and completed as a condition of licensing;

(c) The Division shall specify required documentation and set the time lines for the
submission and completion of plans of correction in accordance with the severity of
the findings;

(d) The Division shall review and evaluate each plan of correction. If the plan of
correction does not adequately remedy the findings of noncompliance, the Division
shall require a revised plan of correction and may apply civil penalties or deny,
revoke, or suspend the license;
(e) The provider owner may appeal the finding of noncompliance or the disapproval of a plan of correction by submitting a request for reconsideration in writing to the Division. The Division shall make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Division shall be final.

(10) The Division, in its discretion, may grant a variance to these rules based upon a demonstration by the applicant or provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, or safety of individuals:

(a) The provider seeking a variance shall submit in writing an application to the Division that identifies the section of the rules from which the variance is sought, the reason for the proposed variance, the proposed alternative method or different approach, and signed documentation from the CMHP indicating approval of the proposed variance;

(b) The director or designee shall review and approve or deny the request for a variance;

(c) The Division shall notify the provider of the decision in writing within 30 days after receipt of the request. A variance may be implemented only after receipt of written approval from the Division;

(d) The provider may appeal the denial of a variance request by submitting a request for reconsideration in writing to the Division’s Director. The Director shall make a decision within 30 days of receipt of the appeal. The decision of the Director shall be final; and

(e) A variance shall be reviewed by the Division at least every two years and may be revoked or suspended based upon a finding that the variance adversely impacts the welfare, health, or safety of the individuals.

(11) Upon finding that the applicant is in substantial compliance with these rules, the Division shall issue a license:

(a) The license issued shall state the name of the provider, the name of the program administrator, the address of the setting to which the license applies, the maximum number of individuals to be served at any one time and their evacuation capability, the type of program, and such other information as the Division deems necessary;

(b) A program license shall be effective for two years from the date issued unless sooner revoked or suspended; and

(c) A program license is not transferable or applicable to any setting, location, or management other than that indicated on the application and license.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(12) The license shall be valid only under the following conditions:

(a) The provider may not operate or maintain the program in combination with a nursing facility, hospital, retirement facility, or other occupancy unless licensed, maintained, and operated as a separate and distinct part. Each program shall have sleeping, dining, and living areas for use only by its own individual’s caregivers and invited guests;

(b) The provider shall maintain the license posted in the setting and available for inspection at all times; and

(c) A license becomes void immediately upon suspension or revocation of the license by the Division or if the operation is discontinued by voluntary action of the provider or if there is a change of ownership.

(13) Division staff shall visit and inspect every setting at least once every two years to determine whether it is maintained and operated in accordance with these rules. The provider or applicant shall allow Division staff entry and access to the setting and individuals for the purpose of conducting the inspections:

(a) Division staff shall review methods of individual care and treatment, records, the condition of the setting and equipment, and other areas of operation;

(b) All records, unless specifically excluded by law, shall be available to the Division for review; and

(c) The State Fire Marshal or authorized representatives shall, upon request, be permitted access to the setting, fire safety equipment within the setting, safety policies and procedures, maintenance records of fire protection equipment and systems, and records demonstrating the evacuation capability of setting occupants.

(14) Incidents of alleged abuse covered by ORS 430.735 through 430.765 and reported complaints shall be investigated in accordance with OAR 943-045-0250 through 0370. The Division may delegate the investigation to a CMHP or other appropriate entity.

(15) The Division may deny, suspend, or revoke a license when it finds there has been substantial failure to comply with these rules or when the State Fire Marshal or authorized representative certifies that there is failure to comply with the Fire Code:

(a) In cases where there exists an imminent danger to the health or safety of an individual or the public, a license may be suspended immediately; and

(b) The revocation, suspension, or denial shall be done in accordance with ORS 443.440
(16) The provider shall report promptly to the Division any significant changes to
information supplied in the application or subsequent correspondence. Changes include
but are not limited to changes in the setting or program name, provider, program
administrator, telephone number, and mailing address. Changes also include but are
not limited to changes in the physical nature of the setting, policies and procedures, or
staffing pattern when the changes are significant or impact the individual's health,
safety, or well-being.

(17) Enforcement of Home and Community-Based Services and Settings Requirements:

(a) All programs licensed on or after July 1, 2016, shall be in full compliance with all
regulatory requirements under these rules at the time of initial licensure;

(b) All programs licensed prior to July 1, 2016, shall come into compliance with rules
as follows:

(A) All programs shall be in full compliance with these rules no later than January
1, 2017; and

(B) For the rules designated by the Division to become effective July 1, 2016, the
provider shall make measureable progress towards compliance with those rules. The Division may not issue sanctions and penalties for failure to meet the rules
effective July 1, 2016, or the obligations imposed by OAR Chapter 411, division 4
until January 1, 2017, if the provider is making measureable progress towards
compliance.

Stat. Auth.: ORS 413.042, ORS 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0120 – Contracts and Rates

(1) A provider receiving service payments shall enter into a contract with the local CMHP, statewide coordinated care organizations, the Division, or other Division-approved party. The contract does not guarantee that any number of individuals eligible for Division funded services shall be referred to or maintained in the program.

(2) The provider shall specify in a fee policy and procedure rates for all services and the procedures for collecting payments from individuals and payees. The fee policy and procedures shall describe the schedule of rates, conditions under which rates may be changed, acceptable methods of payment, and the policy on refunds at the time of termination of residency:

   (a) For individuals whose services are funded by the Division, reimbursement for services shall be made according to the rate schedule outlined in the contract. Room and board payments for individuals receiving Social Security benefits or public assistance shall be in accordance with rates determined by the Division;

   (b) For private paying individuals, the program shall enter into a signed agreement with the individual, and, if applicable, the individual’s designated representative. This agreement shall include but is not limited to a description of the services to be provided, the schedule of rates, conditions under which the rates may be changed, and policy on refunds at the time of termination of residency; and

   (c) Before increasing rates or modifying payment procedures, the program shall provide a 30-day advance notice of the change to all individuals, representatives, payees, guardians, or conservators.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991)
309-035-0125 – Administrative Management

(1) The provider shall ensure that the program and setting are maintained and operated in compliance with these rules and all other applicable federal, state, and local laws and regulations.

(2) The provider shall employ a program administrator who meets the following qualifications and complies with the following standards:

(a) Background including special training, experience, and other demonstrated ability in providing care and treatment appropriate to the individuals served in the program;

(b) Documented approved criminal record checks processed in compliance with the procedures required by OAR 943-007-0001 through 0501 and no history of abusive behavior;

(c) Ensure that the program operates in accordance with the standards outlined in these rules;

(d) Oversee the daily operation and maintenance of the program and shall be available to perform administrative duties at the setting at least 20 hours per week;

(e) Develop and administer written policies and procedures to direct the operation of the program and the provision of services to individuals;

(f) Ensure that qualified program staff are available in accordance with the staffing requirements specified in these rules;

(g) Supervise or provide for the supervision of program staff and others involved in the operation of the program;

(h) Maintain setting, personnel, and individual service records;

(i) Report regularly to the provider on the operation of the program; and

(j) Delegate authority and responsibility for the operation and maintenance of the program to a responsible staff person whenever the program administrator is absent from the setting. This authority and responsibility may not be delegated to an individual.

(3) The provider shall develop and update policies and procedures and maintain a copy in a location easily accessible for staff reference and made available to others upon reasonable request. They shall be consistent with requirements of these rules and shall address at a minimum the following:

(a) Personnel practices and staff training;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(b) Individual screening, admission, and termination;

(c) Fire drills, emergency procedures, individual safety and abuse reporting;

(d) Health and sanitation;

(e) Records maintenance and confidentiality;

(f) Residential service plan, services, and activities;

(g) Behavior management including the use of seclusion or restraints;

(h) Food Service;

(i) Medication administration and storage;

(j) Individual belongings, storage, and funds;

(k) Individual rights consistent with these rules;

(l) Complaints and grievances;

(m) Setting requirements and maintenance consistent with these rules;

(n) Evacuation capability determination;

(o) Fees and money management;

(p) Advance directives.

(4) The provider shall develop reasonable house rules outlining operating protocols concerning, but not limited to, meal times, night-time quiet hours, guest policies, smoking, and as follows:

(a) House rules shall be consistent with individual rights as set forth in OAR 309-035-0175;

(b) House rules shall be posted in an area readily accessible to individuals;

(c) House rules shall be reviewed and updated as necessary;

(d) Individuals shall be provided an opportunity to review and provide input into any proposed changes to house rules before the revisions become effective; and

(e) Effective July 1, 2016, house rules may not restrict or limit the program qualities identified in OAR 309-035-0110.
Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.99
Records shall be maintained to document the legal operation of the program, personnel practices, and individual services and supports. All records shall be properly obtained, accurately prepared, safely stored, and readily available or electronically accessible within the setting. All entries in records required by these rules shall be in ink, indelible pencil, or approved electronic equivalent prepared at the time or immediately following the occurrence of the event being recorded; be legible; and be dated and signed by the person making the entry. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

Records documenting the legal operation of the program shall include but not limited to:

(a) Written approval for occupancy of the setting by the county or city having jurisdiction, any building inspection reports, zoning verifications, fire inspection reports, or other documentation pertaining to the safe and sanitary operation of the program issued during the development or operation of the program;

(b) Application for license, related correspondence, and site inspection reports;

(c) Program operating budget and related financial records;

(d) Payroll records, program staff schedules and time sheets;

(e) Materials safety and data sheets;

(f) Fire drill documentation;

(g) Fire alarm and sprinkler system maintenance and testing records;

(h) Incident reports; and

(i) Policy and procedure manual.

Personnel records shall document and include:

(a) Job descriptions for all positions; and

(b) Separate program staff records including, but not limited to, written documentation of program staff identifying information and qualifications, criminal record clearance, T.B. test results, documentation that Hepatitis B inoculations have been given or made available, performance appraisals, and documentation of pre-service orientation and other training.

Individual service records shall be maintained for each individual and include:
(a) An easily accessible summary sheet that includes, but is not limited to, the individual's name, previous address, date of admission to the program, gender, biological sex, date of birth, marital status, legal status, religious preference, health provider information, evacuation capability, DSM diagnosis, physical health diagnosis, medication allergies, food allergies, information indicating whether advance mental health and health directives and burial plan have been executed, and the name of individuals to contact in case of emergency;

(b) The names, addresses, and telephone numbers of the individual's representative, legal guardian or conservator, parents, next of kin, or other significant persons; physicians or other medical practitioners; dentist; case manager or therapist; day program, school, or employer; and any governmental or other agency representatives providing services to the individual;

(c) A mental health assessment and background information identifying the individual's residential service needs;

(d) Advance mental health and medical health directives, burial plans, or location of these;

(e) A residential service plan and copy of plans from other service providers;

(f) Effective July 1, 2016, and pursuant to OAR 309-035-0115(17), a person-centered service plan;

(g) Documentation of the individual's progress and any other significant information including, but not limited to, progress notes, progress summaries, any use of seclusion or restraints, and correspondence concerning the individual; and

(h) Health-related information and up-to-date information on medications.

(5) The program shall retain all referral packets, screening materials, and screening responses-placement determinations for a minimum of three years from the date of the referral.

(6) For an individual receiving crisis-respite services, the provider shall obtain and maintain records as outlined in these rules. Because it may not be possible to obtain and maintain complete records during a crisis-respite stay, the program shall, at a minimum, maintain records that are deemed reasonable to provide services in the program.

(7) All individual service records shall be stored in a weatherproof and secure location. Access to records shall be limited to the program administrator and direct care staff unless otherwise allowed in these rules.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(8) All individual service records shall be kept confidential as required by law. A signed release of information shall be obtained for any disclosure from an individual service record in accordance with all applicable laws and rules.

(9) An individual or the representative shall be allowed to review and obtain a copy of the individual service record as required by ORS 179.505(9).

(10) Pertinent information from records of an individual being transferred to another facility shall be transferred with the individual. A signed release of information shall first be obtained in accordance with applicable laws and rules.

(11) The program shall keep all records, except those transferred with an individual, for a period of three years.

(12) If a program changes ownership or program administrator, all individual and personnel records shall remain at the setting. Prior to the dissolution of any program, the program administrator shall notify the Division in writing as to the location and storage of individual service records or those records shall be transferred with the individual.

(13) If an individual or representative disagrees with the content of the individual service record, or otherwise desires to provide documentation for the record, the individual or representative may provide material in writing that then shall become part of the individual service record.

(14) The program shall establish an individual service record upon the individual's admission. Prior to admission, within five days after an emergency admission, or within 24 hours of a crisis-respite admission, the program shall determine with whom communication needs to occur and make good faith efforts to obtain the needed authorizations for release of information. The record established upon admission shall include the materials reviewed in screening the individual, the summary sheet, and any other available information. The program shall make every effort to complete the individual service record in a timely manner. The assessment and residential service plan shall be completed in accordance with OAR 309-035-0185. Records on prescribed medications and health needs shall be completed as outlined in OAR 309-035-0215.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0135 – Staffing

(1) The provider shall maintain a written job description for each staff position that specifies the position’s qualifications and job duties:

(a) A direct care staff person shall be at least 18 years of age, be capable of implementing the setting's emergency procedures and disaster plan, and be capable of performing other duties of the job as described in the job description;

(b) All program staff having contact with an individual must have a documented approved criminal record clearance in accordance with OAR 943-007-0001 through 943-007-0501. The provider must maintain documentation of approved criminal records clearance for each applicable staff person;

(c) Program staff who will have contact with individual's must be tested for tuberculosis within two weeks of first employment; additional testing shall take place as deemed necessary; and the employment of program staff who test positive for tuberculosis shall be restricted if necessary; and

(d) All program staff shall meet other qualifications when required by a contract or financing arrangement approved by the Division.

(2) Personnel policies shall be made available to all program staff and shall describe hiring, leave, promotion, and disciplinary practices.

(3) The program administrator shall provide or arrange a minimum of 16 hours pre-service orientation and eight hours in-service training annually for each program staff including:

(a) Pre-service training for direct care staff shall include but not limited to a comprehensive tour of the setting; a review of emergency procedures developed in accordance with OAR 309-035-0145; a review of setting house rules, policies, and procedures; background on mental and emotional disorders; an overview of individual rights; medication management procedures; food service arrangements; a summary of each individual's assessment and residential service plan; and other information relevant to the job description and scheduled shifts; and

(b) In-service training shall be provided on topics relevant to improving the care and treatment of individuals in the program and meeting the requirements in these administrative rules. In-service training topics include, but are not limited to, implementing the residential service plan, behavior management, daily living skills development, nutrition, first aid, understanding mental illness, sanitary food handling, individual rights, identifying health care needs, and psychotropic medications.

(4) The provider and program administrator shall ensure that an adequate number of program and direct care staff are available at all times to meet the treatment, health,
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

and safety needs of individuals. Program staff must be scheduled to meet the changing
needs and ensure safety of individuals. Minimum staffing requirements are as follows:

(a) In RTHs serving one to five individuals, there shall be at least one direct care
staff on duty at all times;

(b) In RTFs serving six to 16 individuals, there shall be at least one direct care staff
on duty at all times;

(c) In the case of a specialized program, staffing requirements outlined in the
contractual agreement for specialized services shall be implemented;

(d) Class I and Class II SRTFs shall ensure staffing levels meet the requirements set
forth in chapter 309, divisions 32 and 33; and

(e) Program and direct care staff on night duty shall be awake and dressed at all
times. In settings where individuals are housed in two or more detached buildings,
program staff shall monitor each building at least once an hour during the night shift.
An approved method for alerting program staff to problems shall be in place and
implemented. This method shall be accessible to and usable by the individuals.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0140 – Setting Requirements

(1) The provider shall ensure that the setting meets the requirements for approved Group SR or I occupancies in the Building Code and the Fire Code in effect at the time of original licensure. When a change in setting use results in a new building occupancy classification, the program’s setting shall meet the requirements for approved Group SR or I occupancies in the Building Code in effect at the time of such change. If occupants are capable of evacuation within three minutes, refer to Group R occupancies.

(2) Programs shall be accessible as follows:

   (a) Those settings or portions of settings that are licensed, constructed, or renovated after January 26, 1992, and that are covered multi-family dwellings or public accommodations shall meet the physical accessibility requirements in chapter 11 of the Oregon Structural Specialty Codes. These codes specify requirements for public accommodations as defined in the Americans with Disabilities Act under Title III and for buildings qualifying as multi-family dwellings as defined in the Fair Housing Act as amended in 1988;

   (b) In order to ensure program accessibility under Title II of the Americans with Disabilities Act, the Division may require additional accessibility improvements; and

   (c) Any accessibility improvements made to accommodate an identified individual shall be in accordance with the specific needs of the individual.

(3) An accessible outdoor area is required and shall be made available to all individuals. For programs or portions thereof licensed on or after June 1, 1998, a portion of the accessible outdoor area shall be covered and have an all-weather surface such as a patio or deck.

(4) The setting shall have sufficient and safe storage areas that include but not limited to:

   (a) Storage for a reasonable amount of individual belongings beyond that available in the individual’s unit shall be provided appropriate to the size of the setting;

   (b) All maintenance equipment including yard maintenance tools shall be maintained in adequate storage space. Equipment and tools that pose a danger to individuals shall be kept in locked storage; and

   (c) Storage areas necessary to ensure a functional, safe, and sanitary environment consistent with OAR 309-035-0140 through 0155 and 309-035-0210 through 0215.

(5) For programs initially licensed on or after June 1, 1998, all individual use areas and individual units shall be accessible through temperature controlled common areas or hallways with a minimum width of 36 inches except that a minimum width of 48 inches...
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

shall be provided along the route to accessible bedrooms and bathrooms and between common areas and required exits.

(6) The setting shall have sufficient space for confidential storage of both individual service records and business records, for program staff use in completing record-keeping tasks, and for a telephone. Other equipment including fire alarm panels and other annunciators shall be installed in an area readily accessible to staff in accordance with the Fire Code.

(7) The provider shall provide a unit for each individual, although the program may maintain units to be shared by more than one individual consistent with these rules. The unit shall include sleeping accommodations for the individual and be separated from other areas of the setting by an operable door with an approved latching device. The provider shall maintain units as follows:

(a) For programs licensed prior to June 1, 1998, units shall be a minimum of 60 square feet per resident and allow for a minimum of three feet between beds;

(b) For programs or portions thereof initially licensed on or after June 1, 1998, units shall be limited to one or two individuals. At least ten percent of units, but no less than one unit, shall be accessible for individuals with mobility disabilities. All units shall include a minimum of 70 square feet per individual exclusive of closets, vestibules, and bathroom facilities and allow a minimum of three feet between beds;

(c) The provider shall provide a lockable entrance door to each unit for the individual’s privacy as follows:

   (A) The locking device shall release with a single-action lever on the inside of the room and open to a hall or common-use room;

   (B) The provider shall provide each individual with a personalized key that operates only the door to his or her unit from the corridor side;

   (D) The provider shall maintain a master key to access all of the units that is easily and quickly available to the provider, program administrator, and appropriate program staff;

   (E) The provider may not disable or remove a lock to a unit without obtaining consent from the individual or the individual’s representative through the individually-based limitations process outlined in OAR 309-035-0195; and

   (F) Section (7) of these rules are effective July 1, 2016 and enforceable as described in OAR 309-035-0115(17).

(d) A clothes closet with adequate clothes hanging rods shall be accessible within each unit for storage of each individual’s clothing and personal belongings. For
programs initially licensed on or after June 1, 1998, built-in closet space shall be provided totaling a minimum of 64 cubic feet for each individual. In an accessible unit, the clothes hanging rod height shall be adjustable or no more than 54 inches in height to ensure accessibility for an individual using a wheelchair; and

(e) Each unit shall have exterior windows with a combined area at least one-tenth of the floor area of the room. Unit windows shall be equipped with curtains or blinds for privacy and light control. For programs or portions of programs initially licensed on or after June 1, 1998, an escape window shall be provided consistent with building code requirements.

(8) Bathing and toilet facilities shall be conveniently located for individual use, provide permanently wired light fixtures that illuminate all parts of the room, provide individual privacy for individuals, provide a securely affixed mirror at eye level, be adequately ventilated, and include sufficient facilities specially equipped for use by individuals with a physical disability in buildings serving such individuals:

(a) In programs licensed prior to June 1, 1998, a minimum of one toilet and one lavatory shall be available for each eight individuals, and one bathtub or shower shall be available for each ten individuals; and

(b) In programs or portions of programs initially licensed on or after June 1, 1998, a minimum of one toilet and one lavatory shall be available for each six individuals, and a minimum of one bathtub or shower shall be available for each ten individuals, when these fixtures are not available in units. At least one centralized bathroom along an accessible route shall be designed for disabled access in accordance with Chapter 11 of the Oregon Structural Specialty Code.

(9) The setting shall include lounge and activity areas for social and recreational use by individuals, program staff and invited guests totaling no less than 15 square feet per individual.

(10) Laundry facilities shall be separate from food preparation and other individual use areas. When residential laundry equipment is installed, the laundry facilities may be located to allow for both individual and staff use. In programs initially licensed on or after June 1, 1998, separate residential laundry facilities shall be provided when the primary laundry facilities are located in another building, are of commercial type, or are otherwise not suitable for individual use. The following shall be included in the primary laundry facilities:

(a) Countertops or spaces for folding tables sufficient to handle laundry needs for the facility;

(b) Locked storage for chemicals and equipment;
(c) Outlets, venting, and water hook-ups according to state building code requirements. Washers must have a minimum rinse temperature of 155 degrees Fahrenheit (160 degrees Fahrenheit recommended) unless a chemical disinfectant is used; and

(d) Sufficient storage and handling space to ensure that clean laundry is not contaminated by soiled laundry.

(11) Kitchen facilities and equipment in a setting may be of residential type except as required by the state building code and fire code or local agencies having jurisdiction. The setting’s kitchen shall have the following:

(a) Dry storage space not subject to freezing in cabinets or a separate pantry for a minimum of one week’s supply of staple foods;

(b) Sufficient refrigeration space for a minimum of two days’ supply of perishable foods. The space shall be maintained at 45 degrees Fahrenheit or less and freezer space maintained at 0 degrees Fahrenheit or less;

(c) A dishwasher may be approved residential type with a minimum final rinse temperature of 155 degrees Fahrenheit (160 degrees recommended) unless chemical disinfectant is used;

(d) A separate food preparation sink and hand washing sink;

(e) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(f) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;

(g) Stove and oven equipment for cooking and baking needs; and

(h) Storage for a mop and other cleaning tools and supplies used for food preparation for dining and adjacent areas. Cleaning tools shall be maintained separately from those used to clean other parts of the setting.

(12) The setting shall have a separate dining room or an area where meals are served for use by individuals, employees, and guests:

(a) In programs licensed prior to June 1, 1998, the setting’s dining area shall seat at least half of the individuals at one time with a minimum area of 15 square feet per individual; and

(b) In programs or portions of programs initially licensed on or after June 1, 1998, the setting’s dining space shall seat all residents with a minimum area of 15 square feet per individual exclusive of serving facilities and required exit pathways.
(13) All details and finishes shall meet the finish requirements of applicable sections of the Building Code and the Fire Code as follows:

(a) Surfaces of all walls, ceilings, windows, and equipment shall be nonabsorbent and readily cleanable;

(b) The setting’s, flooring, thresholds, and floor junctures shall be designed and installed to prevent a tripping hazard and to minimize resistance for passage of wheelchairs and other ambulation aids. In addition, hard surface floors and base shall be free from cracks and breaks, and bathing areas shall have non-slip surfaces;

(c) In programs or portions of programs initially licensed on or after June 1, 1998, all doors to units, bathrooms, and common use areas shall provide a minimum clear opening of 32 inches;

(d) In all programs:

   (A) Lever type door hardware shall be provided on all doors used by individuals;

   (B) Locks used on doors to individual units must be interactive to release with operation of the inside door handle and comply with the requirements established by OAR 309-035-0140(7)(c)(A)(B)(D)(E);

   (C) Exit doors may not include locks that prevent evacuation except in accordance with building code and fire code requirements and with written approval of the Division; and

   (D) An exterior door alarm or other acceptable system may be provided for security purposes and to alert staff when individuals or others enter or exit the setting.

