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CHAPTER 415
OREGON HEALTH AUTHORITY
HEALTH SYSTEMS DIVISION: ADDICTION SERVICES

FILING CAPTION: Clarify Procedural Detail and Process for Taking Action on a Behavioral Health Provider License

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RULES:
415-012-0000, 415-012-0010, 415-012-0020, 415-012-0030, 415-012-0032, 415-012-0035, 415-012-0040, 415-012-0050, 415-012-0055, 415-012-0058, 415-012-0060, 415-012-0065, 415-012-0067, 415-012-0070, 415-012-0075, 415-012-0080, 415-012-0090

AMEND: 415-012-0000

REPEAL: Temporary 415-012-0000 from ADS 3-2017

RULE TITLE: Purpose and Scope

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:
(1) These rules establish procedures for the residential licensure of the following:
(a) Any substance use disorder or problem gambling service provider that is or seeks to be contractually affiliated with the Health Systems Division (HSD), a Coordinated Care Organization (CCO), or a local mental health authority for the purpose of providing residential substance use disorders or problem gambling treatment and recovery services;
(b) Any service provider using public funds in the provision of residential substance use disorder or problem gambling prevention, intervention, or treatment services in Oregon;
(c) Performing providers under HSD rules OAR 410-172-0600 through 410-172-0860;

(d) Organizations seeking approval from the Division for provision of residential services as provided in ORS 430.010 and 443.400 or detoxification services under ORS 430.306.
(2) These rules do not establish procedures for regulating the following:
(a) Behavioral health care practitioners that are otherwise licensed to render behavioral health care services in accordance with applicable statutes;
(b) Practices exclusively comprised of behavioral healthcare practitioners that are otherwise licensed to render behavioral healthcare services in accordance with applicable statutes;
(c) Outpatient behavioral health treatment services.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.590, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0010

REPEAL: Temporary 415-012-0010 from ADS 3-2017

RULE TITLE: Definitions

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) "Applicant" means any individual or entity who has requested, in writing, a license.
(2) "Community Mental Health Program (CMHP)" means the organization of various services for individuals with a mental health diagnosis or addictive disorders, operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an agreement with the Division pursuant to OAR chapter 309, division 14.
(3) "Contract" means the document describing and limiting the relationship and respective obligations between an organization other than a county and the Division for the purposes of operating a substance use disorder or problem gambling service within a county's boundaries, or operating a statewide, regional, or specialized service.
(4) “Coordinated Care Organization (CCO)” means an entity that has been certified by the Authority to provide coordinated and integrated health services.
(5) “Division” means the Health Systems Division of the Oregon Health Authority or its designee.
(6) “Individual” means the individual requesting or receiving services addressed in these rules.
(7) "Intergovernmental Agreement" or "Agreement" means the document describing and limiting the contractual relationship and respective obligations between a county or other government organization and the Division for the purpose of operating a substance use disorder or problem gambling service.
(8) "License" means a license issued by the Division to applicants who are in substantial compliance with applicable administrative rules for substance use disorder or problem gambling treatment in a residential setting and that is renewable every two years.
(9) “Licensed Child Care Facility” means a facility licensed under ORS 657A.280.
(10) "Non-Funded Provider" means an organization not contractually affiliated with the Division, a CCO, a CMHP, or other Division contractor.
(11) “Plan of Correction” (POC) means a written plan and attached supporting documentation created by the provider when required by the Division to address findings of noncompliance with these rules or applicable service delivery rules.

(12) "Provider" means an organization licensed under these rules to provide substance use disorder or problem gambling prevention, intervention, or treatment services under contract with the Division or under subcontract with a local entity or public body or otherwise receiving public funds for these services.
(13) "Provisional" means a license issued for one year or less pending completion of specified requirements because of substantial failure to comply with applicable administrative rules.
(14) "Quality Assurance" means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of care to identify and resolve identified problems.

(15) "Restriction" means any limitations placed on a license such as age of individuals or number of individuals to be served.
(16) "Revocation" means the removal of authority for a provider to provide certain services under a license.
(17) “School Attended Primarily by Minors” means an existing public or private elementary, secondary, or career school attended primarily by individuals under age 18.
(18) "Service Element" means a distinct service or group of services for individuals with substance use or problem gambling disorders defined in administrative rule and included in a contract or agreement issued by the Division.
(19) "Substantial Compliance" means a level of adherence to applicable administrative rules that, even if not meeting one or more of the requirements, does not in the determination of the Division:
(a) Constitute a danger to the health or safety of any individual;
(b) Constitute a willful, repeated, or ongoing violation of administrative rules; or
(c) Prevent the accomplishment of the state's purposes in approving or supporting the applicant or provider.
(20) "Substantial Failure to Comply" means a level of adherence to applicable administrative rules, statutes, and regulations that, in the determination of the Division:
(a) Constitutes a danger to the health, welfare, or safety of any individual or to the public;
(b) Constitutes a willful, repeated, or ongoing violation of administrative rules; or
(c) Prevents the accomplishment of the state’s purposes in approving or supporting the applicant or provider.
(21) "Suspension" means a temporary removal of authority for a provider to operate under a license issued under OAR chapter 415, division 012.
(22) "Temporary" means a license issued for 185 days to a program approved for the first time. A temporary license may not be extended.
(23) "Variance or Exception" means a waiver of a regulation or provision of these rules granted by the Division upon written application.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010 - 430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0020

