8-31

Secretary of State
Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on [upon filing] by the
Date prior to or same as filing date

Department of Human Services, Aging and People with Disabilities 411
Agency and Division Administrative Rules Chapter Number

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SPD 11-2012

to become effective [September 1, 2012]. Rulemaking Notice was published in the [July 2012] Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Residential Care and Assisted Living Facilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)
Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:
411-054-0005, 411-054-0010, 411-054-0012, 411-054-0013, 411-054-0016, 411-054-0019, 411-054-0025, 411-054-0027, 411-054-0034, 411-054-0085, 411-054-0093

FILED
AUG 31 2012
ARCHIVES DIVISION
SECRETARY OF STATE

REPEAL:

AMEND & RENUMBER:

Stat. Auth.: ORS 410.070 and 443.450

Other Auth.: Senate Bill 557 (2011)

Stats. Implemented: ORS 443.004, 443.400 to 443.455, and 443.991

RULE SUMMARY

The Department of Human Services is permanently amending the residential care and assisted living facility rules in OAR chapter 411, division 054 to:

- Update the application and license renewal requirements to comply with direction from the Center for Medicare and Medicaid Services regarding ownership;

- Comply with Senate Bill 557 regarding the sexual assault task force by requiring facilities to implement a policy for the referral of residents who may be victims of acute sexual assault to the nearest trained sexual assault examiner;
- Clarify the rules relating to remodeling, renovating, and resident displacement due to remodeling;
- Remove the requirement that providers submit an Emergency Preparedness Plan Summary to the Department annually and upon change in ownership to reduce the workload impact for providers and the Department which is prudent during these times of fiscal reductions;
- Comply with the Oregon Indoor Clean Air Act, ORS 443.835 to 433.875, by clarifying the evaluation of smoking addressed in service plans; and
- Clarify the rules relating to voluntary closures, ownership issues, required postings, use of resident funds, and the evaluation of alcohol and drug use addressed in service plans.

P. Donna Keddy — Aug. 29, 2012

Signature | Date | Printed Name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 54

RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES

411-054-0005
Definitions

For the purpose of these rules, the following definitions apply:
(1) "Abuse" means abuse as defined in OAR 411-020-0002 (Adult Protective Services).
(2) "Activities of Daily Living (ADL)" mean those personal functional activities required by an individual for continued well being, health, and safety. Activities consist of eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition/behavior.
(3) "Acute Sexual Assault" means any non-consensual or unwanted sexual contact that warrants medical treatment or forensic collection.
(4) "Administrator" means the individual who is designated by the licensee that is responsible for the daily operation and maintenance of the facility as described in OAR 411-054-0065.
(5) "Advance Directive" means a document that contains a health care instruction or a power of attorney for health care.
(6) "Applicant" means the individual, individuals, or entity, required to complete a facility application for license.
(a) Except as set forth in OAR 411-054-0013(1)(b), applicant includes a sole proprietor, each partner in a partnership, and each member with a 10 percent or more ownership interest in a limited liability company, corporation, or entity that:
(A) Owns the residential care or assisted living facility business; or
(B) Operates the residential care or assisted living facility on behalf of the facility business owner.
(b) Except as set forth in OAR 411-054-0013(1)(b), for those who serve the Medicaid population, applicant includes a sole proprietor, each partner in a partnership, and each member with a 5 percent or more ownership interest in a limited liability company, corporation, or entity that:
(A) Owns the residential care or assisted living facility business; or
(B) Operates the residential care or assisted living facility on behalf of the facility business owner.
(7) "Area Agency on Aging (AAA)" as defined in ORS 410.040 means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and B Area Agencies on Aging that contract with the Department to perform specific activities in relation to residential care and assisted living facilities including:
(a) Conducting inspections and investigations regarding protective service, abuse, and neglect;
(b) Monitoring; and