(e) Handrails shall be provided on all stairways as specified in the Building Code.

(14) All areas of the setting shall be adequately ventilated and temperature controlled in accordance with the Mechanical and Building Code requirements:

(a) Each setting shall have and maintain heating equipment capable of maintaining a minimum temperature of 68 degrees Fahrenheit at a point three inches above the floor. During times of extreme summer heat, fans shall be made available when air conditioning is not provided;

(b) All toilet and shower rooms shall be adequately ventilated with a mechanical exhaust fan, window mounted exhaust fan, or central exhaust system that discharges to the outside;
(c) Where used, the design and installation of fireplaces, furnaces, wood stoves and boilers shall meet standards of the Oregon Mechanical Specialty Code and the Boiler Specialty Code, as applicable. Documentation of annual inspection noting safe and proper operation shall be maintained at the setting; and

(d) In individual-use areas, hot water temperatures shall be maintained within a range of 110 to 120 degrees Fahrenheit. Hot water temperatures in laundry and kitchen areas shall be at least 155 degrees Fahrenheit.

(15) All wiring systems and electrical circuits shall meet the standards of Oregon Electrical Specialty Code in effect on the date of installation, and all electrical devices shall be properly wired and in good repair. The provider shall ensure the following:

(a) When not fully grounded, circuits in individual use areas shall be protected by GFCI type receptacles or circuit breakers as an acceptable alternative;

(b) A sufficient supply of electrical outlets shall be provided to meet individual and staff needs;

(c) No more than one power strip may be utilized for each electrical outlet;

(d) Connecting power strips to one another or use of other outlet expansion devices is prohibited;

(e) Extension cord use in units and common use rooms is prohibited;

(f) Lighting fixtures shall be provided in each individual unit and bathroom, switchable near the entry door and in other areas as required to meet task illumination; and

(g) Lighting fixtures that illuminate evacuation pathways shall be operable within ten seconds during a failure of the normal power supply and provide illumination for a period of at least two hours.

(16) All plumbing shall meet the Oregon Plumbing Specialty Code in effect on the date of installation, and all plumbing fixtures shall be properly installed and in good repair.

(17) The program shall provide adequate access to telephones for private use by individuals. The program shall not limit the hours of availability for phone use. A program may establish guidelines for fair and equal use of a shared telephone. Each individual or individual’s representative shall be responsible for payment of long distance phone bills where the calls were initiated by the individual, unless other mutually agreed arrangements have been made.

(18) Smoking is not allowed within the setting including within buildings or on the grounds.
Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0145 – Safety

(1) The provider shall train all program staff in safety procedures prior to beginning their first regular shift. Every individual must be trained in individual safety procedures as soon as possible within the first 72 hours of residency.

(2) The program shall develop and implement a written procedure and disaster plan authorized by the State Fire Marshal or authorized representative. The plan shall cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes, and floods. The program shall post the plan by the phone and be immediately available to the program administrator and program staff. The plan shall include diagrams of evacuation routes, and these must be posted. The plan shall specify where staff and individuals will reside if the setting becomes uninhabitable. The program shall update the plan and shall include:

(a) Emergency instructions for employees;

(b) The telephone numbers of the local fire department, police department, the poison control center, the administrator, the administrator's designee, and other persons to be contacted in emergencies; and

(c) Instructions for the evacuation of individuals and employees.

(3) Noncombustible and nonhazardous materials shall be used whenever possible. When necessary to the operation of the facility, flammable and combustible liquids and other hazardous materials shall be safely and properly stored in clearly labeled, original containers in areas inaccessible to individuals in accordance with the Fire Code. Any quantities of combustible and hazardous materials maintained shall be the minimum necessary.

(4) Non-toxic cleaning supplies shall be used whenever available. Poisonous and other toxic materials shall be properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation capability categories are based upon the ability of the individuals and program staff as a group to evacuate the building or relocate from a point of occupancy to a point of safety. Buildings shall be constructed and equipped according to a designated evacuation capability for occupants. Categories of evacuation capability include "Impractical" (SR-2) or "Slow" (SR-1). The evacuation capability designated for the facility shall be documented and maintained in accordance with NFPA 101A:

(a) Only individuals assessed to be capable of evacuating in accordance with the designated facility evacuation capability shall be admitted to the program; and

(b) Individuals experiencing difficulty with evacuating in a timely manner shall be provided assistance from staff and offered environmental and other
accommodations, as practical. Under such circumstances, the program shall consider increasing staff levels, changing staff assignments, offering to change the individual’s room assignment, arranging for special equipment, and taking other actions that may assist the individual. The program shall assist individuals who still cannot evacuate the building safely in the allowable period of time and shall assist with transferring to another facility with an evacuation capability designation consistent with the individual's documented evacuation capability.

(6) The program shall ensure that every individual shall participate in an unannounced evacuation drill each month:

(a) At least once every three months, the program shall conduct a drill during individual sleeping hours between 10 p.m. and 6 a.m.;

(b) Drills shall be scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes;

(c) Any individual failing to evacuate within the established time limits shall be provided with special assistance and a notation made in the individual service record; and

(d) Written evacuation records shall be maintained for at least three years. They shall include documentation made at the time of the drill specifying the date and time of the drill, the location designated as the origin of the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(7) All stairways, halls, doorways, passageways, and exits from rooms and from the building shall be unobstructed.

(8) The program shall provide and maintain one or more 2A10BC fire extinguishers on each floor in accordance with the Fire Code.

(9) Approved fire alarms and smoke detectors shall be installed according to Building Code and Fire Code requirements. These alarms shall be set off during each evacuation drill. The program shall provide appropriate signal devices for persons with disabilities who do not respond to the standard auditory alarms. All of these devices shall be inspected and maintained in accordance with the requirements of the State Fire Marshal or local agency having jurisdiction.

(10) The program shall install and maintain sprinkler systems compliant with the Building Code and maintained in accordance with rules adopted by the State Fire Marshal. The program shall maintain an automated sprinkler system as follows:
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(a) Programs initially licensed prior to July 1, 2016, are not required to install or maintain a sprinkler system if one were not present at the time of initial licensure;

(b) The Division recommends that all programs licensed prior to July 1, 2016, install and maintain sprinkler systems;

(c) Any program initially licensed on or after July 1, 2016, shall have and maintain a sprinkler system.

(11) The Division may not issue any variances addressing sprinkler systems in programs licensed on or after July 1, 2016.

(12) First aid supplies shall be readily accessible to staff. All supplies shall be properly labeled.

(13) Portable heaters are a recognized safety hazard and may not be used.

(14) The provider shall develop and implement a safety program to identify and prevent the occurrence of hazards at the facility. Such hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0150 – Sanitation

(1) The water supply in the facility shall meet the requirements of the current rules of Oregon Health Services governing domestic water supplies and:

(a) A municipal water supply shall be utilized if available; and

(b) When the facility is not served by an approved municipal water system and the facility qualifies as a public water system according to OAR 333-061-0020(127) Oregon Health Services rules for public water systems, then the provider shall comply with the OAR Chapter 333 rules of the Oregon Health Services pertaining to public water systems. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly and nitrate at least annually and reported to Oregon Health Services. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards, public notice be given whenever a violation of the water quality standards occurs, and records of water testing be retained according to the Oregon Health Services requirements.

(2) All floors, walls, ceilings, windows, furniture, and equipment shall be kept in good repair, clean, sanitary, neat, and orderly.

(3) Each bathtub, shower, lavatory, and toilet shall be kept clean, in good repair, and regularly sanitized.

(4) No kitchen sink, lavatory, bathtub, or shower shall be used for the disposal of cleaning waste water.

(5) Soiled linens and clothing shall be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) All necessary measures shall be taken to prevent rodents and insects from entering the setting. The provider shall take appropriate action to eliminate rodents or insects.

(7) The grounds of the setting shall be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage and refuse receptacles shall be clean, durable, watertight, insect and rodent proof, and shall be kept covered with tight-fitting lids. All garbage and solid waste shall be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality (DEQ).

(9) All sewage and liquid wastes shall be disposed of in a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in compliance...
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

with the current rules of the DEQ. Sewage lines and septic tanks or other non-municipal sewage disposal systems shall be maintained in good working order.

(10) Biohazardous waste shall be disposed of in compliance with the rules of the DEQ.

(11) Precautions shall be taken to prevent the spread of infectious or communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards:

(a) Program staff shall employ universal precautions whereby all human blood and certain body fluids are treated if known to be infectious for HIV, HBV, and other blood borne pathogens.

(12) If pets or other household animals reside at the setting, sanitation practices shall be implemented to prevent health hazards:

(a) Animals shall be vaccinated in accordance with the recommendations of a licensed veterinarian. Documentation of vaccinations shall be maintained on the premises;

(b) Animals not confined in enclosures shall be under control and maintained in a manner that does not adversely impact individuals or others; and

(c) No live animal shall be kept or allowed in any portion of the setting where food is stored or prepared, except that aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0155 – Individual Furnishings

(1) The program shall permit an individual to use the individual’s own furniture within space limitations of the individual’s unit. Otherwise, furniture shall be provided or arranged for each individual, maintained in good repair, and include the following:

(a) A bed including a frame and a clean mattress and pillow;

(b) A private dresser or similar storage area for personal belongings that is readily accessible to the individual; and

(c) Locked storage for the individual’s small, personal belongings. For programs initially licensed before June 1, 1998, this locked storage may be provided in a place other than the Individual’s unit. The provider shall provide the individual with a key or other method to gain access to her locked storage space.

(2) The program shall provide linens for each individual and shall include the following:

(a) Sheets, pillowcase, other bedding appropriate to the season and the individual’s comfort;

(b) Availability of a waterproof mattress or waterproof mattress cover; and

(c) Towels and washcloths.

(3) The provider shall assist each individual in obtaining personal hygiene items in accordance with individual needs. These shall be stored in a clean and sanitary manner and may be purchased with the individual’s personal allowance. Personal hygiene items include, but are not limited to, a comb and hairbrush, a toothbrush, toothpaste, and menstrual supplies (if needed).

(4) The provider shall provide sufficient supplies of soap, shampoo, and toilet paper for all individuals.

(5) An adequate supply of furniture for individual use in living room, dining room, and other common areas shall be maintained in good condition.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

309-035-0163 – Admission to Program

(1) The provider shall ensure the admission process includes the following:

   (a) The provider shall specify in its admission policy and procedures the program
       staff responsible for each component of the admission information-gathering and
       decision-making process. The program shall allocate responsibilities to promote
       effective processing of referrals and admissions;

   (b) The provider shall develop and implement admission policies and procedures
       that support a prospective individual’s right to select and choose from available
       service settings when the individual meets medical necessity criteria;

   (c) The provider shall support the individual’s right to select a program by assisting
       the person-centered service plan coordinator in identifying and documenting
       program options in the person-centered service plan including providing information
       regarding program services and rates; and

   (d) The provider may close admissions to the program when accepting an additional
       prospective individual may cause the program to exceed its reasonable waitlist.
       When admissions are closed, the provider is not required to accept referrals,
       conduct screenings, or evaluate admissions criteria as directed by these rules.

(2) Unless limited by contractual agreement with the Division or other Division-approved
    party, the program may accept referrals from a variety of sources.

(3) In accordance with ORS 179.505 and the 42 CFR, Part 2, the program shall obtain
    an authorization for the release of information for disclosure for any confidential
    information concerning a prospective individual.

(4) The provider shall consider an individual for admission without regard to race, color,
    sex or sexual orientation, except as may be limited by room arrangement, religion,
    creed, national origin, age, except under 18 years, familial status, marital status, source
    of income, or disability in addition to the mental health disorder.

(5) Prior to accepting an individual for admission to the program, the program
    administrator shall determine that the individual meets admission criteria including the
    following:

    (a) The provider shall offer each individual referred for placement at the program an
        opportunity to participate in a screening interview prior to being accepted or denied
        placement at a program. The screening is intended to provide information about the
        program and the services available as well as to obtain information from the
        prospective individual, a relative, and agencies currently providing services to the
        individual sufficient to determine eligibility for admission and service needs; and
(b) The provider shall receive screening packets for each individual referred for placement. At a minimum, screening packets shall include:

(A) Written documentation that the prospective individual has or is suspected of having a mental health disorder;

(B) Background information including a mental health assessment, description of previous living arrangements, service history, behavioral issues, and service needs;

(C) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or recommended medications, treatments, dietary specifications, and aids to physical functioning;

(D) Copies of documents or other documentation relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions;

(E) A copy of the prospective individual's most recent mental health treatment plan or in the case of an emergency or crisis-respite admission a summary of current mental health treatment involvement; and

(F) Documentation of the prospective individual's ability to evacuate the building consistent with the facility's designated evacuation capability and other concerns about potential safety risks.

(c) The provider shall ensure that screenings be conducted at the prospective program setting unless:

(A) Travel arrangements cannot be made due to inclement weather; or

(B) The individual or representative requests a phone screening or screening at the individual's current location.

(d) The provider shall make contact with the referring agency for the purpose of scheduling a screening appointment within 48 hours of receipt of the referral packet;

(e) The provider shall coordinate with the referring agency to schedule a screening appointment to occur within 14 calendar days from the date of receipt of the referral packet;

(f) The provider shall provide the following to each individual referred for placement:

(A) Materials explaining conditions of residency;
(B) Services available to individuals residing in the program; and

(C) An opportunity to meet with a prospective roommate if the program uses a shared room model.

(g) The screening meeting shall include the program administrator, the prospective individual, and the individual's representative. With the prospective individual's consent, the meeting may also include family members, other representatives as appropriate, representatives of relevant service-providing agencies, and others with an interest in the individual's admission.

(6) If an individual is referred for emergency or crisis-respite admission, an amended or abbreviated screening process may be used to more quickly meet the needs of individuals seeking placement. Screening and admission information obtained may be less comprehensive than for regular admissions but shall be sufficient to determine that the individual meets admission criteria and that the setting and program is appropriate considering the individual's needs. The program shall document the reasons for incomplete information.

(7) Prior to admission, the provider shall evaluate and determine whether a prospective individual is eligible for admission based on the following criteria. The individual shall:

(a) Be assessed to have a mental health disorder or a suspected mental health disorder;

(b) Be at least 18 years of age;

(c) Not require continuous nursing care unless a reasonable plan to provide the care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;

(d) Have evacuation capability consistent with the setting's SR occupancy classification; and

(e) Meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.

(8) The provider may deny an individual admission to its program for the following reasons:

(a) Failure to meet admission criteria established by these rules;

(b) Inability to pay for services due to lack of presumed Medicaid eligibility or other funds;
(c) Documented instances of behaviors within the last 14 calendar days that would pose a reasonable and significant risk to the health, safety, and well-being of the individual or another individual, if the individual is admitted;

(d) Lack of availability of necessary services required to maintain the health and safety of the individual (no nursing, etc.) or lack of an opening at the setting; or

(e) Individual declines the offer for screening;

(9) The provider may not deny an individual admission to its program as follows:

(a) Prior to offering a face-to-face screening or other screening process as allowed by these rules; or

(b) Due to county of origin, responsibility, or residency.

(10) The provider’s admission decision shall be made as follows:

(a) The program’s decision shall be based on review of screening materials, information gathered during the face-to-face screening meeting, and evaluation of the admission criteria;

(b) The program shall inform the prospective individual and the individual’s representative of the admission decisions within 72 hours of the screening meeting;

(c) When the program denies admission, the program shall inform the applicant, the individual’s representative, and the referring entity in writing of the basis for the decision and the individual’s right to appeal the decision;

(d) When the program approves admission, the program shall inform the applicant, the individual’s representative, and the referring entity through an acceptance notification that shall include:

   (A) When not waitlisted or first on the waitlist, an estimated date of admission;

   (B) When waitlisted, the number on the waitlist.

(11) Management of waitlists includes the following:

(a) The program shall establish admissions waitlists of reasonable length;

(b) The program shall document actions taken in the management of the waitlist;

(c) The program shall contact a waitlisted individual, the individual’s representative, and the referring entity monthly to determine if the individual has been placed elsewhere;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(d) The program shall prioritize admissions on a waitlist as follows:

(A) The program shall give first priority to those individuals under current civil commitment or under the jurisdiction of the Psychiatric Security Review Board and seeking to transition from the Oregon State Hospital or other hospital level of care into the community;

(B) The program shall give second priority for admission to individuals seeking admission to programs as an alternative to or to prevent civil commitment or placement at the Oregon State Hospital or for the purpose of transitioning from a program or a secure residential treatment facility;

(e) The program shall determine priority for admission based on the priorities described above and on a first-come first-served basis. The program may not take into account the individual's county of origin, responsibility, or residency;

(f) Within 72 hours of a provider learning of a pending opening, the program shall notify the first individual on the waitlist, the individual's representative, and the referring entity of the expected opening. The individual shall respond within three business days of the provider's notification. If any of the following occurs, the program may offer the opening to the next individual on the wait list:

(A) The program receives no response from the individual, the individual's representative, or the referring entity within three business days;

(B) The individual will not be ready to transition into the program within one week; or

(C) The individual no longer desires placement at the program.

(12) The program shall obtain informed consent for services from the individual or representative prior to admission to the program unless the individual's ability to consent is legally restricted.

(13) Upon admission, the program administrator shall provide and document an orientation to each new individual that includes, but is not limited to, the following:

(a) A complete tour of the setting;

(b) Introductions to other individuals and program staff;

(c) Discussion of house rules;

(d) Explanation of the laundry and food service schedule and policies;

(e) Review of the individual's rights;
(f) Review of grievance procedures;

(g) Completion of a residency agreement;

(h) Discussion of the conditions under which residency would be terminated;

(i) General description of available services and activities;

(j) Review and explanation of advance directives. If the individual does not already have any advance directives, the program shall provide an opportunity to complete advanced directives;

(k) Emergency procedures in accordance with OAR 309-035-0145(2);

(L) Review of the person-centered planning process; and

(m) Review of the process for imposing individually-based limitations on certain program obligations to the individual.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0165 – Residency Agreement

This rule becomes effective July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(1) The provider shall enter into a written residency agreement with each individual or representative and be admitted to the program consistent with the following procedures:

   (a) The written residency agreement shall be signed by the program administrator and the individual or representative prior to or at the time of admission;

   (b) The provider shall provide a copy of the signed agreement to the individual or representative, and the provider shall retain the original signed agreement in the individual’s service record;

   (c) The provider shall give written notice to an individual or representative at least 30 calendar days prior to any general rate increases, additions, or other modifications of the rates; and

   (d) The provider shall update residency agreements at least annually and also when social security rates change or an individual’s finances change such that the amount paid for room and board changes.

(2) The residency agreement shall include, but is not limited to, the following:

   (a) The room and board rate describing the estimated public and private pay portions of the rate:

      (A) When an individual’s social security or other funding is not active at the time of admission to the program, the program shall prepare the room and board agreement based upon the estimated benefit to be received by the individual; and

      (B) If, when funding is later activated, actual income of the individual varies from the estimated income noted on the residency agreement, the agreement shall be updated and resigned by all the applicable parties.

   (b) Services and supports provided in exchange for payment of the room and board rate;

   (c) Conditions under which the program may change the rates;

   (d) The provider’s refund policy in instances of an individual’s hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move from the program;
(e) A statement indicating that the individual is not liable for damages considered normal wear and tear;

(f) The program’s policies on voluntary moves and whether written notification of a non-Medicaid individual’s intent to not return is required;

(g) The potential reasons for involuntary termination of residency in compliance with this rule and individual’s rights regarding the eviction and appeal process as described in OAR 309-035-0183(3);

(h) Any policies the program may have on the presence and use of alcohol, cannabis, and illegal drugs of abuse;

(i) Policy regarding tobacco smoking in compliance with the Tobacco Freedom Policy established by the Division;

(j) Policy addressing pet and service animals. The program may not restrict animals that provide assistance or perform tasks for the benefit of a person with a disability. These animals are often referred to as services animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals;

(k) Policy regarding the presence and use of legal medical and recreational marijuana at the setting;

(L) The provider may not schedule meals with more than a 14-hour span between the evening meal and the following morning’s meal (see, OAR 411-050-0645);

(m) Policy regarding refunds for residents eligible for Medicaid services, including pro-rating partial months and if the room and board payment is refundable;

(n) Any house rules or social covenants required by the program that may be included in the document or as an addendum;

(o) Statement informing the individual of the freedoms authorized by 42 CFR 441.301(c)(2)(xiii) & 42 CFR 441.530(a)(1)(vi)(F) that may not be limited without the informed, written consent of the individual or the legal representative and include the right to the following:

   (A) Live under a legally enforceable agreement with protections substantially equivalent to landlord-tenant laws;

   (B) The freedom and support to access food at any time;

   (C) To have visitors of the individual’s choosing at any time;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(D) Have a lockable door in the individual's unit that may be locked by the individual;

(E) Choose a roommate when sharing a unit;

(F) Furnish and decorate the individual's unit according to the Residency Agreement;

(G) The freedom and support to control the individual's schedule and activities; and

(H) Privacy in the individual's unit.

(3) The provider may not propose or enter into a residency agreement that:

(a) Charges or asks for application fees, refundable deposits, or non-refundable deposits;

(b) Includes any illegal or unenforceable provisions or ask or require an individual to waive any of the individual's rights or the provider's liability for negligence; or

(c) Conflicts with individual rights or these rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0170 – Termination of Residency

(1) Each provider's termination policy and procedure shall designate the program staff responsible for each step of the process for terminating residency. The provider shall designate responsibilities organized and assigned to promote a fair and efficient termination process. Unless otherwise designated as a condition of licensing or in contract language approved by the Division, the program administrator shall be responsible for initiating and coordinating termination proceedings. The provider shall make reasonable efforts to prevent unnecessary terminations by making reasonable accommodations within the program and setting.

(2) A resident or guardian may terminate residency in a facility upon providing at least 30-days’ notice. Upon mutual agreement between the administrator and the resident or guardian, less than 30 days’ notice may be provided.

(3) If an individual's behavior poses a serious and immediate threat to the health or safety of others in or near the program or setting, the program administrator after providing 24 hours written notice to the individual or representative specifying the causes may immediately terminate the residency. The notice shall specify the individual's right to appeal the emergency termination decision in accordance with OAR 309-035-0183(3).

(4) When other circumstances arise providing grounds for termination of residency under this section, the program administrator shall discuss these grounds with the individual or representative and with the individual's permission other individuals with an interest in the individual's circumstances. If a decision is made to terminate residency, the program administrator shall provide at least 30 days' written notice specifying the causes to the individual or representative. This notice shall also specify the individual's right to appeal the termination decision in accordance with OAR 309-035-0183(3). Upon mutual agreement between the program administrator and the individual's representative, termination may occur with less than 30 days' notice. The program shall make reasonable efforts to establish a reasonable termination date in consideration of both the program's needs and the individual's need to find alternative living arrangements. Grounds for termination include the following:

(a) The individual no longer needs or desires services provided by the program and expresses a desire to move to an alternative setting;

(b) The individual is assessed by a Licensed Medical Professional or other qualified health professional to require services such as continuous nursing care or extended hospitalization that are not available or cannot be reasonably arranged at the facility;

(c) The individual's behavior is continuously and significantly disruptive or poses a threat to the health or safety of self or others, and these behavioral concerns cannot be adequately addressed with services available at the setting or services that can be arranged outside of the program setting;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(d) The individual cannot safely evacuate the setting in accordance with the setting's SR Occupancy Classification after efforts described in OAR 309-035-0145(5)(b) have been taken;

(e) Nonpayment of fees in accordance with program's fee policy; and

(f) The individual continuously and knowingly violates house rules resulting in significant disturbance to others.

