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Chapter 409

2011 EDITION

Department of Human Services

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ADMINISTRATION

409.010 Department of Human Services; duties; personnel. (1) The Department of Human Services is created.

(2) The department is responsible for the delivery and administration of programs and services relating to:

(a) Children and families, including but not limited to child protective services, foster care, residential care for children and adoption services;

(b) Elderly persons and persons with disabilities, including but not limited to social, health and protective services and promotion of hiring of otherwise qualified persons who are certifiably disabled;

(c) Persons who, as a result of the person's or the person's family's economic, social or health condition, require financial assistance or other social services;

(d) Developmental disabilities;

(e) Vocational rehabilitation for individuals with disabilities;

(f) Licensing and regulation of individuals, facilities, institutions and programs providing health and human services and long term care services delegated to the department by or in accordance with the provisions of state and federal law;

(g) Services provided in long term care facilities, home-based and community-based care settings and residential facilities to individuals with physical disabilities or developmental disabilities and to seniors who receive residential facility care; and

(h) All other human service programs and functions delegated to the department by or in accordance with the provisions of state and federal law.

(3) The department shall be the recipient of all federal funds paid or to be paid to the state to enable the state to provide the programs and services assigned to the department except for Medicaid funds that are granted to the Oregon Health Authority.

(4)(a) All personnel of the department, including those engaged in the administration of vocational rehabilitation programs, public assistance programs and services to families or children in compliance with the federal Social Security laws, shall be subject to the merit system prescribed in the State Personnel Relations Law. For purposes of the State Personnel Relations Law, the department is the appointing authority of all employees in the department.

(b) The Director of Human Services, in conformity with the State Personnel Relations Law, may appoint and employ such personnel as may be necessary for the department, and may appoint and fix the compensation of all assistants and employees of the department.

(c) The director may authorize reimbursement of such expenses as are approved by the department and incurred by assistants and employees of the department, and by volunteers or other persons not employed by the department, in carrying out duties assigned or authorized by the department.

(5) The director may designate employees to be custodians of records within any of the organizational units of the department, and persons so designated shall have the duties and powers of custodians of public records as prescribed by law. Such designation shall be in writing and notice thereof shall be filed in the office of the Secretary of State, with the director and in the organizational unit to which the authorization applies. [Formerly 184.750; 1993 c.344 §1; 1999 c.421 §1; 2001 c.900 §5; 2007 c.70 §161; 2009 c.595 §240; 2011 c.720 §79]

409.015 [1993 c.674 §11; repealed by 1997 c.753 §20]

409.020 [Formerly 184.785; 1993 c.798 §48; repealed by 1997 c.704 §10a (409.021 enacted in lieu of 409.020)]

409.021 [1997 c.704 §10b (enacted in lieu of 409.020); 1999 c.1095 §2; repealed by 2003 c.73 §60]

409.025 Definitions for 409.025 and 409.027. As used in this section and ORS 409.027:

(1) "Abuse and neglect report" means a report retained by the Department of Human Services in accordance with ORS 124.085, 419B.030 or 430.757 or a similar report filed in another state.

(2) "Care" means treatment, education, training, instruction, placement services, recreational opportunities or case management, supervision of such services for clients of the department or department administration and support services for clients.

(3) "Subject individual" means a person who is:

(a) Employed or who seeks to be employed by the department to provide care;

(b) A volunteer or who seeks to be a volunteer to provide care on behalf of the department; or

(c) Providing care or who seeks to provide care on behalf of the department or another person. [2007 c.444 §1]

409.027 Abuse and neglect reports; rules. (1) The Department of Human Services may use abuse and neglect reports maintained by the department for the purpose of providing protective services or screening subject individuals.

(2) The department shall adopt rules to carry out the provisions of subsection (1) of this section.

(3) The rules adopted in subsection (2) of this section may include:

(a) Notice and opportunity for due process for a department employee found to be unfit; and

(b) Notice and opportunity for hearing in accordance with ORS chapter 183 for a subject individual described in ORS 409.025 (3)(c).

(4) Reports maintained under this section are confidential and may not be disclosed for any purpose other than in accordance with this section or any other provision of law. [2007 c.444 §2]

409.030 [1991 c.697 §2; repealed by 1993 c.344 §49]

409.040 Federal law supersedes state law. (1) To the extent that there is any conflict between chapter 319, Oregon Laws 1971, and any federal law referred to or to be administered under chapter 319, Oregon Laws 1971, the federal law in effect on June 8, 1971, is controlling.

(2) In all cases where federally granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 409.010, 409.060, 409.070, 409.093 to 409.160, 411.060 and this subsection. [Formerly 184.780]

Note: Legislative Counsel has substituted "chapter 319, Oregon Laws 1971," for the words "this Act" in section 9, chapter 319, Oregon Laws 1971, compiled as 409.040 (formerly 184.780). Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 20 of ORS.

409.050 Rules. (1) Pursuant to ORS chapter 183, the Director of Human Services may adopt such administrative rules as the director considers necessary to carry out the functions of the Department of Human Services.

(2) Notwithstanding any other provision of law, the director by order may delegate authority under subsection (1) of this section to such extent as the director considers proper to assistant directors of the department. [Formerly 184.787; 2005 c.22 §271]

409.055 Copies of rules to be available in local offices; availability for inspection. The Department of Human Services shall maintain in each of its local offices copies of its rules and regulations that the department is required to file with the Secretary of State. Copies of the rules and regulations shall be available for public use and inspection during regular business hours and shall be compiled and indexed in a manner that will facilitate their use. [2001 c.900 §7]

409.060 Department of Human Services Account. (1) There is established in the General Fund of the State Treasury an account to be known as the Department of Human Services Account. All moneys in this account are appropriated for and shall be used by the Department of Human Services for the respective purposes authorized by law. The moneys in the account and all appropriations for the account are subject to allotment control by the Oregon Department of Administrative Services.

(2) The Department of Human Services shall keep a record of all moneys credited to and deposited in the account. The records shall indicate by separate cumulative accounts the source from which the moneys were derived and the individual activity or program against which each withdrawal is charged.

(3) The unobligated balance in the account on June 30 of each odd-numbered year shall be determined by the department as of September 30 next following, and certified to the Oregon Department of Administrative Services. Unless otherwise provided by law or action of the Emergency Board, the amount certified pursuant to this subsection shall revert to the General Fund and become available for general governmental purposes. [Formerly 184.795; 1999 c.421 §2]

409.070 Department of Human Services Special Checking Account; petty cash fund. (1) There is established a Department of Human Services Special Checking Account in the State Treasury. Upon the written request of the Director of Human Services, the Oregon Department of Administrative Services shall draw payments in favor of the Department of Human Services to be charged against appropriations and other moneys available to the Department of Human Services in the same manner as other claims against the state, as provided in ORS chapter 293. All such payments shall be deposited in the special checking account and may be disbursed by check or other means acceptable to the State Treasurer.

(2) The special checking account may be used for the purpose of paying the administrative expenses of programs and services as assigned to the Department of Human Services by law, including the payment of expenses to be reimbursed by the federal government.

(3) In addition to the authority provided in ORS 293.180, the Department of Human Services may establish petty cash funds out of the special checking account or any account established in the State Treasury for the department. Small cash disbursements to pay the expenses of the department may be made from a petty cash fund. Periodically,

the department shall request reimbursement for disbursements made from a petty cash fund. Upon receipt of a reimbursement payment from an appropriate account, the department shall use the payment to reimburse the petty cash fund. [Formerly 184.800; 1999 c.421 §3; 1999 c.829 §2; 2001 c.900 §62]

409.075 Volunteer Emergency Services Fund. (1) There is established a Volunteer Emergency Services Fund in the State Treasury. The amount of the fund shall not exceed the aggregate sum of $10,000.