(c) Making recommendations to the Department regarding facility license approval, denial, revocation, suspension, non-renewal, and civil penalties.
(8) "Assisted Living Facility (ALF)" means a building, complex, or distinct part thereof, consisting of fully, self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.
(9) "Caregiver" means a facility employee who is trained in accordance with OAR 411-054-0070 to provide personal care services to residents. The employee may be either a direct care staff or universal worker as defined in this rule.
(10) "Change in Use" means altering the purpose of an existing room, within the facility, that requires structural changes.
(11) "Change of Condition – Short Term" means a change in the resident's health or functioning that is expected to resolve or be reversed with minimal intervention or is an established, predictable, cyclical pattern associated with a previously diagnosed condition.
(12) "Change of Condition – Significant" means a major deviation from the most recent evaluation that may affect multiple areas of functioning or health that is not expected to be short term and imposes significant risk to the resident. Examples of significant change of condition include but are not limited to:
(a) Broken bones;
(b) Stroke, heart attack, or other acute illness or condition onset;
(c) Unmanaged high blood sugar levels;
(d) Uncontrolled pain;
(e) Fast decline in activities of daily living;
(f) Significant unplanned weight loss;
(g) Pattern of refusing to eat;
(h) Level of consciousness change; and
(i) Pressure ulcers (stage 2 or greater).
(13) "Choice" means a resident has viable options that enable the resident to exercise greater control over his or her life. Choice is supported by the provision of sufficient private and common space within the facility that allows residents to select where and how to spend time and receive personal assistance.
(14) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.
(15) "Department" means the Department of Human Services (DHS). The term "Department" is synonymous with "Division (SPD)".
(16) "Dignity" means providing support in such a way as to validate the self-worth of the individual. Creating an environment that allows personal assistance to be provided in privacy supports dignity as does delivering services in a manner that shows courtesy and respect.
(17) "Direct Care Staff" means a facility employee whose primary responsibility is to provide personal care services to residents. These personal care services may include:
(a) Medication administration;
(b) Resident-focused activities;
(c) Assistance with activities of daily living;

(d) Supervision and support of residents; and
(e) Serving meals, but not meal preparation.
(18) "Directly Supervised" means a qualified staff member maintains visual contact with the supervised staff.
(19) "Director" means the Director of the Department's Licensing and Regulatory Oversight, or that individual's designee. The term "Director" is synonymous with "Assistant Director".
(20) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade that renders the licensee unable to operate the facility or the facility is uninhabitable.
(21) "Disclosure" means the written information the facility is required to provide to consumers to enhance the understanding of facility costs, services, and operations.
(22) "Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation, of a state.
(23) "Exception" means a written variance granted by the Department from a regulation or provision of these rules.
(24) "Facility" means the residential care or assisted living facility licensee and the operations, policies, procedures, and employees of the residential care or assisted living facility.
(25) "FPS" means the Facilities Planning and Safety Program within the Public Health Division.
(26) "Homelike Environment" means a living environment that creates an atmosphere supportive of the resident's preferred lifestyle. Homelike environment is also supported by the use of residential building materials and furnishings.
(27) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interest.
(28) "Independence" means supporting resident capabilities and facilitating the use of those abilities. Creating barrier free structures and careful use of assistive devices supports independence.
(29) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.
(30) "Individuality" means recognizing variability in residents' needs and preferences and having flexibility to organize services in response to different needs and preferences.
(31) "Licensed Nurse" means an Oregon licensed practical or registered nurse.
(32) "Licensee" means the entity that owns the residential care or assisted living facility business, and to whom an assisted living or residential care facility license has been issued.
(33) "Major Alteration":
(a) Means:
(A) Any structural change to the foundation, floor, roof, exterior or load bearing wall of a building;
(B) The addition of floor area to an existing building; or
(C) The modification of an existing building that results in a change in use where such modification affects resident services or safety.
(b) Does not include cosmetic upgrades to the interior or exterior of an existing building (for example: changes to wall finishes, floor coverings, or casework).
(34) "Managed Risk" means a process by which a resident's high-risk behavior or choices are reviewed with the resident. Alternatives to and consequences of the behavior or choices are