(5) Except in the case of emergency terminations or crisis-respite services, a pre-termination meeting shall be held with the individual, the individual's representative, and with the individual's permission, others interested in the individual's circumstances. The purpose of the meeting is to plan any arrangements necessitated by the termination decision. The meeting shall be scheduled to occur at least two weeks prior to the termination date. In the event a pre-termination meeting is not held, the reason shall be documented in the individual service record.

(6) Documentation of discussions and meetings held concerning termination of residency and copies of notices shall be maintained in the individual service record.

(7) At the time of termination of residency the individual shall be given a statement of account, any balance of funds held by the program, and all property held in trust or custody by the program as in the following:

(a) In the event of pending charges, the program may withhold the amount of funds anticipated to cover the pending charges. Within 30 days after residency is terminated or as soon as pending charges are confirmed, the program shall provide the individual with a final financial statement along with any funds due to the individual; and

(b) In the case of an individual's property being left at the setting for longer than seven days after termination of residency, the program shall make a reasonable attempt to contact the individual or representative. The program shall allow the individual or representative at least 15 days to make arrangements concerning the property. If the program determines that the individual has abandoned the property, the program may then dispose of the property. If the property is sold, proceeds of the sale minus the amount of any expenses incurred and any amounts owed the program by or on behalf of the individual shall be forwarded to the individual or representative.

(8) Because crisis-respite services are time-limited, the planned end of services may not be considered a termination of residency and subject to requirements in OAR 309-035-0170(2)(4)(5). Upon admission to crisis-respite services the individual or individual's representative shall be informed of the planned date for discontinuation of services. This date may be extended through mutual agreement between the program administrator and the individual or representative. A program providing crisis-respite services shall
implement policies and procedures that specify reasonable time frames and the grounds for discontinuing crisis-respite services earlier than the date planned.

(9) If an individual moves out of the setting without providing notice or is absent without notice for more than seven consecutive days, the provider may terminate residency in the manner provided in ORS 105.105 to 105.168 after seven consecutive days of the individual's absence. The provider shall make an attempt to contact the individual or representative and others interested in the individual's circumstances to confirm the individual's intent to discontinue residency.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0175 – Individual Rights

(1) Each individual shall be assured the same civil and human rights accorded to other citizens. These rights shall be assured unless expressly limited by a court in the case of an individual who has been adjudicated incompetent and not restored to legal capacity. The rights described in paragraphs (2) and (3) of this section are in addition to and do not limit all other statutory and constitutional rights that are afforded to all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose property, enter into contracts and execute documents.

(2) A provider shall actively work to support and ensure each individual's rights described in this rule are not limited or infringed upon by the provider except where expressly allowed under these rules.

(3) The provider shall ensure that individuals receiving mental health services have the rights set forth in ORS 430.210:

(4) An individual also has a right to the following:

(a) Adequate food, shelter, and clothing;

(b) A reasonable accommodation if, due to their disability, the housing and services are not sufficiently accessible;

(c) Confidential communication including receiving and opening personal mail, private visits with family members and other guests, and access to a telephone with privacy for making and receiving telephone calls;

(d) Express sexuality in a socially appropriate and consensual manner;

(e) Access to community resources including recreation, religious services, agency services, employment, and day programs unless such access is legally restricted;

(f) Be free from seclusion and restraint except as outlined in OAR 309-035-0205.

(g) To review the program's policies and procedures; and

(h) Not participate in research without informed voluntary written consent.

(5) An individual also has the following HCBS rights:

(a) Live under a legally enforceable residency agreement in compliance with protections substantially equivalent to landlord-tenant laws as described in this rule;

(b) Have visitors of the individual's choosing at any time and the freedom to visit with guests within the common areas of the setting and the individual's unit;
(c) The freedom and support to control the individual’s own schedule and activities including but not limited to accessing the community without restriction;

(d) Have a lockable door in the individual’s unit that may be locked by the individual, and only appropriate program staff have a key to access the unit;

(e) A choice of roommates when sharing a unit;

(f) Furnish and decorate the individual’s unit according to the Residency Agreement;

(g) The freedom and support to have access to food at any time;

(h) Privacy in the individual's unit; and

(i) Section (5) of this rule are effective July 1, 2016, and OAR 309-035-0115(17).

(6) An SRTF is not required to maintain the qualities or obligations identified in section (5) (b), (c), (d), (e) and (h). The provider is not required to seek an individually-based limitation to comply with these rules.

(7) A provider is not required to comply with section (5) (a) of this rule when providing an individual with crisis-respite services. The provider is not required to seek an individually-based limitation for such an individual to comply with these rules.

(8) For the purpose of this section, these terms have the following meanings:

(a) “Fresh air” means the inflow of air from outside the facility where the individual is receiving services. “Fresh air” may be accessed through an open window or similar method as well as through access to the outdoors;

(b) “Outdoors” means an area with fresh air that is not completely enclosed overhead. “Outdoors" may include a courtyard or similar area;

(c) If an individual requests access to fresh air and the outdoors or the individual's treating health care provider determines that fresh air or the outdoors would be beneficial to the individual, the program in which the individual is receiving services shall provide daily access to fresh air and the outdoors unless this access would create a significant risk of harm to the individual or others;

(d) The determination whether a significant risk of harm to the individual or others exists shall be made by the individual's treating health care provider. The treating health care provider may find that a significant risk of harm to the individual or others exists if:

(A) The individual's circumstances and condition indicate an unreasonable risk of harm to the individual or others that cannot be reasonably accommodated within
existing programming should the individual be allowed access to fresh air and the outdoors; or

(B) The program’s existing physical setting or existing staffing prevent the provision of access to fresh air and the outdoors in a manner that maintains the safety of the individual or others.

(e) If a provider determines that its existing physical setting prevents the provision of access to fresh air and the outdoors in a safe manner, the provider shall make a good faith effort at the time of any significant renovation to the physical setting that involves renovation of the unit or relocation of where individuals are treated to include changes to the physical setting or location that allows access to fresh air and the outdoors, so long as such changes do not add an unreasonable amount to the cost of the renovation.

(9) The program shall have and implement written policies and procedures that protect individuals’ rights and encourage and assist individuals to understand and exercise their rights. The program shall post a listing of individual rights under these rules in a place readily accessible to all individuals and visitors.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0183 – Individual Grievances and Appeals

(1) The provider shall develop and implement written policies and procedures concerning the grievance and appeal process. A copy of the grievance and appeal process shall be posted in a place readily accessible to individuals. A copy of the grievance and appeal process shall be provided to each individual at the time of admission to the program.

(2) A provider's process for grievances shall, at a minimum, include the following:

(a) Individuals shall be encouraged to informally resolve complaints through discussion with program staff; and

(b) If the individual is not satisfied with the informal process or does not wish to use it, the individual may proceed as follows:

(A) The individual may submit a complaint in writing to the program administrator. The individual may receive assistance in submitting the complaint from any person whom the individual chooses. If requested by the individual, program staff shall be available to assist the individual;

(B) The written complaint shall go directly to the program administrator without being read by other program staff unless the individual requests or permits other program staff to read the complaint;

(C) The complaint shall include the reasons for the grievance and the proposed resolutions. No complaint shall be disregarded because it is incomplete;

(D) Within five days of receipt of the complaint, the program administrator shall meet with the individual to discuss the complaint. The individual may have an advocate or other person of their choosing present for this discussion;

(E) Within five days of meeting with the individual, the program administrator shall provide a written decision to the individual. As part of the written decision, the program administrator shall provide information about the appeal process; and

(F) In circumstances where the matter of the complaint is likely to cause irreparable harm to a substantial right of the individual before the grievance procedures outlined in OAR 309-035-0183 are completed, the individual may request an expedited review. The program administrator shall review and respond in writing to the grievance within 48 hours. The written decision shall include information about the appeal process.
(3) An individual, an individual’s legal representative, the Division or other Division-approved party, and an applicant shall have the right to appeal admission, termination, and grievance decisions as follows:

(a) If the individual is not satisfied with the decision, the individual may file an appeal in writing within ten days of the date of the program administrator's decision to the complaint or notification of admission denial or termination; and

(b) If program services are delivered by a person or entity other than the Division, the appeal shall be submitted to the CMHP director or designee in the county where the program is located:

(A) The individual may receive assistance in submitting the appeal. If requested by the individual, program staff shall be available to assist the individual;

(B) The CMHP director or designee shall provide a written decision within ten days of receiving the appeal; and

(C) If the individual is not satisfied with the CMHP director's decision, the individual may file a second appeal in writing within ten days of the date of the CMHP director's written decision to the deputy director of the Division or designee. The decision of the deputy director of the Division shall be final.

(c) If program services are delivered by the Division, the appeal shall be submitted to the deputy assistant director or designee:

(A) The individual may receive assistance in submitting the appeal. If requested by the individual, program staff shall be available to assist the individual;

(B) The deputy director or designee shall review and approve or deny the appeal;

(C) The Division shall notify the individual of the decision in writing within ten days after receipt of the appeal; and

(D) If the individual is not satisfied with the deputy assistant director's or designee's decision, the individual may submit a second appeal in writing within ten days of the date of the written decision to the assistant director of the Division. The decision of the assistant director of the Division shall be final.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0185 – Individual Assessment and Residential Service Plan

(1) The program shall complete an assessment for each individual within 14 days after admission to the program unless admitted for crisis-respite services:

(a) The assessment shall be based upon an interview with the individual to identify strengths, preferences, and service needs; observation of the individual's capabilities within the residential setting; a review of information in the individual service record; and contact with representatives of other involved agencies, family members, and others, as appropriate. All contacts with others shall be made with proper authorization for the release of information;

(b) Assessment findings shall be summarized in writing and included in the individual service record. Assessment findings shall include, but not be limited to, diagnostic and demographic data; identification of the individual's medical, physical, emotional, behavioral, and social strengths, preferences, and needs related to independent living and community functioning; and recommendations for residential service plan goals; and

(c) The provider shall provide assessment findings to the person-centered service plan coordinator to assist in the development of the person-centered service plan.

(2) Within 30 days of the date of admission, the person-centered service plan coordinator under contract with the Division and assigned to the individual or program site shall schedule and conduct an assessment of the individual for the purpose of developing a person-centered service plan. The provider shall support the person-centered service plan coordinator efforts to develop the plan and provide information as necessary.

(3) The provider shall develop and implement an individualized plan for the purpose of implementing and documenting the provision of services and supports as well as any individually-based limitations contained within the person-centered service plan. Identification of the goals to be accomplished through the services provided shall be prepared for each individual within 30 days after admission, unless admitted to the facility for crisis-respite services:

(a) If the person-centered service plan is unavailable for use in developing the residential service plan, providers shall still develop an initial residential service plan based on the information available within 30 days of admission. Upon the person-centered service plan becoming available, the providers shall amend the residential service plan as necessary to comply with this rule;

(b) The residential service plan shall be based upon the findings of the individual assessment, be developed with participation of the individual and representative, and be developed through collaboration with the individual's primary mental health treatment provider. With consent of the individual or representative, family members,
representatives from involved agencies, and others with an interest in the individual's circumstances shall be invited to participate. All contacts with others shall be made with proper, prior authorization from the individual;

(c) The residential service plan shall include the following:

(A) The necessary steps and actions of the provider for the implementation and provision of services consistent and as required by the person-centered service plan;

(B) Identify the individual's service needs, desired outcomes, and service strategies to address the following: physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability, and community navigation, all areas identified in the person-centered service plan and any other areas.

(d) The residential service plan shall be signed by the individual, the individual's representative, the program administrator or other designated program staff person, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan; and

(e) The provider shall attach the residential service plan to the person-centered service plan.

(4) For an individual admitted to a program for 30 days or less for the purpose of receiving crisis-respite services, an assessment and residential service plan shall be developed within 48 hours of admission that identifies service needs, desired outcomes, and the service strategies to be implemented to resolve the crisis or address other needs of the individual that resulted in the short-term service arrangement.

(5) The provider shall maintain progress notes within each individual's service record and document significant information relating to all aspects of the individual's functioning and progress toward desired outcomes identified in the residential service plan. The provider shall enter a progress note in the individual's record at least once each month.

(6) The provider shall review and update the assessment and residential service plan at least annually. On an ongoing basis, the provider shall update the residential service plan as necessary based upon changing circumstances or upon the individual's request for reconsideration.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0190 - Person-Centered Service Plan

This rule becomes effective July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(1) When developed as described in sections (2) and (3), a person-centered service plan shall be developed through a person-centered service planning process. The person-centered service planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and representative;

(g) Includes strategies for resolving disagreement within the process including clear conflict of interest guidelines for all planning participants such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives and from whom and records the alternative HCB settings considered by the individual;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(i) Provides a method for the individual or representative to request updates to the person-centered service plan;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(L) Includes any services that are self-directed, if applicable;

(m) Includes but is not limited to individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;

(n) Includes risk factors and plans to minimize any identified risk factors; and

(o) Results in a person-centered service plan documented by the person-centered services plan coordinator, signed by the individual or the individual's representative, participants in the person-centered service planning process, and all persons responsible for the implementation of the person-centered service plan. The person-centered service plan is distributed to the individual and the individual's representative and other people involved in the person-centered service plan.

(2) Person-Centered Service Plans:

(a) To avoid conflict of interest, the person-centered service plan may not be developed by the provider for individuals receiving Medicaid. The Division may grant an exception when it has determined that the provider is the only willing and qualified entity to provide case management and develop the person-centered service plan;

(b) When the provider is responsible for developing the person-centered service plan, the provider shall ensure that the plan includes the following:

(A) HCBS and setting options based on the individual's needs and preferences, and for residential settings, the individual's available resources for room and board;

(B) The HCBS and settings are chosen by the individual and are integrated in and support full access to the greater community;

(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual...
wishes to pursue employment, a non-disability specific setting option shall be presented and documented in the person-centered service plan;

(D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;

(E) The strengths and preferences of the individual;

(F) The service and support needs of the individual;

(G) The goals and desired outcomes of the individual;

(H) The providers of services and supports including unpaid supports provided voluntarily;

(I) Risk factors and measures in place to minimize risk;

(J) Individualized backup plans and strategies, when needed;

(K) People who are important in supporting the individual;

(L) The person responsible for monitoring the person-centered service plan;

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and the individual's representative;

(N) The written informed consent of the individual or the individual's representative;

(O) Signatures of the individual or the individual's representative, participants in the person-centered service planning process, and all persons and entities responsible for the implementation of the person-centered service plan;

(P) Self-directed supports; and

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(c) When the provider is not responsible for developing the person-centered service plan but provides or shall provide services to the individual, the provider shall provide relevant information and provide necessary support for the person-centered service plan coordinator or other individuals developing the plan to fulfill the characteristics described in subsection (b) of this section;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(d) The individual or representative decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers shall have access to the portion of the person-centered service plan that the provider is responsible for implementing;

(e) The person-centered service plan shall be distributed to the individual, individual's representatives and others involved in the person-centered service plan;

(f) The person-centered service plan shall justify and document any individually-based limitation to be applied as outlined in OAR 309-035-0195 when the qualities under 309-035-0195(1) create a threat to the health and safety of the individual or others; and

(g) The person-centered service plan shall be reviewed and revised:

(A) At the request of the individual or representative;

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

(3) Because it may not be possible to assemble complete records and develop a person-centered service plan during the crisis-respite individual's short stay, the provider is not required to develop a person-centered service plan under these rules, but shall, at a minimum, develop an assessment and residential service plan as deemed appropriate to identify service needs, desired outcomes, and service strategies to resolve the crisis or address the individual's other needs that caused the need for crisis-respite services. In addition, the provider shall provide relevant information and provide necessary support for the person-centered service plan coordinator as described in this rule.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0195 – Individually-Based Limitations

This rule becomes effective on July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(1) When the program qualities described below create a threat to the health and safety of an individual or others, a provider may seek to apply an individually-based limitation through the process described in this rule. The program qualities subject to a potential individually-based limitation include the individual’s right to:

(a) The freedom and support to access food at any time;
(b) Have visitors of the individual’s choosing at any time;
(c) Have a unit entrance door that is lockable by the individual with only appropriate staff having access;
(d) Choose a roommate when sharing a unit;
(e) Furnish and decorate the individual’s unit as agreed to in the Residency Agreement;
(f) The freedom and support to control the individual’s schedule and activities; and
(g) Privacy in the individual’s unit.

(2) A provider may apply an individually-based limitation only if:

(a) The program quality threatens the health or safety of the individual or others;
(b) The individually-based limitation is supported by a specific assessed need;
(c) The individual or representative consents;
(d) The limitation is directly proportionate to the specific assessed need; and
(e) The individually-based limitation will not cause harm to the individual.

(3) The provider shall demonstrate and document that the individually-based limitation meets the requirements of section (2) of this rule and the measures described below in the person-centered service plan. The provider shall submit and sign a program-created form that includes the following:

(a) The specific and individualized assessed need justifying the individually-based limitation;
(b) The positive interventions and supports used prior to consideration of any individually-based limitation;

(c) Documentation that the provider or other entities have tried other less intrusive methods, but those methods did not work;

(d) A clear description of the limitation that is directly proportionate to the specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation;

(f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary;

(g) The informed consent of the individual or representative including any discrepancy between the wishes of the individual and the consent of the legal representative; and

(h) An assurance that the interventions and support do not cause harm to the individual.

(4) The provider shall:

(a) Maintain a copy of the completed and signed form documenting the consent to the individually-based limitation described in section (4) of this rule. The form shall be signed by the individual or representative;

(b) Regularly collect and review the ongoing effectiveness of and the continued need for the individually-based limitation; and

(c) Request review of the individually-based limitation by the person-centered service plan coordinator when a new individually-based limitation is indicated or change or removal of an individually-based limitation is needed but no less than annually.

(5) The qualities described in section (2)(b)-(g) do not apply to an individual receiving services at a SRTF, including but not limited to, an individual receiving crisis-respite services in a secure residential setting. A provider does not need to seek an individually-based limitation to comply with these rules.

(6) The qualities described in sections (2)(d) and (g) do not apply to an individual receiving crisis-respite services, and a provider does not need to seek an individually-based limitation to comply with these rules.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

309-035-0200 – Individual Services and Activities

(1) The provider shall make services and activities available at the program including care and treatment consistent with ORS 443.400 and those services individually specified for the individual in the residential service plan developed as outlined in OAR 309-035-0185. The provider shall encourage individuals to care for their own needs to the extent possible. The provider shall ensure all services and activities be provided in a manner that respects individuals' rights, promotes recovery, and protects personal dignity.

(2) Services and activities to be available shall include but not limited to:

   (a) Provision of adequate shelter;

   (b) Provision of at least three meals per day, seven days per week, provided pursuant to OAR 309-035-0210;

   (c) Assistance and support, as necessary, to enable individuals to meet personal hygiene and clothing needs;

   (d) Laundry services that may include access to washers and dryers so individuals can do their own personal laundry;

   (e) Housekeeping essential to the health and comfort of individuals;

   (f) Activities and opportunities for socialization and recreation both within the setting and in the larger community;

   (g) Health-related services provided in accordance with OAR 309-035-0215;

   (h) Assistance with community navigation and transportation arrangements;

   (i) Assistance with money management when requested by an individual to include accurate documentation of all funds deposited and withdrawn when funds are held in trust for the individual;

   (j) Assistance with acquiring skills to live as independently as possible;

   (k) Assistance with accessing other additional services, as needed; and

   (L) Any additional services required under contract to the Division.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0205 – Use of Seclusion or Restraints

(1) The use of seclusion or restraints is prohibited except in SRTFs with the Division's approval.

(2) A SRTF provider or applicant may submit an application to the Division for approval to use seclusion or restraints pursuant to OAR 309-033-0700 through 309-033-0740. Approval by the Division shall be based upon the following:

   (a) A determination that the individuals served or proposed to be served have a history of behavioral concerns involving threats to the safety and well-being of themselves or others;

   (b) The applicant demonstrates that the availability of seclusion or restraints is necessary to safely accommodate individuals who would otherwise be unable to experience a community residential program; and

   (c) The applicant demonstrates an ability to comply with OAR 309-033-0700 through 0740 and 309-033-0500 through 0560. These rules include special requirements for staffing, training, reporting, policies and procedures, and the setting’s physical environment.

(3) Seclusion or restraints may only be used in an approved SRTF when an emergency occurs in accordance with OAR 309-033-0700 through 0740 and 309-033-0500 through 0560. In such emergency situations, seclusion and restraint shall be used as a last resort behavior management option after less restrictive behavior management interventions have failed, or in the case of an unanticipated behavioral outburst, to ensure safety within the program. An approved SRTF shall implement policies and procedures approved by the Division outlining the circumstances under which seclusion or restraints may be used and the preventive measures to be taken before such use. All incidents involving the use of seclusion or restraints shall be reported to the Division. To use seclusion or restraints with an individual who is not in state custody under civil commitment proceedings, the individual shall be placed on a hold.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0210 – Food Services

(1) The provider shall plan and serve meals in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid.

(2) The provider shall obtain an order from an LMP for each individual who, for health reasons, is on a modified or special diet. The provider shall plan such diets in consultation with the individual.

(3) The provider shall support the individual’s right to access food at any time. The provider may only apply an individually-based limitation when the circumstances meet and the provider complies with the standards and requirements of OAR 309-035-0195. This section is effective July 1, 2016, and enforceable as described in OAR 309-035-0115(17).

(4) If an individual misses a meal at a scheduled time, the provider shall make an alternative meal available.

(5) The provider shall prepare menus at least one week in advance and shall provide a sufficient variety of foods served in adequate amounts for each individual at each meal and adjusted for seasonal changes. The provider shall file and maintain records of menus in the facility for at least 30 days. The provider shall consider individual preferences and requests in menu planning. The provider shall reasonably accommodate religious and vegetarian preferences.

(6) The provider shall maintain adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days at the setting. An emergency supply of potable water shall be available such that the provider maintains seven gallons of water per individual.

(7) The provider shall store, prepare, and serve food in accordance with Health Services Food Sanitation Rules.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0215 – Health Services

(1) The program administrator shall ensure that all individuals are offered medical attention when needed. The provider shall arrange for health services with the informed consent of the individual or the individual's representative. The program shall arrange for physicians to be available in the event the individual's regular physician is unavailable. The provider shall identify a hospital emergency room that may be used in case of emergency.

(2) The provider shall ensure that each individual admitted to the program shall be screened by an LMP or other qualified health care professional to identify health problems and to screen for communicable disease. The provider shall maintain documentation of the initial health screening in the individual service record:

(a) The health screening shall include a brief history of health conditions, current physical condition, and a written record of current or recommended medications, treatments, dietary specifications, and aids to physical functioning;

(b) For regular admissions, the health screening shall be obtained prior to the individual's admission and include the results of testing for tuberculosis;

(c) For emergency admissions including crisis-respite admissions, the health screening shall be obtained as follows:

(A) For individuals experiencing psychiatric or medical distress, a health screening shall be completed by an LMP prior to the individual's admission or within 24 hours of the emergency placement. The health screening shall confirm that the individual does not have health conditions requiring continuous nursing care, a hospital level of care, or immediate medical assistance. For each crisis-respite individual who continues in the program for more than seven consecutive days, a complete health examination shall be arranged if any symptoms of a health concern exist;

(B) For other individuals who are admitted on an urgent basis due to a lack of alternative supportive housing, the health screening shall be obtained within 72 hours after the individual's admission;

(C) The health screening criteria may be waived for individuals admitted for crisis-respite services who are under the active care of an LMP if it is the opinion of the attending health care professional that the crisis-respite placement presents no health risk to the individual or other individuals in the program. Such a waiver shall be provided in writing and be signed and dated by the attending health care professional within 24 hours of the individual's admission.

(3) Except for crisis-respite individuals, the program shall ensure that each individual has a primary physician who is responsible for monitoring their health care. Regular
health examinations shall be done in accordance with the recommendations of this primary health care professional but not less than once every three years. Newly admitted individuals shall have a health examination completed within one year prior to admission or within three months after admission. Documentation of findings from each examination shall be placed in the individual's service record.