(2) The fund may be used to pay for purchases, by check or other acceptable means, necessary to assist clients of the Department of Human Services with emergency circumstances that qualify such clients for assistance from the fund.

(3) Claims for reimbursement of moneys paid from the Volunteer Emergency Services Fund shall be submitted to the Department of Human Services and the Oregon Department of Administrative Services for approval. When the claims have been approved, the Oregon Department of Administrative Services shall draw a warrant or make an electronic transfer in favor of the Department of Human Services to be charged to the appropriate fund or account to reimburse the Volunteer Emergency Services Fund. [1999 c.829 §3]

409.080 Combination or elimination of accounts. Notwithstanding any other law, the Department of Human Services may, with the approval of the Oregon Department of Administrative Services and the State Treasurer, combine or eliminate any accounts that are established in statute within the authority of the Department of Human Services when the Department of Human Services determines that economy and efficiency in operations can be obtained and that the combination or elimination of accounts does not substantially alter the intent of the authorizing statutes. When accounts are combined, the Department of Human Services retains the authority granted by the statutes establishing the accounts. [1999 c.829 §4; 2001 c.900 §63]

409.093 Policy on incorporation of family support policies. It shall be the policy of the Department of Human Services to incorporate the family support policies under ORS 417.340 to 417.348 into staff training and information given to the general public. [1995 c.486 §2; 2001 c.900 §244]

409.096 Plan for incorporating family support consultants; development of protocol and training. (1) The Department of Human Services shall develop a plan for incorporating family support consultants into a percentage of cases managed within the department. The consultants shall work directly with families to develop support in a manner consistent with the family support policies under ORS 417.340 to 417.348 and 417.349.

(2) The department shall consult with the Family Support Advisory Council established under ORS 417.346, to develop protocol and training consistent with the family support policies under ORS 417.340 to 417.348 and 417.349. [1995 c.486 §3; 2001 c.900 §245]

409.100 Director; appointment; confirmation; salary and expenses. (1) The Department of Human Services shall be under the supervision and control of the Director of Human Services, who is responsible for providing for programs for the delivery to the public of the services assigned to the department by ORS 409.010 or otherwise, and for undertaking long-range planning necessary for the effective and efficient delivery of these services.

(2) The Governor shall appoint the director. The director may be removed at any time at the pleasure of the Governor. The appointment of the director is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(3) The director shall receive such salary as may be provided by law or, if not so provided, as may be fixed by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by the director in the performance of official duties. [Formerly 184.755; 1999 c.421 §§4,5]

409.110 Authority of director; grants. (1) The Director of Human Services, consistent with any federal requirements and with the prior consent of the Governor:

(a) May cause the organizational units within the Department of Human Services to make joint use of the personnel, resources, information and facilities available within the department;

(b) May combine or transfer components of organizational units within the department; and

(c) May organize and reorganize the department in the manner the director considers necessary to properly conduct the work of the department consistent with federal requirements and after consultation with parties affected by such change, including but not limited to service providers, advisory committees and county governments.

(2) The director may make financial grants to local units of government, nonprofit organizations and individuals from funds appropriated by the Legislative Assembly to carry out the department's responsibilities. [Formerly 184.770; 1999 c.421 §6; 2001 c.900 §64]

409.120 Delegation of authority of director. (1) The Director of Human Services may delegate to any of the officers and employees of the department the exercise or discharge in the director's name of any power, duty or function of whatever character vested in or imposed upon the director by law. However, all such delegations of a continuing nature involving provision for services performed by the department may be exercised by an officer or employee of the department only when specifically designated in writing by the director to do so.

(2) The official act of any person acting in the director's name and by the director's authority pursuant to subsection (1) of this section shall be considered an official act of the director. [Formerly 184.773]

409.130 Deputy director; assistant directors. (1) The Director of Human Services may appoint a deputy director, whose appointment is subject to approval by the Governor and who shall serve at the pleasure of the director. The deputy director shall have full authority to act for the director, subject to directions of the director. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

(2) The director may appoint assistant directors as necessary to carry out the responsibilities of the Department of Human Services. The appointment of each assistant director is subject to approval by the Governor. An assistant director serves at the pleasure of the director. [Formerly 184.760; 1999 c.421 §7; 2001 c.900 §65]

409.140 Assistant director as appointing authority; assignment of employees by director. (1) For purposes of the State Personnel Relations Law, each assistant director appointed under ORS 409.130, and any other officer specifically designated by law, is considered to be the appointing authority with respect to officers and employees under the supervision of the assistant director or other officer, and ORS 240.400 applies to each such appointing authority.

(2) Notwithstanding subsection (1) of this section, the Director of Human Services at any time may assign an employee from one position to another position in the same class or rank within the department. Upon making such an assignment or transfer, the director forthwith shall give written notice of the action to the Administrator of the Personnel Division. ORS 240.400 applies to the power vested in the director under this subsection. [Formerly 184.767; 2003 c.14 §172]

409.150 Deputy director and assistant directors in unclassified service; other employees; expenses. The deputy director and any assistant directors appointed under ORS 409.130 shall be in the unclassified service of the state. With the approval of the Director of Human Services, each assistant director may appoint deputies and principal assistants as necessary to conduct the work of the department. Notwithstanding ORS 240.205, deputies and principal assistants appointed by an assistant director shall be in the unclassified service of the state and shall serve at the pleasure of the director. In addition to their salaries, they shall, subject to the limitations otherwise provided by law, be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. [Formerly 184.765; 2001 c.900 §66; 2007 c.307 §2]

409.160 Information from personnel within department. (1) The Director of Human Services shall require from the personnel within the department such information, reports and documentation, as the director, in the discretion of the director, determines will be necessary to enable the director to:

(a) Execute responsibilities pursuant to law.

(b) Develop and report to the Governor from time to time on legislative, budgetary and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to the department.

(c) File with the Oregon Department of Administrative Services, for purposes of ORS 291.208, a budget report for the department.

(2) Where such information, reports or documentation is confidential in the hands of departmental personnel, it shall be confidential in the hands of the director. [Formerly 184.775; 2001 c.900 §67]

409.161 Report to Legislative Assembly on staffing and workload. (1) The Department of Human Services shall report to all relevant committees of the Legislative Assembly at each odd-numbered year regular session with respect to department employees in the classified service who directly provide:

(a) Child welfare services under ORS 418.005;

(b) Temporary assistance for needy families under ORS 412.006;

(c) Nutritional assistance under ORS 411.816;

(d) Medical assistance eligibility determinations under ORS 411.404;

(e) Services to elderly persons and to persons with disabilities under ORS 410.070 and 412.014; and

(f) Vocational rehabilitation services under ORS 344.530.

(2) The report of the department under this section shall address each of the following:

(a) Workload increases or decreases over the current biennium.

(b) Workload efficiencies achieved during the current biennium.

(c) Notwithstanding ORS 291.371 (5), additional staffing needs or decreases in staffing needs that exist for the current biennium or that are projected for the next biennium, including a statement of the number of full-time equivalent positions that are vacant on the date the report is prepared or that can be double filled in order to meet any needs for additional staffing.

