



Department of Human Services
Office of Developmental Disability Services (ODDS)
ORS 430.216 Legislative Report
2015 Regular Session

July 22, 2015

In accordance with ORS 430.216 (Section 4 of House Bill 2442), as enacted effective June 12, 2009, this document is the report on the safety of individuals receiving developmental disability services. This report follows the format of requested information as outlined in the bill.

(A) The average turnover of direct care workers in service settings.

The Oregon Final Direct Care Wage Report¹ provides the information on the number and type of direct care workers employed by long-term services and supports providers, the wages and fringe benefits of the direct care workers they employ, and turnover rates of these direct care workers. Average annual turnover among direct care workers was 64% a year, with wide variation across provider types. Residential care facilities for adults with developmental disabilities had the highest turnover rates at 90% per year, while adult foster care homes for people with developmental disabilities had the lowest turnover rate at 30%. All applicable results of this report regarding turnover are included in **Appendix A**.

There are no central data sources for determining the average turnover rates for Personal Support Workers (PSW) in self-directed in-home services provided through Support Service Brokerages or Community Developmental Disability Programs. Turnover information on this particular group of direct care workers is not available.

“Assisting People to Become Independent, Healthy and Safe”

¹ The full report can be viewed at [http://www.oregon.gov/dhs/aboutdhs/dhsbudget/20152017 Budget/Oregon Final Direct Care Wage Report to DHS.pdf](http://www.oregon.gov/dhs/aboutdhs/dhsbudget/20152017%20Budget/Oregon%20Final%20Direct%20Care%20Wage%20Report%20to%20DHS.pdf)

(B) A Summary of the training provided by the Department or its contractors to direct care workers in service settings.

The Department, through the Office of Developmental Disability Services, has contracts with Oregon Technical Assistance Corporation (OTAC) to provide mentoring and training to workers. This training is intended to increase understanding of diverse behavioral challenges and teach proactive strategies in minimizing behaviors, developing individual support plans, and implementing person-centered support strategies. These contracts are the major source of training the Department provides to direct care staff. During this reporting period, OTAC mentored candidates who were required to successfully complete a two-day skill enhancement training, followed by three days of intensive training focusing on functional analysis, assessment and behavior support planning.

During 2014, OTAC provided training events to support workers. In addition to direct training, OTAC also provides technical assistance through specific requests. Many of these technical assistance activities would have included direct care staff; however, data on the number of direct care staff participants is not available. Further details on training and technical assistance activities are available in **Appendix B**.

Trainings regarding the Oregon Intervention System (OIS) were also conducted via a contract with Alternative Services Inc. (ASI).

In 2014, the Office of Investigations and Training (OIT) conducted trainings on mandatory abuse reporting and abuse prevention to participants.

Finally, the Department, through ODDS, has a contract with the Oregon Developmental Disabilities Coalition. This contract calls for the training of direct care staff and other interested personnel through the use of webinars. The trainings are archived so they can be accessed online after the initial presentations.

(C) A summary of the core competencies required of direct care workers in service settings by the state for licensing or certification.

Adult Foster Care for Individuals with Developmental Disabilities – Oregon Administrative Rule Chapter 411 Division 360, section 120, Adult Foster Care Home for Individuals with Developmental Disabilities describes the Department’s training requirements for Adult Foster Care providers of individuals with developmental disabilities. Refer to **Appendix C** for specific OAR language.

The Department has developed a standardized training curriculum that all adult foster care providers for individuals with developmental disabilities are required to complete prior to working unassisted. Additionally, providers’ competencies are monitored during site visits by Community Developmental Disability Program staff and during Department licensing visits. Refer to page 2 of **Appendix C** for details on the Basic Training Course. There is also a web page on training opportunities for Adult Foster Care Providers. This page can be viewed at: <http://www.oregon.gov/DHS/spd/Pages/provtools/training/index.aspx>

As a part of the collective bargaining agreement between the State and Adult Foster Care providers, there are efforts to improve the availability of training opportunities for providers. Also included in **Appendix C**, is the statement of intent on training included in that agreement. The total collective bargaining agreement can be viewed at: http://www.oregon.gov/DAS/CHRO/docs/lr/11_13AFRC_Final.pdf

24 Hour Residential Services for Children and Adults with Developmental Disabilities – Oregon Administrative Rule Chapter 411 Division 325 section 0160, 24-Hour Residential Services for Children and Adults with Developmental Disabilities, describes the Department’s training requirements for 24-hour residential services providers. The providers are required to develop and maintain a core competency training plan consistent with the Department’s Oregon Core Competencies. Refer to **Appendix D** for specific rule language and detailed description of the core competencies.

The Department requires direct care workers complete the providers core competency training prior to working unassisted. Additionally, workers competencies are monitored during site visits by the Community Developmental Disability Program staff and during biennial licensing visits by the Department.

The Department has contracted with OTAC to review and revise the existing core competencies directed to workers in residential and employment settings and to develop core competencies for services coordinators and personal agents who provide case management services. By 2015, modules on each of the determined competencies will be available through the Department's On Line Learning Center and available to all workers in the field of developmental disabilities. Funding for this contract was made possible by the Quality Care Fund created as a result of passage of HB 2442.

(D) A summary of the average wages of direct care workers in service, presented by type of services provided.

Data for the average wage of direct care workers in service settings is derived from input of providers in different service settings such as 24 hour residential programs, supported living and various day or employment services through a web based reporting site.

Based on these reports the average wages of direct care workers for calendar years 2013 and 2014 was \$10.88 and \$11.02 respectively. More detailed data is reflected in the direct care staffing report in **Appendix A**.

Direct care to individuals with developmental disabilities can also be provided through the Medicaid State Plan personal care program. Providers paid for this service are paid a rate established through the Collective Bargaining Agreement with SEIU.

There are no central data sources for determining the average rates paid Personal Support Workers in self-directed in-home services authorized through Support Service Brokerages or Community Developmental Disability Programs. The pay rate is a range from \$13.75 to \$40.00 per hour and is a part of the Collective Bargaining Agreement with SEIU.

An example of the full array rate ranges for in-home services can be found at:
<http://www.dhs.state.or.us/spd/tools/dd/bpa/rate-guidelines-090701.pdf>

(E) The number of complaints of abuse filed as required by ORS 430.765 and received by the Department under ORS 430.743, reported by type of allegation.

Refer to **Appendix E** for specific details on complaints of abuse by type of allegation and service setting.

(F) The number of direct care workers in service setting who were subject to criminal or civil action involving an individual with a developmental disability.

Refer to **Appendix E** for specific details on complaints of abuse by type of allegation and service setting that were referred to law enforcement.

(G) The number of deaths, serious injuries, sexual assaults and rapes alleged to have occurred in service settings.

Refer to **Appendix E** for specific details of complaints of abuse by service setting.

(H) A schedule of all license fees and civil penalties established by rule pursuant to ORS 441.995, 443.455 and 443.790

Adult Foster Care for individuals with Developmental Disabilities - Oregon Administrative Rule Chapter 411 division 360 Section 0050, Adult Foster Home for Individuals with Developmental Disabilities, describes the license application and fees. Licensing fees are \$20.00 per bed for each individual service recipient. Refer to **Appendix F for specific OAR language.**

Oregon Administrative Rules Chapters 411 division 360 Section 0260 reflect the conditions under which a provider may be subject to civil penalty, including the parameters of the financial limits a provider may be assessed. Refer to **Appendix F** for specific OAR language.