REPEAL: Temporary 415-012-0020 from ADS 3-2017

RULE TITLE: General Requirements

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) Every provider that operates a residential service element by contract with the Division or subcontracts with a local entity or public body or receives public funds for providing substance use disorder or problem gambling prevention, intervention, or treatment services shall have a license and:

(a) Providers may not represent themselves as conducting any service described in this rule without first obtaining a license;

(b) A provider that does not have a license for conducting a service described in this rule may not admit an individual needing that service; and

(c) The license shall be posted in the facility and available for inspection at all times.

(2) Licensed providers shall also maintain a current certificate of approval for the provision of outpatient behavioral health treatment services pursuant to OAR 309-008-0100 to 1600 if also providing an outpatient service.

(3) Any facility that meets the definition of a residential treatment facility for individuals with substance use disorders under ORS 443.400 or a detoxification center as defined in ORS 430.306 shall be licensed by the Division:

(a) No individual or entity may represent themselves as a residential treatment facility for individuals with substance use or problem gambling disorders or as a detoxification center without being licensed;

(b) A residential treatment facility or a detoxification center that is not licensed may not admit individuals needing residential or detoxification care or treatment; and

(c) A license shall be posted in the facility and available for inspection at all times.

(4) Approval or licensure of a service element pursuant to this rule does not create an express or implied contract in the absence of a fully executed written contract.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0030

REPEAL: Temporary 415-012-0030 from ADS 3-2017

RULE TITLE: Application Procedures

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) The Division shall mail an application packet to all applicants seeking residential licensure.

(2) All programs applying for the first time for a residential license to operate a treatment or prevention program shall schedule a meeting with the Division for the purpose of receiving needed technical assistance regarding the approval and licensure criteria and procedures.

(3) A separate application must be submitted for each location where the provider intends to operate a residential treatment facility.

(4) The applicant may withdraw the application at any time during the application process by notifying the Division in writing. At such time, all materials shall be returned to the applicant.

STATUTORY/OTHER AUTHORITY: ORS 430.256, ORS 413.032

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, 443.400

AMEND: 415-012-0032

REPEAL: Temporary 415-012-0032 from ADS 3-2017

RULE TITLE: Application Information

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

An applicant for a license shall submit the information listed below on forms provided by the Division:

(1) Name and address of the applicant;

(2) Name, address, and qualifications of the executive director or administrator;

(3) Outline of the staff organization with names and qualifications;

(4) Articles of incorporation and bylaws;

(5) Names and addresses of the board of directors, sponsors, or advisory boards of the program;

(6) Names and addresses of physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the program has a direct referral agreement or is otherwise affiliated;

(7) Description of the treatment services provided by the program setting forth program philosophy, goals, objectives, and a description of the treatment methodology for each service element;

(8) Materials demonstrating compliance with the administrative rules governing the specific service provided;

(9) Materials showing compliance with all related federal, state and local acts, ordinances, rules and amendments such as State Fire Marshal rules, board of health and building zoning codes, and the American Disabilities Act;

(10) Materials substantiating compliance with distance requirements subject to ORS 430.590 for programs using methadone to treat opioid addiction. These application procedures apply to new programs and existing programs moving to a new location after 1-14-2013;

(11) Materials substantiating compliance with other licensing authorities such as the Child Welfare Division for residential adolescent services or the Drug Enforcement Administration and a federally approved accreditation agency for methadone treatment services;

(12) For residential treatment and detoxification facilities, the maximum individual capacity requested;

(13) Source of funds used to finance the program such as an annual budget of the organization or a copy of the most current fiscal audit or review;

(14) Written evidence of applicable insurance such as liability insurance;

(15) Floor plan for the proposed facility;

(16) Representative sample individual file;

(17) Written nondiscrimination policy including:

(a) Explanation of methods used to disseminate the policy;

(b) Description of procedures used to communicate with sensory impaired person or persons of limited English proficiency;

(c) Written statement about the accessibility of the facility and services for disabled persons; and

(d) Written grievance procedure for handling discrimination complaints.