(3) As used in this section, "double filled" means that the department is using one budgeted full-time equivalent position to employ more than one employee. [2009 c.598 §1; 2011 c.545 §45; 2011 c.720 §80]

409.162 Identifying and implementing workload efficiencies. (1) The Department of Human Services shall collaborate with its existing advisory groups to identify and implement workload efficiencies in the state agencies that administer programs providing:

(a) Child welfare services under ORS 418.005;

(b) Temporary assistance for needy families under ORS 412.006;

(c) Nutritional assistance under ORS 411.816;

(d) Medical assistance eligibility determinations under ORS 411.404;

(e) Services to elderly persons and to persons with disabilities under ORS 410.070 and 412.014; and

(f) Vocational rehabilitation services under ORS 344.530.

(2) The department shall collaborate with the following advisory groups and other groups designated by the department in identifying and implementing workload efficiencies:

(a) The advisory committee created by ORS 418.005 (2).

(b) The Family Services Review Commission established under ORS 411.075.

(c) The State Independent Living Council established by Executive Order 94-12.

(d) The advisory committee established under ORS 344.735.

(e) Area agency advisory councils required under ORS 410.210.

(f) The Governor's Commission on Senior Services created by ORS 410.320. [2009 c.598 §2; 2011 c.720 §81]

409.180 Consolidation of internal audit units. The Director of Human Services may consolidate the internal audits units within the Department of Human Services into an office of audits within the director's office, in order to achieve a higher level of independence and economy of management. [1991 c.321 §1]

409.182 Streamlining reporting requirements for human services providers; rules. (1) As used in this section, "human services provider" means a person that receives reimbursement from the Department of Human Services for providing services to clients of the department and that:

(a) The department is authorized to require to undergo financial reporting such as an audit; or

(b) Is required to report information to the department in a form or manner prescribed by the department.

(2) The department shall coordinate with other state agencies and local governments to find ways to reduce administrative and resource burdens on human services providers, including, but not limited to, implementing:

(a) Uniform processes for financial, compliance and other types of audits for human services providers that include protocols for periodic abbreviated audits and less frequent full audits;

(b) Uniform reporting forms for human services providers to report required information to all state and local entities that regulate the providers; and

(c) A process through which the department, state agencies and local governments share information that is reported to any of them by human services providers in order to avoid the imposition of duplicative reporting requirements on the providers.

(3) The department shall evaluate the success of the processes and forms implemented under subsection (2) of this section in reducing the administrative and resource burdens on human services providers and shall report the results of the evaluation to the Seventy-seventh Legislative Assembly in the manner provided in ORS 192.245.

(4) The department shall appoint a work group that shall use a continuous improvement or similar process to review state reporting requirements that duplicate or exceed federal requirements, to identify state reporting requirements that are unnecessary and do not produce additional valuable information and to recommend to the department changes to the department's administrative rules or to the Legislative Assembly changes to statutes to eliminate the duplicate or unnecessary requirements.

(5) The department may implement any of the changes to administrative rules that are authorized by state or federal law that

are recommended by the work group under subsection (4) of this section. [2011 c.293 §1]

CHILD WELFARE SERVICES

409.185 Standards and procedures for child protective services. (1) The Director of Human Services shall oversee the development of standards and procedures for assessment, investigation and enforcement of child protective services.

(2)(a) The Department of Human Services shall take action to implement the provision of child protective services as outlined in ORS 417.705 to 417.800 and 419A.170 and based on the recommendations in the 1992 "Oregon Child Protective Services Performance Study" published by the University of Southern Maine.

(b) In all substantiated cases of child abuse and neglect, the role of the department is to complete a comprehensive family assessment of risk of abuse or neglect, or both, assess service needs and provide immediate protective services as necessary.

(c) The department shall provide remedial services needed to ensure the safety of the child.

(d) In all cases of child abuse and neglect for which a criminal investigation is conducted, the role of law enforcement agencies is to provide a legally sound, child sensitive investigation of whether abuse or neglect or both have occurred and to gather other evidence and perform other responsibilities in accordance with interagency agreements.

(e) The department and law enforcement agencies shall conduct the investigation and assessment concurrently, based upon the protocols and procedures of the county multidisciplinary child abuse team in each jurisdiction.

(f) When the department and law enforcement agencies conduct a joint investigation and assessment, the activities of the department and agencies are to be clearly differentiated by the protocols of the county multidisciplinary child abuse team.

(g) Nothing in this subsection is intended to be inconsistent with ORS 418.702, 418.747 and 418.748 and ORS chapter 419B.

(h) In all cases of child abuse for which an investigation is conducted, the department shall provide a child's parent, guardian or caregiver with a clear written explanation of the investigation process, the court hearing process and the rights of the parent, guardian or caregiver in the abuse investigation and in the court proceedings related to the abuse investigation.

(3) Upon receipt of a recommendation of the Children's Advocate under ORS 417.815 (2)(e), the department shall implement the recommendation or give the Children's Advocate written notice of an intent not to implement the recommendation. [1993 c.676 §11; 1995 c.79 §397; 1997 c.130 §4; 1997 c.249 §126; 2001 c.900 §68; 2003 c.591 §7; 2005 c.499 §1; 2005 c.562 §24]

409.190 [1993 c.676 §28(1); 1997 c.130 §5; repealed by 2001 c.900 §261]

409.192 Policy on internal review of department decisions. It is the policy of the State of Oregon to ensure the integrity of the child welfare system. To this end it is necessary to provide for a process to allow for appropriate internal review of decisions made by the Department of Human Services. The state therefore requires that:

(1) Citizens shall be guaranteed the right to review of the actions and conduct of the department.

(2) Citizens shall be provided with a single place to file complaints concerning the actions and conduct of the department and shall be entitled to a response to the complaint within a reasonable period of time.

(3) Citizens shall not be subjected to reprisal for complaining of an action or conduct of the department. [1997 c.873 §28]

409.194 Establishment of review process; sensitive review committee; rules. (1) The Department of Human Services shall adopt rules establishing a review process to carry out the policy expressed in ORS 409.192.

(2) If the actions and conduct of the department are being addressed in a judicial or administrative proceeding, the review required by subsection (1) of this section may not be commenced or shall be stayed pending resolution of the judicial or administrative proceeding.

(3) The Director of Human Services may convene a sensitive review committee for the purpose of reviewing the actions and conduct of the department.

(4)(a) The director may convene a sensitive review committee upon request of the President of the Senate or the Speaker of the House of Representatives.

(b) The President shall appoint at least one state Senator and the Speaker shall appoint at least one state Representative to serve on a sensitive review committee convened pursuant to paragraph (a) of this subsection. The President and the Speaker shall use reasonable efforts to ensure that the Senate, the House of Representatives and the majority and minority parties have balanced representation on the committee.

(c) If the director convenes a sensitive review committee pursuant to this subsection, upon completion of its review, the committee shall develop findings and conclusions

and make recommendations to the director regarding policies and practices. No more than 180 days after receiving the request from the President or the Speaker, the director shall submit to the President and the Speaker a written report containing the findings, conclusions and recommendations of the committee. Unless exempt from disclosure under ORS chapter 192, the report shall be disclosed upon request to any member of the Legislative Assembly. [1997 c.873 §29; 2007 c.236 §1; 2011 c.430 §1]

409.210 [Formerly 184.805; repealed by 1993 c.676 §53]

409.220 Services relating to prevention, control and treatment of incest and sexual abuse; fees; rules. (1) The Department of Human Services may provide services related to the prevention, control and treatment of incest and sexual abuse. Those services include, but are not limited to, consultation, counseling, therapy and treatment programs for children who are the victims of incest and sex offenses, their families and the perpetrators of the incest or sex offense.

(2) When the services described in subsection (1) of this section are provided, the department may charge the perpetrator a fee not to exceed the cost of the services. The fee shall vary according to the service provided, and shall be determined and applied through rules adopted by the department.