(4) A written order signed by a physician is required for any medical treatment, special diet for health reasons, aid to physical functioning, or limitation of activity.

(5) A written order signed by a physician is required for all medications administered or supervised by program staff. This written order is required before any medication is provided to an individual. Medications may not be used for the convenience of staff or as a substitute for programming. Medications may not be withheld or used as reinforcement or punishment or in quantities that are excessive in relation to the amount needed to attain the client's best possible functioning:

(a) Medications shall be self-administered by the individual if the individual demonstrates the ability to self-administer medications in a safe and reliable manner. In the case of self-administration, both the written orders of the prescriber and the residential service plan shall document that medications shall be self-administered. The self-administration of medications may be supervised by program staff who may prompt the individual to administer the medication and observe the fact of administration and dosage taken. When supervision occurs, program staff shall enter information in the individual's record consistent with section (5) (h) below;

(b) Program staff who assist with administration of medication shall be trained by a Licensed Medical Professional on the use and effects of commonly used medications;

(c) Medications prescribed for one individual may not be administered to or self-administered by another individual;

(d) The program may not maintain stock supplies of prescription medications. The facility may maintain a stock supply of non-prescription medications;

(e) The program shall develop and implement a policy and procedure that ensures all orders for prescription drugs are reviewed by an LMP, as specified by a physician, at least every six months. When this review identifies a contra-indication or other concern, the individual's primary physician or LMP shall be immediately notified. Each individual receiving psychotropic medications shall be evaluated at least every three months by the LMP prescribing the medication, who shall note for the individual's record the results of the evaluation and any changes in the type and dosage of medication, the condition for which it is prescribed, when and how the medication is to be administered, common side effects, including any signs of tardive dyskinesia, contraindications or possible allergic reactions, and what to do in case of a missed dose or other dosing error;
(f) The provider shall dispose of all unused, discontinued, outdated, or recalled medications and any medication containers with worn, illegible or missing labels. The provider shall dispose of medications in a safe method consistent with any applicable federal statutes and designed to prevent diversion of these substances to persons for whom they were not prescribed. The provider shall maintain a written record of all disposals specifying the date of disposal, a description of the medication, its dosage potency, amount disposed, the name of the individual for whom the medication was prescribed, the reason for disposal, the method of disposal, and the signature of the program staff disposing of the medication. For any medication classified as a controlled substance in schedules 1 through 5 of the Federal Controlled Substance Act, the disposal shall be witnessed by a second staff person who documents their observation by signing the disposal record;

(g) The provider shall properly and securely store all medications in a locked space for medications only in accordance with the instructions provided by the prescriber or pharmacy. Medications for all individuals shall be labeled. Medications requiring refrigeration shall be stored in an enclosed, locked container within the refrigerator. The provider shall ensure that individuals have access to a locked, secure storage space for their self-administered medications. The program shall note in its written policy and procedures which persons have access to this locked storage and under what conditions;

(h) For all individuals taking prescribed medication, the provider shall record in the medical record each type, date, time, and dose of medication provided. All effects, adverse reactions, and medication errors shall be documented in the individual’s service record. All errors, adverse reactions, or refusals of medication shall be reported to the prescribing LMP within 48 hours;

(i) P.R.N. medications and treatments shall only be administered in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

(6) Nursing tasks may be delegated by a registered nurse to direct care staff within the limitations of their classification and only in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.99
309-035-0220 – Civil Penalties

(1) For purposes of imposing civil penalties, programs licensed under ORS 443.400 to 443.455 are considered to be long-term care facilities subject to ORS 441.705 to 441.745.

(2) Violations of any requirement within any part of the following sections of the rule may result in a civil penalty:

(a) 309-035-0115;
(b) 309-035-0120;
(c) 309-035-0125;
(d) 309-035-0130;
(e) 309-035-0135;
(f) 309-035-0140;
(g) 309-035-0145;
(h) 309-035-0150;
(i) 309-035-0155;
(j) 309-035-0163;
(k) 309-035-0170;
(l) 309-035-0175;
(m) 309-035-0183;
(n) 309-035-0185;
(o) 309-035-0200;
(p) 309-035-0205;
(q) 309-035-0210; and
(r) 309-035-0215.

(3) Civil penalties shall be assessed in accordance with the following guidelines:
(a) Civil penalties not to exceed $250 per violation to a maximum of $1,000 may be assessed for general violations of these rules. Such penalties shall be assessed after the procedures outlined in OAR 309-035-0110(8) have been implemented;

(b) A mandatory penalty up to $500 shall be assessed for falsifying individual service records or program records or causing another to do so;

(c) A mandatory penalty of $250 per occurrence shall be imposed for failure to have direct care staff on duty 24 hours per day;

(d) Civil penalties up to $1,000 per occurrence may be assessed for substantiated abuse;

(e) In addition to any other liability or penalty provided by the law, the Division may impose a penalty for any of the following:

   (A) Operating the program without a license;
   (B) Operating with more individuals than the licensed capacity; and
   (C) Retaliating or discriminating against an individual, family member, employee, or other person for making a complaint against the program.

(f) In imposing a civil penalty, the following factors shall be taken into consideration:

   (A) The past history of the provider incurring the penalty in taking all feasible steps or procedures to correct the violation;
   (B) Any prior violations of statutes, rules, or orders pertaining to the program;
   (C) The economic and financial conditions of the provider incurring the penalty;
   (D) The immediacy and extent to which the violation threatens or threatened the health, safety, or welfare of one or more residents; and
   (E) The degree of harm caused to individuals.

(4) Any civil penalty imposed under this section shall become due and payable ten days after notice is received unless a request for a hearing is filed. The notice shall be delivered in person or sent by registered or certified mail and shall include a reference to the particular section of the statute or rule involved, a brief summary of the violation, the amount of the penalty or penalties imposed, and a statement of the right to request a hearing.

(5) The person to whom the notice is addressed shall have 20 days from the date of receipt of the notice to request a hearing. This request shall be in writing and submitted
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

to the Division. If the written request for a hearing is not received, the Division shall issue a final order.

(6) All hearings shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

(7) Unless the penalty is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk that becomes a lien upon the title to any interest in real property owned by the person. The Division may also take action to revoke the license upon failure to comply with a final order.

(8) Civil penalties are subject to judicial review under ORS 183.480.

(9) All penalties recovered under ORS 443.790 to 443.815 shall be paid into the State Treasury and credited to the General Fund.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
309-035-0225 – Criminal Penalties

(1) Violation of any provision of ORS 443.400 through 443.455 is a Class B misdemeanor.

(2) In addition, the Division may commence an action to enjoin operation of a program:

   (a) When a program is operated without a valid license; or

   (b) When a program continues to operate after notice of revocation has been received and a reasonable time has been allowed for placement of individuals in other programs.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders


309-035-0107 – Required Home-like Qualities

This rule becomes effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) A program, except for a SRTF, must have all of the following qualities:

(a) The setting is integrated in and supports the individual’s same degree of access to the greater community as people not receiving HCBS, including opportunities for an individual to:

(A) Seek employment and work in competitive integrated employment settings;

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The program is selected by an individual or, as applicable, the legal or designated representative of the individual, from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options must be:

(A) Identified and documented in the person-centered service plan for the individual;

(B) Based on the needs and preferences of the individual; and

(C) Based on the available resources of the individual for room and board.

(c) The program ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint.

(d) The program optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to, daily activities, physical environment, and with whom to interact.

(e) The program facilitates individual choice regarding services and supports, and individual choice as to who provides the services and supports.
(2) The individual, or the individual’s representative, must have the opportunity to select from among available setting options, including non-disability specific settings and an option for a private unit in a setting. The setting options must be:

(a) Identified and documented in the person-centered service plan for the individual;

(b) Based on the needs and preferences of the individual; and

(c) Based on the available resources of the individual for room and board.

(3) The provider must take reasonable steps to ensure that the program maintains the qualities identified in subsections (2) and (3) of these rules. Failure to take reasonable steps may include, but is not limited to:

(a) Failure to maintain a copy of the person centered plan at the setting;

(b) Failure to cooperate or provide necessary information to the person centered planning coordinator; or

(c) Failure to attend or schedule a person centered planning meeting where applicable.

(4) Additional Requirements. A program must maintain the following:

(a) The setting must be physically accessible to an individual.

(b) The provider must provide the individual a unit of specific physical place that the individual may own, rent, or occupy under a legally enforceable Residency Agreement.

(c) The provider must provide and include in the Residency Agreement that the individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord-tenant law of Oregon, and other applicable laws or rules of the county, city, or other designated entity. For a setting in which landlord-tenant laws do not apply, the Residency Agreement must provide substantially equivalent protections for the individual and address eviction and appeal processes. The eviction and appeal processes must be substantially equivalent to the processes provided under landlord-tenant laws.

(d) The provider must provide each individual with privacy in his or her own unit.

(e) The provider must maintain units with entrance doors lockable by the individual. The program must ensure that only the individual, the individual’s roommate (where applicable), and only appropriate staff, as described in the individual’s person-centered plan, have keys to access the unit.

(f) The provider must ensure that individuals sharing units have a choice of roommates.
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

(g) The provider must provide and include in the Residency Agreement that individuals have the freedom to decorate and furnish his or her own unit.

(h) The provider must allow each individual to have visitors of his or her choosing at any time.

(i) The provider must ensure each individual has the freedom and support to control his or her own schedule and activities.

(j) The provider must ensure each individual has the freedom and support to have access to food at any time.

(5) An SRTF is not required to maintain the qualities or meet the obligations identified in subsections (d), (e), (f), (h), or (i) of section 4 of this rule. The provider is not required to seek an individually based limitation to comply with these rules.

(6) A provider is not required to maintain the qualities or meet the obligations identified in subsections (b) or (c) of section 4 of this rule when providing crisis respite services to an individual. The provider is not required to seek an individually based limitation for such an individual to comply with these rules.

(7) When a provider is unable to meet a quality described under sections (4)(e) to (4)(j) of this rule due to threats to the health and safety of the individual or others, the provider may seek an individually-based limitation with the consent of the individual or, as applicable, the individual’s legal representative, through the process set out in OAR 411-004-0040 and incorporated by 309-035-0161. The provider may not apply an individually-based limitation until the limitation is approved and documented as required by OAR 309-035-0000.

Stat. Auth.: ORS 413.042, 443.450

Stats. Implemented: ORS 413.032, 443.400 - 443.465 & 443.991

309-035-0113 – Contracts and Rates

(1) Contracts. A provider receiving service payments must enter into a contract with the local CMHP, statewide coordinated care organizations, the Division or other Division-approved party. The contract does not guarantee that any number of individuals eligible for Division funded services will be referred to or maintained in the program.

(2) Rates. The provider must specify in a fee policy and procedure rates for all services and the procedures for collecting payments from individuals and/or payees. The fee policy and procedures must describe the schedule of rates, conditions under which rates may be changed, acceptable methods of payment, and the policy on refunds at the time of termination of residency.

81 Repealed 6/8/2017
(a) For individuals whose services are funded by the Division, reimbursement for services will be made according to the rate schedule outlined in the contract. Room and board payments for individuals receiving Social Security benefits or public assistance will be in accordance with rates determined by the Division.

(b) For private paying individuals, the program will enter into a signed agreement with the individual, and/or if applicable individual’s designated representative or legal representative. This agreement must include but not be limited to a description of the services to be provided; the schedule of rates; conditions under which the rates may be changed; and policy on refunds at the time of termination of residency.

(c) Before increasing rates or modifying payment procedures, the program will provide 30 days’ advance notice of the change to all individuals, individuals, representatives, payees, guardians or conservators, as applicable.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0117 – Records

(1) General Requirements. Records must be maintained to document the legal operation of the program, personnel practices and individual services. All records must be properly obtained, accurately prepared, safely stored and readily available within the facility. All entries in records required by these rules will be in ink, indelible pencil, or approved electronic equivalent prepared at the time, or immediately following, the occurrence of the event being recorded; be legible; and be dated and signed by the person making the entry. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

(2) Program Records. Records documenting the legal operation of the program will include, but not be limited to:

(a) Written approval for occupancy of the setting by the county or city having jurisdiction, any building inspection reports, zoning verifications, fire inspection reports or other documentation pertaining to the safe and sanitary operation of the program issued during the development or operation of the program;

(b) Application for license, related correspondence and site inspection reports;

(c) Program operating budget and related financial records;

(d) Payroll records, program staff schedules and time sheets;

(e) Materials Safety and Data Sheets;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(f) Fire drill documentation;

(g) Fire alarm and sprinkler system maintenance and testing records;

(h) Incident reports; and

(i) Policy and procedure manual.

(3) Personnel Records. Records documenting personnel actions will include:

(a) Job descriptions for all positions; and

(b) Separate program staff records including, but not limited to, written documentation of program staff identifying information and qualifications, criminal record clearance, T.B. test results, Hepatitis B status, performance appraisals, and documentation of pre-service orientation and other training.

(4) Individual Service Record. An individual service record must be maintained for each individual and include:

(a) An easily accessible summary sheet which includes, but is not limited to the individual's name, previous address, date of admission to the program, sex, date of birth, marital status, legal status, religious preference, Social Security number, health provider information, evacuation capability, diagnosis(es), major health concerns, medication allergies, information indicating whether advance mental health and health directives and/or burial plan have been executed, and the name of person(s) to contact in case of emergency;

(b) The names, addresses and telephone numbers of the individual's representative, legal guardian or conservator, parent(s), next of kin, or other significant person(s); physician(s) or other medical practitioner(s); dentist; CMHP case manager or therapist; day program, school or employer; and any governmental or other agency representative(s) providing services to the individual;

(c) A mental health assessment and background information identifying the individual's residential service needs;

(d) Advance mental health and health directives, burial plans or location of these (as available);

(e) A Residential Service Plan and copy(ies) of plan(s) from other service provider(s);

(f) Effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17), a Person-Centered Service Plan;
(g) Documentation of the individual's progress and any other significant information including, but not limited to, progress notes, progress summaries, any use of seclusion or restraints, and correspondence concerning the individual; and

(h) Health-related information and up-to-date information on medications in accordance with OAR 309-035-0175.

(5) Referral and Response Documentation: The program must retain all referral packets, screening materials, and screening responses/placement determinations for a minimum of three years from the date of the referral.

(6) Records for Crisis-respite Individuals. For an individual receiving crisis-respite services, the provider must obtain and maintain records as outlined in OAR 309-035-0117(4). Because it may not be possible to assemble complete records during the crisis-respite individual's short stay, the program will, at a minimum, maintain records in accordance with requirements outlined in OAR 309-035-0145, 309-035-0150, 309-035-0159, and 309-035-0175.

(7) Storage. All individual service records must be stored in a weatherproof and secure location. Access to records must be limited to the Program Administrator and direct care staff unless otherwise allowed in these rules.

(8) Confidentiality. All individual service records must be kept confidential as required by law. A signed release of information must be obtained for any disclosure from an individual service records in accordance with all applicable laws and rules.

(9) Individual Access to Own Record. An individual, or the individual’s representative (as applicable), must be allowed to review and obtain a copy of his/her individual service record as required by ORS 179.505(9).

(10) Transfer of Records. Pertinent information from records of an individual who is being transferred to another facility will be transferred with the individual. A signed release of information must first be obtained in accordance with applicable laws and rules.

(11) Maintenance of Records. The program must keep all records, except those transferred with an individual, for a period of three years.

(12) Administrative Changes. If a program changes ownership or Program Administrator, all individual and personnel records will remain at the setting. Prior to the dissolution of any program, the Program Administrator must notify the Division in writing as to the location and storage of individual service records or those records will be transferred with the individuals.

(13) Individual Contributions to Record. If an individual or an individual’s representative (as applicable) disagrees with the content of the individual service record, or otherwise
desires to provide documentation for the record, the individual or representative (as applicable) may provide material in writing that then will become part of the individual service record.

(14) Record Preparation. The program must establish an individual service record upon the individual's admission. Prior to admission, within five days after an emergency admission, or within 24 hours of a crisis-respite admission, the program must determine with whom communication needs to occur and make good faith efforts to obtain the needed authorizations for release of information. The record established upon admission must include the materials reviewed in screening the individual, the summary sheet and any other available information. The program must make every effort to complete the individual service record consistent with OAR 309-035-0117(4) in a timely manner. The assessment and residential service plan must be completed in accordance with OAR 309-035-0159. Records on prescribed medications and health needs must be completed as specified in OAR 309-035-0175.

309-035-0146 – Residency Agreement

This rule becomes effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) The provider must enter into a written residency agreement with each individual or the individual’s representative, admitted to the program consistent with the following procedures:

(a) The written residency agreement must be signed by the program administrator and the individual, or the individual's representative, prior to or at the time of admission;

(b) The provider must provide a copy of the signed agreement to the individual, or the individual's representative, and the provider must retain the original signed agreement within the individual’s service record;

(c) The provider must give written notice to an individual, or the individual's representative (as applicable), at least 30 calendar days prior to any general rate increases, additions, or other modifications of the rates; and

(d) Updates to Residency Agreements: The provider must update residency agreements at least annually and also when social security rates change or an individual’s finances change such that the amount paid for room and board changes.

(2) The residency agreement must include, but is not be limited to, the following terms:
(a) Room and Board. The residency agreement must include the room and board agreement including the room and board rate describing the estimated public and private pay portions of the rate.

(A) Where an individual’s social security or other funding is not active at the time of admission to the program, the program must prepare the room and board agreement based upon the estimated benefit to be received by the individual; and

(B) If, when funding is later activated, actual income of the individual varies from the estimated income noted on the residency agreement, the agreement must be updated and resigned by all the applicable parties.

(b) Services and supports to be provided in exchange for payment of the room and board rate;

(c) Conditions under which the program may change the rates;

(d) The provider's refund policy in instances of an individual's hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move from the program;

(e) A statement indicating that the individual is not liable for damages considered normal wear and tear;

(f) The program's policies on voluntary moves and whether written notification of a non-Medicaid individual's intent to not return is required;

(g) The potential reasons for involuntary termination of residency in compliance with this rule and individual's rights regarding the eviction and appeal process as described in OAR 309-035-0150(3);

(h) Any policies the program may have on the presence and use of alcohol, cannabis, and illegal drugs of abuse;

(i) Policy regarding tobacco smoking in compliance with the Tobacco Freedom Policy established by the Division;

(j) Policy addressing pet and service animals. The program may not restrict animals that provide assistance or perform tasks for the benefit of a person with a disability. Such animals are often referred to as services animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals.

(k) Policy regarding the presence and use of legal medical and recreational marijuana at the setting;
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

(1) Schedule of meal times. The provider may not schedule meals with more than a fourteen (14)-hour span between the evening meal and the following morning’s meal (OAR 411-050-0645);

(m) Policy regarding refunds for residents eligible for Medicaid services, including prorating partial months and if the room and board payment is refundable;

(n) Any house rules or social covenants required by the program which may be included in the document or as an addendum;

(o) Statement informing the individual of the freedoms authorized by 42 CFR 441.301(c)(2)(xiii) & 42 CFR 441.530(a)(1)(vi)(F), which must not be limited without the informed, written consent of the individual or the individuals legal representative, and include the right to:

(A) Live under a legally enforceable agreement with protections substantially equivalent to landlord/tenant laws;

(B) The freedom and support to access food at any time;

(C) To have visitors of the individual’s choosing at any time;

(D) Have a lockable door in the individual’s unit, which may be locked by the individual;

(E) Choose a roommate when sharing a unit;

(F) Furnish and decorate the individual’s unit according to the Residency Agreement;

(G) The freedom and support to control the individual’s schedule and activities; and

(H) Privacy in the individual’s unit.

(3) The provider may not propose or enter into a residency agreement that:

(a) Charges or ask for application fees, refundable deposits, or non-refundable deposits;

(b) Includes any illegal or unenforceable provisions or ask or require an individual to waive any of the individual's rights or agree to waive the program’s liability for negligence; or

(C) Conflicts with individual rights or these rules.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

309-035-0157 – Individual Grievances and Appeals

87 Repealed 6/8/2017
(1) Procedures. The provider must develop and implement a written policy and procedures concerning the individual grievance and appeal process. A copy of the grievance and appeal process will be posted in a place readily accessible to individuals. A copy of the grievance and appeal process will be provided to each individual and guardian (as applicable) at the time of admission to the program.

(2) Grievances. A provider's process for grievances must, at a minimum, include the following:

(a) Individuals will be encouraged to informally resolve complaints through discussion with program staff.

(b) If the individual is not satisfied with the informal process or does not wish to use it, the individual may proceed as follows:

(A) The individual may submit a complaint in writing to the Program Administrator. The individual may receive assistance in submitting the complaint from any person whom the individual chooses. If requested by the individual, program staff will be available to assist the individual.

(B) The written complaint will go directly to the program administrator without being read by other program staff, unless the individual requests or permits other program staff to read the complaint.

(C) The complaint will include the reasons for the grievance and the proposed resolutions. No complaint will be disregarded because it is incomplete.

(D) Within five days of receipt of the complaint, the individual, the program administrator must meet with the individual to discuss the complaint. The individual may have an advocate or other person of his/her choosing present for this discussion.

(E) Within five days of meeting with the individual, the program administrator must provide a written decision to the individual. As part of the written decision, the program administrator will provide information about the appeal process.

(F) In circumstances where the matter of the complaint is likely to cause irreparable harm to a substantial right of the individual before the grievance procedures outlined in OAR 309-035-0157(2)(b)(D) and (E) are completed, the individual may request an expedited review. The program administrator will review and respond in writing to the grievance within 48 hours. The written decision will include information about the appeal process.

(3) Appeals. An individual, an individual's legal representative (as applicable) and a prospective individual (as applicable) will have the right to appeal admission, termination and grievance decisions as follows:
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(a) If the individual is not satisfied with the decision, the individual may file an appeal in writing within ten days of the date of the program administrator's decision to the complaint or notification of admission denial or termination (as applicable).

(b) If program services are delivered by a person or entity other than the Division, the appeal will be submitted to the CMHP Director or designee in the county where the program is located.

(A) The individual may receive assistance in submitting the appeal. If requested by the individual, program staff will be available to assist the individual.

(B) The CMHP Director or designee will provide a written decision within ten days of receiving the appeal.

(C) If the individual is not satisfied with the CMHP Director's decision, the individual may file a second appeal in writing within ten days of the date of the CMHP Director's written decision to the Deputy Director of the Division or designee. The decision of the Deputy Director of the Division will be final.

(c) If program services are delivered by the Division, the appeal will be submitted to the Deputy Assistant Director or designee.

(A) The individual may receive assistance in submitting the appeal. If requested by the individual, program staff will be available to assist the individual.

(B) The Deputy Director or designee will review and approve or deny the appeal.

(C) The Division will notify the individual of the decision in writing within 10 days after receipt of the appeal.

(D) If the individual is not satisfied with the Deputy Assistant Director's or designee's decision, the individual may submit a second appeal in writing within ten days of the date of the written decision to the Assistant Director of the Division. The decision of the Assistant Director of the Division will be final.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

309-035-0159 – Individual Assessment and Residential Service Plan

(1) Assessment. The program must complete an assessment for each individual within 14 days after admission to the program, unless admitted to the program for crisis-respite services.

(a) The assessment must be based upon an interview with the individual to identify strengths, preferences and service needs; observation of the individual's capabilities
within the residential setting; a review of information in the individual service record; and contact with representatives of other involved agencies, family members and others, as appropriate. All contacts with others will be made with proper authorization for the release of information.

(b) Assessment findings must be summarized in writing and included in the individual service record. Assessment findings must include, but not be limited to, diagnostic and demographic data; identification of the individual's medical, physical, emotional, behavioral and social strengths, preferences and needs related to independent living and community functioning; and recommendations for residential service plan goals.

(c) The provider must provide assessment findings to the person centered service plan coordinator to assist in the development of the person centered service plan.