explained to the resident and the resident's decision to modify behavior or accept the consequences is documented.
(35) "Management" or "Operator" means possessing the right to exercise operational or management control over, or directly or indirectly conduct the day-to-day operation of a facility.
(36) "Modified Special Diet" means a diet ordered by a physician or other licensed health care professional that may be required to treat a medical condition (for example: heart disease or diabetes).
(a) Modified special diets include but are not limited to:
(A) Small frequent meals;
(B) No added salt;
(C) Reduced or no added sugar; and
(D) Simple textural modifications.
(b) Medically complex diets are not included.
(37) "New Construction" means:
(a) A new building;
(b) An existing building or part of a building that is not currently licensed;
(c) A major alteration to an existing building; or
(d) Additions, conversions, renovations, or remodeling of existing buildings.
(38) "Nursing Care" means the practice of nursing as governed by ORS chapter 678 and OAR chapter 851.
(39) "Owner" means an individual with an ownership interest.
(40) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.
(41) "Personal Incidental Funds (PIF)" means the monthly amount allowed each Medicaid resident for personal incidental needs. For purposes of this definition, personal incidental funds include monthly payments, as allowed, and previously accumulated resident savings.
(42) "Privacy" means a specific area or time over which the resident maintains a large degree of control. Privacy is supported with services that are delivered with respect for the resident's civil rights.
(43) "P.R.N." means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.
(44) "Psychoactive Medications" mean medications used to alter mood, level of anxiety, behavior, or cognitive processes. Psychoactive medications include antidepressants, anti-psychotics, sedatives, hypnotics, and anti-anxiety medications.
(45) "Remodel" means a renovation or conversion of a building that requires a building permit and meets the criteria for review by the Facilities Planning and Safety Program as described in OAR 333-675-0000.
(46) "Renovate" means to restore to good condition or to repair.
(47) "Resident" means any individual who is receiving room, board, care, and services on a 24-hour basis in a residential care or assisted living facility for compensation.
(48) "Residential Care Facility (RCF)" means a building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding where six or more seniors and adult individuals with disabilities may reside. The residential care facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program

approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.
(49) "Restraint" means any physical device that the resident cannot manipulate that is used to restrict movement or normal access to the resident's body.
(50) "Retaliation" means to threaten or intimidate, or take an action that is detrimental to an individual (for example: harassment, abuse, or coercion).
(51) "Service Plan" means a written, individualized plan for services developed by a service planning team and the resident, or the resident's legal representative, that reflects the resident's capabilities, choices, and if applicable, measurable goals, and managed risk issues. The service plan defines the division of responsibility in the implementation of the services.
(52) "Service Planning Team" means two or more individuals, as set forth in OAR 411-054-0036, that assist the resident in determining what services and care are needed, preferred, and may be provided to the resident.
(53) "Services" mean supervision or assistance provided in support of a resident's needs, preferences, and comfort, including health care and activities of daily living, that help develop, increase, maintain, or maximize the resident's level of independent, psychosocial, and physical functioning.
(54) "Subject Individual" means any individual 16 years of age or older on whom the Department may conduct a background check as defined in OAR 407-007-0210 and from whom the Department may require fingerprints for the purpose of conducting a national background check.
(a) For the purpose of these rules, subject individual includes:
(A) All applicants, licensees, and operators of a residential care or assisted living facility;
(B) All individuals employed or that are receiving training in an assisted living or residential care facility; and
(C) Volunteers, if allowed unsupervised access to residents.
(b) For the purpose of these rules, subject individual does not apply to:
(A) Residents and visitors of residents; or
(B) Individuals that provide services to residents who are employed by a private business that is not regulated by the Department.
(55) "Supportive Device" means a device that may have restraining qualities that supports and improves a resident's physical functioning.
(56) "These Rules" mean the rules in OAR chapter 411, division 054.
(57) "Underserved" means services are significantly unavailable within the service area in a comparable setting for:
(a) The general public; or
(b) A specific population, for example, residents with dementia or traumatic brain injury.
(58) "Unit" means an individual living space constructed as a completely private apartment, including living and sleeping space, kitchen area, bathroom, and adequate storage areas.
(59) "Universal Worker" means a facility employee whose assignments include other tasks (for example: housekeeping, laundry, or food service) in addition to providing direct resident services. Universal worker does not include administrators, clerical or administrative staff, building maintenance staff, or licensed nurses who provide services as specified in OAR 411-054-0034.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0010
Licensing Standard
(1) No individual, entity, or governmental unit acting individually or jointly with any other individual, entity, or governmental unit may establish, maintain, conduct, or operate a residential care or assisted living facility, use the term residential care or assisted living facility, or hold itself out as being a residential care or assisted living facility or as providing residential care or assisted living services, without being duly licensed as such.
(2) Each license to operate a residential care or assisted living facility shall expire two years following the date of issuance unless revoked, suspended, terminated earlier, or issued for a shorter specified period.
(3) Each residential care and assisted living facility must be licensed, maintained, and operated as a separate and distinct facility.
(4) A license may not be required for a building, complex, or distinct part thereof, where six or more individuals reside where activities of daily living assistance and health services are not offered or provided by the facility.
(a) Facility representatives and written materials may not purport that such care and services are offered or provided by the facility.
(b) Prospective and actual tenants must have no expectations that such care and services are offered or shall be provided by the facility.
(c) The Department's Director shall determine whether a residential care or assisted living facility license is required in cases where the definition of a facility's operations is in dispute.
(5) NOT TRANSFERABLE. No residential care or assisted living facility license is transferable or applicable to any location, facility, management agent, or ownership other than that indicated on the application and license.
(6) SEPARATE BUILDINGS. Separate licenses are not required for separate buildings of the same license type located contiguously and operated as an integrated unit by the same licensee. Distinct staffing plans are required for each building.
(7) IDENTIFICATION. Every facility must have distinct identification or name and must notify the Department of any intention to change such identification.
(8) DESCRIPTIVE TITLE. A residential care or assisted living facility licensed by the Department may neither assume a descriptive title nor be held under any descriptive title other than what is permitted within the scope of its license.
(9) RESIDENT DISPLACEMENT DUE TO REMODELING. The licensee must notify the Department 90 days prior to a remodel or renovation of part of a facility if there shall be a disruption to residents in the facility (for example: residents must be temporarily moved to another room overnight). During a non-emergent remodel, if any residents need to be moved from their rooms, the residents must continue to be housed in another area of the facility and may not be moved to another care setting.
(a) NON-EMERGENT REMODEL.
(A) For a non-emergent remodel, the licensee must submit a written proposal for remodeling or renovation to the Department. The proposal must include:
(i) A specific plan as to where residents shall be housed within the existing facility. For those providers who have several buildings on the same campus, a move to a different building of the same license type within the campus setting is allowed, as long as the resident agrees to the move;