(3) The amount of fees collected under subsection (2) of this section are continuously appropriated to the department and shall be used to provide the services described in subsection (1) of this section. [Formerly 184.807]

409.225 Confidentiality of child welfare records, files, papers and communications; when disclosure required. (1) In the interest of family privacy and for the protection of children, families and other recipients of services, the Department of Human Services shall not disclose or use the contents of any child welfare records, files, papers or communications that contain any information about an individual child, family or other recipient of services for purposes other than those directly connected with the administration of child welfare laws or unless required or authorized by ORS 419A.255 or 419B.035. The records, files, papers and communications are confidential and are not available for public inspection. General information, policy statements, statistical reports or similar compilations of data are not confidential unless such information is identified with an individual child, family or other recipient of services or protected by other provision of law.

(2) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS chapter 192, the department shall disclose child welfare records:

(a) About a recipient of services, to the recipient if the recipient is 18 years of age or older or is legally emancipated, unless prohibited by court order;

(b) Regarding a specific individual if the individual gives written authorization to release confidential information;

(c) Concerning a child receiving services on a voluntary basis, to the child's parent or legal guardian;

(d) To the juvenile court in proceedings regarding the child; and

(e) Concerning a child who is or has been in the custody of the department, to the child's parent or legal guardian except:

(A) When the child objects; or

(B) If disclosure would be contrary to the best interests of any child or could be harmful to the person caring for the child.

(3) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS chapter 192, the department shall disclose child welfare records, if in the best interests of the child, to:

(a) Treatment providers, foster parents, adoptive parents, school officials or other persons providing services to the child or family to the extent that such disclosure is necessary to provide services to the child or family; or

(b) A person designated as a member of a sensitive review committee convened by the Director of Human Services when the purpose of the committee is to determine whether the department acted appropriately and to make recommendations to the department regarding policy and practice.

(4) Any record disclosed under subsection (1), (2) or (3) of this section shall be kept confidential by the person or entity to whom the record is disclosed and shall be used only for the purpose for which disclosure was made.

(5) Unless exempt from disclosure under ORS chapter 192, when an adult who is the subject of information made confidential by subsection (1) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the protections afforded by subsection (1) of this section are presumed voluntarily waived and confidential information about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interests of the child or

necessary to the administration of the child welfare laws.

(6) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS chapter 192, the department shall disclose information related to the department's activities and responsibilities in a case where child abuse or neglect has resulted in a child fatality or near fatality or where an adult has been charged with a crime related to child abuse or neglect.

(7) Notwithstanding subsections (2), (3), (5) and (6) of this section, ORS 192.501 (3) shall apply to investigatory information compiled for criminal law purposes that may be in the possession of the department.

(8) As used in this section, "adult" means a person who is 18 years of age or older. [1997 c.415 §1; 2001 c.900 §69]

409.230 Disclosure of information in department reports and other materials; immunities. (1) Information contained in Department of Human Services reports and other materials relating to a child's history and prognosis that, in the professional judgment of the person providing the information for the reports or other materials, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person or entity who is in danger from the child.

(2) An agency or a person who discloses information under subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure. The disclosure of information under this section does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible. [1991 c.666 §2; 2001 c.900 §70]

409.240 Payment of expenses; rules. Warrants shall be drawn by the Oregon Department of Administrative Services in favor of the Department of Human Services for the aggregate amounts of the Department of Human Services' expenses. The Department of Human Services shall deposit all such warrants in the State Treasury in a checking account in reimbursement of those expenses. The Department of Human Services may draw its checks on the State Treasury in favor of the persons, firms, corporations, associations or counties entitled thereto under such rules as it shall adopt so as to include in single combined payments for specified periods all moneys allotted to particular payees from various sources for the period. [Formerly 184.820]

409.250 Revolving fund. (1) On written request of the Department of Human Services, the Oregon Department of Administrative Services shall draw warrants on amounts appropriated to the Department of Human Services for operating expenses for use by the Department of Human Services as a revolving fund. The revolving fund shall not exceed the aggregate sum of $100,000 including unreimbursed advances. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the Department of Human Services may draw checks.

(2) The revolving fund may be used by the Department of Human Services to pay for travel expenses for employees of the department and for any consultants or advisers for whom payment of travel expenses is authorized by law, or advances therefor, or for purchases required from time to time or for receipt or disbursement of federal funds available under federal law.

(3) All claims for reimbursement of amounts paid from the revolving fund shall be approved by the Department of Human Services and by the Oregon Department of Administrative Services. When such claims have been approved, a warrant covering them shall be drawn in favor of the Department of Human Services and charged against the appropriate fund or account, and shall be used to reimburse the revolving fund. [Formerly 184.810]

409.260 Services to Children and Families Account. (1) There is established in the General Fund of the State Treasury an account to be known as the Services to Children and Families Account. All moneys in the Services to Children and Families Account are continuously appropriated to the Department of Human Services and shall be used by the department for the purposes authorized by law. The moneys in the Services to Children and Families Account are subject to allotment control by the Oregon Department of Administrative Services under ORS 291.232 to 291.260.

(2) The Department of Human Services shall keep a record of all moneys credited to and deposited in the Services to Children and Families Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) In addition to sources provided under other laws, the sources of revenues in the Services to Children and Families Account may include recoveries of the cost of care provided to clients, amounts paid to the Department of Human Services by other organizations and state agencies in support of the

department's programs and activities and other moneys received by the department that are incidental to its operations. [Formerly 184.815; 1997 c.130 §6; 2005 c.755 §32]

SEXUAL ASSAULT CRISIS CENTERS AND CRISIS LINES

409.270 Definitions for ORS 409.273 to 409.285. As used in ORS 409.273 to 409.285:

(1) "Crisis line" means an emergency telephone service staffed by persons who are trained to provide emergency peer counseling, information, referral and advocacy to victims of sexual offenses and their families.

(2) "Director" means the Director of Human Services. [1999 c.943 §2; 2001 c.900 §71]

409.273 Funding of sexual assault crisis centers and crisis lines; rulemaking. (1) The Director of Human Services may make grants to and enter into contracts with private nonprofit organizations that provide intervention and support services to victims of sexual offenses and their families. Grants or contracts under this subsection may be:

(a) For the funding of sexual assault crisis centers; and

(b) For the funding of crisis lines providing services to victims of sexual offenses and their families.

(2) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990:

(a) The director may by rule provide that the locations of premises utilized for sexual assault crisis centers shall be kept confidential.

(b) All information maintained by the sexual assault crisis center or crisis line relating to clients is confidential. Except for the names of clients, necessary information may be disclosed to the director. [1999 c.943 §3]

409.276 Standards for sexual assault crisis centers. The Director of Human Services shall establish minimum standards for sexual assault crisis centers receiving grants or other financial assistance under ORS 409.273. [1999 c.943 §4]

409.279 Application for grants; notification of final action on application. (1) A private nonprofit organization operating a sexual assault crisis center or crisis line may apply to the Director of Human Services for a grant under ORS 409.273. The organization must submit to the director, at the time of application:

(a) A statement of services provided;

(b) Proof of maintenance of accurate and complete financial records;

(c) Clearly defined written policies and procedures; and

(d) A list of members of the governing board.

(2) The director shall approve or reject applications within 60 days after receipt. The director shall mail written notification to the applicant no later than five working days following final action taken on the application.