(18) Identification of any individual, including stockholders or other legal entities, who have an ownership interest of any person, property or structure representing five percent or more. For purposes of these rules, an individual with a five percent or more ownership interest is presumed to have an effect on the operation of the provider, unless the individual establishes that the individual has no involvement in the operation of the provider;
(19) Background information on all licenses, certifications and letters of approval held or previously held by the applicant, or by any owner disclosed under subsection (e) of this rule, to provide care or treatment, or engage in a profession or trade. The list shall include every license, certification and letter of approval, regardless of whether it was issued by the Authority or another regulatory body:
(a) The type of license or certification;
(b) The name of the issuing regulatory body;
(c) The name of the individual or business to whom it was issued;
(d) The start and end date of the period of license or certification;
(e) A list of the dates of any suspensions, revocations, conditions, penalties, denials, nonrenewal, or other adverse actions initiated or taken on a license or certificate, including documentation of the final resolution of those actions;
(f) Disclosure of whether any of the licenses or certificates had expired or were relinquished while a suspension, revocation, condition, penalty, denial, nonrenewal or other adverse action was pending or proposed; and
(g) Copies of all current licenses or certificates.
(20) Disclosure of any substantiated findings of abuse, neglect, or mistreatment by the applicant, owner, or program staff.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0035

REPEAL: Temporary 415-012-0035 from ADS 3-2017

RULE TITLE: Responses To Application

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) Within 60 days upon receipt of application materials, the Division shall conduct a comprehensive audit of the application materials to determine compliance with these rules:

(a) If the application is found to be complete and the materials demonstrate compliance with applicable administrative rules, the Division shall contact the applicant to schedule an onsite licensure review; or

(b) If the application is not complete or does not demonstrate compliance, the Division shall provide written notice of the incomplete or noncompliant application describing any necessary amendment to the application. The applicant must submit an amended application to the Division within 14 calendar days of receipt of the Division's notice.

(2) If an application is denied:

(a) The Division shall issue a written notice of denial within 14 days of the determination;

(b) The applicant shall be entitled to a contested case hearing consistent with ORS 183 if the applicant requests a hearing in writing within 60 days of the receipt of the notice;

(c) If no written request for a hearing is received within the 60-day timeline, the notice of denial shall become the final order by default, and the Division may designate its file as the record for purposes of order by default.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0040

REPEAL: Temporary 415-012-0040 from ADS 3-2017

RULE TITLE: Licenses

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) The Division may issue a residential license under these rules for a duration not to exceed two years.

(2) Renewal of licenses shall be contingent upon demonstration of compliance with applicable administrative rules:

(a) A program may continue to operate until final determination of its approval or licensure status is made by the Division;

(b) Failure to demonstrate compliance may result in the issuance of a provisional license, nonrenewal, suspension, or revocation.

(3) Programs with provisional licenses upon demonstrating substantial compliance with appropriate administrative rules may be eligible for a two-year license. However, the provider's failure to demonstrate substantial compliance may result in an extension, suspension, or revocation of the provisional license.

(4) The Division may not discriminate in its review procedures or services on the basis of race, color, national origin, age, or disability. The Division may issue licenses to specialized programs to assure maximum benefit for special populations, in which case the Division may identify that special population in the license and impose applicable program criteria.

(5) Restrictions that may be attached to a license include:

(a) Limiting the total number of individuals (in residential or detoxification treatment);

(b) Defining the age level of individuals (i.e., youth or adult) to be admitted into the facility;

(c) Defining the gender of individuals, if the provider is identified as serving only males or females;

(d) Assuring compliance with other licensing entities such as the Child Welfare Division, the State Public Health Division, or the Food and Drug Administration; or

(e) Other restrictions as required by the Division.

(6) Restrictions may be imposed for the extent of the approval period or limited to some other shorter period of time. If the restriction corresponds to the licensing period, the reasons for the restriction shall be considered at the time of renewal to determine if the restrictions are still appropriate.

(7) The effective date and expiration date of the restriction shall be indicated on the license.

(8) A license issued by the Division for the operation of a residential substance use disorder or problem gambling program applies both to the applicant program and the premises upon which the program is to be operated. A license is not transferable to another person, entity, or to any other location:

(a) Any person or other legal entity acquiring an approved licensed facility for the purpose of operating a substance use disorder or problem gambling program shall make an application as provided herein for a new license;

(b) Any person or legal entity having been issued a license and desiring to fundamentally alter the treatment philosophy or transfer to different premises must notify the Division 30 days prior to doing so in order for the Division to review the program or site change and to determine further necessary action.