24 hour Residential Services for Children and Adults with Developmental Disabilities – The Department complies with the licensing fee schedule currently identified in ORS 443.415(2)(a) and (b) and as defined in ORS 443.400 (7) and (9) and ORS 443.400(8) and (10). Fees are **\$30.00** and **\$60.00** respectively. Refer to **Appendix G** for specific OAR and ORS language.

Oregon Administrative Rules Chapter 411 division 325 Section 0460 reflects the conditions under which a provider may be subject to civil penalty. Refer to **Appendix G** for specific OAR language. The Department has not yet specifically added the mandatory civil penalties required under ORS 441.715(1) (c) and (d) to its OARs but is working in compliance with and imposing mandatory civil penalties as required per ORS.

The full report can be viewed at:

<http://www.oregon.gov/DHS/spd/pages/data/index.aspx>

Appendix A

Figure 6-1. Average Turnover Rate of Direct Care Workers, by Provider Type, 2014

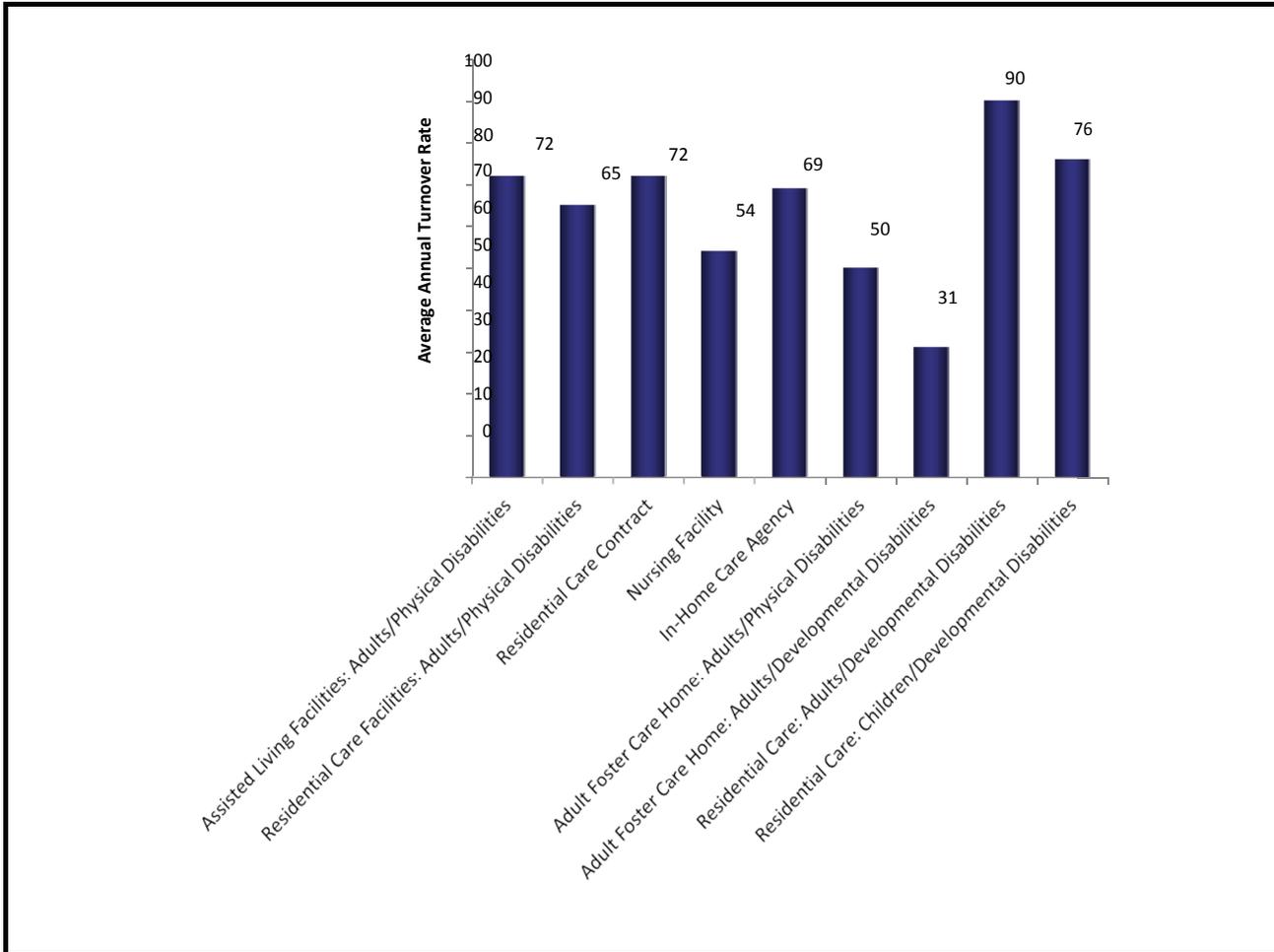


Table 4-3. Direct Care Worker Weighted Current Wages for Direct Care Workers, by LTC Provider Type

Wages for Direct Care Workers	Total Across All Providers	Residential Care Facilities			Adult Foster Care Homes			In-Home Care Agency
		Nursing Facility	Aged/ Physical Disabilities	Adults/ Developmental Disabilities	Aged/ Physical Disabilities	Adult Foster Care: Developmental Disabilities	Assisted Living Facility: Aged/ Physical Disabilities	
Total Number of Direct Care Workers	36,685	7,837	1,810	7,679	4,727	1,426	4,640	4,719
Current Average Hourly Rate for Direct Care Workers (weighted by the number of direct care workers by provider)								
Median Rate (\$)	11.15	16.50	10.28	10.87	15.00	11.00	10.18	10.75
Mean Rate (\$)	12.38	16.03	10.97	11.02	13.20	11.22	10.94	11.59
Distribution of Direct Care Worker Wages (Rate per Hour)								
Less than \$9.10	0.23	0.01	0.47	0.02	2.99	5.03	0.34	0.00
\$9.10 - \$9.99	18.78	1.62	29.08	30.95	11.74	16.14	30.05	18.47
\$10.00 - \$10.99	29.67	4.10	36.51	33.88	30.24	21.94	17.08	51.23
\$11.00 - \$11.99	14.44	7.80	12.78	16.83	8.99	15.84	11.30	17.33
\$12.00 - \$12.99	8.94	16.87	6.57	9.24	9.97	9.97	6.99	3.46
\$13.00 - \$13.99	5.80	12.95	3.50	3.97	4.09	6.60	7.87	1.40
\$14.00 - \$14.99	3.49	9.09	2.20	2.18	1.32	5.09	2.95	0.39
\$15.00 - \$15.99	3.11	8.31	1.90	2.18	27.70	6.18	2.34	0.01
\$16.00 - \$16.99	1.89	5.53	1.40	0.45	0.71	4.47	2.03	0.02
\$17.00 and more	13.66	33.71	5.59	0.28	2.25	8.73	19.05	7.68
Average Wage per Hour for Most Recently Hired Direct Care Worker (\$)	11.15	12.87	9.95	10.14	13.12	10.72	9.94	10.87
Current Average Hourly Rate for Direct Care Worker Who Has Worked for Provider for 5 or More Years (\$)	12.87	15.86	12.17	12.13	11.84	12.21	12.14	11.46