(3) The director shall consider the geographic area of the state from which an application is submitted to the end that all areas of the state develop programs to deal with the victims of sexual offenses. [1999 c.943 §5]

409.282 Services provided by sexual assault crisis centers and crisis lines. Services provided by sexual assault crisis centers and crisis lines receiving grants or other financial assistance under ORS 409.273 shall be made accessible and available to all persons who reside in the area served who may need the services. If a sexual assault crisis center or crisis line receiving funds under ORS 409.273 is unable to provide necessary services to a client, it shall refer the client to alternative community resources. [1999 c.943 §6]

409.285 Sexual Assault Victims Fund. (1) There is established the Sexual Assault Victims Fund in the Services to Children and Families Account of the General Fund established under ORS 409.260.

(2) All moneys credited to the Sexual Assault Victims Fund are continuously appropriated for the purposes of ORS 409.273 to be expended by the Director of Human Services as provided in ORS 409.273. However, the director shall expend not more than five percent of such moneys for administrative costs of the Department of Human Services incurred under ORS 409.273. [1999 c.943 §7]

DOMESTIC VIOLENCE PREVENTION AND TREATMENT PROGRAMS

409.290 Definitions for ORS 409.290 to 409.300. As used in ORS 409.290 to 409.300 unless the context requires otherwise:

(1) "Crisis line" means an emergency telephone service staffed by persons who are trained to provide emergency peer counseling, information, referral and advocacy to victims of domestic violence and their families.

(2) "Director" means the Director of Human Services.

(3) "Family violence" means the physical injury, sexual abuse or forced imprisonment, or threat thereof, of a person by another who

is related by blood, marriage or intimate cohabitation at the present or has been related at some time in the past, to the extent that the person's health or welfare is harmed or threatened thereby, as determined in accordance with rules prescribed by the director.

(4) "Safe house" means a place of temporary refuge, offered on an "as needed" basis to victims of domestic violence and their families.

(5) "Shelter home" means a place of temporary refuge, offered on a 24-hour, seven-day per week basis to victims of domestic violence and their children. [Formerly 108.610]

409.292 Funding of programs relating to family violence; rules. (1) The Director of Human Services may make grants to and enter into contracts with nonprofit private organizations or public agencies for programs and projects designed to prevent, identify and treat family violence. Grants or contracts under this subsection may be:

(a) For the funding of shelter homes for spouses and children who are or have experienced family violence including acquisition and maintenance of shelter homes;

(b) For the funding of crisis lines providing services to victims of domestic violence and their families;

(c) For the funding of safe houses for victims of domestic violence and their families; and

(d) For the development and establishment of programs for professional and paraprofessional personnel in the fields of social work, law enforcement, education, law, medicine and other relevant fields who are engaged in the field of the prevention, identification and treatment of family violence and training programs in methods of preventing family violence.

(2) The director shall not make a grant to any organization or agency under this section except on the condition that a local governmental unit or community organization provide matching moneys equal to 25 percent of the amount of the grant. The applying organization itself may contribute to or provide the required local matching funds. The value of in kind contributions and volunteer labor from the community may be computed and included as a part of the local matching requirement imposed by this subsection.

(3) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990:

(a) The director may by rule provide that the locations of premises utilized for shelter homes or other physical facilities in family violence programs and projects shall be kept confidential.

(b) All information maintained by the shelter home, safe house or crisis line relating to clients is confidential. However, crisis lines specifically funded to provide services for victims of child abuse are subject to the requirements of ORS 419B.005 to 419B.050. Except for the names of clients, necessary information may be disclosed to the director. [Formerly 108.620]

409.294 Standards for shelter homes and safe houses. The Director of Human Services shall establish minimum standards to insure that shelter homes and safe houses receiving grants under ORS 409.292 provide services meeting basic survival needs, including, but not limited to, food, clothing, housing, safety, security, client advocacy and counseling. [Formerly 108.630]

409.296 Application for grants; notification of final action on application. (1) A public agency or nonprofit private organization operating a shelter home or safe house may apply to the Director of Human Services for a grant under ORS 409.292. The agency or organization must submit to the director, at the time of application:

(a) A statement of services provided;

(b) Proof of maintenance of accurate and complete financial records;

(c) Assurance of compliance with local building, fire and health codes for existing structures;

(d) Clearly defined written intake and referral policies and procedures; and

(e) If operated by a private organization, a list of members of the governing board.

(2) The director shall approve or reject applications within 60 days after receipt. The director shall mail written notification to the applicant no later than five working days following final action taken on the application.

(3) The director shall consider the geographic area of the state from which an application is submitted to the end that all areas of the state develop programs to deal with domestic violence. [Formerly 108.640]

409.298 Services provided by shelter homes, safe houses and crisis lines. Services provided by shelter homes, safe houses and crisis lines receiving grants or other financial assistance under ORS 409.292 shall be made accessible and available to all persons who reside in the area served who may need the services. If a shelter home, safe house or crisis line receiving funds pursuant to ORS 409.292 to 409.300 is unable to provide necessary services to a client, it shall

refer the client to alternative community resources. [Formerly 108.650]

409.300 Domestic Violence Fund. (1) There is established the Domestic Violence Fund in the Services to Children and Families Account of the General Fund established under ORS 409.260.

(2) All moneys received by the Director of Human Services under ORS 106.045 or 106.330 and any other funds allocated for expenditure under ORS 409.292 shall be credited to the Domestic Violence Fund.

(3) All moneys credited to the Domestic Violence Fund are continuously appropriated for the purposes of ORS 409.292 to be expended by the director as provided in ORS 409.290 and 409.292. However, the director shall expend not more than 10 percent of such moneys for administrative costs of the Department of Human Services incurred under ORS 409.290 and 409.292. [Formerly 108.660; 2007 c.99 §15]

409.304 Limitation on administrative expenses. Grants awarded through funding from the Criminal Fine Account for domestic violence programs shall be used to support direct services, with no more than five percent of each grant to be spent for administration. [Formerly 108.662; 2011 c.597 §135]

409.310 [Formerly 184.830; 2001 c.900 §72; repealed by 2011 c.720 §228]

409.320 [Formerly 184.840; 2005 c.726 §24; 2009 c.595 §241; renumbered 413.430 in 2011]

409.330 [Formerly 184.835; 2009 c.595 §242; repealed by 2011 c.720 §228]

VOLUNTEER PROGRAM

409.360 Authorization to establish volunteer program in department; volunteer as agent of state; rules. (1) The Director of Human Services is authorized to establish the Department of Human Services Volunteer Program to assist in carrying out the duties of the Department of Human Services.

(2) A volunteer who is performing services pursuant to the Department of Human Services Volunteer Program established under subsection (1) of this section is an agent of the state for purposes of ORS 30.260 to 30.300 and is not an agent of local governments or nonprofit entities that utilize the volunteer's services. However, local government or nonprofit entities are responsible for their own negligent acts or those of their own officers, employees and agents.

(3) The director is authorized to adopt all rules necessary to implement and administer the Department of Human Services Volunteer Program. [1997 c.597 §1; 1999 c.421 §8]

409.365 Department of Human Services Volunteer Program Donated Fund Account. (1) The Department of Human Services Volunteer Program Donated Fund Account is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys in the account are appropriated continuously to the Department of Human Services.

(2) The Department of Human Services Volunteer Program shall keep a record of all moneys credited to and deposited in the Department of Human Services Volunteer Program Donated Fund Account. The record shall indicate the source from which the moneys are derived and the activity or program against which each withdrawal is charged.