(9) If the administrator of the program changes during the period covered by the license:
(a) A request for a change must be submitted to the Division within 15 days, along with the qualifications of the proposed new administrator;
(b) Upon a determination that the administrator meets the requirements of applicable administrative rules, a revised license shall be issued with the name of the new administrator.
(10) When a program is discontinued, its current license is void immediately, and the license shall be returned to the Division. A discontinued program is one that has terminated its services for which it has been approved or licensed. A program planning to discontinue services must:
(a) Notify the Division 60 days prior to a voluntary closure of a facility with written notice of how the provider will comply with OAR 309-014-0035(4) and 42 CFR Part 2, Federal Confidentiality Regulations, regarding the preservation of all individual records; and
(b) Provide individuals 30 days written notice and shall be responsible for making reasonable efforts to obtain treatment placement of individuals as appropriate.

STATUTORY/OTHER AUTHORITY: ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.397, ORS 430.010-430.030, ORS 430.306, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0050

REPEAL: Temporary 415-012-0050 from ADS 3-2017

RULE TITLE: Onsite Reviews and Access Requirements

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) The Division shall inspect the facilities and must review procedures utilized:

(a) Before issuing a license to an applicant; and

(b) Before renewal of an existing license.

(2) The Division may conduct onsite inspections:

(a) Upon receipt of verbal or written complaints of violations that allege conditions that may threaten the health, safety, or welfare of individuals or for any other reason to be concerned for individual welfare; or

(b) Any time the Division has reason to believe it is necessary to assure if a provider is in compliance with the administrative rules or with conditions placed upon the license.

(3) The review may include but is not limited to case record audits and interviews with staff and individuals, consistent with the confidentiality safeguards of state and federal laws.

(4) Each applicant or provider agrees, as a condition of license approval:

(a) To permit designated representatives of the Division to inspect premises of programs to verify information contained in the application or to assure compliance with all laws, rules, and regulations during all hours of operation of the facility and at any other reasonable hour;

(b) To permit properly designated representatives of the Division to audit and collect statistical data from all records maintained by the approved or licensed program; and

(c) That such right of immediate entry and inspection shall, under due process of law, extend to any premises on which the Division has reasons to believe a program is being operated by the provider in violation of these rules.

(5) An applicant or provider shall not be granted licensing that does not permit inspection by the Division or examination of all records, including financial records as appropriate, methods of administration, the disbursement of drugs and method of supply, and any other records the Division considers to be relevant to the establishment of such a program.

(6) Each applicant or provider agrees as a condition of license approval that:

(a) State or local fire inspectors shall be permitted access to enter and inspect the facility regarding fire safety upon the request of the Division; and

(b) State or local health inspectors shall be permitted access to enter and inspect the facility regarding health safety upon the request of the Division.

(7) The Division may conduct inspections with or without advance notice to the administrator, staff, or individuals:

(a) The Division is not required to give advance notice of any onsite inspection if the Division reasonably believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules; and

(b) If Division staff are not permitted access for inspection, a search warrant may be sought.

STATUTORY/OTHER AUTHORITY: ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.397, ORS 430.010-430.030, ORS 430.306, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0055

REPEAL: Temporary 415-012-0055 from ADS 3-2017

RULE TITLE: Conduct of Licensure Reviews

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) The Division shall employ review procedures deemed adequate to determine applicant or provider compliance with applicable administrative rules, statutes, other applicable regulations, and as necessary, contractual obligations. These procedures may include but are not limited to:

(a) Entry and inspection of any service delivery location;

(b) Review of documents pursuant to this rule; and

(c) Interviews with or a request for completion of a questionnaire by individuals knowledgeable about the provider or applicant. Individuals interviewed may include program staff, managers, governing or advisory board members, allied agencies, individuals, their family members, and significant others.

(2) Program staff must cooperate with Division staff during a licensure review.

(3) Within 30 days following the completion of each discretionary review, the Division may at their discretion issue a report and require a Plan of Correction (POC) congruent with section (4) of this rule.

(4) Within 30 days following the completion of each initial or renewal licensure review, the Division shall issue a report that includes:

(a) A statement of any deficiency including a description of the review findings related to non-compliance with applicable administrative rules, statutes, other applicable regulations, and any required corrective actions where applicable;

(b) Pursuant to a licensure review when the Division determines a provider or applicant is not operating in substantial compliance with all applicable statutes, administrative rules, and other regulations, and the POC process is appropriate, the Division may require the provider or applicant to submit a POC. The Division shall provide written notice of the requirement to submit a POC, and the provider or applicant shall prepare and submit a POC according to the following terms:

(A) The provider or applicant shall submit the POC to the Division within 30 days of receiving the final onsite review report. The Division may issue up to a 90-day extension to the existing licensure to allow the provider or applicant to complete the POC process;

(B) The POC shall address each finding of non-compliance and shall include:

(i) The planned action already taken or to be taken to correct each finding of non-compliance;

(ii) The anticipated or requested timeframe for the completion of each corrective action not yet complete at the time of POC submission to the Division;

(iii) A description of and plan for quality assurance activities intended to ensure ongoing compliance; and

(iv) The name of the individual responsible for ensuring the implementation of each corrective action within the POC.

