

## Guidance for APD Providers on Residency Agreements (RA)

This document is meant to provide guidance to Home and Community-Based Services (HCBS) Providers licensed by the Office of Aging and People with Disabilities with the direction they give in their RAs on the use of tobacco and/or alcohol by their residents.

### **TOBACCO: For settings that have language in their RA on tobacco, consistent with Oregon Indoor Clean Air Act<sup>#</sup>**

- Prior to move in and at regular intervals, the provider must assess<sup>\*</sup> the individual's needs and wants.
- From the assessment, the provider discovers if the individual needs support to do their preferred activities<sup>##</sup> safely
  - No: Individual enjoys their preferred activities<sup>##</sup>
  - Yes: Provider determines if an Individually-Based Limitation (IBL)<sup>\*\*</sup> is needed (i.e., if there is a moderate risk to individual/others' health/safety)
    - No: Individual enjoys their preferred activities with reasonable help from provider
    - Yes: Provider requests IBL for "control of own activities" and addresses how to mitigate health/safety risk
      - Is IBL is an in place?
        - No: Individual refuses to consent or revokes consent to IBL, resulting in possible move out
        - Yes: Provider reviews IBL regularly to ensure provider's and individual's needs are being met

See also: APD HCBS Residency Agreement Flowchart (Tobacco)

*NOTE: Scenarios that do not fit this model will need to be determined on a case-by-case basis.*

## **ALCOHOL: For settings that have language in their Residency Agreement on Alcohol**

- Prior to move in and at regular intervals, the provider must assess\* all aspects of the individual's needs and wants.
- From the assessment, the provider discovers if the individual needs support to do their preferred activities### safely
  - No: Individual enjoys their preferred activities
  - Yes: Where will/does individual drink alcohol?
    - Areas allowed in Residency Agreement (e.g., own room): Individual enjoys their preferred activities with reasonable help from provider
    - Areas not allowed in Residency Agreement (e.g., common areas)
      - Provider determines if an IBL\*\* is needed (i.e., if there is a moderate risk to individual/others' health/safety)
        - No: Possible move out for individual
        - Yes: Provider requests IBL for "control of own activities" and addresses how to mitigate health/safety risk
          - Is IBL in place?
            - No: Individual refuses to consent or revokes consent to IBL, resulting in possible move out
            - Yes: Provider reviews IBL regularly to ensure provider's and individual's needs are being met

See also: APD HCBS Residency Agreement Flowchart (Alcohol)

*NOTE: Scenarios that do not fit this model will need to be determined on a case-by-case basis.*

## References

\* **Assess:** Prior to move in and at regular intervals, the provider must assess all aspects of the individual's needs and wants, understanding personal habits, lifestyle choices and potential support needs. During the process of assessing the individual to create a person-centered service plan, the provider should consider if the individual has the desire to use tobacco and/or drink alcohol.

\*\***"IBL"** means an **I**ndividually-**B**ased **L**imitation to one or more of a resident's seven (7) rights under Home and Community-Based Services and Settings (HCBS) requirements. [OAR 411-004-0020 and 411-004-0040]

#**Oregon Indoor Clean Air Act (ICAA):** Under the ICAA, no one may smoke inside a place of employment. Also, no smoking is allowed within 10 feet of an entrance, exit, window that opens, or near ventilation intakes that service an enclosed area used by the place of employment. [OAR 333-015-0035(2)-(4)]

##**Preferred activities** include using tobacco and/or drinking alcohol.

## **HCBS Questions? Email us at:**

### **AFH-specific**

[apd.afhteam@odhsoha.oregon.gov](mailto:apd.afhteam@odhsoha.oregon.gov)

### **CBC-specific**

[cbc.team@odhsoha.oregon.gov](mailto:cbc.team@odhsoha.oregon.gov)

### **General questions**

[hcbs.oregon@odhsoha.oregon.gov](mailto:hcbs.oregon@odhsoha.oregon.gov)

### **Medicaid Case-Specific**

Contact the individual's Medicaid Case Manager