(3) All private donations or contributions made for the use or benefit of the Department of Human Services Volunteer Program shall be deposited in the Department of Human Services Volunteer Program Donated Fund Account. All funds deposited in that account shall be used for direct program expenditures for the Department of Human Services Volunteer Program and shall not be used for direct or indirect administrative expenditures. [1997 c.597 §2; 1999 c.421 §9]

409.410 [Formerly 184.757; 1997 c.166 §1; 2001 c.900 §73; 2009 c.595 §243; 2011 c.673 §11; renumbered 430.256 in 2011]

409.420 [Formerly 184.759; 2003 c.14 §173; 2009 c.595 §244; repealed by 2011 c.673 §45]

409.425 [1999 c.229 §2; 2003 c.14 §174; 2009 c.595 §245; renumbered 430.272 in 2011]

409.430 [1999 c.985 §3; 2009 c.595 §246; renumbered 413.520 in 2011]

409.435 [1999 c.985 §2; 2009 c.595 §247; renumbered 413.522 in 2011]

RESPITE CARE PROGRAM

409.450 Definitions for ORS 409.450 to 409.478. As used in ORS 409.450 to 409.478:

(1) "Caregiver" means an individual providing ongoing care for an individual with special needs.

(2) "Community lifespan respite care program" means a noncategorical respite care program that:

(a) Is operated by community-based private nonprofit, for-profit or public agencies that provide respite care services;

(b) Receives funding through the Oregon Lifespan Respite Care Program established under ORS 409.458;

(c) Serves an area of one or more counties;

(d) Acts as a single local source of information and referral; and

(e) Facilitates access to local respite care services.

(3) "Noncategorical care" means care without regard to the status of the individual receiving care, including but not limited to age and type of special need.

(4) "Provider" means an individual or agency selected by a family or caregiver to provide respite care to an individual with special needs.

(5) "Respite care" means the provision of short-term relief to primary caregivers from the demands of ongoing care for an individual with special needs.

(6) "Respite care services" includes:

(a) Recruiting and screening paid and unpaid respite care providers;

(b) Identifying local training resources and organizing training opportunities for respite care providers;

(c) Matching families and caregivers with providers and other types of respite care;

(d) Linking families and caregivers with payment resources;

(e) Identifying, coordinating and developing community resources for respite care;

(f) Providing quality assurance and evaluation; and

(g) Assisting families and caregivers to identify respite care needs and resources.

(7) "Special needs" includes:

(a) Alzheimer's disease and related disorders;

(b) Developmental disabilities;

(c) Physical disabilities;

(d) Chronic illness;

(e) Mental illness;

(f) Behavioral and emotional conditions that require supervision;

(g) Situations in which a high risk of abuse or neglect exists; and

(h) Such other situations or conditions as the Department of Human Services may establish by rule. [1997 c.745 §1; 2007 c.71 §104; 2007 c.512 §1]

409.454 Legislative findings on respite care. The Legislative Assembly finds that:

(1) Supporting the efforts of families and caregivers to care for individuals with special needs at home is efficient, cost effective and humane. Families receiving occasional respite care relief are less likely to request admission of an individual with special needs to nursing homes, foster care or other out-of-home care at public expense.

(2) Respite care reduces family and caregiver stress, enhances family and caregiver coping ability and strengthens family ability to meet the challenging demands of caring for individuals with special needs.

(3) Respite care reduces the risk of abuse and neglect of children, senior citizens and other vulnerable groups.

(4) Coordinated, noncategorical respite care services must be available locally to provide reliable short-term relief when it is needed by families and caregivers regardless of where they live in Oregon. [1997 c.745 §2]

409.458 Oregon Lifespan Respite Care Program established in department; duties. The Director of Human Services shall establish the Oregon Lifespan Respite Care Program to develop and encourage statewide coordination of respite care and to work with community-based private nonprofit, for-profit or public agencies and interested citizen groups in the establishment of community lifespan respite care programs. The Oregon Lifespan Respite Care Program shall:

(1) Provide policy and program development support, including but not limited to data collection and outcome measures;

(2) Identify and promote resolution of local and state level policy concerns;

(3) Provide technical assistance to community lifespan respite care programs in the areas of respite care program operations, resource development, best practices, training, coordination with other caregiver programs and promoting public awareness;

(4) Develop and distribute respite care information;

(5) Promote the exchange of information and coordination among state and local government, community lifespan respite care programs, agencies serving individuals with special needs, families and respite care advocates to encourage efficient provision of respite care and reduce duplication of effort;

(6) Ensure statewide access to community lifespan respite care programs; and

(7) Monitor and evaluate implementation of community lifespan respite care programs. [1997 c.745 §3; 2007 c.512 §2]

409.462 Community programs; criteria; administrator of program; advisory council. (1) The Department of Human Services through the Oregon Lifespan Respite Care Program shall coordinate the establishment of community lifespan respite care programs. The program shall accept proposals to operate community lifespan respite care programs, submitted in the form and manner required by the program, from community-based private nonprofit, for-profit or public agencies that provide respite care services. According to criteria established by the De-

partment of Human Services, the Oregon Lifespan Respite Care Program shall designate and fund agencies described in this section to operate the community lifespan respite care programs.

(2) The Director of Human Services shall create the position of administrator of the Oregon Lifespan Respite Care Program to carry out the duties of the program.

(3) The Director of Human Services shall appoint an advisory council to the Oregon Lifespan Respite Care Program. The council shall be composed of respite care program managers, respite care consumers, family members and other interested individuals and shall meet no fewer than four times per year. [1997 c.745 §4; 2007 c.512 §3]

409.466 Community program duties; advisory committee. Each community lifespan respite care program established pursuant to ORS 409.458 shall:

(1) Involve key local individuals and agencies in the community lifespan respite care program planning process.

(2) Create an advisory committee to advise the community lifespan respite care program on how the program may best serve the needs of families and caregivers of individuals with special needs. A majority of the members of the advisory committee shall be family members and caregivers of individuals with special needs. Other members shall include respite care providers, representatives of local service agencies and other community representatives. Committee membership shall represent senior citizens, adults and children with special needs, and families at risk of abuse or neglect. [1997 c.745 §5; 2007 c.512 §4]

409.470 Description of respite care services. Respite care services made available through the Oregon Lifespan Respite Care Program shall:

(1) Include a flexible array of respite care options responsive to family and caregiver needs and available before families and caregivers are in a crisis situation;

(2) Be sensitive to the unique needs, strengths and multicultural values of an individual, family or caregiver;

(3) Offer the most efficient access to an array of coordinated respite care services that are built on existing community supports and services;

(4) Be driven by community strengths, needs and resources; and

(5) Use a variety of funds and resources, including but not limited to:

(a) Family or caregiver funds;

(b) Private and volunteer resources;

(c) Public funds; and

(d) Exchange of care among families or caregivers. [1997 c.745 §6]

409.474 Rules. The Department of Human Services shall adopt all rules necessary for the operation and administration of the Oregon Lifespan Respite Care Program, including but not limited to:

(1) Establishing criteria, procedures and timelines for designation of the community-based private nonprofit, for-profit or public agencies that will receive funding to provide respite services under community lifespan respite care programs;

(2) Requiring that community lifespan respite care programs publicize the telephone number and address where families and caregivers may contact the program;

(3) Establishing operational guidelines and outcome measures for state and community lifespan respite care programs;

(4) Establishing program reporting and data collection requirements;

(5) Creating statewide minimum standards for lifespan respite care providers;

(6) Establishing standards for coordination between the Oregon Lifespan Respite Care Program and other caregiving programs; and

(7) Establishing a statewide quality assurance process and quality assurance measures. [1997 c.745 §7; 2007 c.512 §5]

409.478 Use of funds appropriated to program. The Oregon Lifespan Respite Care Program may use the funds appropriated to the program for the following purposes:

(1) The purposes established in ORS 409.458 and 409.462;

(2) Costs related to ongoing provider recruitment and training, information and referral, outreach and other components of the provision of local respite care;

(3) One time only start-up costs related to the establishment of the community lifespan respite care program;