(c) If the Division finds that clarification or supplementation to the POC is required prior to approval, Division staff shall

contact the provider or applicant to provide notice of requested clarification or supplementation, and the provider or applicant shall submit an amended POC within 14 calendars days of notification;
(d) The provider shall submit a sufficient POC approved by the Division prior to receiving a license. Upon the Division's approval of the POC, the Division shall issue the appropriate licensure;
(e) The Division may deny or revoke an applicant or provider's licensure if the provider fails to submit an adequate POC within the timeframes established in this rule.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORs 430.405, ORS 430.450, ORs 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0058

REPEAL: Temporary 415-012-0058 from ADS 3-2017

RULE TITLE: Availability of Information to Coordinated Care Organizations and Other Health Plans

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

Upon completion of the site review process and the issuance of a license, the Division shall make copies of the following information available to Coordinated Care Organizations and other health plans for the purpose of credentialing a provider:

(1) A current program description that reflects the type and scope of behavioral health services provided by the applicant;

(2) Provider policies and procedures regarding the provider's credentialing practices of individual clinicians;

(3) Statements of provider's liability insurance coverage;

(4) An attestation from the Authority verifying that the provider has passed a screening and meets the minimum requirements to Medicaid provider;

(5) Reports detailing the findings of the Division's site review of the provider;

(6) The provider's Medicaid Vendor Identification Number issued by the Authority;

(7) Copies of the provider's policies and procedures regarding seclusion and restraint practices; and

(8) Copies of the provider's Code of Conduct.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0060

REPEAL: Temporary 415-012-0060 from ADS 3-2017

RULE TITLE: Denial, Revocation, or Nonrenewal

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

The Division shall deny an application, a request for renewal, or revoke a license when it finds any of the following:

(1) There is a threat to the health, welfare, or safety of an individual or the public;

(2) There is substantiated evidence of abuse, neglect, or mistreatment by the applicant, provider, or provider staff;

(3) The applicant or provider has substantially failed to comply with applicable administrative rules or with local codes and ordinances or any other state or federal law or regulation;

(4) The applicant or provider has had a prior license to operate a substance use disorder or problem gambling treatment program denied, revoked, or refused to be renewed in Oregon within three years preceding the present application for reason of abuse or neglect of individuals:

(a) If a prior denial, revocation, or nonrenewal occurred more than three years from the present action, the applicant or provider shall establish to the Division by clear and convincing evidence of the applicant's, provider's, or administrator's ability and fitness to operate a treatment program;

(b) If the applicant or provider does not provide such evidence, the Division shall deny the application.

(5) The applicant or provider submits fraudulent or untrue information to the Division;

(6) The applicant or provider has a history of or currently demonstrates financial insolvency such as filing for bankruptcy, foreclosures, eviction due to failure to a pay rent, termination of utility services due to failure to pay bills, failure to pay taxes such as employment or social security in a timely manner;

(7) The applicant or provider refuses to allow immediate access and onsite inspection by the Division;

(8) The applicant or provider fails to maintain a number of qualified staff sufficient to meet the treatment and safety needs of individuals or fails to comply with staff qualification requirements;

(9) The applicant or provider fails to comply with one or more restrictions or conditions on the license; or

(10) The applicant or provider fails to submit or implement a plan of correction sufficient to comply with these and other applicable rules or regulations.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.397, ORS 430.010-430.030, ORS 430.306, ORs 430.405, ORS 430.450, ORs 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0065