(2) Person centered service plan assessment. Within 30 days of the date of admission the person centered service plan coordinator, under contract with the Division, and assigned to the individual or program site will schedule and conduct an assessment of the individual for the purpose of developing a Person Centered Service Plan. The provider must support the person centered service plan coordinator efforts to develop the plan and provide information as necessary.

(3) Residential Service Plan. The provider must develop and implement an individualized plan, for the purpose of implementing and documenting the provision of services as well as any individualized limitations contained within the Person Centered Service Plan, identifying the goals to be accomplished through the services provided, will be prepared for each individual, unless admitted to the facility for crisis-respite services, within 30 days after admission.

(a) The residential service plan must be based upon the findings of the individual assessment, be developed with participation of individual and the individual's representative (as applicable), and be developed through collaboration with the individual's primary mental health treatment provider. With consent of the individual or the individual's representative (as applicable), family members, representatives from involved agencies, and others with an interest in the individual's circumstances must be invited to participate. All contacts with others will be made with proper, prior authorization from the individual.

(b) The residential service plan must include the following:

(A) Set out necessary steps and actions of the provider for the implementation and provision of services consistent and as required by the Person Centered Service Plan;

(B) Identify the individual's service needs, desired outcomes and service strategies to address the following: physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability and
community navigation, all areas identified in the Person Centered Service Plan, and any other areas.

(c) The residential service plan must be signed by the individual, the individual’s representative (as applicable), the program administrator or other designated program staff person, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan.

(d) The provider must attach the Residential Service Plan to the Person Centered Service Plan as an addendum.

(4) Crisis-respite Assessment and Residential Service Plan Requirements. For an individual admitted to a program for 30 days or less for the purpose of receiving crisis-respite services, an assessment and residential service plan must be developed within 48 hours of admission which identifies service needs, desired outcomes and the service strategies to be implemented to resolve the crisis or address other needs of the individual that resulted in the short term service arrangement.

(5) Progress Notes. The provider must maintain progress notes within each individual's service record and documenting significant information relating to all aspects of the individual's functioning and progress toward desired outcomes identified in the residential service plan. The provider must enter a progress note will be entered in the individual's record at least once each month.

(6) Re-assessments and Revisions to the Residential Service Plan. The provider must review and update the assessment and residential service plan will be reviewed and updated at least annually. On an ongoing basis, the provider must update the residential service plan will be updated, as necessary, based upon changing circumstances or upon the individual's request for reconsideration.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

309-035-0160 – Person-Centered Service Plan

This rule becomes effective July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) PERSON-CENTERED SERVICE PLANNING PROCESS. When developed as described in subsections (2) and (3), a Person-Centered Service Plan must be developed through a person-centered service planning process. The person-centered service planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;
(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the individual’s representative;

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

   (A) Discussing the concerns of the individual and determining acceptable solutions;

   (B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

   (C) Utilizing any available greater community conflict resolution resources;

   (D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

   (E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative HCB settings considered by the individual;

(i) Provides a method for the individual or, as applicable, the individual’s representative, to request updates to the person-centered service plan, as needed;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(l) Includes any services that are self-directed, if applicable;

(m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

(n) Includes risk factors and plans to minimize any identified risk factors; and

(o) Results in a Person-Centered Service Plan documented by the Person-Centered
Services Plan Coordinator, signed by the individual or, as applicable, the individual’s
representative, participants in the person-centered service planning process, and all
persons responsible for the implementation of the person-centered service plan. The
person-centered service plan is distributed to the individual, and, as applicable, the
individual’s representative, and other people involved in the person-centered service
plan.

(2) PERSON-CENTERED SERVICE PLANS.

(a) To avoid conflict of interest, the person-centered service plan may not be developed
by the provider for individuals receiving Medicaid. The Division may grant an exception
where it has determined that the provider is the only willing and qualified entity to
provide case management and develop the person-centered service plan.

(b) Where the provider is responsible for developing the person-centered service plan,
the provider must ensure that the plan includes the following:

(A) HCBS and setting options based on the needs and preferences of the individual,
and for residential settings, the available resources of the individual for room and board;

(B) The HCBS and settings are chosen by the individual and are integrated in, and
support full access to, the greater community;

(C) Opportunities to seek employment and work in competitive integrated employment
settings for those individuals who desire to work. If the individual wishes to pursue
employment, a non-disability specific setting option must be presented and documented
in the person-centered service plan;

(D) Opportunities to engage in greater community life, control personal resources, and
receive services in the greater community to the same degree of access as people not
receiving HCBS;

(E) The strengths and preferences of the individual;

(F) The service and support needs of the individual;

(G) The goals and desired outcomes of the individual;

(H) The providers of services and supports, including unpaid supports provided
voluntarily;

(I) Risk factors and measures in place to minimize risk;
(J) Individualized backup plans and strategies, when needed;

(K) People who are important in supporting the individual;

(L) The person responsible for monitoring the person-centered service plan;

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and, as applicable, the individual’s representative;

(N) The written informed consent of the individual or, as applicable, the individual’s representative;

(O) Signatures of the individual or, as applicable, the individual’s representative, participants in the person-centered service planning process, and all persons and entities responsible for the implementation of the person-centered service plan as described below in subsection (2)(f) of this section;

(P) Self-directed supports; and

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(c) Where the provider is not responsible for the developing the person-centered service plan but provides or will provide services to the individual, the provider must provide relevant information and provide necessary support for the person-centered service plan coordinator or other person developing the plan to fulfill the characteristics described in part (b) of this subsection.

(d) The individual or, as applicable, the individual’s representative, decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers must have access to the portion of the person-centered service plan that the provider is responsible for implementing.

(e) The person-centered service plan is distributed to the individual and, as applicable, the individual’s representative, and other people involved in the person-centered service plan as described below in subsection (2)(f) of this section.

(f) The person-centered service plan must justify and document any individually-based limitation to be applied as described in 309-035-0161 when conditions under 309-035-0161(2) may not be met due to threats to the health and safety of the individual or others.

(g) The person-centered service plan must be reviewed and revised:

(A) At the request of the individual or, as applicable, the individual’s representative;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

(3) Crisis Respite Individuals. Because it may not be possible to assemble complete records and develop a person-centered service plan during the crisis-respite individual's short stay, the provider is not required to develop a person-centered service plan under these rules, but must, at a minimum, develop an assessment and residential service plan as required by OAR 309-035-0159(4) to identify service needs, desired outcomes, and service strategies to resolve the crisis or address the individual's other needs that caused the need for crisis-respite services. In addition, the provider must provide relevant information and provide necessary support for the person-centered service plan coordinator as described in section (2)(b) of this rule.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

309-035-0161 – Individually-Based Limitations

This rule becomes effective on July 1, 2016 and enforceable as described in OAR 309-035-0110(17).

(1) When the program qualities described below create a threat to the health and safety of an individual or others, a provider may seek to apply an individually-based limitation through the process described in this rule. The program qualities subject to a potential individually-based limitation include the individual's right to:

(a) The freedom and support to access food at any time;

(b) Have visitors of the individual's choosing at any time;

(c) Have a unit entrance door that is lockable by the individual with only appropriate staff having access;

(d) Choose a roommate when sharing a unit;

(e) Furnish and decorate the individual's unit as agreed to in the Residency Agreement;

(f) The freedom and support to control the individual's schedule and activities; and

(g) Privacy in the individual's unit.

(2) Minimum Requirements for Applying Individually-Based Limitation: A provider may only apply an individually-based limitation if:

(a) The program quality threatens the health or safety of the individual or others;
(b) The individually-based limitation is supported by a specific assessed need;

(d) The individual or the individual’s legal representative consents;

(e) The limitation is directly proportionate to the specific assessed need and

(f) The individually-based limitation will not cause harm to the individual.

(3) The provider must demonstrate and document that the individually-based limitation meets the requirements of subsection (2) of this rule and the measures described below in the person centered service plan. The provider must submit and sign a program-created form that includes the following:

(a) The specific and individualized assessed need justifying the individually-based limitation;

(b) The positive interventions and supports used prior to consideration of any individually-based limitation;

(c) Documentation that the provider or other entities have tried other less intrusive methods but did not work;

(d) A clear description of the limitation that is directly proportionate to the specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation;

(f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary;

(g) The informed consent of the individual or, as applicable, the individual’s legal representative, including any discrepancy between the wishes of the individual and the consent of the legal representative; and

(h) An assurance that the interventions and support do not cause harm to the individual.

(4) The provider must:

(a) Maintain a copy of the completed and signed form documenting the consent to the individually-based limitation described in subsection (3) of this rule. The form must be signed by the individual, or, if applicable, the individual’s legal representative;

(b) Regularly collect and review the ongoing effectiveness of and the continued need for the individually-based limitation; and
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(c) Request review of the individually-based limitation by the Person-Centered Service Plan Coordinator when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed, but no less than annually.

(5) The qualities described in sections (1)(b)-(g) do not apply to an individual receiving services at a SRTF, including but not limited to, an individual receiving crisis-respite services in a secure residential setting. A provider need not seek an individually based limitation to comply with these rules.

(6) The qualities described in sections (1)(d) and (g) do not apply to an individual receiving crisis-respite services and a provider need not seek an individually based limitation to comply with these rules.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.455 & 443.991(2)

309-035-0167 – Use of Seclusion or Restraints

(1) General Prohibition. The use of seclusion or restraints is prohibited, except in SRTFs with the Division's approval.

(2) Approval of Use in Secure Residential Treatment Facilities. A SRTF provider or applicant may submit an application to the Division for approval to use seclusion or restraints pursuant to OAR 309-033-0700 through 309-033-0740. Approval by the Division will be based upon the following:

(a) A determination that the individuals served, or proposed to be served, have a history of behavioral concerns involving threats to the safety and well-being of themselves or others;

(b) The applicant demonstrates that the availability of seclusion or restraints is necessary to safely accommodate individuals who would otherwise be unable to experience a community residential program; and

(c) The applicant demonstrates an ability to comply with OAR 309-033-0700 through 309-033-0740 and 309-033-0500 through 309-033-0560. These rules include special requirements for staffing, training, reporting, policies and procedures, and the setting’s physical environment.

(3) Conditions of Use. Seclusion or restraints may only be used in an approved SRTF when an emergency occurs in accordance with OAR 309-033-0700 through 309-033-0740 and 309-033-0500 through 309-033-0560. In such emergency situations, seclusion and restraint will be used as a last resort behavior management option after less restrictive behavior management interventions have failed, or in the case of an unanticipated behavioral outburst, to ensure safety within the program. An approved SRTF must implement policies and procedures approved by the Division outlining the
circumstances under which seclusion or restraints may be used and the preventive measures to be taken before such use. All incidents involving the use of seclusion or restraints will be reported to the Division. To use seclusion or restraints with an individual who is not in state custody under a civil commitment proceedings, the individual must be placed on a hold.

Stat. Auth.: ORS 413.042, 443.450
Stats. Implemented: ORS 413.032, 443.400 - 443.460 & 443.991(2)

309-035-0250 – Purpose, Scope and Statutory Authority

(1) Purpose. These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment homes for adults with mental or emotional disorders. The standards promote the well-being, health and recovery of adults with mental or emotional disorders through the availability of a wide range of residential service options. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each resident.

(2) Scope. These rules apply to residential treatment homes for five or fewer residents.

Stat. Auth.: ORS 413.042 & 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991

309-035-0260 – Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual. (2) "Administrator" means the person designated by the licensee as responsible for the daily operation and maintenance of the Residential Treatment Home (RTH).

(3) "Adult" means an individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for a resident by a Licensed Medical Professional or other qualified health care professional which maintains or enhances the resident's physical functioning.

(5) "Applicant" means the person(s) or entity that owns the business and is applying for the license.

(6) "Approved" means authorized or allowed by the Department.

(7) "Authority" means the Oregon Health Authority.

(8) "Building Code" means the state building code as defined in ORS 455.010 and includes the Oregon Structural Specialty Code, One and Two Family Dwelling Code and other specialty codes adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(9) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming, or eating; management of money; transportation; recreation; and the providing of room and board.

(10) "Caregiver" means an employee, program staff, provider or volunteer of a licensed Residential Treatment Facility (RTF), Residential Treatment Home (RTH) or Adult Foster Home (AFH).

(11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, and operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(12) "Contract" means a formal written agreement between the community mental health program, Mental Health Organization or the Addictions and Mental Health Division and a Residential Treatment Home (RTH) owner.

Repealed 6/8/2017
(13) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis-respite services are RTH residents.

(14) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)" published by the American Psychiatric Association.

(15) "Direct Care Staff Person" means an employee responsible for providing services to residents.

(16) “Division” means the Addictions and Mental Health Division of the Oregon Health Authority.

(17) "Electrical Code" means the Uniform Building and Fire Codes adopted on October 1, 2004 by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(18) "Emergency Admission" means an admission to an RTH made on an urgent basis due to the pressing service needs of the individual.

(19) "Employee" means a person who is employed by a licensed Residential Treatment Home (RTH) who receives wages, a salary, or is otherwise paid by the RTH for providing the service. The term also includes employees of other providers delivering direct services to clients of RTHs.

(20) "Evacuation Capability" means the ability of occupants, including residents and staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

(a) Impractical (SR-2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

(b) Slow (SR-1) for more than 16 residents) and (SR-4 for 6 to 16 residents): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes. SR-3 occupancies are those homes with five or fewer occupants having evacuation capabilities of impractical or slow with assistance.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division shall determine evacuation capability for RTH's in accordance with the National Fire Protection Association (NFPA) 101A 2000 edition. Facilities that are determined to
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(21) "Fire Code" means the Oregon Fire Code as adopted by the Office of State Fire Marshal and as amended by local jurisdictions.

(22) "Home" means the building and grounds where the Residential Treatment Home program is operated.

(23) "Individual" means any person being considered for or receiving residential and other services regulated by these rules.

(24) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse Practitioner licensed to practice in the State of Oregon; or

(C) Physician's Assistant licensed to practice in the State of Oregon; and

(b) Whose training, experience, and competence demonstrate the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(25) "Licensee" means the person or entity legally responsible for the operation of the RTH to which the Division has issued a license.

(26) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation which contracts with the Division to operate a CMHP or MHO for that county.

(27) "Mechanical Code" means the Oregon Mechanical Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(28) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.
(29) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

(30) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional of the client's need for mental health services. It involves collection and assessment of data pertinent to the client's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(31) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(32) "Mistreatment" means the following behaviors, displayed by an employee, program staff, provider or volunteer of an RTH when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. “Effectively” means use of income or assets for the benefit of the individual.

(c) “Involuntary Restriction” means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual’s freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an individual’s presence would pose a risk to health or safety to the individual or others.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(d) “Neglect” means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) “Verbal Mistreatment” means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. “Services” include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) “Wrongful Restraint” means:

(A) A wrongful use of a physical or chemical restraint excluding an act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730.

(B) Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(33) “Nursing Care” means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon Board of Nursing in OAR chapter 851.

(34) “Owner” means the person or entity including the Division that is legally responsible for the operation of the facility.

(36) "P.R Nn. (pro re nata) Medications and Treatments" means those medications and treatments that have been ordered to be given as needed.

(37) "Program" means the Residential Treatment Home and may refer to the owner, staff, or services as applicable to the context.

(38) “Program staff” means an employee or person who, by contract with an RTH, provides a service and who has the applicable competencies, qualifications, and certification, required by the Integrated Services and Supports Rule (ISSR) (OAR 309-032-1500 to 309-032-1565) to provide the service.

(39) "Progress Notes" means the notations in the resident record documenting significant information concerning the resident and summarizing progress made relevant to the objectives outlined in the residential service plan.

(40) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the residents, to prevent self-destructive acts, and to safeguard residents, property, and funds.

(41) “Provider” means a qualified individual or an organizational entity operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an RTH.

(42) "Qualified Health Care Professional" means a health care professional licensed to practice in the state of Oregon who is approved to perform certain health care tasks referenced in the relevant section of these rules consistent with the scope of practice specified by the licensing board for the profession. In accordance with the referenced health care task, the qualified health care professional may include a physician, a physician's assistant, a nurse practitioner, a registered nurse, or a pharmacist.

(43) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other person meeting the following minimum qualifications as documented by the LMHA or designee:

(a) Graduate degree in psychology;

(b) Bachelor's degree in nursing and licensed by the State of Oregon;

(c) Graduate degree in social work;

(d) Graduate degree in behavioral science field;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(e) Graduate degree in recreational, art, or music therapy; or

(f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrates the competencies to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multiaxial DSM diagnosis; write and supervise a Treatment Plan; conduct a Comprehensive Mental Health Assessment; and provide individual, family, and group therapy within the scope of his or her practice.

(44) "Resident" means any adult residing in the RTH who receives services on a 24-hour basis, except as excluded under ORS 443.400(3).

(45) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to a resident in or through the RTH based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the RTH is operated by a mental health service agency that provides other services to the resident.

(46) "Residential Treatment Home (RTH)" means a home that is operated to provide services on a 24-hour basis for five or fewer residents.

(47) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of a resident.

(48) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(49) "Secure Residential Treatment Facility" means any residential treatment facility, or portion thereof, that restricts a resident's exit from the facility or its grounds through the use of approved locking devices on resident exit doors, gates or other closures.

(50) "Services" means the care and treatment provided to residents as part of the RTH program.

(51) "Supervision" means the daily observation, and monitoring of residents by direct care staff or oversight of staff by the administrator or administrator's designee, as applicable to the context.

(52) "Termination of Residency" means the time at which the resident ceases to live in the RTH and includes the transfer of the resident to another facility, but does not include
absences from the RTH for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(53) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

(54) “Volunteer” means a person who provides a service or who takes part in a service provided to individuals receiving supportive services in an RTH or other provider, and who is not a paid employee of the RTH or other provider. The services must be non-clinical unless the person has the required credentials to provide a clinical service.

Stat. Auth.: ORS 413.042 & 443.450
Stats. Implemented: ORS 443.400 - 443.455, 443.875, 443.991

309-035-0270 – Licensing

(1) License Required. The Division will license any home that meets the definition of a residential treatment home and serves adults with a mental or emotional disorder. In the case of a home serving another category of residents in addition to adults with a mental or emotional disorder, the Division responsible for licensure will be determined by the Director of the Oregon Health Authority. No person or governmental unit acting individually or jointly with any other person or governmental unit will establish, maintain, manage, or operate a residential treatment home without a license issued by the Division.

(2) Initial Application. An application for a license will be accompanied by the required fee and submitted to the Division using the forms or format required by the Division. The following information will be required in the application:

(a) Full and complete information as to the identity and financial interest of each person, including stockholders, having a direct or indirect ownership interest of five percent or more in the RTH and all officers and directors in the case of RTHs operated or owned by a corporation.

(b) Location (street address) of the home and mailing address;

(c) Maximum number of residents to be served at any one time, their age range and evacuation capability;

(d) Proposed annual budget identifying sources of revenue and expenses;

(e) Signed criminal record authorizations for all persons involved in the operation of the RTH who will have contact with the residents;

(f) A complete set of policies and procedures;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(g) Facility plans and specifications; and

(h) Such other information as the Division may reasonably require.

(3) Plans and Design Approval. A complete set of plans and specifications will be submitted to the Division at the time of initial application, whenever a new structure or addition to an existing structure is proposed, or when significant alterations to an existing facility are proposed. Plans will meet the following criteria:

(a) Plans will be prepared in accordance with the Building Code and requirements of OAR 309-035-0320;

(b) Plans will be to scale and sufficiently complete to allow full review for compliance with these rules; and

(c) Plans will be to scale and carry the stamp of an Oregon licensed architect or engineer when required by the Building Code and ORS Chapters 671 and 672 (laws relating to the practice of architecture and engineering).

(4) Necessary Approvals. Prior to approval of a license for a new or renovated home, the applicant will submit the following to the Division:

(a) One copy of written approval to occupy the home issued by the city, county or state building codes authority having jurisdiction;

(b) One copy of the fire inspection report from the State Fire Marshal or local jurisdiction indicating that the home complies with the Fire Code;

(c) When the home is not served by an approved municipal water system, one copy of the documentation indicating that the state or county health agency having jurisdiction has approved the water supply in accordance with OAR chapter 333, Public Health Division rules for public water systems.

(d) When the home is not connected to an approved municipal sewer system, one copy of the sewer or septic system approval from the Department of Environmental Quality or local jurisdiction.

(5) Required Fees. The fee for each residential treatment home license application is $30. No fee is required in the case of a governmentally operated residential treatment home.

(6) Renewal Application. A license is renewable upon submission of a renewal application in the form or format required by the Division and a non-refundable fee of $30, except that no fee will be required of a governmentally operated RTH. Filing of an application for renewal before the date of expiration extends the effective date of the current license until the Division takes action upon the renewal application.
(7) Review Process. Upon receipt of an application and fee, the Division will conduct an application review. Initial action by the Division on the application will begin within 30 days of receipt of all application materials. The review will:

(a) Include a complete review of application materials;

(b) Determine whether the applicant meets the qualifications outlined in ORS 443.420 including:

(A) Demonstrates an understanding and acceptance of these rules;

(B) Is mentally and physically capable of providing services for residents;

(C) Employs or utilizes only individuals whose presence does not jeopardize the health, safety, or welfare of residents; and

(D) Provides evidence satisfactory to the Division of financial ability to comply with these rules.

(c) Include a site inspection; and

(d) Conclude with a report stating findings and a decision on licensing of the RTH.

(8) Findings of Noncompliance. The Division will require an owner to submit and complete a plan of correction for each finding of noncompliance with these rules.

(a) If the finding(s) of noncompliance substantially impacts the welfare, health and/or safety of residents, the plan of correction will be submitted and completed prior to issuance of a license. In the case of a currently operating RTH, such findings may result in suspension or revocation of a license.

(b) If it is determined that the finding(s) of noncompliance do not threaten the welfare, health or safety of residents and the facility meets other requirements of licensing, a license may be issued or renewed, and the plan of correction will be submitted and completed as a condition of licensing.

(c) The Division will specify required documentation and set the time lines for the submission and completion of plans of correction in accordance with the severity of the finding(s).

(d) The Division will review and approve each plan of correction. If the plan of correction does not adequately remedy the finding of noncompliance, the Division may require a revised plan of correction.

(e) The RTH owner may appeal the finding of noncompliance or the disapproval of a plan of correction by submitting a request for reconsideration in writing to the
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

Administrator of the Division. The Administrator of the Division or designee will make a decision on the appeal within 30 days of receipt of the appeal.

(9) Variance. The Authority may grant a variance to these rules based upon a demonstration by the applicant that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health or safety of residents.

(a) Variance Application. The RTH owner requesting a variance will submit, in writing, an application to the Division which identifies the section of the rules from which the variance is sought, the reason for the proposed variance, the proposed alternative method or different approach, and signed documentation from the CMHP indicating approval of the proposed variance.

(b) Addictions and Health Division Review. The Assistant Administrator for the Division's Office of Mental Health Division, or designee, will review and approve or deny the request for a variance.

(c) Notification of Decision. The Division will notify the RTH owner of the decision in writing within 30 days after receipt of the application. A variance may be implemented only after receipt of written approval from the Division.

(d) Appeal of Decision. The RTH owner may appeal the denial of a variance request by submitting a request for reconsideration in writing to the Administrator of the Division. The Administrator of the Division will make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Administrator of the Division will be final.

(e) Duration of the Variance. A variance will be reviewed by the Division at least every two years and may be revoked or suspended based upon a finding that the variance adversely impacts the welfare, health or safety of the RTH residents.

(10) Issuance of License. Upon finding that the applicant is in substantial compliance with these rules, the Division will issue a license.

(a) The license issued will state the name of the owner of the RTH, the name of the administrator, the address of the home to which the license applies, the maximum number of residents to be served at any one time and their evacuation capability, the type of home, and such other information as the Division deems necessary.

(b) A residential treatment home license will be effective for two years from the date issued unless sooner revoked or suspended.