(4) Administrative costs for maintaining ongoing program operation at both the state and local levels, including technology acquisition and upgrades to expand access to respite care services and to improve accountability; and

(5) The purchase of community-based respite care for families and individuals. [1997 c.745 §9; 2007 c.512 §6]

409.500 [2001 c.987 §1; 2007 c.528 §1; 2009 c.595 §248; renumbered 413.570 in 2011]

409.510 [2001 c.987 §3; 2007 c.528 §2; 2009 c.11 §48; renumbered 413.572 in 2011]

409.520 [2001 c.987 §2; 2003 c.14 §175; 2005 c.162 §1; 2007 c.528 §3; 2009 c.442 §35; 2009 c.595 §249; 2011 c.272 §6; renumbered 413.574 in 2011]

409.530 [2001 c.987 §5; 2009 c.595 §250; renumbered 413.576 in 2011]

409.540 [2001 c.987 §9; 2009 c.595 §251; renumbered 413.580 in 2011]

409.550 [2001 c.987 §6; renumbered 413.582 in 2011]

409.560 [2001 c.987 §10; 2005 c.162 §2; 2007 c.528 §4; renumbered 413.590 in 2011]

409.565 [2001 c.987 §11; 2001 c.987 §11a; 2010 c.43 §8; renumbered 413.592 in 2011]

409.570 [2001 c.987 §8; renumbered 413.599 in 2011]

409.600 [1999 c.822 §1; 2009 c.595 §252; renumbered 413.500 in 2011]

CHILD CARE SERVICES

409.610 Legislative goal. It is the goal of the Legislative Assembly to provide programs to make child care services more affordable, to improve the quality of services offered and to increase the number of child care providers. Programs should be tailored to the needs of local communities and should include a combination of actions that will address both targeted populations, such as teen parents or children with disabilities, and low-income working or student parents. [1991 c.697 §1; 2007 c.70 §162]

409.615 [2001 c.903 §1; renumbered 413.550 in 2011]

409.617 [2001 c.903 §2; renumbered 413.552 in 2011]

409.619 [2001 c.903 §3; 2009 c.595 §253; 2011 c.273 §7; renumbered 413.554 in 2011]

409.620 [1991 c.697 §4; repealed by 1993 c.676 §53]

409.621 [2001 c.903 §4; 2009 c.595 §254; renumbered 413.556 in 2011]

409.623 [2001 c.903 §5; 2009 c.595 §255; renumbered 413.558 in 2011]

409.625 [2001 c.903 §7; 2009 c.595 §256; renumbered 413.560 in 2011]

409.630 [1991 c.697 §6; repealed by 1993 c.676 §53]

409.710 [Formerly 184.883; 2001 c.900 §74; 2003 c.14 §176; renumbered 411.171 in 2011]

MISCELLANEOUS

409.720 Emergency planning; rules. (1) As used in this section:

(a) "Adult foster home" has the meaning given that term in ORS 443.705 (1).

(b) "Health care facility" has the meaning given that term in ORS 442.015.

(c) "Residential facility" has the meaning given that term in ORS 443.400 (6).

(2) Every adult foster home, health care facility and residential facility licensed or registered by the Department of Human Services shall:

(a) Adopt a plan to provide for the safety of persons who are receiving care at or are residents of the home or facility in the event of an emergency that requires immediate action by the staff of the home or facility due to conditions of imminent danger that pose a threat to the life, health or safety of persons who are receiving care at or are residents of the home or facility; and

(b) Provide training to all employees of the home or facility about the responsibilities of the employees to implement the plan required by this section.

(3) The department shall adopt by rule the requirements for the plan and training required by this section. The rules adopted shall include, but are not limited to, procedures for the evacuation of the persons who are receiving care at or are residents of the adult foster home, health care facility or residential facility to a place of safety when the conditions of imminent danger require relocation of those persons. [2007 c.205 §1; 2009 c.595 §257; 2009 c.792 §33]

409.740 [2005 c.362 §1; 2009 c.595 §258; renumbered 413.246 in 2011]

409.742 Disclosure of information pertaining to cremated remains. (1) Notwithstanding any other provision of law, the Department of Human Services shall disclose to the general public the name and the dates of birth and death of a person whose cremated remains are in the possession of the department for the purpose of:

(a) Giving a family member of the person an opportunity to claim the cremated remains; and

(b) Creating a memorial for those persons whose cremated remains are not claimed.

(2) If an individual contacts the department to determine whether the department is in possession of the cremated remains of a family member of the individual and the department determines that the department is in possession of the cremated remains, the department shall disclose to the individual that the department is in possession of the cremated remains and offer the individual the opportunity to claim the remains.

(3) As used in this section, "family member" means any individual related by blood, marriage or adoption to a person whose cremated remains are in the possession of the department. [2005 c.823 §1; 2007 c.9 §1]

409.745 [2003 c.608 §1; 2009 c.595 §259; renumbered 413.248 in 2011]

409.747 Setoff of liquidated debts. Notwithstanding ORS 411.760, liquidated and delinquent debts owed to the Department of Human Services may be set off against amounts owed by the department to the debtors. [2007 c.446 §1; 2009 c.595 §260]

409.750 State goal to eliminate or alleviate poverty. The State of Oregon desires to assist and enable the poor to achieve maximum feasible economic self-sufficiency. It shall be a state goal to eliminate or alle-

viate the causes and conditions of poverty in Oregon. The state shall assist community action agencies to stimulate a better focusing of all available local, state, federal and private resources upon the goal. [Formerly 184.801]

LONG TERM CARE FACILITY ASSESSMENT

Note: Sections 15 to 24, 29 and 31, chapter 736, Oregon Laws 2003, provide:

Sec. 15. As used in sections 15 to 22, chapter 736, Oregon Laws 2003:

(1) "Assessment rate" means the rate established by the Director of Human Services under section 17, chapter 736, Oregon Laws 2003.

(2) "Assessment year" means a 12-month period, beginning July 1 and ending the following June 30, for which the assessment rate being determined is to apply.

(3) "Gross revenue":

(a) Means the revenue paid to a long term care facility for patient care, room, board and services, less contractual adjustments; and

(b) Does not include:

(A) Revenue derived from sources other than long term care facility operations, including but not limited to donations, interest and guest meals, or any other revenue not attributable to patient care; and

(B) Hospital revenue or revenue derived from hospital operations.

(4) "Long term care facility" has the meaning given that term in ORS 442.015, but does not include an intermediate care facility for persons with mental retardation.

(5) "Medicaid patient days" means patient days attributable to patients who receive medical assistance under a plan described in 42 U.S.C. 1396a et seq.

(6) "Patient days" means the total number of patients occupying beds in a long term care facility for all days in the calendar period for which an assessment is being reported and paid. For purposes of this subsection, if a long term care facility patient is admitted and discharged on the same day, the patient shall be deemed to occupy a bed for one day. [2003 c.736 §15; 2005 c.757 §3; 2007 c.70 §358; 2007 c.780 §7]

Sec. 16. (1) A long term care facility assessment is imposed on each long term care facility in this state.

(2) The amount of the assessment equals the assessment rate times the number of patient days, including Medicaid patient days, at the long term care facility for a calendar quarter.

(3) The assessment shall be reported on a form prescribed by the Department of Human Services and shall contain the information required to be reported by the department. The assessment form shall be filed with the department on or before the last day of the month following the end of the calendar quarter for which the assessment is being reported. The long term care facility shall pay the assessment at the time the facility files the assessment report. The payment shall accompany the report unless the payment is transmitted electronically or unless the department permits a later payment under criteria prescribed by the department by rule.