REPEAL: Temporary 415-012-0065 from ADS 3-2017

RULE TITLE: Suspension of License

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:
(1) The Division may impose an immediate suspension order as described in section (2) or may issue a notice of intent to suspend as described in section (3).
(2) Immediate suspension orders take effect prior to the opportunity for a hearing. The provider has the opportunity to request a hearing after the immediate suspension order takes effect:
(a) For all licenses under these rules, if the Division finds that the health, safety, or welfare of the public are seriously endangered by continued operation of a treatment or prevention program and sets forth specific reasons for its findings, immediate suspension of a license may be ordered. The provider may request a hearing to contest the immediate suspension order. Requests for a hearing must be received by the Division within 90 days from the date the suspension order was served on the provider personally or was mailed by certified or registered mail. If the provider requests a hearing, the hearing shall be held as soon as practicable;
(b) For licenses issued under ORS 443.400-443-465, the Division may also order an immediate suspension if the Division finds that there is imminent danger to the health or safety of the residents, pending a fair hearing not later than the 10th day after such suspension pursuant to ORS 443.440.
(3) When the Division issues a notice of intent to suspend, the provider has the opportunity to request a hearing prior to the Division ordering the suspension. The Division may issue a notice of intent to suspend a license for any of the following reasons:
(a) Violation by the program, its director, or staff of any rule promulgated by the Division;
(b) Permitting, aiding or abetting the commitment of an unlawful act within the facilities maintained by the program, or permitting, aiding or abetting the commitment of an unlawful act involving chemical substances within the program;
(c) Conduct or practices found by the Division to be detrimental to the general health or welfare of one or more individuals in the program; or
(d) Deviation by the program from the plan of operation originally approved or licensed that in the judgment of the Division adversely affects the character, quality, or scope of services intended to be provided to individuals within the program.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400-443.465

AMEND: 415-012-0067

REPEAL: Temporary 415-012-0067 from ADS 3-2017

RULE TITLE: Response to Criminal Records

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) The Division may deny, refuse to renew, suspend, or revoke a license if:

(a) Any of the program's staff within the previous three years has been convicted of:

(A) Any crime or violation under ORS chapter 475 including but not limited to the Uniform Controlled Substances Act or under ORS 813.010 driving under the influence of intoxicants;

(B) A substantially similar crime or violation in any other state; or

(C) Any felony.

(b) Any of the program's staff has entered into within the past three years a diversion agreement under ORS 813.010 or 135.907 through 135.921 or a diversion agreement under a substantially similar law in any other state.

(2) The Division may make criminal record inquiries necessary to ensure implementation of these rules.

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0070

REPEAL: Temporary 415-012-0070 from ADS 3-2017

RULE TITLE: Hearings

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) If a license is subject to a notice of intent to suspend, nonrenew, or revoke:

(a) The provider shall be entitled to a hearing, as outlined in ORS chapter 183, preceding the effective date of the denial, suspension, nonrenewal, or revocation if requested in writing within 21 days after receipt of the notice;

(b) If no timely written request is received, the notice shall become the final order by default and the assistant director may designate the Division file as the record for purposes of order by default.

(2) Programs that wish to contest the suspension, nonrenewal, or revocation of their license shall have an opportunity for a hearing by the Division according to the Attorney General's Model Rules of Procedure.

STATUTORY/OTHER AUTHORITY: ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.397, ORS 430.010-430.030, ORS 430.306, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0075

REPEAL: Temporary 415-012-0075 from ADS 3-2017

RULE TITLE: Licensure Conditions

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) The Division may at any time and at its discretion impose conditions on a license upon a finding that:

(a) There is a threat to the health, welfare, or safety of an individual or the public;

(b) There is substantiated evidence of abuse, neglect, or mistreatment by the applicant, provider, or provider staff;

(c) The applicant or provider employs or contracts with any program staff that fails to meet relevant minimum qualifications described in these rules, service delivery rules, or other applicable law;

(d) The applicant or provider substantially fails to comply with these rules, service delivery rules, or other applicable law; or

(e) The applicant or provider fails to fully implement a Plan of Correction (POC) or adequately maintain a POC.

(2) When deciding whether to impose conditions rather than denying, suspending, refusing to renew, or revoking a license, the Division shall consider all of the circumstances including but not limited to the following criteria:

(a) The expressed willingness and demonstrated ability of the applicant or provider to gain and maintain compliance with all applicable administrative rules and laws;

(b) The submitted POC prescribing reasonable, sustained, and timely resolution to areas of non-compliance;

(c) The relative availability of alternative providers to address any service needs that would be unmet if the applicant or provider is not issued a license with conditions as an alternative to revocation or refusal to award a license; or

(d) The applicant or provider's historical compliance with Division rules or orders, previous conditions placed on licenses, and previous plans of correction.

(3) Conditions to the license may include:

(a) Requiring corrective actions with timeframes for completion to correct areas of non-compliance or concern identified by the Division;

(b) Limiting the total number of individuals enrolled in services or on a waitlist for services;

(c) Limiting the population, such as narrowing the age range of individuals who the applicant or provider may serve;

(d) Limiting the scope and type of services that the applicant or provider may provide;

(e) Other conditions deemed necessary by the Division to ensure the health and safety of individuals and the public; and

(f) Other conditions deemed necessary by the Division for the purpose of ensuring regulatory compliance with these or other applicable administrative rules and laws.