(ii) A specific plan outlining the extended details of the renovation or remodeling; and
(iii) A timeline for completion of the project. If the project is expected to take longer than three months, the licensee must provide a monthly update to the Department. The maximum time allowed for a renovation or remodel is one year from the date of the Department's approval. The Department may approve renovations that exceed one year.
(B)The licensee must give the residents written notice 60 days prior to beginning any non-emergent remodel that shall displace the residents. The notice must include:
(i) Where the residents shall be moved;
(ii) The approximate length of time of the remodel; and
(iii) Assurance that the residents shall be able to return to their own rooms when the remodel is completed, if the residents choose to do so.
(C) The licensee must submit an outline of the work to be completed, construction documents, and any necessary drawings if required by the scope of work, to the Facilities Planning and Safety Program (FPS). FPS has 15 business days for review.
(D) The licensee must comply with the rules in OAR chapter 333, division 675 (Project Plans and Construction Review) and all other structural requirements when remodeling.
(E) Nothing in this rule is intended to preclude the Department from taking other regulatory action on a violation of the licensing requirements in these rules during the time of remodeling or renovation.
(b) EMERGENT REMODEL OR CLOSURE.
(A) When an emergency or disaster requires all residents of a facility or part of a facility to be immediately evacuated while remodeling occurs, the licensee must:
(i) Provide the Department written details regarding the transfer of residents within two working days of the emergency or disaster;
(ii) Submit a plan regarding the details for remodel or if necessary, a plan for permanent closure, to the Department within two weeks;
(iii) Contact FPS to determine if drawings need to be submitted based on the scope of the remodel; and
(iv) Assure that any residents who were transferred out of the facility shall be moved back to the facility when compliance with all building requirements of these rules is met.
(B) All residents who have been transferred out of the facility must be notified in writing, at the last address known to the facility, as to when the residents shall be able to return to the facility.
(C) The facility must ensure the safe transfer of residents from and back to the facility and bear all costs of the moves.
(D) A refusal by a facility to allow a resident to return after the resident has been transferred out of the facility due to an emergent closure shall be regarded as an involuntary move out:
(i) For an involuntary move out, the facility must comply with the requirements of OAR 411-054-0080; and
(ii) The resident shall have all rights provided in OAR 411-054-0080.
(E) In the event of an emergent closure, the Department may renew the existing license for a period not to exceed two years from the renewal date.
(10) PERMANENT FACILITY CLOSURE. A facility is considered closed if the licensee is no longer providing services and the residents have moved out or must be moved from the facility.
(a) The licensee must submit a written proposal for approval to the Department 60 days prior to permanent closure. The proposal must specify the plan for safe transfer of all residents.
(b) The licensee must notify the residents at least 60 days prior to facility closure.

(c) If the facility is closed and no residents are in the facility, the facility is considered unlicensed.
(11) NOTICE OF BANKRUPTCY OR FORECLOSURE. The licensee must notify the Department in writing within 10 days after receipt of any notice of foreclosure or trustee notification of sale with respect to a real estate contract, trust deed, mortgage, or other security interest affecting the property of the licensee, as defined in OAR 411-054-0005. The written notice to the Department must include a copy of the notice provided to the licensee.
(a) The licensee must update the Department in writing not less often than every 90 days thereafter until the matter is resolved and the default has been resolved and no additional defaults have been declared or actions threatened. The update must include:
(A) The latest status on what action has been or is about to be taken by the licensee with respect to the notice received;
(B) What action is being demanded or threatened by the holder of the security interest; and
(C) Any other information reasonably requested by the Department related to maintaining resident health and safety.
(b) The licensee must update the Department upon final resolution of the matters leading up to or encompassed by the notice of foreclosure or trustee notification of sale.
(c) The licensee must notify the Department and all residents of the facility in writing immediately upon:
(A) The filing of any litigation regarding such security interest, including the filing of a bankruptcy petition by or against the licensee or an entity owning any property occupied or used by the licensee;
(B) The entry of any judgment with respect to such litigation; or
(C) The outcome of the judgment or settlement.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0012
Requirements for New Construction or Initial Licensure
(1) An applicant requesting approval of a potential license for new construction or licensing of an existing building that is not operating as a licensed facility, must request a meeting with the Department before submitting a letter of intent as described in section (3) of this rule.
(2) Prior to beginning new construction of a building, or purchase of an existing building with intent to request a license, the applicant must provide the following information for consideration by the Department for a potential license:
(a) Demonstrate a past history, if any, of substantial compliance with all applicable state and local laws, rules, codes, ordinances, and permit requirements in Oregon, and the ability to deliver quality services to citizens of Oregon; and
(b) Provide a letter of intent as set forth in section (3) of this rule.
(3) LETTER OF INTENT. Prior to application for a building permit, a prospective applicant, with intent to build or operate a facility, must submit to the Department a letter of intent that includes the following:
(a) Identification of potential applicant;
(b) Identification of the city and street address of the intended facility;
(c) Intended facility type (for example: RCF, ALF, or memory care), the intended number of units, and maximum resident capacity;