(c) The residential treatment home license is not transferable or applicable to any location, facility, or management other than that indicated on the application and license.
(11) Conditions of License. The license will be valid under the following conditions:

(a) The residential treatment home will not be operated or maintained in combination with a nursing facility, hospital, retirement facility, or other occupancy unless licensed, maintained, and operated as a separate and distinct part. Each residential treatment home will have sleeping, dining and living areas for use only by its own residents, employees and invited guests.

(b) The license will be retained in the home and available for inspection at all times.

(c) Each license will be considered void immediately upon suspension or revocation of the license by the Division, or if the operation is discontinued by voluntary action of the licensee, or if there is a change of ownership.

(12) Site Inspections. Division staff will visit and inspect every residential treatment home at least, but not limited to, once every two years to determine whether it is maintained and operated in accordance with these rules. The RTH owner/applicant will allow Division staff entry and access to the home and residents for the purpose of conducting the inspections.

(a) Division staff will review methods of resident care and treatment, records, the condition of the facility and equipment, and other areas of operation.

(b) All records, unless specifically excluded by law, will be available to the Division for review.

(c) The State Fire Marshal or authorized representative(s) will, upon request, be permitted access to the home, fire safety equipment within the home, safety policies and procedures, maintenance records of fire protection equipment and systems, and records demonstrating the evacuation capability of RTH occupants.

(13) Investigation of Complaints and Alleged Abuse. Incidents of alleged abuse covered by ORS 430.731 through 430.768 will be reported and investigated in accordance with OAR 407-045. Division staff will investigate complaints and other alleged abuse made regarding residential treatment homes, will cause a report to be filed, and will take appropriate action under these rules. The Division may delegate the investigation to a CMHP or other appropriate entity.

(14) Denial, Suspension or Revocation of License. The Division will deny, suspend or revoke a license when it finds there has been substantial failure to comply with these rules; or when the State Fire Marshal or authorized representative certifies that there is a failure to comply with the Fire Code or Building Code.

(a) The Division may immediately suspend a license where there exists an imminent danger to the health or safety of residents.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(A) The Division will provide written notice of the suspension to the licensee citing the violation and stating the corrective action necessary in order for the license to be reinstated.

(B) The licensee may request a review of the decision to immediately suspend a license by submitting a request, in writing, within 10 days of the suspension notice. Within 10 days of receipt of the licensee's request for a review, the Division administrator or designee will review all material relating to the suspension and determine whether to sustain the decision. If the administrator does not sustain the decision, the suspension will be rescinded immediately. The decision of the administrator can be appealed within 90 days as a contested case under ORS 183.310 and 183.400 to 183.502.

(b) The Division will take action to deny or revoke a license in accordance with the following procedures:

(A) The Division will provide written notice of the denial or revocation citing the violation(s), and specifying the effective date (in the case of a currently operating RTH).

(B) The licensee will be entitled to a contested case hearing under ORS 183.310 and 183.400 to 183.502 prior to the effective date of revocation or denial if the licensee requests a hearing in writing, within 21 days after receipt of the written notice. If no such request is received, the decision will be sustained.

(C) A license subject to revocation or denial based upon review of a renewal application, will remain valid during an administrative hearings process, unless suspended, even if the hearing and final order are not issued until after the expiration date of the license.

(D) If an initial license is denied, the applicant will be entitled to a contested case hearing under ORS 183.310 and 183.400 to 183.502 if the applicant requests a hearing in writing within 60 days of receipt of the denial notice. If no such request is received, the decision to deny the license application will be sustained.

(i) In cases where there exists an imminent danger to the health or safety of residents, a license may be suspended immediately.

(ii) Such revocation, suspension, or denial will be done in accordance with rules of the Division under ORS Chapter 183.

(15) Reporting Changes. Each licensee will report promptly to the Division any significant changes to information supplied in the application or subsequent correspondence. Such changes include, but are not limited to, changes in the RTH name, owner entity, administrator, telephone number and mailing address. Such changes also include, but are not limited to, changes in the RTHs physical plant, policies and procedures or staffing pattern when such changes are significant or impact the health, safety or well-being of residents.

111 Repealed 6/8/2017
309-035-0280 – Contracts and Rates

(1) Contracts. Residential treatment home operators providing services funded by the Division will enter into a contract with the local community mental health program, the Division or other Division-approved entity. The contract does not guarantee that any number of persons eligible for Division funded services will be referred to or maintained in the home.

(2) Rates. Rates for all services and the procedures for collecting payments from residents and/or payees will be specified in a fee policy and procedures. The fee policy and procedures will describe the schedule of rates, conditions under which rates may be changed, acceptable methods of payment, and the policy on refunds at the time of termination of residency.

(a) For residents whose services are funded by the Division, reimbursement for services will be made according to the rate schedule outlined in the contract. Room and board payments for residents receiving Social Security benefits or public assistance will be in accordance with and not more than rates determined by the Division.

(b) For private paying residents, the program will enter into a signed agreement with the resident, and/or if applicable, resident’s guardian, payee or conservator. This agreement will include but not be limited to a description of the services to be provided; the schedule of rates; conditions under which the rates may be changed; and policy on refunds at the time of termination of residency.

(c) Before an RTH increases rates or modifies payment procedures, the program will provide 30 days advance notice of the change to all residents, and their payees, guardians or conservators, as applicable.

309-035-0290 – Administrative Management

(1) Licensee. The licensee will be responsible for insuring that the RTH is operated in compliance with these rules and all other applicable federal, state and local laws and regulations.

(2) Administrator. The licensee will employ an administrator who:

(a) Has background including special training, experience, and other demonstrated ability in providing care and treatment appropriate to the residents served in the facility;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(b) Has a documented criminal record clearance and no history of abusive behavior;

(c) Will ensure that the RTH operates in accordance with the standards outlined in these rules;

(d) Will oversee the daily operation and maintenance of the RTH and will be available to perform administrative duties at the RTH at least 20 hours per week at the RTH or provide an administrative plan which documents an equivalent level of available supervision.

(e) Will develop and administer written policies and procedures to direct the operation of the RTH and the provision of services to residents;

(f) Will ensure that qualified staff are available, in accordance with the staffing requirements specified in these rules;

(g) Will supervise or provide for the supervision of staff and others involved in the operation of the program;

(h) Will maintain program, personnel and resident records;

(i) Will report regularly to the licensee on the operation of the RTH; and

(j) Will delegate authority and responsibility for the operation and maintenance of the facility to a responsible staff person whenever the Administrator is absent from the RTF. This authority and responsibility will not be delegated to a resident.

(3) Policies and Procedures. Policies and procedures will be developed, updated as necessary, maintained in a location easily accessible for staff reference, and made available to others upon reasonable request. They will be consistent with requirements of these rules, and address, but not be limited to:

(a) Personnel practices and staff training;

(b) Resident selection, admission and termination;

(c) Fire drills, emergency procedures, resident safety and abuse reporting;

(d) Health and sanitation;

(e) Records;

(f) Residential service plan, services and activities;

(g) Behavior management, including prohibition of the use of seclusion or restraints;
(h) Food Service;

(i) Medication administration and storage;

(j) Resident belongings, storage and funds;

(k) Resident rights and advance directives;

(l) Complaints and grievances;

(m) Facility maintenance;

(n) Evacuation capability determination; and

(o) Fees and money management.

(4) House Rules. The RTH will develop reasonable house rules outlining operating protocols concerning, but not limited to, meal times, night-time quiet hours, guest policies, smoking and phone use. The house rules will be consistent with resident rights as delineated in OAR 309-035-0380 and are subject to approval by the Division. House rules will be posted in an area readily accessible to residents. House rules will be reviewed and updated, as necessary. Residents will be provided an opportunity to review and provide input into any proposed changes to house rules before the revisions become effective.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0300 – Records

(1) General Requirements. Records will be maintained to document the legal operation of the program, personnel practices and resident services. All records will be properly obtained, accurately prepared, safely stored and readily available within the RTH. All entries in records required by these rules will be in ink, indelible pencil, or approved electronic equivalent and prepared at the time, or immediately following, the occurrence of the event being recorded; be legible; and be dated and signed by the person making the entry. In the case of electronic records, signatures may be replaced by an approved, uniquely identifiable electronic equivalent.

(2) Program Records. Records documenting the legal operation of the RTH will include, but not be limited to:

(a) Written approval for occupancy of the building by the county or city having jurisdiction, any building inspection reports, zoning verifications, fire inspection reports or other documentation pertaining to the safe and sanitary operation of the RTH;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(b) Application for license, related correspondence and site inspection reports;

(c) Program operating budget and related financial records;

(d) Payroll records, employee schedules and time sheets;

(e) Materials Safety and Data Sheets;

(f) Fire drill documentation;

(g) Fire alarm and sprinkler system maintenance and testing records;

(h) Incident reports; and

(i) Policy and procedure manual.

(3) Personnel Records. Records documenting personnel actions will include:

(a) Job descriptions for all positions; and

(b) Individual employee records including, but not limited to, written documentation of employee identifying information and qualifications, criminal record clearance, tuberculosis test results, Hepatitis B vaccinations in accordance with the Oregon Occupational Safety and Health Code, performance appraisals, and documentation of pre-service orientation and other training.

(4) Resident Records. Except as indicated in OAR 309-035-0300, an individual resident record will be maintained for each resident and include:

(a) An easily accessible summary sheet which includes, but is not limited to the resident's name, previous address, date of admission to the facility, sex, date of birth, marital status, legal status, religious preference, Social Security number, health provider information, evacuation capability, diagnosis(es), major health concerns, medication allergies, information indicating whether advance mental health and health directives and/or burial plan have been executed, and the name of person(s) to contact in case of emergency;

(b) The names, addresses and telephone numbers of the resident's legal guardian or conservator, parent(s), next of kin, or other significant person(s); physician(s) or other medical practitioner(s); dentist; CMHP case manager or therapist; day program, school or employer; and any governmental or other agency representative(s) providing services to the resident;

(c) A mental health assessment and background information identifying the resident's residential service needs;
(d) Advance mental health and health directives, burial plans or location of these (as available);

(e) Residential service plan and copy(ies) of plan(s) from other relevant service provider(s).

(f) Documentation of the resident's progress and any other significant information including, but not limited to, progress notes, progress summaries, any use of seclusion or restraints, and correspondence concerning the resident;

(g) Health-related information and up-to-date information on medications in accordance with OAR 309-035-0440;

(h) Any authorizations obtained for the release of confidential information.

(5) Records for Crisis-respite Residents. For residents receiving crisis-respite services, an individual resident record will be maintained for each resident and include:

(a) A referral form or forms which include the resident's name; previous address; date of admission; sex; date of birth; marital status; social security number; health care provider names and phone numbers (including primary care physician, psychiatrist, prescriber (if different), and any other known health care providers); health insurance information; entitlements and/or eligibility; source and amount of income; diagnosis(es); major health concerns; current medications; medication or other allergies; name(s) of person(s) to contact in case of emergency; name, address and phone number of guardian or conservator (as applicable); and other information pertinent to the resident's crisis-respite stay;

(b) A mental health assessment and plan which include the reason for placement in crisis-respite care, the nature of crisis necessitating placement, an evaluation of risk for harm to self or others, the residential treatment plan for the crisis-respite stay, the expected duration of the crisis-respite placement, and the discharge plan;

(c) Current written orders by a qualified health care professional for all medications and a plan for obtaining any prescribed medications which are not in the resident's possession in original labeled containers;

(d) A signed resident agreement indicating informed consent for treatment; and

(e) Any authorizations obtained for the release of confidential information.

(6) Storage. All resident records will be stored in a weatherproof and secure location. Access to records will be limited to the Administrator and direct care staff unless otherwise allowed in these rules.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(7) Confidentiality. All resident records will be kept confidential. A signed release of information will be obtained for any disclosure from resident records in accordance with all applicable laws and rules.

(8) Resident Access to His/Her Record. A resident, or guardian (as applicable), will be allowed to review and obtain a copy of his/her resident record as allowed in ORS 179.505.

(9) Transfer of Records. Pertinent information from records of residents who are being transferred to another program will be transferred with the resident. A signed release of information will be obtained in accordance with applicable laws and rules.

(10) Maintenance of Records. The RTH will keep all records, except those transferred with a resident, for a period of three years.

(11) Administrative Changes. If an RTH changes ownership or Administrator, all resident and personnel records will remain in the home. Prior to the dissolution of any RTH, the Administrator will notify the Division in writing as to the location and storage of resident records or those records will be transferred with the residents.

(12) Resident Contributions to Record. If a resident or guardian (as applicable) disagrees with the content of the resident record, or otherwise desires to provide documentation for the record, the resident or guardian (as applicable) may provide material in writing that then will become part of the resident record.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0310 – Staffing

(1) Staff Qualifications. A job description will be available for each staff position and specify qualifications and job duties.

(a) Any staff person hired to provide direct care to residents will be at least 18 years of age, be capable of implementing the RTHs emergency procedures and disaster plan, and be capable of performing other duties of the job as described in the job description.

(b) In accordance with OAR 943-007-0001 through 943-007-0501, all RTH staff who will have contact with residents will provide evidence of a criminal record clearance prior to starting employment.

(c) In accordance with OAR 333-071-0057 and 437-002-0368 through 437-002-2226, all RTH staff who will have contact with residents will be tested for tuberculosis and Hepatitis B within two weeks of first employment; additional testing will take place as deemed necessary; and the employment of staff who test positive for tuberculosis will be restricted if necessary.
(d) In accordance with the Oregon Occupational Safety and Health Code, chapter 437-002-0368 through 437-002-2226, Hepatitis B vaccinations will be offered within ten working days of initial employment to RTH staff who will have contact with residents. Training about bloodborne pathogens and related safety practices will be completed prior to offering the vaccination.

(e) All staff will meet other qualifications when required by a contract or financing arrangement approved by the Division.

(2) Personnel Policies. Personnel policies will be made available to all staff and will describe hiring, leave, promotion and disciplinary practices.

(3) Staff Training. The administrator will provide or arrange a minimum of 16 hours pre-service orientation and eight hours in-service training annually for each employee.

(a) Pre-service training for direct care staff will include, but not be limited to, a comprehensive tour of the home; a review of emergency procedures developed in accordance with OAR 309-035-0330; a review of RTH house rules, policies and procedures; background on mental and emotional disorders; an overview of resident rights; assessment of resident risk factors; medication management procedures; food service arrangements; a summary of each resident’s assessment and residential service plan; and other information relevant to the job description and scheduled shift(s).

(b) In-service training will be provided on topics relevant to improving the care and treatment of residents in the RTH and meeting the requirements in these administrative rules. In-service training topics include, but are not limited to, implementing the residential service plan, behavior management, daily living skills development, nutrition, first aid, understanding mental illness, sanitary food handling, resident rights, identifying health care needs, and psychotropic medications.

(4) General Staffing Requirements. The licensee and administrator are responsible for assuring that an adequate number of staff are available at all times to meet the treatment, health and safety needs of residents. Regardless of the minimum staffing requirements, staff will be scheduled to ensure safety and to correspond to the changing needs of residents. At a minimum, there will be at least one direct care staff person on duty at all times.

(a) In the case of a specialized RTH, staffing requirements outlined in the contractual agreement for specialized services will be implemented.

(b) Direct care staff on night duty will be awake and dressed at all times. In homes where residents are housed in two or more detached buildings, direct care staff will monitor each building at least once an hour during the night shift. An approved method for alerting staff to problems will be in place. This method must be accessible to and usable by the residents.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

Stat. Auth.: ORS 413.042 & 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0320 – Physical Environment Requirements

(1) Compliance with Building and Fire Codes. Each residential treatment home established on or after December 1, 1999, will meet the requirements for approved Group SR occupancies in the Building Code and the Fire Code in effect at the time of licensure. RTHs licensed as adult foster homes by the Division before the effective date of these rules will demonstrate that the home was in compliance with the Building Code and Fire Code in effect at the time of the original Division licensure. When renovation or a change in the home’s use results in a new building occupancy classification, the home will meet the requirements for approved Group SR occupancies in the Building Code in effect at the time of such change.

(2) Accessibility for Persons with Disabilities. RTHs will be accessible as follows:

(a) Those homes that are licensed, constructed or renovated after January 26, 1992, and that are covered multi-family dwellings or public accommodations, will meet the physical accessibility requirements in Chapter 11 of the Oregon Structural Specialty Code. This code specifies requirements for public accommodations as defined in the Americans with Disabilities Act under Title III and for buildings qualifying as multi-family dwellings as defined in the Fair Housing Act, as amended in 1988.

(b) In order to ensure program accessibility under Title II of the Americans with Disabilities Act, the Division may require additional accessibility improvements.

(c) Any accessibility improvements made to accommodate an identified resident will be in accordance with the specific needs of the resident and will comply with the Building Code.

(3) Outdoor Areas. An accessible outdoor area is required and will be made available to all residents. For RTHs licensed on or after December 1, 1999, a portion of the accessible outdoor area will be covered and have an all weather surface, such as a patio or deck.

(4) General Storage. The home will include sufficient and safe storage areas. These will include but not be limited to:

(a) Storage for a reasonable amount of resident belongings beyond that available in resident sleeping rooms will be provided. For homes licensed on or after December 1, 1999, this storage will include 24 cubic feet per resident.

(b) All maintenance equipment stored on site, including yard maintenance tools, will be maintained in adequate storage space. Equipment and tools which pose a danger to RTH residents will be kept in locked storage.

(5) Hallways. For RTHs initially licensed on or after December 1, 1999, all resident use areas and resident units will be accessible through temperature controlled common areas or hallways with a minimum width of 36 inches.

(6) Administrative Areas. Sufficient space will be provided for confidential storage of both resident and business records, for staff use in completing record-keeping tasks, and for a telephone. Other equipment including fire alarm panels and other annunciators will be installed in an area readily accessible to staff in accordance with the Fire Code.

(7) Resident Sleeping Rooms. Resident sleeping quarters will be provided in rooms separated from other areas of the facility by an operable door with an approved latching device.

(a) For homes licensed prior to December 1, 1999, resident sleeping rooms will include a minimum of 60 square feet per resident and allow for a minimum of three feet between beds.

(b) For homes initially licensed on or after December 1, 1999, each resident sleeping room will be limited to one or two residents. At least ten per cent, but no less than one, of the resident sleeping rooms will be accessible for persons with mobility disabilities. All resident sleeping rooms will include a minimum of 70 square feet per resident exclusive of closets, vestibules and bathroom facilities and allow a minimum of three feet between beds.

(c) A clothes closet, with adequate clothes hanging rods will be accessible within each sleeping room for storage of each resident's clothing and personal belongings. For homes initially licensed on or after December 1, 1999, built-in closet space will be provided totaling a minimum of 64 cubic feet for each resident. In accessible sleeping rooms, the clothes hanging rod height will be adjustable or no more than 54 inches in height to ensure accessibility for persons in wheelchairs.

(d) Each resident sleeping room will have exterior window(s) with a combined area at least one-tenth of the floor area of the room. Sleeping room windows will be equipped with curtains or blinds for privacy and control of light. For homes initially licensed on or after December 1, 1999, an operable, opening window for emergency egress will be provided consistent with Building Code requirements.

(e) When locking devices are used on resident sleeping room doors, they will meet the requirements of the Building Code.

(8) Bathrooms.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(a) Bathing and toilet facilities will be conveniently located for resident use, provide permanently wired light fixtures that illuminate all parts of the room, provide individual privacy for residents, provide a securely affixed mirror at eye level, be adequately ventilated by a mechanical exhaust system or operable windows, and include sufficient facilities specially equipped for use by persons with a physical disability in buildings serving such persons.

(b) A minimum of one toilet, one lavatory and one bathtub or shower will be available for residents.

(9) Common Use Rooms. The home will include lounge and activity area(s), such as a living room or parlor, as required in the Building Code or totaling 25 square feet per resident, whichever is greater, for social and recreational use exclusively by residents, staff and invited guests.

(10) Laundry and Related Space. Laundry facilities will be separate from food preparation and other resident use areas. When residential laundry equipment is installed, the laundry facilities may be located to allow for both resident and staff use. The following will be included in the laundry facilities:

(a) Countertops or folding table(s) sufficient to handle laundry needs for the facility;

(b) Locked storage for chemicals and equipment;

(c) Outlets, venting and water hook-ups according to state building code requirements. Washers will have a minimum rinse temperature of 140 degrees Fahrenheit; and

(d) Sufficient, separate storage and handling space to ensure that clean laundry is not contaminated by soiled laundry.

(11) Kitchen. Kitchen facilities and equipment will be of residential type except as otherwise approved by the Division. For all kitchens, the following will be included:

(a) Dry storage space, not subject to freezing, in cabinets or a separate pantry for a minimum of one week's supply of staple foods;

(b) Sufficient refrigeration space maintained at 45 degrees Fahrenheit or less and freezer space for a minimum of two days' supply of perishable foods;

(c) A dishwasher (may be approved residential type) with a minimum final rinse temperature of 140 degrees Fahrenheit;

(d) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(e) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;
(f) Stove and oven equipment for cooking and baking needs; and

(g) Storage for a mop and other cleaning tools and supplies used for food preparation, dining and adjacent areas. Such cleaning tools will be maintained separately from those used to clean other parts of the facility.

(12) Dining Area.

(a) A separate dining room or area where meals are served will be provided for the exclusive use of residents, employees, and invited guests.

(b) Dining space will be provided to seat all residents with a minimum area of 20 square feet per resident, exclusive of serving facilities and required exit pathways.

(13) Details and Finishes. All details and finishes will meet the finish requirements of applicable sections of the Building Code and the Fire Code.

(a) Surfaces. Surfaces of all walls, ceilings, windows and equipment will be readily cleanable. The walls, floors and ceilings in the kitchen, laundry and bathing areas will be nonabsorbent, and readily cleanable.

(b) Flooring. In homes initially licensed on or after December 1, 1999, flooring, thresholds and floor junctures will be designed and installed to prevent a tripping hazard. In addition, hard surface floors and base will be free from cracks and breaks, and bathing areas will have non-slip surfaces.

(c) Doors. In homes initially licensed on or after December 1, 1999, all doors to accessible resident sleeping rooms, bathrooms and common use areas will provide a minimum clear opening of 32 inches. Lever type door hardware will be provided on all doors used by residents in accessible areas. If locks are used on doors to resident sleeping rooms, they will be interactive to release with operation of the inside door handle and be master-keyed from the corridor side. Exit doors will not include locks which prevent evacuation. An exterior door alarm or other acceptable system may be provided for security purposes and to alert staff when resident(s) or others enter or exit the home.

(d) Handrails. Handrails will be provided on all stairways as specified in the Building Code.

(14) Heating and Ventilating. All areas of the home will be adequately ventilated and temperature controlled consistent with Mechanical and Building Code requirements in effect at the time of installation.

(a) Temperature Control. All habitable rooms will include heating equipment capable of maintaining a minimum temperature of 68 degrees Fahrenheit at a point three feet
above the floor. During times of extreme summer heat, fans will be made available when air conditioning is not provided.

(b) Exhaust Systems. All toilet and shower rooms will be ventilated by a mechanical exhaust system or operable windows.

(c) Fireplaces, Furnaces, Wood Stoves and Boilers. Where used, design and installation will meet standards of the Mechanical Code and the Boiler and Pressure Vessel Law in effect at the time of their installation, as applicable.

(d) Water Temperature. In resident areas, hot water temperatures will be maintained within a range of 110 to 120 degrees Fahrenheit. Hot water temperatures for washing machines and dishwashers will be at least 140 degrees Fahrenheit.

(15) Electrical. All electrical systems will meet the standards of the Electrical Code in effect on the date of installation, and all electrical devices will be properly wired and in good repair.

(a) When not fully grounded, circuits in resident areas may be protected by GFCI type receptacles or circuit breakers as an acceptable alternative.

(b) All electrical circuits will be protected by circuit breakers or non-interchangeable circuit-breaker-type fuses in fuse boxes.

(c) A sufficient supply of electrical outlets will be provided to meet resident and staff needs without the use of extension cords or outlet expander devices. (See Office of State Fire Marshal and Department of Health Services policy for extension cords.)