(4) A long term care facility is not guaranteed that any additional moneys paid to the facility in the form of reimbursements calculated according to the methodology described in section 24 (4), chapter 736, Oregon Laws 2003, shall equal or exceed the amount of the long term care facility assessment paid by the facility. [2003 c.736 §16; 2005 c.757 §4; 2007 c.780 §8]

Sec. 17. (1) On or before June 15 of each year, the Director of Human Services shall establish an assessment rate for long term care facilities that are not exempt for the assessment year from the assessment imposed under section 16, chapter 736, Oregon Laws 2003. The assessment rate shall apply prospectively to the assessment year. The assessment rate shall be a rate estimated to collect an amount that does not exceed six percent of the annual gross revenue of all long term care facilities in this state, as determined from the financial statements or revenue reports, prescribed by the director by rule, filed by long term care facilities for the period ending June 30 of the previous year. For purposes of establishing an assessment rate pursuant to this subsection, the director shall exclude the annual gross revenue of long term care facilities that are exempt from the assessment imposed under section 16, chapter 736, Oregon Laws 2003.

(2) On or before October 15 of each year, the Department of Human Services shall refund any overage in tax dollars collected under section 16, chapter 736, Oregon Laws 2003, that exceeds the maximum percentage of the projected annual gross revenue of all long term care facilities in this state as described in subsection (1) of this section. The department shall refund any overage described in this subsection by crediting the percentage of the overage attributable to each long term care facility subject to the assessment described in section 16, chapter 736, Oregon Laws 2003, against taxes owed by that facility in succeeding assessment periods. The department may collect any delinquent assessments, but may not collect any underages in actual collections through an adjustment in assessment rates. [2003 c.736 §17; 2005 c.757 §5; 2007 c.780 §9]

Sec. 18. (1) The Oregon Veterans' Home is exempt from the assessment imposed under section 16, chapter 736, Oregon Laws 2003.

(2) A waivered long term care facility is exempt from the long term care facility assessment imposed under section 16, chapter 736, Oregon Laws 2003.

(3) As used in this section, "waivered long term care facility" means:

(a) A long term care facility operated by a continuing care retirement community that is registered under ORS 101.030 and that admits:

(A) Residents of the continuing care retirement community; or

(B) Residents of the continuing care retirement community and nonresidents; or

(b) A long term care facility that is annually identified by the Department of Human Services as having a Medicaid recipient census that exceeds the census level established by the department for the year for which the facility is identified. [2003 c.736 §18; 2003 c.736 §34; 2005 c.757 §7; 2007 c.780 §10]

Sec. 19. (1) A long term care facility that fails to file a report or pay an assessment under section 16 of this 2003 Act by the date the report or payment is due shall be subject to a penalty of $500 per day of delinquency. The total amount of penalties imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalties are being imposed.

(2) Penalties imposed under this section shall be collected by the Department of Human Services and deposited in the Department of Human Services Account established under ORS 409.060.

(3) Penalties paid under this section are in addition to and not in lieu of the assessment imposed under section 16 of this 2003 Act. [2003 c.736 §19]

Sec. 20. (1) A long term care facility that has paid an amount that is not required under sections 15 to 22 of this 2003 Act may file a claim for refund with the Department of Human Services.

(2) Any long term care facility aggrieved by an action of the Department of Human Services or by an action of the Director of Human Services taken under sections 15 to 22 of this 2003 Act shall be entitled to notice and an opportunity for a contested case hearing under ORS chapter 183. [2003 c.736 §20]

Sec. 21. (1) Each long term care facility subject to assessment under section 16 of this 2003 Act shall maintain records sufficient to determine the amount of the assessment under section 16 of this 2003 Act.

(2) Unless otherwise exempt, a long term care facility shall report the payment of the assessment as an allowable cost for Medicaid reimbursement purposes.

(3) The Department of Human Services may audit the records of any long term care facility in this state to determine compliance with sections 15 to 22 of this 2003 Act. The department may audit records at any time for a period of three years following the date an assessment is due to be reported and paid under section 16 of this 2003 Act. [2003 c.736 §21]

Sec. 22. Amounts collected by the Department of Human Services from the assessment under section 16, chapter 736, Oregon Laws 2003 shall be deposited in the Long Term Care Facility Quality Assurance Fund established under section 24, chapter 736, Oregon Laws 2003. [2003 c.736 §22; 2005 c.757 §10]

Sec. 23. Sections 15 to 22, chapter 736, Oregon Laws 2003, apply to long term care facility assessments imposed in calendar quarters beginning on or after November 26, 2003, and before July 1, 2014. [2003 c.736 §23; 2005 c.757 §8; 2007 c.780 §11]

Sec. 24. (1) The Long Term Care Facility Quality Assurance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Long Term Care Facility Quality Assurance Fund shall be credited to the fund.

(2) Amounts in the Long Term Care Facility Quality Assurance Fund are continuously appropriated to the Department of Human Services for the purposes of paying refunds due under section 20, chapter 736, Oregon Laws 2003, and funding long term care facilities, as defined in section 15, chapter 736, Oregon Laws 2003, that are a part of the Oregon Medicaid reimbursement system.

(3) Funds in the Long Term Care Facility Quality Assurance Fund and the matching federal financial participation under Title XIX of the Social Security Act may be used to fund Medicaid-certified long term care facilities using only the reimbursement methodology described in subsection (4) of this section to achieve a rate of reimbursement greater than the rate in effect on June 30, 2003.

(4) The reimbursement methodology used to make additional payments to Medicaid-certified long term care facilities includes but is not limited to:

(a) Rebasing biennially, beginning on July 1 of each odd-numbered year;

(b) Adjusting for inflation in the nonrebasing year;

(c) Continuing the use of the pediatric rate;

(d) Continuing the use of the complex medical needs additional payment;

(e) Discontinuing the use of the relationship percentage, except when calculating the pediatric rate in paragraph (c) of this subsection; and

(f) Requiring the Department of Human Services to reimburse costs at a rate not lower than the 63rd percentile ceiling of allowable costs for the biennium for which the reimbursement is made. [2003 c.736 §24; 2005 c.757 §11; 2007 c.780 §12]

Sec. 29. Notwithstanding any other provision of law, an assessment under sections 15 to 22, chapter 736, Oregon Laws 2003, may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in section 24 (4), chapter 736, Oregon Laws 2003. The Department of Human Services may make retroactive increases in payments for the first six months the assessment is imposed. [2003 c.736 §29; 2007 c.780 §13]

Sec. 31. Sections 15 to 22, 24 and 29, chapter 736, Oregon Laws 2003, are repealed on January 2, 2015. [2003 c.736 §31; 2005 c.757 §9; 2007 c.780 §14; 2009 c.11 §49]

Note: Section 21, chapter 780, Oregon Laws 2007, provides:

Sec. 21. Sections 22 and 23 of this 2007 Act and sections 24 and 29, chapter 736, Oregon Laws 2003, are added to and made a part of sections 15 to 22, chapter 736, Oregon Laws 2003. [2007 c.780 §21]

Note: Sections 19 and 20, chapter 827, Oregon Laws 2009, provide:

Sec. 19. Notwithstanding section 24, chapter 736, Oregon Laws 2003, for the biennium beginning July 1, 2011, the Department of Human Services may limit reimbursement paid to Medicaid-certified long term care facilities to the rates in effect on June 30, 2011, in accordance with the legislatively adopted budget. [2009 c.827 §19; 2011 c.630 §84]

Sec. 20. Section 19, chapter 827, Oregon Laws 2009, is repealed on June 30, 2013. [2009 c.827 §20; 2011 c.630 §85]