(d) Statement of whether the applicant is willing to provide care and services for an underserved population and description of any underserved population the applicant is willing to serve;
(e) Indication of whether the applicant is willing to provide services through the state medical assistance program;
(f) Identification of operations within Oregon or within other states that provide a history of the applicant's ability to serve the intended population; and
(g) An independent market analysis completed by a third party professional that meets the requirements of section (4) of this rule.
(4) MARKET ANALYSIS. The applicant must submit a current market analysis to the Department for review and consideration prior to application for a building permit. A market analysis is not required for change of owner applicants of existing licensed buildings. The market analysis must show the need for the services offered by the license applicant and must include:
(a) Description of the intended population to be served, including underserved populations and those eligible to receive services through the state medical assistance program, as applicable;
(b) A current demographic overview of the area to be served;
(c) A description of the area and regional economy and the effect on the market for the project;
(d) Identification of the number of individuals in the area to be served who are potential residents;
(e) Description of available amenities (for example: transportation, hospital, shopping center, or traffic conditions);
(f) Description of the extent, types, and availability of existing and proposed facilities, as described in ORS 443.400 to 443.455, located in the area to be served; and
(g) The rate of occupancy, including waiting lists, for existing and recently completed developments competing for the same market segment.
(5) The Department shall issue a written decision of a potential license within 60 days of receiving all required information from the applicant.
(a) If the applicant is dissatisfied with the decision of the Department, the applicant may request a contested case hearing in writing within 14 calendar days from the date of the decision.
(b) The contested case hearing shall be in accordance with ORS chapter 183.
(6) Prior to issuing a license, the Department shall consider the applicant's stated intentions and compliance with the requirements of this rule and all structural and other licensing requirements as stated in these rules.
(7) BUILDING DRAWINGS. After the letter of intent has been submitted to the Department, one set of building drawings and specifications must be submitted to FPS and must comply with OAR chapter 333, division 675.
(a) Building drawings must be submitted to FPS:
(A) Prior to beginning construction of any new building;
(B) Prior to beginning construction of any addition to an existing building;
(C) Prior to beginning any remodeling, modification, or conversion of an existing building that requires a building permit; or
(D) Subsequent to application for an initial license of a facility not previously licensed under this rule.
(b) Drawings must comply with the Oregon Structural Specialty Code and Oregon Fire Code as required for the occupancy classification and construction type.
(c) Drawings must be drawn to a scale of one-fourth inch or one-eighth inch to the foot, and must specify the date when construction, modification, or conversion is expected to be completed.