(d) Lighting fixtures will be provided in each resident bedroom and bathroom, switchable near the entry door, and in other areas as required to meet task illumination needs.

(16) Plumbing. All plumbing will meet the Plumbing Code in effect on the date of installation, and all plumbing fixtures will be properly installed and in good repair.

(17) Telephones. The home will provide adequate access to telephones for private use by residents. In homes initially licensed on or after December 1, 1999, a phone for resident use will be provided in addition to the phone used by staff. The RTH may establish reasonable house rules governing phone use to ensure equal access by all residents. Each resident or guardian (as applicable) will be responsible for payment of long distance phone bills where the calls were initiated by the resident, unless other mutually agreed arrangements have been made.

(18) Smoking. Smoking is not allowed in sleeping areas. If there is a designated smoking area, it will be separated from other common areas. Indoor smoking areas will be equipped with a mechanical exhaust fan or central exhaust system which discharges to the outside. Furniture used in designated smoking areas will be non-flammable and
without crevasses. In homes initially licensed on or after December 1, 1999, indoor smoking areas will be separated from other parts of the home by a self-closing door, contain sprinkler protection or heat detectors, and contain only non-combustible furnishings and materials.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0330 – Safety

(1) Training on Safety Procedures. All staff will be trained in staff safety procedures prior to beginning their first regular shift. All residents will be trained in resident safety procedures as soon as possible during their first 72 hours of residency.

(2) Emergency Procedure and Disaster Plan. A written procedure and disaster plan will be developed to cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes and floods. The plan will be posted by the phone and immediately available to the administrator and employees. The plan will specify where staff and residents will go if the home becomes uninhabitable. The plan will be kept up to date and will include:

(a) Emergency instructions for employees;

(b) The telephone numbers of the local fire department, police department, the poison control center, the administrator, the administrator's designee, and other persons to be contacted in emergencies; and

(c) Instructions for the evacuation of residents and employees.

(3) Combustible and Hazardous Materials. Noncombustible and nonhazardous materials will be used whenever possible. When necessary to the operation of the home, flammable and combustible liquids and other hazardous materials will be safely and properly stored in clearly labeled, original containers in areas inaccessible to residents in accordance with the Fire Code. Any quantities of combustible and hazardous materials maintained will be the minimum necessary.

(4) Poisonous and Other Toxic Materials. Non-toxic cleaning supplies will be used whenever available. Poisonous and other toxic materials will be properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation Capability. Evacuation capability categories are based upon the ability of the residents and staff as a group to evacuate the home or relocate from a point of occupancy to a point of safety. Homes will be constructed and equipped according to the Building Code occupancy classification for the designated evacuation capability for occupants. Occupancy classification categories of evacuation capability include "Impractical" and "Slow" (SR-3). "Prompt" homes are regulated by the building and fire
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

codes as R-3 occupancies. The evacuation capability designated for the facility will be documented and maintained in accordance with requirements for Group SR Occupancies in the Building Code.

(a) Only persons assessed to be capable of evacuating in accordance with the designated facility evacuation capability will be admitted to the RTH.

(b) Persons experiencing difficulty with evacuating in a timely manner will be provided assistance from staff and offered environmental and other accommodations, as practical. Under such circumstances, the RTH will consider increasing staff levels, changing staff assignments, offering to change the resident's room assignment, arranging for special equipment, and taking other actions that may assist the resident. Residents who still cannot evacuate the home safely in the allowable period of time will be assisted with transferring to another program with an evacuation capability designation consistent with the individual's documented evacuation capability.

(6) Evacuation Drills. Every resident will participate in an unannounced evacuation drill each month. (See Section 408.12.5 of the Fire Code.)

(a) At least once every three months, the drill will be conducted during resident sleeping hours.

(b) Drills will be scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes.

(c) Any resident failing to evacuate within the established time limits will be provided with special assistance and a notation made in the resident record.

(d) Written evacuation records will be retained for at least three years. They will include documentation, made at the time of the drill, specifying the date and time of the drill, the location designated as the origin of the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(7) Unobstructed Egress. All stairways, halls, doorways, passageways, and exits from rooms and from the home will be unobstructed.

(8) Fire Extinguishers. The program will install and maintain one or more 2A:10B:C fire extinguishers on each floor in accordance with the Fire Code.

(9) Fire and Smoke Alarms and Detectors. Approved fire and smoke alarms and detectors will be installed according to Building Code and Fire Code requirements. These alarms will be tested during each evacuation drill. The RTH will provide appropriate signal devices for persons with disabilities who do not respond to the standard auditory alarms. All of these devices will be inspected and maintained in
accordance with the requirements of the State Fire Marshal or local agency having jurisdiction.

(10) Sprinkler Systems. Sprinkler systems, if used, will be installed in compliance with the Building Code and maintained in accordance with rules adopted by the State Fire Marshal.

(11) First Aid Supplies. First aid supplies will be readily accessible to staff. All supplies will be properly labeled.

(12) Portable Heaters. Portable heaters are a recognized safety hazard and will not be used, except as approved by the State Fire Marshal or authorized representative.

(13) Safety Program. A safety program will be developed and implemented to identify and prevent the occurrence of hazards. Such hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0340 – Sanitation

(1) Water Supply. The water supply in the home will meet the requirements of the current rules of the Health Division governing domestic water supplies.

(a) A municipal water supply will be utilized if available.

(b) When the home is not served by an approved municipal water system, and the home qualifies as a public water system according to OAR 333-061-0020(127), Public Health Division rules for public water systems, then the home will comply with the OAR chapter 333 rules of the Public Health Division pertaining to public water systems. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly, and nitrate at least annually, and reported to Public Health Division. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards, that public notice be given whenever a violation of the water quality standards occurs, and that records of water testing be retained according to the Public Health Division requirements.

(2) Surfaces. All floors, walls, ceilings, windows, furniture, and equipment will be kept in good repair, clean, neat and orderly.

(3) Plumbing Fixtures. Each bathtub, shower, lavatory, and toilet will be kept clean, in good repair and regularly sanitized.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(4) Disposal of Cleaning Waste Water. No kitchen sink, lavatory, bathtub, or shower will be used for the disposal of cleaning waste water.

(5) Soiled Laundry. Soiled linens and clothing will be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) Pest Control. All necessary measures will be taken to prevent rodents and insects from entering the home. Should pests be found in the home, appropriate action will be taken to eliminate them.

(7) Grounds Maintenance. The grounds of the home will be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage Storage and Removal. Garbage and refuse receptacles will be clean, durable, watertight, insect and rodent proof, and will be kept covered with tight-fitting lids. All garbage and solid waste will be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.

(9) Sewage Disposal. All sewage and liquid wastes will be disposed of in accordance with the Plumbing Code to a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes will be collected, treated, and disposed of in compliance with the current rules of the Department of Environmental Quality. Sewage lines, and septic tanks or other non-municipal sewage disposal systems where applicable, will be maintained in good working order.

(10) Biohazardous Waste. Biohazardous waste will be disposed of in compliance with the rules of the Department of Environmental Quality.

(11) Infection Control. Precautions will be taken to prevent the spread of infectious and/or communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards.

(a) In accordance with OAR 437-002-0368 through 437-002-2226 of the Oregon Occupational Safety and Health Code, staff will employ universal precautions whereby all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV and other blood borne pathogens.

(b) Bathroom facilities will be equipped with an adequate supply of toilet paper, soap and towels.

(12) Infection Control for Pets and Other Household Animals. If pets or other household animals exist at the home, sanitation practices will be implemented to prevent health hazards.
(a) Such animals will be vaccinated in accordance with the recommendations of a licensed veterinarian. Proof of such vaccinations will be maintained on the premises.

(b) Animals not confined in enclosures will be under control and maintained in a manner that does not adversely impact residents or others.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0350 – Resident Furnishings

(1) Bedroom Furniture. Residents will be allowed to use their own furniture within space limitations of the resident sleeping room. Otherwise, furniture will be provided or arranged for each resident, maintained in good repair and include:

(a) A bed, including a frame and a clean mattress and pillow;

(b) A private dresser or similar storage area for personal belongings which is readily accessible to the resident; and

(c) Locked storage for the resident's small, personal belongings. In homes initially licensed before December 1, 1999, this locked storage may be provided in a place other than the resident's bedroom. The resident will be provided with a key or other method to gain access to his/her locked storage space.

(2) Linens. Linens will be provided for each resident and will include:

(a) Sheets, pillowcase, other bedding appropriate to the season and individual resident's comfort;

(b) Availability of a waterproof mattress or waterproof mattress cover; and

(c) Towels and wash cloths.

(3) Personal Hygiene Items. Each resident will be assisted in obtaining personal hygiene items in accordance with individual needs. These will be stored in a clean and sanitary manner, and may be purchased with the resident's personal allowance. Personal hygiene items include, but are not limited to, a comb and/or hairbrush, a toothbrush, toothpaste, and menstrual supplies (if needed).

(4) Supplies Provided by RTH. Sufficient supplies of soap, shampoo and toilet paper for all residents will be provided.

(5) Common Area Furniture. An adequate supply of furniture for resident use in living room, dining room and other common areas will be maintained in good condition.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0360 – Admission to Home

(1) Responsibility for Admission Process. Each RTHs admission policy and procedures will specify who is responsible for each component of the admission information-gathering and decision-making process. Responsibilities will be organized and assigned to promote effective processing of referrals and admissions.

(2) Referrals. Unless limited by contractual agreement with the Division or other Division-approved party, referrals may be accepted from a variety of sources. Residents whose services will be funded by the Division must be approved for placement by the CMHP or other local entity given responsibility for this function by contract with the Division.

(3) Release of Information. In accordance with ORS 179.505 and the 45 Code of Federal Registry, Part 164, an authorization for the release of information will be obtained for any confidential information concerning a prospective resident.

(4) Nondiscrimination. Persons will be considered for admission without regard to race, color, sex or sexual orientation (except as may be limited by room arrangement), religion, creed, national origin, age (except under 18 years), familial status, marital status, source of income, or disability in addition to the mental or emotional disorder.

(5) Screening. Prior to accepting a resident for admission to the RTH, the administrator or his/her designee will determine that the resident meets admission criteria. The prospective resident will receive an explanation of the program, be given a copy of materials explaining conditions of residency, and be offered the opportunity to visit the home. Sufficient information will be obtained from the prospective resident, a relative and/or agencies providing services to determine eligibility for admission and service needs. In the case of individuals referred for emergency or crisis-respite admission, the information obtained may be less extensive than for regular admissions but must be sufficient to determine that the resident meets admission criteria and that the RTH is appropriate considering the individual's needs. Screening information will include, but not be limited to, the following:

(a) Written documentation that the prospective resident has, or is suspected of having, a mental or emotional disorder;

(b) Background information including a mental health assessment and describing previous living arrangements, service history, behavioral issues and service needs;

(c) Medical information including a brief history of any health conditions, documentation from a Licensed Medical Professional or other qualified health care professional of the individual's current physical condition, and a written record of any current or
recommended medications, treatments, dietary specifications, and aids to physical functioning;

(d) Copies of documents, or other documentation, relating to guardianship, conservatorship, commitment status, advance directives, or any other legal restrictions (as applicable);

(e) A copy of the prospective resident's most recent mental health treatment plan, or in the case of an emergency or crisis-respite admission, a summary of current mental health treatment involvement; and

(f) Documentation of the prospective resident's ability to evacuate the building consistent with the RTHs designated evacuation capability and other concerns about potential safety risks.

(6) Admission Criteria. Persons considered for admission will:

(a) Be assessed to have a mental or emotional disorder, or a suspected mental or emotional disorder;

(b) Be in need of care, treatment and supervision;

(c) Be at least 18 years of age;

(d) Not require continuous nursing care, unless a reasonable plan to provide such care exists, the need for residential treatment supersedes the need for nursing care, and the Division approves the placement;

(e) Have an evacuation capability consistent with the RTHs SR Occupancy classification; and

(f) Meet additional criteria required or approved by the Division through contractual agreement or condition of licensing.

(7) Admission Decisions. A decision to admit a resident to the RTH will be made as follows:

(a) For regular admissions, the decision will be made based upon a review of screening materials at a pre-admission meeting and a determination that the resident meets the admission criteria. A pre-admission meeting will be scheduled to include the RTH administrator or designee, the potential resident and his/her legal guardian (as applicable). With the prospective resident's consent, the pre-admission meeting may also include family member(s) or other representative(s) as appropriate, representative(s) of relevant service providing agency(ies), and others with an interest in the resident's admission. The potential resident, legal guardian (as applicable) and authorized representative will be informed of the admission decision within 72 hours. If a
decision is deferred or postponed, the potential resident, legal guardian (as applicable) and authorized representative will be informed of the potential resident's application status within one week of the pre-admission meeting, and weekly thereafter (as necessary). When admission is denied, the prospective resident, their legal guardian (as applicable) and authorized representative will be informed in writing of the basis for the decision and their right to appeal the decision in accordance with OAR 309-035-0390.

(b) For crisis-respite admissions, the decision will be made based upon a review of the referral materials by the RTH administrator or designee and a determination that the resident meets the admission criteria. Due to the urgent nature of crisis-respite admissions, decisions will be made on an immediate basis. The prospective resident, their legal guardian (as applicable) and authorized representative will be directly informed of the decision and their right to appeal in accordance with OAR 309-035-0390.

(8) Informed Consent for Services. The RTH will obtain informed consent for services upon admission to the RTH from each resident, or his/her guardian (as applicable), unless the resident's ability to do so is legally restricted. If such consent is not obtained, the reason will be documented and further attempts to obtain informed consent will be made as appropriate.

(9) Orientation. Upon admission, the administrator or his/her designee will provide an orientation to each new resident that includes, but is not limited to, a complete tour of the home, introductions to other residents and staff, discussion of house rules, explanation of the laundry and food service schedule and policies, review of resident rights and grievance procedures, explanation of the fee policy, discussion of the conditions under which residency would be terminated, and a general description of available services and activities. During the orientation, advance directives will be explained. If the resident does not already have any advance directive(s), she/he will be given an opportunity to complete them. Orientation will also include a description of the RTHs emergency procedures in accordance with OAR 309-035-0330.

(10) Record Preparation. A resident record will be established concurrent with the resident's admission. Prior to a regular admission, within five days after an emergency admission, or within 24 hours of a crisis-respite admission, the program will determine with whom communication needs to occur and will attempt to obtain the needed authorizations for release of information. The record established upon admission will include the materials reviewed in screening the resident, the summary sheet and any other available information. Every effort will be made to complete the resident record consistent with OAR 309-035-0300 in a timely manner. The assessment and residential service plan will be completed in accordance with 309-035-0400. Records on prescribed medications and health needs will be completed as specified in 309-035-0440.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)
(1) Responsibility for Termination Process. Each RTHs termination policy and procedures will specify who is responsible for each step of the process for terminating residency. Responsibilities will be organized and assigned to promote a fair and efficient termination process. Unless otherwise designated as a condition of licensing or in contract language approved by the Division, the Administrator will be responsible for initiating and coordinating termination proceedings. An effort will be made to prevent unnecessary terminations by making reasonable accommodations within the RTH.

(2) Crisis-respite Services. Because crisis-respite services are time-limited, the planned end of services will not be considered a termination of residency and will not be subject to requirements in OAR 309-035-0370. Upon admission to crisis-respite services, the resident or guardian (as applicable) will be informed of the planned date for discontinuation of services. This date may be extended through mutual agreement between the administrator and the resident or guardian (as applicable). RTHs providing crisis-respite services will implement policies and procedures that specify reasonable time frames and the grounds for discontinuing crisis-respite services earlier than the date planned.

(3) Voluntary Termination of Residency. A resident or guardian (as applicable) may terminate residency in the RTH upon providing at least 30 days notice. Upon mutual agreement between the administrator and the resident or guardian (as applicable), less than 30 days notice may be provided.

(4) Emergency Termination of Residency. If a resident's behavior poses a serious and immediate threat to the health or safety of others in or near the RTH, the administrator, after providing 24 hours written notice specifying the causes to the resident or guardian (as applicable), may immediately terminate the residency. The notice will specify the resident's right to appeal the emergency termination decision in accordance with OAR 309-035-0390.

(5) Other Terminations of Residency. When other circumstances arise providing grounds for termination of residency, the administrator will discuss these grounds with the resident, the resident's guardian (as applicable), and with the resident's permission, other persons with an interest in the resident's circumstances. If a decision is made to terminate residency, the administrator will provide at least 30 days written notice specifying the causes to the resident or guardian (as applicable). This notice will also specify the resident's right to appeal the termination decision in accordance with OAR 309-035-0390. Upon mutual agreement between the administrator and the resident or guardian (as applicable), less than 30 days notice may be provided. An effort will be made to establish a reasonable termination date in consideration of both program needs and the needs of the terminated resident to find alternative living arrangements. Criteria establishing grounds for termination include:
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(a) Resident no longer needs or desires services provided at the RTH and/or expresses a desire to move to an alternative setting;

(b) Resident is assessed by a Licensed Medical Professional or other qualified health professional to require services, such as continuous nursing care or extended hospitalization, that are not available, or can not be reasonably arranged, at the RTH;

(c) Resident's behavior is continuously and significantly disruptive or poses a threat to the health or safety of self or others and these behavioral concerns cannot be adequately addressed with services available at the RTH or services that can be arranged outside of the RTH;

(d) Resident cannot safely evacuate the home in accordance with the RTHs SR Occupancy Classification after efforts described in OAR 309-035-0330 have been taken;

(e) Nonpayment of fees in accordance with program's fee policy; and

(f) Resident continuously and knowingly violates house rules resulting in significant disturbance to others.

(6) Pre-termination Meeting. Except in the case of emergency terminations or crisis-respite services, a pre-termination meeting will be held with the resident, guardian (as applicable), and with the resident's permission, others interested in the resident's circumstances. The purpose of the meeting is to plan any arrangements necessitated by the termination decision. The meeting will be scheduled to occur at least two weeks prior to the termination date. In the event a pre-termination meeting is not held, the reason will be documented in the resident's record.

(7) Documentation. Documentation of discussions and meetings held concerning termination of residency and copies of notices will be maintained in the resident's record.

(8) Disposition of Personal Property. At the time of termination of residency, the resident will be given a statement of account, any balance of funds held by the RTH and all property held in trust or custody by the RTH.

(a) In the event of pending charges (such as long distance phone charges or damage assessments), the program may hold back the amount of funds anticipated to cover the pending charges. Within 30 days after residency is terminated or as soon as pending charges are confirmed, the resident will be provided a final financial statement along with any funds due to the resident.

(b) In the case of resident belongings left at the RTH for longer than seven days after termination of residency, the RTH will make a reasonable attempt to contact the resident, guardian (as applicable) and/or other representative of the resident. The RTH
must allow the resident, guardian (as applicable) or other representative at least 15 days to make arrangements concerning the property. If it is determined that the resident has abandoned the property, the RTH may then dispose of the property. If the property is sold, proceeds of the sale, minus the amount of any expenses incurred and any amounts owed the program by or on behalf of the resident, will be forwarded to the resident or guardian (as applicable).

(9) Absences without Notice. If a resident moves out of the RTH without providing notice, or is absent without notice for more than seven consecutive days, the administrator may terminate residency in the manner provided in ORS 105.105 to 105.168 after seven consecutive days of the resident's absence. An attempt will be made to contact the resident, guardian (as applicable) and/or other person interested in the resident's circumstances to confirm the resident's intent to discontinue residency.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0380 – Resident Rights

(1) Statutory and Constitutional Rights. Each resident will be assured the same civil and human rights accorded to other citizens. These rights will be assured unless expressly limited by a court in the case of a resident who has been adjudicated incompetent and not restored to legal capacity. The rights described in paragraphs (2) and (3) of this section are in addition to, and do not limit, all other statutory and constitutional rights which are afforded to all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose property, enter into contracts and execute documents.

(2) Rights of Service Recipients. In accordance with ORS 430.210, residents will have the right to:

(a) Choose from available services those which are appropriate, consistent with the plan developed in accordance with paragraphs (b) and (c) of this subsection, and provided in a setting and under conditions that are least restrictive to the person's liberty, that are least intrusive to the person and that provide for the greatest degree of independence;

(b) An individualized written service plan, services based upon that plan and periodic review and reassessment of service needs;

(c) Ongoing participation in planning services in a manner appropriate to the person's capabilities, including the right to participate in the development and periodic revision of the plan described in paragraph (b) of this subsection, and the right to be provided with a reasonable explanation of all service considerations;

(d) Not receive services without informed consent except in a medical emergency or as otherwise permitted by law;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(e) Not participate in experimentation without informed voluntary written consent;

(f) Receive medication only for the person's individual clinical needs;

(g) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure;

(h) A humane service environment that affords reasonable protection from harm and affords reasonable privacy;

(i) Be free from abuse or neglect and to report any incident of abuse without being subject to retaliation;

(j) Religious freedom;

(k) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation;

(l) Visit with family members, friends, advocates and legal and medical professionals;

(m) Exercise all rights set forth in ORS 426.385 and 427.031 if the individual is committed to the Division;

(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this section and the procedure for reporting abuse, and to have these rights and procedures prominently posted in a location readily accessible to the person and made available to the person's guardian and any representative designated by the person;

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure;

(p) Have access to and communicate privately with any public or private rights protection program or rights advocate; and

(q) Exercise all rights described in this section without any form of reprisal or punishment.

(3) Additional Rights in RTHs. Residents will also have a right to:

(a) Adequate food, shelter and clothing, consistent with OAR 309-035-0410;

(b) A reasonable accommodation if, due to their disability, the housing and services are not sufficiently accessible;
(c) Confidential communication, including receiving and opening personal mail, private visits with family members and other guests, and access to a telephone with privacy for making and receiving telephone calls;

(d) Express sexuality in a socially appropriate and consensual manner;

(e) Access to community resources including recreation, religious services, agency services, employment and day programs, unless such access is legally restricted;

(f) Be free from seclusion and restraint;

(g) To review the RTHs policies and procedures; and

(h) Not participate in research without informed voluntary written consent.

(4) The Resident's Right to Fresh Air. For the purpose of this rule, these terms have the following meanings:

(a) “Fresh air” means the inflow of air from outside the facility where the resident is receiving services. “Fresh air” may be accessed through an open window or similar method as well as through access to the outdoors.

(b) “Outdoors” means an area with fresh air that is not completely enclosed overhead. “Outdoors” may include a courtyard or similar area.

(c) If a resident requests access to fresh air and the outdoors or the resident's treating health care provider determines that fresh air and the outdoors would be beneficial to the resident, the facility in which the resident is receiving services shall provide daily access to fresh air or the outdoors unless this access would create a significant risk of harm to the resident or others.

(d) The determination whether a significant risk of harm to the resident or others exists shall be made by the resident's treating health care provider. The treating health care provider may find that a significant risk of harm to the resident or others exists if:

(A) The resident 's individual circumstances and condition indicate an unreasonable risk of harm to the resident or others which cannot be reasonably accommodated within existing programming should the resident be allowed access to fresh air and the outdoors; or

(B) The facility's existing physical plant or existing staffing prevent the provision of access to fresh air and the outdoors in a manner than maintains the safety of the resident or others.

(e) If a facility determines that its existing physical plant prevents the provision of access to fresh air or the outdoors in a safe manner, the facility shall make a good faith effort at
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

the time of any significant renovation to the physical plant that involves renovation of the unit or relocation of where residents are treated to include changes to the physical plan or location that allow access to fresh air and the outdoors, so long as such changes do not add an unreasonable amount to the cost of the renovation.

(5) Program Requirements. The program will have and implement written policies and procedures which protect residents' rights, and encourage and assist residents to understand and exercise their rights. The program will post a listing of resident rights under these rules in a place readily accessible to all residents and visitors.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0390 – Grievances and Appeals

(1) Procedures. The RTH will have a written policy and procedures concerning the resident grievance and appeal process. A copy of the grievance and appeal process will be posted in a place readily accessible to residents. A copy of the grievance and appeal process will be provided to each resident and guardian (as applicable) at the time of admission to the RTH.