The full report can be viewed at [http://www.oregon.gov/dhs/aboutdhs/dhsbudget/20152017 Budget/Oregon Final Direct Care Wage Report to DHS.pdf](http://www.oregon.gov/dhs/aboutdhs/dhsbudget/20152017Budget/Oregon%20Final%20Direct%20Care%20Wage%20Report%20to%20DHS.pdf)

Appendix B

TRAININGS:

Monthly Report Totals for Jan 2013 – Nov 2014

OTAC trainings for Parents & Support Providers

	# of Trainings	# of Participants
January 2013	1	16
March	1	8
April	2	22
May	2	32
July	1	11
August	1	8
September	1	22
October	1	27
November	2	29
December	1	19
January 2014	1	7
February	2	13
March	2	30
April	2	14
May	2	26
June	2	20
July	2	10
August	2	12
September	2	15
October	2	13
TOTAL:	32	354

OTAC Training for Direct Care staff

	# of Participants	Locations
May 2013	13	Pendleton
July 2013	10	Medford
August 2013	11	Salem
March 2014	13	Salem
July 2014	17	Eugene
August 2014	12	Salem
TOTAL	76	

OTAC Behavior Specialist Training

	# of Participants	Locations
May 2013	6	Eastern region
July 2013	7	Southern region
July 2014	6	Statewide
TOTAL	19	

OTAC Behavior Mentorship Project

	# Mentored	Areas of the State
May-13	4	Pendleton, La Grande
Jul-13	2	Bend, Pendleton
Aug-13	2	Medford, Eugene
Aug-14	2	Portland, McMinnville
Total Mentored	10	

OTAC Behavior Specialists Network Training (by topics)

	# of Trainings	# of Participants
ASD with Co- occurring MH	1	54
Supporting competence	1	55
Psychotropic meds & behavior	1	53
TOTAL	6	162

Locations
Clackamas Co
Springfield
Portland, Tillamook
Tualatin, Pendleton
Medford
Stayton
Pendleton
Medford
Roseburg, Salem
Boring
Springfield
Tualatin, Forest Grove
Portland, Clackamas
Hood River
South Beach, Milton-Freewater
Woodburn, Medford
Astoria, Eugene
Milwaukie, Silverton
South Beach, Troutdale
Portland, Newberg

Appendix C

ADULT FOSTER HOMES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

411-360-0120 Training Requirements

(Amended 7/1/2010)

- (1) All providers must complete the Division's Basic Training Course that includes but is not limited to taking and passing an examination on course work and necessary skills. Failure to obtain a passing score on the Basic Training Examination may result in denial or non-renewal of a license pursuant to OAR 411-360-0270. If the applicant fails the first test, a second test may be taken. If the applicant fails the second test, the application may be denied.
- (2) All resident manager applicants must complete the Division's Basic Training Course and pass the Basic Training Examination prior to becoming a resident manager. If the applicant fails the first test, a second test may be taken. If the applicant fails the second test, the application may be denied.
- (3) All substitute caregivers left in charge of the home in the provider's or resident manager's absence for any length of time must complete the Division's Basic Training Course and pass the Basic Training Examination prior to giving care.
- (4) The provider or resident manager must keep documentation of the completed Division Basic Training Course and annual training of substitute caregivers including the date of the training, subject content, name of the agency or organization providing the training, and the number of training hours.
- (5) Prior to placement of individuals in the home, the provider must complete an AFH-DD orientation provided by the local CDDP that at a minimum covers the requirements of the rules governing AFH-DD services.
- (6) All provider and resident manager applicants must have current certification in first aid by a training agency approved by the Division.
- (7) The Division requires at least 12 hours of Division approved training annually for the provider, resident manager, and substitute caregivers of an AFH-DD that must be documented in the record.
- (8) If a provider, resident manager, or substitute caregiver is not in compliance with these rules, the Division may require additional training in the deficient area, whether or not the 12-hour approved annual training requirement has already been met.

(9) Providers, resident managers, or substitute caregivers who perform tasks of care that are delegated by a registered nurse or taught by a physician must receive appropriate training and monitoring from a registered nurse or physician on performance and implementation of task of care. The delegated tasks of care must be addressed as part of the ISP.

Stat. Auth.: ORS 409.050 & 410.070 Stats. Implemented: ORS 443.705 - 443.825

Note: The full text of the administrative rule can be found at:

http://www.dhs.state.or.us/policy/spd/rules/411_360.pdf

The Basic Training Course for Adult Foster Care providers for individuals with developmental disabilities is comprised of the following modules:

Module 1 – Introduction to Foster Care

Module 2 – Hiring Staff and being an

Employer Module 3 – Facility Standards

Module 4 – Medication Management

Module 5 – Medication Management Fatal Four (Aspiration, Dehydration, Constipation, Seizures) Module 6 – Documentation

Module 7 – Individual Support Plans

Module 8 – Working with Challenging

Behaviors Module 9 – Abuse Reporting

and Investigations Module 10 – Safety

The full training manual can be viewed at:

<http://www.oregon.gov/dhs/spd/provtools/afh-dd/training/afh-training-manual.pdf>

STATEMENT OF INTENT: TRAINING

Section 1. Training Initiative

A. It is the intent of the Parties to the Collective Bargaining Agreement to continue the Adult Foster Home (AFH) Training Committee with goals and responsibilities outlined below. The Training Committee shall appoint a subcommittee for AMH with a minimum of three (3) AMH providers to address specific areas of concern. The training committee may appoint additional subcommittees for other specific program areas. The Training Committee may disband subcommittees by consensus decision. The AFH Training Committee shall consist of the following members:

1. A minimum of five (5), and up to ten (10) with mutual agreement, representatives from DHS/OHA Central and field offices, who bring specific program knowledge and expertise related to the services provided by Foster Care Providers covered under this Collective Bargaining Agreement (CBA).
2. A minimum of five (5), and up to ten (10) with mutual agreement, representatives from SEIU/AFH.
3. Two (2) representatives from other community-based care Provider groups, e.g. ALF"s, RCF"s, group homes, homecare, residential treatment facilities, or private pay adult foster homes, not already represented by SEIU/AFH.

B. Based on a shared understanding that quality training enhances skills and improves services provided to residents, the Committee shall have the following broad training goals:

1. Continue to improve and streamline the process for approval of AFH training and/or continuing education unit requirements, including identifying categories of qualified community partners pre-approved to provide training.
2. Continue to explore opportunities to work with agencies and community partners to provide more comprehensive training and alternative methods to deliver training to AFH Providers.
3. Continue to explore methods to make training opportunities to AFH Providers more accessible, such as on-line course study, CD/video/audio curriculum and in-classroom settings.
4. Communicate approved training opportunities through multiple methods, including an identified DHS/OHA website.
5. Continue to invite other appropriate partners, as necessary or as requested by the committee members, to attend the meeting(s) to provide their expertise on training-related topics/issues.
6. Explore free and low-cost on-line training options that meet mandated annual continuing education (training) requirements.

Within twelve (12) months of implementation of this Agreement the Committee shall work to achieve the following goals and outcomes:

- (a) The Agency will evaluate and present to the committee options for tracking Provider training (such as an iLearn program) and certification of completion (e.g. self-certification, electronic testing, etc.).