(4) The Division may issue a notice of intent to impose conditions in accordance as described in section (15) of this rule, or may impose conditions on a license With Notice or Without Notice as described in sections (4) to (8). In imposing conditions With Notice or Without Notice, a provider or applicant may request an informal conference:

(a) The Division may issue the conditions With Notice by issuing a Notice of Impending Imposition of License Condition (Notice) at least 48 hours prior to issuing an Order Imposing License Condition (Order) to a provider or applicant. After

the Order is issued, the Division shall revise the license to indicate the conditions that have been ordered;
(b) The Division may impose the conditions without notice only if the Division determines that there is an imminent threat to individuals and the Division determines it is not safe or practical to give an applicant or provider advance notice. The Division may impose the conditions without notice by issuing an Order to a provider or applicant. After the Order is issued, the Division shall revise the license to indicate the conditions that have been ordered.
(5) The Notice shall be provided in writing or orally with subsequent written notice. When the Notice is provided in writing, it shall be sent by certified or registered mail or delivered in person to the applicant or provider. If the Notice is provided orally, it may be provided by telephone or in person to the applicant, provider, or person represented as being in charge of the program. The Notice shall:
(a) Describe the acts or omissions of the applicant or provider and the circumstances that led to the finding that the imposition of a license condition is warranted;
(b) Describe why the acts or omissions and the circumstances create a situation for which the imposition of a condition is warranted;
(c) Provide a brief statement identifying the impending condition;
(d) Identify an individual within the Division who the applicant or provider may contact and who is authorized to enter the Order or to make recommendations regarding issuance of the Order;
(e) Specify the date and time the Order is scheduled to take effect; and
(f) Inform the applicant or provider that they may request an informal conference prior to the issuance of the Order, or if the provider has already requested an informal conference, specify the date and time that an informal conference shall be held.
(6) If an informal conference is requested regarding conditions, the conference shall be held at a location designated by the Division. If the Division determines it to be appropriate, the conference may be held by telephone. Following the informal conference, the Division may modify the conditions. The timing of the informal conference is described as follows:
(a) If a Notice is issued, the applicant or provider may request an informal conference to object to the Division's proposed action before the condition is scheduled to take effect. The request for an informal conference shall be made prior to the date the conditions are intended to be effective. If requested timely, the informal conference shall be held within seven days of the request. The Order may be issued at any time after the informal conference;
(b) If an Order is issued without a prior Notice, the applicant or provider may within two business days of the issuance of the Order request an informal conference. If timely requested, the informal conference shall be held within two business days of receipt of the request. Following the informal conference, the Division at its discretion may modify the conditions.
(7) When an Order is issued, the Division must serve the Order either personally or by registered or certified mail. The Order must include the following statements:
(a) The authority and jurisdiction under which the condition is being issued;
(b) A reference to the particular sections of the statute and administrative rules involved;
(c) The effective date of the condition;
(d) A short and plain statement of the nature of the matters asserted or charged;
(e) The specific terms of the license condition;
(f) Right to request a contested case hearing under ORS Chapter 183;
(g) A statement that if a request for hearing is not received by the Division within 21 days of the date of the Order, the applicant or provider shall waive the right to a hearing under ORS Chapter 183;
(h) Findings of specific acts or omissions of the applicant or provider that are grounds for the condition and the reasons the acts or omissions create a situation for which the imposition of a license condition is warranted; and,
(i) A statement that the Division may combine the hearing on the Order with any other proceeding affecting the license. The procedures for the combined proceeding must be those applicable to the other proceedings affecting the license.
(8) Hearing:

(a) If the Division issues an Order, the applicant or provider may request a contested case hearing pursuant to ORS Chapter 183;
(b) The Division must receive the request for a hearing within 21 days of the date of Order. If a request for hearing is not received by the Division within 21 days of the date of the Order, the applicant or provider shall waive the right to a hearing under ORS Chapter 183;
(c) The applicant or provider may request a contested case hearing regarding the imposition of the conditions in addition to or in lieu of an informal conference. Requesting a contested case hearing may not delay the effective date of the conditions.
(9) When a restriction of enrollment or intake is in effect pursuant to an Order, the Division in its sole discretion may authorize the provider to admit or serve new individuals for whom the Division determines that alternate placement or provider is not feasible.
(10) Conditions may be imposed for the duration of the license or limited to a shorter period of time. If the condition corresponds to the license period, the reasons for the condition shall be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the condition shall be indicated on the license.
(11) When the applicant or provider determines that the circumstances leading to imposition of the condition no longer exist and that effective systems are in place to ensure that similar deficiencies do not reoccur, the applicant or provider may make written request to the Division for re-inspection.
(12) Re-inspection:
(a) If the Division finds that the situation for which the condition was imposed has been corrected and finds that systems are in place to ensure that similar deficiencies do not reoccur, the condition shall be withdrawn, and the Division shall revise the license accordingly. Following re-inspection, the Division shall notify the facility by telephone of the decision to withdraw the condition. Telephone notification shall be followed by written notification;
(b) If the Division determines after a re-inspection that the situation for which the condition was imposed continues to exist or that there are not sufficient systems in place to prevent similar deficiencies, the license condition may not be withdrawn, and the Division is not obligated to re-inspect again for at least 45 days. A decision not to withdraw the Order shall be given to the applicant or provider in writing and shall include information of the right to a contested case hearing pursuant to ORS Chapter 183. Nothing in this rule is intended to limit the Division's authority to inspect facilities at any time.
(13) The Division may deny, suspend, refuse to renew, or revoke the license when the provider or applicant fails to timely comply with one or more conditions.
(14) When the Division orders a condition be placed on a license With Notice or Without Notice, the applicant or provider may request a contested case hearing.
(15) In addition to, or instead of, imposing conditions With Notice or Without Notice as described in sections (4) to (8) and (14), the Division may issue a notice of intent to impose a condition with the opportunity for a contested case hearing under ORS Chapter 183 prior to imposing the condition. Notices of intent to impose a condition shall be issued consistent with sections (1)-(3) and (9)-(13).

STATUTORY/OTHER AUTHORITY: ORS 413.042, ORS 430.256, ORS 430.357

STATUTES/OTHER IMPLEMENTED: ORS 413.032, ORS 430.010, ORS 430.256, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400 to 443.455

AMEND: 415-012-0080

REPEAL: Temporary 415-012-0080 from ADS 3-2017

RULE TITLE: Complaints

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) Any person who believes that administrative rules have been violated may file a complaint with the Division:

(a) The Division may require that complainant exhaust grievance procedures available to them through the provider prior to initiation of an investigation;

(b) The Division shall investigate complaints and notify the provider of the results of the investigation and any proposed action.

(2) A record shall be maintained by the Division of all complaints and any action taken on the complaint and shall:

(a) Be placed into the public file. Any information regarding the investigation of the complaint may not be filed in the public file until the investigation has been completed;

(b) Protect the identification of the complainant; and

(c) Treat the identities of the witnesses and individuals as confidential information.

(3) Any person may inspect and receive a photocopy of the public complaint files maintained by the Division upon requesting an appointment to do so. A fee shall be charged in accordance with OAR chapter 407, division 003.

(4) Providers who acquire substantiated complaints pertaining to the health, safety, or welfare of individuals may have their licenses suspended, revoked, or not renewed and arrangements made to move the individuals.

(5) The provider shall not retaliate against any individual for filing a complaint with the Division by:

(a) Increasing charges, decreasing services, rights, or privileges;

(b) Threatening to increase charges or decrease services, rights, or privileges;

(c) Taking or threatening to take any action to coerce or compel the individual to leave the facility; or

(d) Abusing or threatening to harass or abuse an individual in any manner.

(6) The provider may not retaliate against any complainant, witness, or employee of a facility for making a report to or being interviewed by the Division about a complaint including restriction to access to the service or to an individual or, if an employee, to dismissal or harassment.

STATUTORY/OTHER AUTHORITY: ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400

AMEND: 415-012-0090

REPEAL: Temporary 415-012-0090 from ADS 3-2017

RULE TITLE: Variances

NOTICE FILED DATE: 03/09/2018

RULE SUMMARY: Under Oregon Revised Statues 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

RULE TEXT:

(1) A variance request must be made in writing:

(a) For an initial application, it should be included with the application documents;

(b) If the provider is an agency under contract with the local mental health authority, it must submit the request through the local mental health authority to the Division; and

(c) If the provider is not under contract to the local mental health authority, the request should be submitted directly to the Division.

(2) The request should include the following:

(a) The reason for the proposed variance or exception;

(b) The alternative practice proposed; and

(c) For an exception, a plan and timetable for compliance with the section of the rule from which the exception is sought.

(3) The Division whose decision shall be final shall approve or deny the request for variance or exception.

(4) The Division shall notify the provider requesting the variance or exception and the community mental health program of the decision.

(5) A variance granted by the Division shall be attached to and become part of the license. Continuance of the variance shall be reviewed at the time the license is considered for renewal.

STATUTORY/OTHER AUTHORITY: ORS 430.256

STATUTES/OTHER IMPLEMENTED: ORS 430.010-430.030, ORS 430.306, ORS 430.397, ORS 430.405, ORS 430.450, ORS 430.630, ORS 430.850, ORS 443.400