(2) Grievances. A RTHs process for grievances must, at a minimum, include the following:

(a) Residents will be encouraged to informally resolve complaints through discussion with RTH staff.

(b) If the resident is not satisfied with the informal process or does not wish to use it, the resident may proceed as follows:

(A) The resident may submit a complaint in writing to the RTH administrator. The resident may receive assistance in submitting the complaint from any person whom the resident chooses. If requested by the resident, RTH staff will be available to assist the resident.

(B) The written complaint will go directly to the RTH administrator without being read by other staff, unless the resident requests or permits other staff to read the complaint.

(C) The complaint will include the reasons for the grievance and the proposed resolutions. No complaint will be disregarded because it is incomplete.

(D) Within five days of receipt of the complaint, the RTH administrator will meet with the resident to discuss the complaint. The resident may have an advocate or other person of his/her choosing present for this discussion.
(E) Within five days of meeting with the resident, the RTH administrator will provide a written response to the resident. As part of the written response, the Administrator will provide information about the appeal process.

(F) In circumstances where the matter of the complaint is likely to cause irreparable harm to a substantial right of the resident before the grievance procedures outlined in OAR 309-035-0390 are completed, the resident may request an expedited review. The RTH administrator will review and respond in writing to the grievance within 48 hours. The written response will include information about the appeal process.

(3) Appeals. Residents, their legal guardians (as applicable) and prospective residents (as applicable) will have the right to appeal admission, termination and grievance decisions as follows:

(a) If the resident is not satisfied with the decision, the resident may file an appeal in writing within ten days of the date of the RTH administrator's response to the complaint or notification of admission denial or termination (as applicable). The appeal will be submitted to the CMHP director or designee in the county where the RTH is located.

(b) The resident may receive assistance in submitting the appeal. If requested by the resident, RTH staff will be available to assist the resident.

(c) The CMHP director or designee will provide a written response within ten days of receiving the appeal.

(d) If the resident is not satisfied with the CMHP director's decision, the resident may file a second appeal in writing within ten days of the date of the CMHP director's written response to the Administrator of the Division or designee. The decision of the Administrator of the Division will be final.

Stat. Auth.: ORS 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0400 – Resident Assessment and Residential Service Plan

(1) Assessment. An assessment will be completed for each resident within 30 days after admission to the RTH, unless admitted to the RTH for crisis-respite services.

(a) The assessment will be based upon an interview with the resident to identify strengths, preferences and service needs; observation of the resident's capabilities within the residential setting; a review of information in the resident record; and contact with representatives of other involved agencies, family members and others, as appropriate. All contacts with others will be made with proper authorization for the release of information.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(b) Assessment findings will be summarized in writing and included in the resident's record. Assessment findings will include, but not be limited to, diagnostic and demographic data; identification of the resident's medical, physical, emotional, behavioral and social strengths, preferences and needs related to independent living and community functioning; and recommendations for residential service plan goals.

(2) Residential Service Plan. An individualized plan, identifying the goals to be accomplished through the services provided, will be prepared for each resident, unless admitted to the RTH for crisis-respite services, within 30 days after admission.

(a) The residential service plan will be based upon the findings of the resident assessment, be developed with participation of the resident and his/her guardian (as applicable), and be developed through collaboration with the resident's primary mental health treatment provider. With consent of the resident or guardian (as applicable), family members, representatives from involved agencies, and others with an interest in the resident's circumstances will be invited to participate. All contacts with others will be made with proper, prior authorization from the resident.

(b) The residential service plan will identify service needs, desired outcomes and service strategies to address, but not be limited to, the following areas: physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability and community navigation.

(c) The residential service plan will be signed by the resident, the administrator or other designated RTH staff person, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan.

(3) Crisis-respite Requirements. For residents admitted to RTHs for 30 days or less, an assessment and residential service plan must be developed within 48 hours of admission which identifies service needs, desired outcomes and the service strategies to be implemented to resolve the crisis or address other needs of the individual that resulted in the short term service arrangement.

(4) Progress Notes. Progress notes will be maintained within each resident's record and document significant information relating to all aspects of the resident's functioning and progress toward desired outcomes identified in the residential service plan. A progress note will be entered in the resident's record at least once each month for regular residents and at least daily for crisis-respite residents.

(5) Re-assessments and Revisions to the Residential Service Plan. The assessment and residential service plan will be reviewed and updated at least annually. On an ongoing basis, the residential service plan will be updated, as necessary, based upon changing circumstances or upon the resident's request for reconsideration.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)
309-035-0410 – Resident Services and Activities

(1) General Requirements. The services and activities available at the RTH will include care and treatment consistent with ORS 443.400 and those services individually specified for the resident in the residential service plan developed as outlined in OAR 309-035-0400. Residents will be encouraged to care for their own needs to the extent possible. All services and activities will be provided in a manner that respects residents' rights, promotes recovery and affords personal dignity.

(2) Services and Activities to Be Available. Services and activities to be available will include but not be limited to:

(a) Provision of adequate shelter consistent with OAR 309-035-0320 through 309-035-0350;

(b) At least three meals per day, seven days per week, provided in accordance with OAR 309-035-0430;

(c) Assistance and support, as necessary, to enable residents to meet personal hygiene and clothing needs;

(d) Laundry services, which may include access to washer(s) and dryer(s) so residents can do their own personal laundry;

(e) Housekeeping essential to the health and comfort of residents;

(f) Activities and opportunities for socialization and recreation both within the facility and in the larger community;

(g) Health-related services provided in accordance with OAR 309-035-0440;

(h) Assistance with community navigation and transportation arrangements;

(i) Assistance with money management, where requested by a resident, to include accurate documentation of all funds deposited and withdrawn when funds are held in trust for the resident;

(j) Assistance with acquiring skills to live as independently as possible;

(k) Assistance with accessing other additional services, as needed; and

(l) Any additional services required under contract with the Division.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

309-035-0420 – Prohibition of Seclusion and Restraints

General Prohibition. The use of seclusion or restraints is prohibited in Residential Treatment Homes. Only Secure Residential Treatment Facilities approved by the Division in accordance with OAR 309-035-0100 through 309-035-0190 will be allowed to use seclusion and restraints.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0430 – Food Services

(1) Well-balanced Diet. Meals will be planned and served in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid.

(2) Modified or Special Diets. An order from a Licensed Medical Professional will be obtained for each resident who, for health reasons, is on a modified or special diet. Such diets will be planned in consultation with the resident.

(3) Menus. Menus will be prepared at least one week in advance and will provide a sufficient variety of foods served in adequate amounts for each resident at each meal and adjusted for seasonal changes. Records of menus, as served, will be filed and maintained in the RTH for at least 30 days. Resident preferences and requests will be considered in menu planning. Religious and vegetarian preferences will be reasonably accommodated.

(4) Supply of Food. Adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days will be maintained on the premises.

(5) Sanitation. Food will be stored, prepared and served in accordance with the Public Health Division’s Food Sanitation Rules.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0440 – Health Services

(1) General. The administrator will be responsible for assuring that all residents are offered medical attention when needed. Arrangements for health services will be made with the informed consent of the resident and/or guardian (as applicable). The RTH will arrange for physicians or other qualified health care professionals to be available in the event the resident’s regular physician or other health care professional is unavailable. A hospital emergency room will be identified and may be used in case of emergency.

141 Repealed 6/8/2017
(2) Initial Health Screening. Each resident admitted to the RTH will be screened by a qualified health care professional to identify health problems and to screen for communicable disease. Documentation of the initial health screening will be placed in the resident record.

(a) The health screening will include a brief history of health conditions, current physical condition and a written record of current or recommended medications, treatments, dietary specifications, and aids to physical functioning.

(b) For regular admissions, the health screening will be obtained prior to the resident's admission and include the results of testing for tuberculosis and Hepatitis B.

(c) For emergency admissions, including crisis-respite admissions, the health screening will be obtained as follows:

(A) For individuals experiencing psychiatric or medical distress, a health screening will be completed by a qualified health care professional prior to the resident's admission or within 24 hours of the emergency placement. The health screening will confirm that the individual does not have health conditions requiring continuous nursing care, a hospital level of care, or immediate medical assistance. For each crisis-respite resident who continues in the RTH for more than seven consecutive days, a complete health examination will be arranged if any symptoms of a health concern exist.

(B) For other individuals who are admitted on an urgent basis due to a lack of alternative supportive housing, the health screening will be obtained within 72 hours after the resident's admission.

(C) The health screening criteria may be waived for individuals admitted for crisis-respite services who are under the active care of an LMP or other qualified health care professional if it is the opinion of the attending health care professional that the crisis-respite placement presents no health risk to the individual or other residents in the RTH. Such a waiver must be provided in writing and be signed and dated by the attending health care professional within 24 hours of the resident's admission.

(3) Regular Health Examinations. Except for crisis-respite residents, the program will ensure that each resident has a primary physician or other qualified health care professional who is responsible for monitoring his/her health care. Regular health examinations will be done in accordance with the recommendations of this primary health care professional, but not less than once every three years. New residents will have a health examination completed within one year prior to admission or within three months after admission. Documentation of findings from each examination will be placed in the resident's record.

(4) Written Orders for Special Needs. A written order, signed by a physician or other qualified health care professional, is required for any medical treatment, special diet for health reasons, aid to physical functioning or limitation of activity.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(5) Medications. A written order signed by a physician or other qualified health care professional is required for all medications administered or supervised by RTH staff. This written order is required before any medication is provided to a resident. All medication maintained in the RTH will be provided to residents in accordance with the applicable written orders.

(a) Medications will be self-administered by the resident if the resident demonstrates the ability to self-administer medications in a safe and reliable manner. In the case of self-administration, both the written orders of the prescriber and the residential service plan will document that medications will be self-administered. The self-administration of medications may be supervised by RTH staff who may prompt the resident to administer the medication and observe the fact of administration and dosage taken. When supervision occurs, staff will enter information in the resident's record consistent with section OAR 309-035-0440 below.

(b) Staff who assist with administration of medication will be trained by a Licensed Medical Professional or other qualified health care professional on the use and effects of commonly used medications.

(c) Medications prescribed for one resident will not be administered to, or self-administered by, another resident. Medication will not be used for the convenience of staff or as a substitute for programming. Medications will not be withheld or used as reinforcement or punishment.

(d) Stock supplies of prescription medications will not be maintained. The RTH may maintain a stock supply of non-prescription medications.

(e) The RTH will provide and implement a policy and procedure which assures that all orders for prescription drugs are reviewed by a qualified health care professional, as specified by a physician or other qualified health care professional, but not less often than every six months. Where this review identifies a contra-indication or other concern, the resident's primary physician, LMP or other primary health care professional will be immediately notified.

(f) Each resident receiving psychotropic medications will be evaluated at least every three months by the LMP prescribing the medication. The RTH will obtain from the LMP the results of this evaluation and any changes in the type and dosage of medication, the condition for which it is prescribed, when and how the medication is to be administered, common side effects (including any signs of tardive dyskinesia, contra-indications or possible allergic reactions), and what to do in case of a missed dose or other dosing error.

(g) All unused, discontinued, outdated or recalled medications, and any medication containers with worn, illegible or missing labels will be disposed. The method of disposal will be safe, consistent with any applicable federal statutes, and designed to prevent diversion of these substances to persons for whom they were not prescribed. A
written record of all disposals will be maintained and specify the date of disposal, a
description of the medication, its dosage potency, amount disposed, the name of the
individual for whom the medication was prescribed, the reason for disposal, the method
of disposal, and the signature of the staff person disposing the medication. For any
medication classified as a controlled substance in schedules 1 through 5 of the Federal
Controlled Substance Act, the disposal must be witnessed by a second staff person
who documents their observation by signing the disposal record.

(h) All medications will be properly and securely stored in a locked space for
medications only in accordance with the instructions provided by the prescriber or
pharmacy. Medications for all residents will be labeled. Medications requiring
refrigeration must be stored in an enclosed locked container within the refrigerator. The
RTH will assure that residents have access to a locked, secure storage space for their
self-administered medications. The RTH will note in its written policy and procedures
which persons have access to this locked storage and under what conditions.

(i) For all residents taking prescribed medication, staff will record in the medical record
each type, date, time and dose of medication provided. All side effects, adverse
reactions and medications errors will be documented in the resident’s record. All serious
adverse reactions or errors will be reported immediately to the prescribing health care
professional. All other errors, adverse reactions or refusals of medication will be
reported to the prescribing professional within 48 hours.

(j) P.r.n. medications and treatments will only be administered in accordance with the
parameters specified by the prescribing health care professional, or in cases where a
nurse assigns or delegates p.r.n. medication or treatment administration, in accordance
with administrative rules of the Board of Nursing, chapter 851, division 47.

(6) Delegation of Nursing Tasks. Where a nurse is involved in the care of an RTH
resident, nursing tasks may be assigned or delegated by a Registered Nurse to direct
care staff in accordance with administrative rules of the Board of Nursing, chapter 851, division 47.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0450 – Civil Penalties

(1) Applicability of Long Term Care Statute. For purposes of imposing civil penalties,
RTHs licensed under ORS 443.400 to 443.465 and 443.991 are considered to be long-
term care facilities subject to 441.705 to 441.745.

(2) Sections of Rule Subject to Civil Penalties. Violations of any requirement within any
part of the following sections of the rule may result in a civil penalty:

(a) 309-035-0270 Licensing;
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(b) 309-035-0280 Contracts and Rates;

(c) 309-035-0290 Administrative Management;

(d) 309-035-0300 Records;

(e) 309-035-0310 Staffing;

(f) 309-035-0320 Physical Environment Requirements;

(g) 309-035-0330 Safety;

(h) 309-035-0340 Sanitation;

(i) 309-035-0350 Resident Furnishings;

(j) 309-035-0360 Admission to Home;

(k) 309-035-0370 Termination of Residency;

(l) 309-035-0380 Resident Rights;

(m) 309-035-0390 Grievances and Appeals;

(n) 309-035-0400 Resident Assessment and Residential Service Plan;

(o) 309-035-0410 Resident Services and Activities;

(p) 309-035-0420 Prohibition of Seclusion or Restraints;

(q) 309-035-0430 Food Services; and

(r) 309-035-0440 Health Services.

(3) Assessment of Civil Penalties. Civil penalties will be assessed in accordance with the following guidelines:

(a) Civil penalties, not to exceed $250 per violation to a maximum of $1,000, may be assessed for general violations of these rules. Such penalties will be assessed after the procedures outlined in OAR 309-035-0270(8) have been implemented;

(b) A mandatory penalty up to $500 will be assessed for falsifying resident or facility records or causing another to do so;

(c) A mandatory penalty of $250 per occurrence will be imposed for failure to have direct care staff on duty 24 hours per day;
(d) Civil penalties up to $1,000 per occurrence may be assessed for substantiated abuse;

(e) In addition to any other liability or penalty provided by the law, the Division may impose a penalty for any of the following:

(A) Operating the RTH without a license;

(B) Operating with more residents than the licensed capacity; and

(C) Retaliating or discriminating against a resident, family member, employee, or other person for making a complaint against the program.

(f) In imposing a civil penalty, the following factors will be taken into consideration:

(A) The past history of the person incurring the penalty in taking all feasible steps or procedures to correct the violation;

(B) Any prior violations of statutes, rules or orders pertaining to the RTH;

(C) The economic and financial conditions of the person incurring the penalty;

(D) The immediacy and extent to which the violation threatens or threatened the health, safety or welfare of one or more residents; and

(E) The degree of harm caused to residents.

(4) Notification. Any civil penalty imposed under this section will become due and payable ten days after notice is received, unless a request for a hearing is filed. The notice will be delivered in person, or sent by registered or certified mail and will include a reference to the particular section of the statute or rule involved, a brief summary of the violation, the amount of the penalty or penalties imposed, and a statement of the right to request a hearing.

(5) Request for Hearing. The person to whom the notice is addressed will have ten days from the date of receipt of the notice to request a hearing. This request must be in writing and submitted to the Administrator of the Division. If the written request for a hearing is not received on time, the Division will issue a final order by default.

(6) Hearings. All hearings will be conducted pursuant to the applicable provisions of ORS 183.310 to 183.550, Administrative Procedure and Rules for Civil Penalties.

(7) Judgment. Unless the penalty is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the person. The
Residential Treatment Facilities and Residential Treatment Homes
for Adults with Mental Health Disorders

Division may also take action to revoke the license upon failure to comply with a final order.

(8) Judicial Review. Civil penalties are subject to judicial review under ORS 183.480, except that the court may, at its discretion, reduce the amount of the penalty.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0460 – Criminal Penalties

(1) Specification of Criminal Penalty. Violation of any provision of ORS 443.400 through 443.465 is a Class B misdemeanor.

(2) Grounds for Law Suit. In addition, the Division may commence an action to enjoin operation of a RTH:

(a) When a RTH is operated without a valid license; or

(b) When a RTH continues to operate after notice of revocation has been given and a reasonable time has been allowed for placement of residents in other programs.

Stat. Auth.: ORS 443.450
Stats. Implemented: ORS 443.400 - 443.465 & 443.991(2)

309-035-0500 – Residential Facilities

(1) Effective September 1, 1988, and except as otherwise provided in this rule, the capacity of all Residential Facilities or home for adults, including foster care homes, group care facilities or residential treatment, training or care facilities, located throughout the state shall not exceed a target based on the number of beds available in 1979, updated at the rate of ten percent per year, as distributed on the basis of the Oregon population by county. The distribution shall be determined by the Oregon Health Authority annually.

(2) Where a county possesses less than one percentile of the State population, then the county with the lowest percentile within an Authority's region shall be grouped until such time as the group reaches one percentile of the State population in determining the distribution target.

(3) Nothing in this rule is intended to prevent placement of a person who was not initially a resident of the county in a domiciliary care facility in the county. The targeted number of beds shall not require reduction in any domiciliary care facility capacity existing on October 4, 1977. No domiciliary care facility will be required to suspend operations, nor will the Authority support be denied such facilities on the basis of the facility being located in a county or county grouping which exceeds the distribution target.

147  Repealed 6/8/2017
(4) Adult Foster Care Homes as described in section (1) of this rule does not include Adult Foster Care Homes in which the clients of these homes are directly related by blood or marriage to the operator of the homes.

(5) In cases for which the distribution target for residential facilities, except Adult Foster Care Homes, allows for additional capacity in a county or county grouping and such additional capacity is less than ten beds, then one additional facility of the same type of ten-bed capacity may be authorized.

(6) This rule applies only to those residential care facilities as described in sections (1) and (4) of this rule which are established by, contracted for, or operated by the Oregon Health Authority or any of its divisions.

(7) Nothing in this rule will exempt any residential facility from the regulations of funding limitations of the Oregon Health Authority or any of its divisions.

(8) Subject to the appropriate licensing requirements, the governing body of a county may authorize a residential facility located in the county to exceed the capacity limit upon:

(a) Request of an individual or organization operating or proposing to operate a residential facility;

(b) Consultation with an advisory committee appointed by the governing body and consisting of persons who are particularly interested in the type of residential facility contemplated; and

(c) Finding of good cause following notice and public hearing.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042

309-035-0550 – Purpose

(1) OAR 309-035-0550 through 309-035-0600 establish a long-range goal wherein ultimately residential care and adult foster home clients of the Oregon Health Authority, whose primary service needs are associated with mental retardation or other developmental disabilities, or mental or emotional disturbance, or alcohol or drug abuse or dependence, will reside in Adult Residential Care Facilities and Adult Foster Homes under the jurisdiction of the Division serving only such category of residents. Those clients not having such primary service needs will reside in facilities under the jurisdiction of the Aging and People with Disabilities Division, serving only such category of residents.
Residential Treatment Facilities and Residential Treatment Homes for Adults with Mental Health Disorders

(2) The goal is realized by assigning certain facilities to the jurisdiction of the Division with interim procedures for case management of mixed clients and by prescribing those facilities to which new placements will be made.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042

309-035-0560 – Definitions

As used in OAR 309-035-0550 through 309-035-0600:

(1) "Mental Retardation" means:

(a) A person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period. Persons of borderline intelligence may be considered mentally retarded if there is also serious impairment of adaptive behavior. Definitions and classifications shall be consistent with the Manual on Terminology and Classification in Mental Retardation of the American Association on Mental Deficiency, 1977 Revision, by this reference made a part hereof. Mental retardation is synonymous with mental deficiency;

(b) For community case management and program purposes, mental retardation includes those persons of borderline intelligence who have a history of residency in a state training center.

(2) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological handicapping conditions which require training similar to that required by mentally retarded individuals, and the disability:

(a) Originates before the individual attains age 22 except that in the case of mental retardation the condition must be manifested before the age of 18;

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the individual's ability to function in society.

(3) "Mental or Emotional Disturbance" means a disorder of emotional reactions, thought processes, behavior, or relationships (excluding mental retardation, alcoholism and drug abuse or dependency) which results in substantial subjective distress, impaired perceptions of reality, or impaired ability to control or appreciate the consequences of one's behavior, and which constitutes a substantial impairment of personal, interpersonal, work, educational or civic functioning. If a medical diagnosis is made, classification shall be consistent with the current Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association 1980, by this reference made a part hereof.
(4) "Alcohol or Drug Abuse" or "Dependence" means a person who has lost the ability to control the use of alcohol or controlled substances or other substances with abuse potential, or who uses alcohol or such substances to the extent that the person's health or that of others is substantially impaired or endangered or the person's social or economic functions are substantially disrupted. An alcohol or drug dependent person may be physically dependent, a condition in which the body requires a continuing supply of alcohol, a drug, or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcohol, a drug, or a controlled substance.

(5) "Residents" mean persons who are clients of the Oregon Health Authority who reside in Adult Residential Care Facilities and Adult Foster Homes.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042

309-035-0570 – Jurisdiction Over Homes and Centers

(1) The Division shall have jurisdiction over and shall license all Adult Residential Care Homes and Centers and certify Adult Foster Homes having residents 60 percent or more of which have primary service needs associated with mental retardation or other developmental disabilities, or mental or emotional disturbance or alcohol or drug abuse dependence.

(2) Adult Residential Care Homes and Centers and Adult Foster Homes not within the criteria in section (1) of this rule shall be under the jurisdiction of and be licensed or certified by Aging and People with Disabilities Division.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042

309-035-0580 – Case Management

(1) Those residents in homes and centers under the jurisdiction of Addictions and Mental Health Division, whose primary service needs are not associated with mental retardation or other developmental disabilities, or mental or emotional disturbances or alcohol or drug abuse or dependence shall be Aging and People with Disabilities Division clients and shall receive case management from such Division. All other residents in such facilities shall be Addictions and Mental Health Division clients and shall receive case management from such Division.

(2) Those residents in Adult Residential Care Homes and Centers and Adult Foster Homes under the jurisdiction of Aging and People with Disabilities Division whose primary service needs are associated with mental retardation or other developmental disabilities.
disabilities, or mental or emotional disturbance or alcohol or drug abuse or dependence, shall be Division clients and shall receive case management from such Division. All other residents in such facilities shall be Aging and People with Disabilities Division clients and receive case management from such Division.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042

309-035-0590 – Placement

(1) Residential Care and Adult Foster Home clients shall be newly placed on the basis of primary service needs — Those having such needs as those described in OAR 309-035-0100 to 309-035-0190 will be placed in the facilities described in that paragraph and those not having such needs shall be placed in those facilities described in OAR 309-035-0250 to 309-035-0460.

(2) Exceptions may be made only when a client cannot be placed because of the unavailability of an appropriate facility and the facility in which the client is placed is capable of serving the needs of the client. Exceptions will be granted by the Division responsible for the receiving facility.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042

309-035-0600 – Effective Date

OAR 309-035-0550 through 309-035-0590 are prospective as well as retroactive to July 1, 1982. Such prospective and retroactive effect is each severable of the other.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042