- (b) Evaluate current available „approved“ free on-line training that meets the mandated training requirements for all three (3) program areas.
- (c) Evaluate current available „approved“ low-cost on-line training that meets the mandated training requirements for all three (3) program areas.
- (d) Determine the gaps between current available free training on the DHS/OHA website for all three (3) program areas, with the goal of making the minimum number of required hours/courses available on- line (twelve (12) hours for APD, DD and twelve (12) hours for AMH (including the eight (8) required areas). Some courses may meet the requirements for all three (3) program areas.
- (e) Evaluate the options for converting current non-digital training to an on-line format. The Agency will convert the current Agency self- study modules to an on-line format within this twelve (12) month period.
- (f) Evaluate the options for partnering with non-DHS/OHA training Providers to meet these goals.
- (g) Discuss appropriate disclaimers to post on the DHS/OHA website to ensure Providers understand that repeat classes may not meet requirements and that the posted „approved“ classes meet the minimum requirements only and may not reflect Agency endorsement.
- (h) Discuss the frequency of courses that may be repeated.
- (i) Develop a plan to keep at least the minimum amount (as referenced in 6(d) above) of free on-line training opportunities posted on the DHS/OHA website.

C. The results of the committee’s work, including recommendations, shall be sent to the Department of Human Services (DHS) Administrators and Oregon Healthy Authority Administrators (OHA). If DHS or OHA decides to implement any portion of the committee’s recommendations, it will strive to give prior notice to the committee members.

D. The Department, in coordination with the Training Committee shall complete the following:

1. Develop criteria and implement a form for Providers to record training that does not need prior approval;
2. The Department will keep the Training Committee informed on its progress to implement the Training program.

E. The Department and SEIU Local 503 may jointly participate in developing grant opportunities, including any funds available through federal programs.

Appendix D

24 HOUR RESIDENTIAL SERVICES FOR CHILDREN AND ADULTS WITH DEVELOPMENTAL DISABILITIES

411-325-0020 Definitions

(Amended 1/6/2012)

(20) "Competency Based Training Plan" means a written description of a service provider's process for providing training to newly hired staff. At a minimum, the Competency Based Training Plan:

- (a) Addresses health, safety, rights, values and personal regard, and the service provider's mission; and
- (b) Describes competencies, training methods, timelines, how competencies of staff are determined and documented including steps for remediation, and when a competency may be waived by a service provider to accommodate a staff member's specific circumstances.

411-325-0025 Program Management

(Adopted 1/6/2012)

(4) **COMPETENCY BASED TRAINING PLAN.** The service provider must have and implement a Competency Based Training Plan that meets, at a minimum, the competencies and timelines set forth in the Department's Oregon Core Competencies.

(5) **GENERAL STAFF QUALIFICATIONS.** Any staff member providing direct assistance to individuals must:

- (a) Have knowledge of individuals' ISP's and all medical, behavioral, and additional supports required for the individuals; and
- (b) Have met the basic qualifications in the service provider's Competency Based Training Plan. The service provider must maintain written documentation kept current that the staff member has demonstrated competency in areas identified by the service provider's Competency Based Training Plan as required by OAR 411- 325-0025(4) of this rule, and that is appropriate to their job description.

Note: The full text of the administrative rule can be found at:

http://www.dhs.state.or.us/policy/spd/rules/411_325.pdf

CORE COMPETENCIES – Revision Oct, 2000

Before working unassisted (without experienced co-worker) employee will:

SAFETY		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
S-1	Obtain first aid and CPR certification	Present current certification card from qualified first aid and CPR training
S-2	Locate emergency notification information including who is to be informed of an emergency, how, and in proper order	When presented with hypothetical emergency situation, staff present appropriate phone lists and information on individuals
S-3	Follow posted emergency evacuation procedures	<ul style="list-style-type: none"> Identifies what is an emergency Locate & follow posted evacuation plan • Locate emergency exits and safe areas • Notify appropriate agency and emergency personnel
S-4	Demonstrate appropriate methods of support and non-physical intervention for individuals	<ul style="list-style-type: none"> • Correctly identify situation as potentially harmful • Seek assistance from others, if needed • Use appropriate body language, tone of voice, listening skills, redirection, etc. • Follow prescribed procedures & protocols for individuals
S-5	Lift or transfer an individual or material using recognized safe body mechanics	Follow general or individualized protocols such as: <ul style="list-style-type: none"> use proper body mechanics keep back straight • bend at the knees • lift using legs • use assistive lifting devices (such as back belts, slings, etc.)
S-6	Complete documentation required for incident and accident reporting process	<ul style="list-style-type: none"> • Correctly identify situation as an incident • Notify appropriate personnel, as per approved procedures • Complete and submit form through appropriate channels
S-7	Use safe handling and storage techniques for chemicals and cleaners	<ul style="list-style-type: none"> • State safe handling & storage procedures • Locate and present MSDS (Material Safety Data Sheets) as available
S-8	Locate safety equipment.	Present first aid kit, fire extinguisher, and other emergency equipment, if any
S-9	Safely operate any equipment or machinery used within the work environment	Demonstrate proper operation of equipment such as phones, vehicles, tie-downs, lifts, stoves, production machinery, gas shut-off, fire alarm shut-off, etc.

Before working unassisted (without experienced co-worker) employee will:

HEALTH		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
H-1	Locate medical information for specific individuals	Present appropriate information on individuals
H-2	Respond to specific medical and health concerns of individuals (i.e., diet, exercise, seizures, diabetes, g-tube, allergies.)	<ul style="list-style-type: none"> • Describe special dietary, seizure, physical concerns of individuals • Describe staff responsibility in dealing with those concerns • Follow established procedures & protocols • Follow menu as developed • Document in medical progress notes • Communicate health concerns at work with appropriate residential support person
H-3	Provide personal care supports appropriate to needs of individuals (including use of adaptive equipment)	Follow procedures for feeding, dietary needs, personal hygiene, oral hygiene, care for incontinence, etc. Assure personal care supports are present in work environment.
H-4	Use appropriate procedures for dealing with blood and other body fluids	Demonstrate universal precautions for blood borne pathogens including use and disposal of gloves, disposal of contaminated clothing, cleaning & disinfecting, etc.
H-5	Use appropriate infection control techniques	<ul style="list-style-type: none"> • Demonstrate proper hand washing procedures • Use approved isolation techniques • Demonstrate proper use of antibacterial agent for surface cleaning
H-6	Demonstrate appropriate medication administration and documentation	<ul style="list-style-type: none"> • Verify physician's order • Follow organization's approved medication administration procedures • Administer meds according to individual's Physician's Order Sheet • Complete required documentation
H-7	Identify situations that require immediate medical intervention	<ul style="list-style-type: none"> • Identify methods individuals may use to indicate pain • Identify symptoms of acute illness such as dehydration or constipation • Seek medical assistance as needed • Notify appropriate personnel

RIGHTS		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
R-1	Identify basic civil and human rights are held by all individuals regardless of ability	Indicate that consumers and staff have the same rights unless restricted through court action (such as guardianship)
R-2	Identify additional rights of people with developmental disabilities who receive service from ODDS	<p>List (orally or in writing) at least 5 rights of individual receiving services as defined in OAR 309-49-150 such as:</p> <ul style="list-style-type: none"> • adequate food, housing, clothing, medical care, training • visits to and from family, friends, advocates • confidential communication • control and freedom re: personal property • privacy • protection from abuse and neglect • expression of sexuality • access to community resources • transfer within program • choice and ownership of personal affairs • appropriate services • consent to or refuse treatment • choice to participate in community activities
R-3	Identify examples of abuse, neglect; and state the mandated reporting requirements and process	<p>State mandated reporting procedures.</p> <p>List orally (or in writing) 5 items from definition of abuse as defined in OAR 309-49-035 such as:</p> <ul style="list-style-type: none"> • physical assault such as hitting, kicking • neglect of care including medication, medical care, clothing, personal grooming • denying meals, clothing or aids to physical functions • use of derogatory names, ridicule, coercion, threats, cursing, intimidation • sexual exploitation • restrictions on individual freedom by seclusion • use of restraints without physician's order • financial exploitation • punishment of one individual by another • implied or direct threat of termination of residential services
R-4	Identify right of consumer confidentiality and state examples of violation of confidentiality	<p>List orally or in writing at least two examples of confidentiality such as:</p> <ul style="list-style-type: none"> • all individuals' records are confidential except as otherwise indicated by applicable rule or law • individuals have access to own records • individual can authorize release of records
R-5	Locate organization's grievance procedure for individuals supported and for the organization's employees	Present applicable grievance protocols

VALUES & PERSONAL REGARD

	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
V-1	Locate personal information about individuals	Present files or documentation that contain pertinent information such as ISP, summary sheets, likes, dislikes, and Essential Lifestyle Plan

ORGANIZATION MISSION & POLICIES

	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
M-1	Locate the mission and values statement of the organization	Present mission and values statement
M-2	Locate organization policy and procedure documents for behavior support management, incident reports, confidentiality, consumer rights, and med administration	Present documents

CORE COMPETENCIES

Within 30 days of hire employee will:

VALUES & PERSONAL REGARD		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
V-2	Demonstrate behavior that indicates respect and courteousness to individuals being supported	<ul style="list-style-type: none"> • Use eye contact (as appropriate) • Address people by name • Talk <u>to</u> people rather than <u>about</u> them • Don't patronize or talk down to people • Listen and respond with empathy • Identify how staff's own moods, attitudes, and actions impact individuals being supported
V-3	Use people first language in interactions with staff and individuals	<ul style="list-style-type: none"> • Speak of person first then the disability (if necessary) • Emphasize abilities, not limitations • Do not label people as part of a disability group • Encourage person to speak for him/herself
V-4	Describe the importance of providing choices to individuals with disabilities	State orally (or in writing) concepts such as: <ul style="list-style-type: none"> • choice as basic need and protected right • importance of having options • importance of choice in achieving independence and integration • importance of choice in selecting goals & objectives • importance of providing opportunities for choices in daily activities (i.e., foods, work, leisure activities)
V-5	Describe the importance of supporting independence for individuals	State orally (or in writing) concepts such as: <ul style="list-style-type: none"> • individuals must have control over their own lives • independence does not necessarily mean doing things alone or without the support of others • a person's level of dependence on the support of others is not an indication of individual worth or value
V-6	Describe the importance of supporting productivity for individuals	State orally (or in writing) concepts such as: <ul style="list-style-type: none"> • right to engage in income-producing work • value of income level, employment status, and job advancement • value of sharing talent that contributes to a household or community • productive time spent in alternatives to employment
V-7	Describe the importance of supporting individuals in community activities	State orally (or in writing) concepts such as: <ul style="list-style-type: none"> • use by all people of common community resources • participation common community activities • adequate transportation and accessibility to community resources • community based employment or alternatives to employment • regular contact with other citizens in their communities
V-8	Use listening and confirmation skills that increase communication	Demonstrate: <ul style="list-style-type: none"> • use of paraphrasing and other effective listening skills • use of appropriate eye contact and individual's name • allow adequate time for a person to respond • use of communication techniques identified to be effective with individual • sensitivity to non-verbal communication

CORE COMPETENCIES

Within 3 months of hire employee will:

SAFETY		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
S-10	Recommend and make suggested modifications to environment as required for individual's safety	<ul style="list-style-type: none"> • Identify areas and situations which may jeopardize safety • Notify person responsible for residential or business site • Properly place equipment and objects
S-11	Respond to emergency by acting to protect individuals and self from harm	<p>When presented with a hypothetical situation involving a person-to-person or person-to-property emergency, staff will:</p> <ul style="list-style-type: none"> • correctly identify situation as potentially harmful • seek assistance from others, if needed • use approved non-physical interventions • use appropriate least restrictive techniques of physical interventions if non-physical interventions are ineffective • complete required documentation • debrief with appropriate personnel
S-12	Properly respond to emergency situation (fire, explosion, accident, or other emergency, including evacuation of individuals) or drill to ensure safety of individuals and staff	<p>When presented with a hypothetical emergency situation, staff will:</p> <ul style="list-style-type: none"> • follow approved emergency procedures (as determined for location or individuals) • provide necessary assistance to individuals • call for assistance as necessary • report situation to appropriate personnel
S-13	Identify and report potential safety hazards	<ul style="list-style-type: none"> • Conduct safety check. • Report safety hazards to supervisor or other appropriate personnel • Suggest modifications to environment
S-14	Use safe handling procedures when handling, preparing, and storing food	<ul style="list-style-type: none"> • Use appropriate handling procedures (i.e., clean area, clean utensils). • Prepare foods safely (hot foods hot, cold foods cold, etc.) • Use appropriate storage techniques (i.e., clean containers, label and date contents.)

HEALTH		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
H-8	Describe the desired therapeutic effects and locate information about possible side effects of medications being used by individuals	<ul style="list-style-type: none"> • Identify and locate written information about medications used by individuals being supported • Indicate the effects and side effects of medications which staff need to monitor
H-9	Identify symptoms of illness or injury for individuals being supported (i.e., dehydration, constipation, chronic or intermittent condition, seasonal allergies, etc.)	<ul style="list-style-type: none"> • Observe and record changes in activity level, skin color, communication, etc. • Report changes to appropriate personnel • Implement appropriate action to respond to situation • Observe and respond appropriately specific changes as identified for individuals • Communicate warning signs to others (employers, friends) as appropriate to ensure health and safety

Within 3 months of hire:

RIGHTS		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
R-6	Identify actions defined as sexual harassment	List orally (or in writing) examples such as: <ul style="list-style-type: none"> • offer enticements in exchange for sexual favors • unwelcome sexual advancements • verbal, graphic or physical conduct of a sexual nature which creates an offensive work environment
R-7	Protect the rights of the individuals supported	Demonstrate behavior that supports individuals in activities relating to: <ul style="list-style-type: none"> • involvement in decision making and community involvement • control over finances, including earning and managing money • Choice of religion, work, clothes, friendships, etc. • the purchase and maintenance of personal possessions • having privacy • receiving information about rights, treatment, risks, records, • being free from abuse & neglect. • voting (Specific measures to be determined by organization.)
R-8	Respect confidentiality in a variety of areas	Demonstrate behavior that supports individuals in areas such as: <ul style="list-style-type: none"> • keep medical, financial, and personal information private • Privacy when communicating by phone or mail • Appropriate disclosure of individual information (i.e., consent) • refrains from “gossiping” (Specific measures to be determined by organization.)
R-9	Act to prevent abuse, neglect, and exploitation of individuals	Demonstrate methods to prevent abuse such as: <ul style="list-style-type: none"> • identify events and circumstances that could bring about (i.e., responding to an aggressive situation) staff to be abusive (self-awareness) • assess individuals’ susceptibility to abuse, including self-abuse • teach skills to decrease personal vulnerability • follow any prevention plan in place through ISP or agency policy/protocol
R-10	Describe the role of the legal guardian	List orally (or in writing) at least two responsibilities of a legal guardian such as: <ul style="list-style-type: none"> • provide consent on behalf of the ward (individual determined by the court to need a guardian) • assure the ward receives appropriate medical care and services • assure ward resides in least restrictive setting • provide for care, treatment, support, etc. as designated

Within 3 months of hire:

VALUES & PERSONAL REGARD		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
V-9	Demonstrate behaviors that increase opportunities and individual's ability for to make choices	Measures to be determined based on preferences and needs of individuals being supported, i.e.: <ul style="list-style-type: none"> involve individuals in decision making presents opportunities for choice in daily activities (such as meal preparation, budget, clothing, break-time activities) facilitates and respects communication of individuals
V-10	Demonstrate behaviors that increase independence and functional skill levels of individuals	Measures to be determined based on preferences and needs of individuals being supported. <ul style="list-style-type: none"> presents choices in everyday activities encourages use of demonstrated skills in all activities
V-11	Demonstrate behaviors that increase productivity of individuals	<ul style="list-style-type: none"> Promote involvement of individual in <u>work</u>, household and environmental duties Support individuals in activities that seen as a contribution to their community and society in general
V-12	Participate in activities and processes that support community integration for individuals	Measures to be determined by organization...i.e.: <ul style="list-style-type: none"> supports individuals in community activities as directed in ISP <u>supports individuals in community based jobs</u> supports individuals in a variety of desired community settings
V-13	Describe the purpose and basic components of the ISP and staff role in its implementation	Identify key factors such as: <ul style="list-style-type: none"> assess interests and support needs of individual determine goals & objectives required to meet needs identify strategies for achieving goals collect pertinent information about achieving those goals evaluate effectiveness of service plans and support strategies modify plans as needed work with other partners in plan implementation i.e. members, families, VR, other providers, and the community
V-14	Follow the objectives and strategies set forth in the ISP	<ul style="list-style-type: none"> Carry out the program plan as written Document participation in ISP related activities Demonstrate appropriate instructional procedures in formal and informal settings.
V-15	Identify elements individualized planning	List orally or in writing the following: <ul style="list-style-type: none"> services are organized around the unique needs of the individual individual is directly involved in planning process to the fullest extent possible services are flexible and responsive to identified individual needs
V-16	Encourage the participation of individuals in preferred activities	Staff will: <ul style="list-style-type: none"> determine individual's preferences support the scheduling of preferred activities <u>and jobs</u> structure jobs and activities to allow for as much participation as possible assure that proper materials and equipment are available for activities and jobs assist the individual to connect with his or her community through clubs, organizations, recreation, business groups, etc.

V-17	Demonstrate effective communication skills & strategies with individuals being supported	Measures to be based on communication strengths and needs of individuals being supported. Suggestions include: <ul style="list-style-type: none"> • make recommendation on how to improve effective communication • structure activities to promote interaction • recognize and respond to various forms of communication, spoken and unspoken • respond to individual's level of communication
V-18	Describe key information and events for individuals being supported	List in orally (or in writing) the following information: <ul style="list-style-type: none"> • background, dreams, hopes, likes/dislikes, wants, behavior profile, approved procedures and support techniques, personal characteristics

Within 3 months of hire employee will:

ORGANIZATION MISSION & POLICIES		
	COMPETENCY	SAMPLE DEMONSTRATIONS (May be modified)
M-3	Describe the mission and value statement of the organization	Paraphrase orally or in writing
M-4	Complete documentation according to agency policies and procedures	Correctly complete all required documentation (i.e., correct content, within time lines, sent to correct individuals, etc.)
M-5	Locate site copy of applicable Oregon Administrative Rules (OARs)	Present appropriate OARs upon request

Appendix E

2014 Developmental Disability Programs: Abuse Allegations by Service Received (Adult Foster Care, Brokerage, Group Home and Supported Living)

HB2442 Reporting Requirements: Section 4 (1) (a) (E) Complaints of abuse filed:

2014 Allegations Closed		Abuse Type										Total Allegations
Service Type	Results	Abandonment	Financial	Neglect	Physical Abuse	Restraint	Restriction	Sexual Abuse	Verbal Abuse	Total		
Adult Foster Care DD	Inconclusive	0	2	7	8	0	2	2	11	32		
	Not Substantiated	0	12	42	19	1	5	2	23	104		
	Substantiated	0	3	45	8	1	7	1	19	84		
Adult Foster Care DD Total		0	17	94	35	2	14	5	53	220		
Brokerage	Inconclusive	0	11	0	32	6	0	12	40	101		
	Not Substantiated	0	17	6	19	1	1	16	22	82		
	Substantiated	0	16	13	55	3	6	5	59	157		
Brokerage Total		0	44	19	106	10	7	33	121	340		
Group Home	Inconclusive	0	17	22	13	3	3	0	15	73		
	Not Substantiated	0	18	81	39	7	7	5	46	203		
	Substantiated	0	74	150	12	14	11	2	48	311		
Group Home Total		0	109	253	64	24	21	7	109	587		
Supported Living	Inconclusive	0	5	3	5	0	0	2	6	21		
	Not Substantiated	0	5	1	1	0	0	2	6	15		
	Substantiated	0	10	6	3	1	0	0	4	24		
Supported Living Total		0	20	10	9	1	0	4	16	60		
Other	Inconclusive	0	14	4	12	1	1	11	25	65		
	Not Substantiated	0	8	22	15	1	2	8	10	66		
	Substantiated	0	16	52	12	5	0	4	22	111		
Other Total		0	35	78	39	7	3	23	57	242		
		Abandonment	Financial	Neglect	Physical Abuse	Restraint	Restriction	Sexual Abuse	Verbal Abuse	Total		
Total Allegations:		0	225	454	253	44	45	72	356	1449		
Total Substantiated:		0	119	266	90	24	24	12	152	687		
Substantiation Rate:		NA	52.9%	58.6%	35.6%	54.5%	53.3%	16.7%	42.7%	47.4%		

2014 Developmental Disability Programs: Abuse Allegations by Service Received

Results Service Type	Substantiated:		Referred to LEA
	Allegations	Named Staff	
Brokerage	157	108	84
DD Adult Foster Care	84	45	7
Group Home	253	168	40
Supported Living	18	16	6
Vocational	45	34	0
Other	51	40	27
Grand Total	608	411	164

Section 4 (1) (a) (G) Serious Injuries, Sexual Assault/Rape and Deaths

The data below reflect the number of Substantiated Allegations that involved a serious injury either through physical abuse or neglect; any sexual abuse where a sexual assault or rape of a consumer may have occurred; and neglect investigations in which a client died.

Service Received	Substantiated Allegations		
	Serious Injury	Sexual Abuse	Deaths
Brokerage	5	3	0
Group Home	7	0	0
Foster Care	3	0	0
Supported Living	0	1	0
Other	2	3	0
Total	17	7	0

Section 4 (1) (a) (B) Trainings: By OIT

OIT conducted trainings on mandatory abuse reporting and abuse prevention to 1,386 participants.

Appendix F

ADULT FOSTER HOMES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

411-360-0050

License Application and Fees

- (1) A complete written application must be submitted by the applicant on forms supplied by the Division. The application is not complete until the required information is submitted to the Division with the required non-refundable fee. Incomplete applications are void after 60 days of the date the application form is received by the Division. Failure to provide accurate information may result in the denial of the application.
- (2) A separate application is required for each location where an AFH-DD is to be operated.
- (3) An application for a home that has a resident manager must include a completed application for the resident manager on the form supplied by the Division.
- (4) The application must include:
 - (a) The maximum capacity to be served by the home;
 - (b) A listing of all individuals living in the home and receiving care. This must include family members needing care and respite and day care persons;
 - (c) A list of all other occupants living in the home or on the property including family members, friends, and room and board occupants;
 - (d) A physician's statement on a form supplied by the Division regarding the AFH- DD applicant's ability to provide care;
 - (e) A completed Financial Information Sheet on a form supplied by the Division;
 - (f) A signed criminal records check and if needed, the mitigating information and fitness determination form for each person who shall have regular contact with the individuals, including the provider, the resident manager, caregivers, and other occupants over the age of 16 (excluding individual service recipients);
 - (g) A signed consent form for a background check with regards to abuse of children;
 - (h) Founded reports of child abuse or substantiated abuse allegations, with dates, locations, and resolutions of those reports for all persons living in the home, as well as all applicant or provider employees, independent contractors, and volunteers;

(i) A floor plan for each floor of the house showing the location and size of rooms indicating the rooms that are to be service recipient's bedrooms, caregiver sleeping rooms, rooms of other occupants of the home, the location and size of windows, fire exit doors, smoke detectors, fire extinguishers, escape routes, and wheelchair ramps;

(j) If requesting a license to operate more than one AFH-DD, a plan covering administrative responsibilities, staffing and caregiver qualifications, and evidence of financial responsibility;

(k) A \$20.00 per bed non-refundable fee for each individual service recipient (includes all private pay and publicly funded individuals, but does not include day care and family members);

(l) References from three persons unrelated to the applicant (one professional, one employment, and one other), who can attest to the applicant's character and capabilities;

(m) A written plan for coverage of resident manager absences from the AFH-DD that has been provided to the local CDDP and the Division;

(n) A written description of the daily operation of the adult foster home, including the schedule of the provider, resident manager, and caregivers;

(o) A copy of the AFH-DD's house rules; and

(p) A mailing address if different from the AFH-DD and a business address for electronic mail.

(5) After receipt of the completed application materials, including the non-refundable fee, the Division or the Division's designee shall investigate the information submitted and inspect the home. Upon submission and completion of

The application and the process described, the Division shall determine compliance with these rules.

(6) The applicant shall be given a copy of the inspection form identifying any areas of noncompliance and specifying a timeframe for correction, but no later than 60 days from date of inspection.

(7) Deficiencies noted during an inspection of the home must be corrected in the timeframe specified by the Division or the Division's designee. Applicants must be in compliance with these rules before a license is issued. If cited deficiencies are not corrected within the timeframes specified by the Division or the Division's designee, the application shall be denied. The application fee is non-refundable.

(8) Applicants must attend a local orientation offered by the local CDDP, prior to being licensed.

(9) The applicant may withdraw a new or renewal application at any time during the application process by notifying the Division in writing. The application fee is non-refundable.

(10) An applicant whose license has been revoked or voluntarily surrendered during a revocation or non-renewal process, or whose application has been denied, may not be permitted to make a new application for one year from the date that the revocation, surrender, or denial is final. The time period may be for a longer period of time if specified in the order revoking or denying the license.

(11) All monies collected under these rules shall be paid to the Quality of Care Fund.

Stat. Auth.: ORS 410.070 & 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef 2-1-05; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10

411-360-0260

Civil Penalties

(1) Civil penalties, except as otherwise provided in this rule, may not exceed \$100 per violation to a maximum of \$250 assessed for a general violation of these rules.

(2) A civil penalty of up to \$500, unless otherwise required by law, shall be imposed for falsifying individual or AFH-DD records or causing another to do so.

(3) A civil penalty of \$250 shall be imposed on a licensee for failure to have either the provider, resident manager, or other qualified caregiver on duty 24 hours per day in the AFH-DD per ORS 443.725(3), unless permitted under OAR 411-360- 0180(7).

(4) A civil penalty of \$250 shall be imposed for dismantling or removing the battery from any required smoke alarm or failing to install any required smoke alarm.

(5) A civil penalty of not less than \$250 and not more than \$500, unless otherwise required by law, shall be imposed on a provider who admits knowing that the individual's care needs exceed the license classification of the AFH-DD if the admission places the individual or other individuals at grave risk of harm.

(6) Civil penalties of up to \$1,000 per occurrence may be assessed for substantiated abuse.

(7) If the Department or the Department's designee conducts an investigation or survey and abuse is substantiated and if the abuse resulted in the death, serious injury, rape, or sexual abuse of a resident, the Department shall impose a civil penalty of not less than \$2,500 for each violation.

- (a) To impose this civil penalty, the Department shall establish that:
- (A) The abuse arose from deliberate or other than accidental action or inaction;
 - (B) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident; and
 - (C) The person with the finding of abuse had a duty of care toward the resident.
- (b) For the purposes of this civil penalty, the following definitions apply:
- (A) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.
 - (B) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.
 - (C) "Sexual abuse" means any form of nonconsensual sexual contact including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.
 - (D) "Other than accidental" means failure on the part of the licensee, or licensee's employees, agents, or volunteers for whose conduct licensee is responsible, to comply with applicable Oregon Administrative Rules.
- (8) In addition to any other liability or penalty, the Department may impose a civil penalty for any of the following:
- (a) Operating the AFH-DD without a license;
 - (b) The number of individuals exceeds the licensed capacity;
 - (c) The provider fails to achieve satisfactory compliance with the requirements of these rules within the time specified or fails to maintain such compliance;
 - (d) The AFH-DD is unable to provide adequate level of care to individuals;
 - (e) There is retaliation or discrimination against an individual, family, employee, or any other person for making a complaint against the AFH-DD;
 - (f) The provider fails to cooperate with the Department, physician, registered nurse, or other health care professional in carrying out an individual's care plan; or

(g) Violations are found on two consecutive inspections of an AFH-DD after a reasonable amount of time prescribed for elimination of the violations has passed.

(9) In imposing a civil penalty pursuant to this rule, the Department shall consider the following factors:

(a) The past history of the provider incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to AFH-DD homes;

(c) The economic and financial conditions of the provider incurring the penalty; and

(d) The immediacy and extent to which the violation threatens or threatened the health, safety, and wellbeing of the individuals.

(10) Any civil penalty imposed under this rule shall become due and payable when the provider incurring the penalty receives a notice in writing from the Department. The notice shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matter asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(11) The provider, to whom the notice is addressed, shall have 10 days from the date of service of the notice in which to make a written application for a contested case hearing before the Department.

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

(13) The provider notified fails to request a contested case hearing within 10 days, a final order may be entered by the Department assessing a civil penalty.

(14) A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Director of the Department considers proper and consistent with individual health and safety.

(15) The final order is not appealed, the amount of the penalty is payable within 10 days after the final order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 days after the court decision. The order, if not appealed or sustained on appeal, shall constitute a judgment and may be filed in accordance with provisions of ORS chapter 18. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(16) A violation of any general order or final order pertaining to an AFH-DD issued by the Department is subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(17) Judicial review of civil penalties imposed under ORS 441.710 shall be provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(18) All penalties recovered under ORS 443.455 and 441.710 to 441.740 shall be paid into the Quality Care Fund.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 5-2012, f. & cert. ef. 5-29-12

Note: The full text of the administrative rule can be found at:

http://www.dhs.state.or.us/policy/spd/rules/411_360.pdf

Appendix G

24 HOUR RESIDENTIAL SERVICES FEES 411-325-0040

Application for Initial License

- (1) Application. At least 30 days prior to anticipated licensure the applicant must submit an application and required non-refundable fee. The application will be provided by the Department and must include all information requested by the Department.
- (2) Number of beds. The application must identify the number of beds the residential home or facility is presently capable of operating at the time of application, considering existing equipment, ancillary service capability and the physical requirements as specified by these rules. For purposes of license renewal, the number of beds to be licensed must not exceed the number identified on the license to be renewed unless approved by the Department.
- (3) Contracts. The initial application must include a copy of any lease agreements or contracts, management agreements or contracts, and sales agreements or contracts, relative to the operation and ownership of the home or facility.
- (4) Floor Plan. The initial application must include a floor plan of the home or facility showing the location and size of rooms, exits, smoke alarms and extinguishers.
- (5) Scheduled onsite-licensing inspection. Should the scheduled, onsite licensing inspection reveal that the applicant is not in compliance with these rules, as attested to on the Licensing Onsite Inspection Checklist, the onsite licensing inspection may be rescheduled at the Department's convenience.
- (6) License required prior to providing services. Applicants must not admit any individual to the home or facility prior to receiving a written confirmation of licensure from the Department.
- (7) Demonstrated Capability and Performance History.
 - (a) If an applicant fails to provide complete, accurate, and truthful information during the application and licensing process, the Department may cause initial licensure to be delayed, or may deny or revoke the license.
 - (b) Any applicant or person with a controlling interest in an agency will be considered responsible for acts occurring during, and relating to, the operation of such home/facility or agency for purpose of licensing.
 - (c) The Department may consider the background and operating history of the applicant(s) and each person with a controlling ownership interest when determining whether to issue a license.

(d) When an application for initial licensure is made by an applicant(s) who owns or operates other licensed homes or facilities in Oregon, the Department may deny the license if the applicant's existing home(s) or facility(ies) are not, or have not been, in substantial compliance with the Oregon Administrative Rules.

(8) Separate buildings. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit by the same management.

(9) Admittance of individuals. No residential home or facility will admit individuals whose care needs exceed the classification on its license without prior written consent of the Department.

Stat. Auth. ORS 410.070, 409.050

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04

24 HOUR RESIDENTIAL CIVIL PENALTIES

411-325-0460

Civil Penalties

(1) For purposes of imposing civil penalties, 24-hour residential homes and facilities licensed under ORS 443.400 to 443.455 and 443.991(2) are considered to be long-term care facilities subject to 441.705 to 441.745.

(2) The Department issues the following schedule of penalties applicable to 24- hour residential homes and facilities as provided for under ORS 441.705 to 441.745:

(a) Violations of any requirement within any part of the following rules may result in a civil penalty up to \$500 per day for each violation not to exceed \$6,000 for all violations for any licensed 24-hour residential home or facility within a 90-day period:

(A) 411-325-0025(3), (4), (5), (6), and (7);

(B) 411-325-0120(2), and (11);

(C) 411-325-0130;

(D) 411-325-0140;

(E) 411-325-0150;

(F) 411-325-0170;

(G) 411-325-0190;

(H) 411-325-0200;

(I) 411-325-0220(1), and (2);

(J) 411-325-0230;

(K) 411-325-0240, 0250, 0260, 0270, 0280, and 0290;

(L) 411-325-0300, 0320, 0330, 0340, and 0350;

(M) 411-325-0360;

(N) 411-325-0380;

(O) 411-325-0430(3) and (4); and

(P) 411-325-0440.

(b) Civil penalties of up to \$300 per day per violation may be imposed for violations of any section of these rules not listed in OAR 411-325-0460(2)(a)(A) to (2)(a)(N) of this section if a violation has been cited on two consecutive inspections or surveys of a 24-hour residential home or facility where such surveys are conducted by an employee of the Department. Penalties assessed under this section of this rule, OAR 411-325-0460(2), may not exceed \$6,000 within a 90-day period.

(3) For the purpose of this rule, OAR 411-325-0460, monitoring occurs when a 24-hour residential home or facility is surveyed, inspected, or investigated by an employee or designee of the Department or an employee or designee of the Office of State Fire Marshal.

(4) In imposing a civil penalty pursuant to the schedule published in OAR 411-325-0460(2) of this rule, the Department shall consider the following factors:

(a) The past history of the service provider incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to 24-hour residential homes or facilities;

(c) The economic and financial conditions of the service provider incurring the penalty; and

(d) The immediacy and extent to which the violation threatens or threatened the health, safety, or well-being of individuals.

(5) Any civil penalty imposed under ORS 443.455 and 441.710 shall become due and payable when the service provider incurring the penalty receives a notice in writing from the Department's Director. The notice referred to in this section of this rule, OAR 411-325-0460(5), shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the service provider's right to request a hearing.

(6) The person representing the service provider, to whom the notice is addressed, shall have 20 days from the date of mailing of the notice in which to make a written application for a hearing before the Department.

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

(8) If the service provider notified fails to request a hearing within 20 days, an order may be entered by the Department assessing a civil penalty.

(9) If, after a hearing, the service provider is found to be in violation of a license, rule, or order listed in ORS 441.710(1), an order may be entered by the Department assessing a civil penalty.

(10) A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Director considers proper and consistent with individual health and safety.

(11) If the order is not appealed, the amount of the penalty is payable within 10 days after the order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 days after the court decision. The order, if not appealed or sustained on appeal, shall constitute a judgment and may be filed in accordance with the provisions of ORS 183.745.

Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(12) A violation of any general order or final order pertaining to a 24-hour residential home or facility issued by the Department shall be subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(13) Judicial review of civil penalties imposed under ORS 441.710 shall be provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(14) All penalties recovered under ORS 443.455 and 441.710 to 441.740 shall be paid into the State Treasury and credited to the General Fund

Stat. Auth. ORS 409.050, 443.450 & 443.455

Stats. Implemented: ORS 443.400 - 443.455

Hist.: SPD 25-2003, f. 12-29-03, cert. ef. 1-1-04; SPD 25-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 1-2012, f. & cert. ef. 1-6-12; SPD 1-2012, f. & cert. ef. 1-6-12

Note: The full text of the administrative rule can be found at:

http://www.dhs.state.or.us/policy/spd/rules/411_325.pdf