(d) Construction containing 4,000 square feet or more must be prepared by, and bear the stamp of, an Oregon licensed architect or engineer.
(8) SIXTY-DAYS PRIOR. At least 60 days prior to anticipated licensure the applicant must submit to the Department:
(a) A completed application form with the required fee;
(b) A copy of the facility's written rental agreements;
(c) Disclosure information; and
(d) Facility policies and procedures, ensuring that the facility's administrative, personnel, and resident care operations are conducted in compliance with these rules.
(9) THIRTY-DAYS PRIOR. Thirty days prior to anticipated licensure the applicant must submit:
(a) To the Department, a completed and signed Administrator Reference Sheet that reflects the qualifications and training of the individual designated as facility administrator and a background check request; and
(b) To FPS, a completed and signed Project Substantial Completion Notice that attests substantial completion of the building project and requests the scheduling of an onsite licensing inspection.
(10) TWO-DAYS PRIOR. At least two working days prior to the scheduled onsite licensing inspection of the facility, the applicant must submit to the Department and FPS a completed and signed Project Completion/Inspection Checklist that confirms the building project is complete and fully in compliance with these rules.
(a) The scheduled, onsite licensing inspection may not be conducted until the Project Completion/Inspection Checklist has been received by both FPS and the Department.
(b) The onsite licensing inspection may be rescheduled at the Department's convenience if the scheduled, onsite licensing inspection reveals that the building is not in compliance with these rules as attested to on the Project Completion/Inspection Checklist.
(11) CERTIFICATE OF OCCUPANCY. The applicant must submit to the Department and FPS, a copy of the Certificate of Occupancy issued by the Building Codes Division having jurisdiction that indicates the intended occupancy classification and construction type.
(12) CONFIRMATION OF LICENSURE. The applicant, prior to admitting any resident into the facility, must receive a written confirmation of licensure issued by the Department.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0013
Application for Initial Licensure and License Renewal
(1) APPLICATION. Applicants for initial licensure and license renewal must complete an application on a form provided by the Department. A licensing fee, as described in ORS 443.415, is required and must be submitted according to Department policy.
(a) The application form must be signed by the applicant's legally authorized representative, dated, and contain all information requested by the Department.
(b) Applicants must provide all information and documentation as required by the Department including but not limited to identification of financial interest of any individual, including stockholders who have an incident of ownership in the applicant representing an interest of 10 percent or more. For purposes of rule, an individual with a 10 percent or more incident of ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided, unless the individual establishes the individual has no

involvement in the operation of the facility. For those who serve the Medicaid population, the applicant must identify any individual with a 5 percent or more incident of ownership, regardless of the individual's effect on the operation of the facility.
(c) If the owner of the facility is a different entity from the operator or management company of the facility, both the operator and the owner must complete an application for licensure. Only one license fee is required.
(d) The application shall require the identification of any individual with a 10 percent or more incident of ownership that has ever been convicted of a crime associated with the operation of a long-term, community-based, or health care facility or agency under federal law or the laws of any state. For those who serve the Medicaid population, any individual with a 5 percent or more incident of ownership must be identified, regardless of the individual's effect on the operation of the facility.
(e) The application shall require the identification of all states where the applicant, or individual having a 10 percent or more incident of ownership in the applicant, currently or previously has been licensed as owner or operator of a long-term, community-based, or health care facility or agency under the laws of any state including any facility, currently or previously owned or operated, that had its license denied or revoked or received notice of the same under the laws of any state. For those who serve the Medicaid population, all states where the applicant or any individual having a 5 percent or more incident of ownership must be identified, regardless of the individual's effect on the operation of the facility.
(f) The Department may deny, revoke, or refuse to renew the license if the applicant fails to provide complete and accurate information on the application and the Department concludes that the missing or corrected information is needed to determine if a license shall be granted.
(g) Each application for a new license must include a completed background check request form for the applicant and for each individual with 10 percent or more incident of ownership in the applicant. For those who serve the Medicaid population, a background check request form is required for the applicant and for each individual with a 5 percent or more incident of ownership, regardless of the individual's effect on the operation of the facility.
(h) The Department may require financial information as stated in OAR 411-054-0016 (New Applicant Qualifications), when considering an applicant's request for renewal of a license.
(i) Applicants must provide other information and documentation as the Department may reasonably require for the proper administration of these rules, including but not limited to information about incident of ownership and involvement in the operation of the facility or other business enterprises, as relevant.
(j) For facilities that serve the Medicaid population and are managed by a Board of Directors, the Centers for Medicare and Medicaid Services (CMS) require a social security number and date of birth for each board member.
(2) LICENSE RENEWAL. Application for a license renewal must be made at least 45 days prior to the expiration date of the existing license. Filing of an application for renewal and submission of the required non-refundable fee before the date of expiration extends the effective date of expiration until the Department takes action upon such application.
(a) The Department shall refuse to renew a license if the facility is not substantially in compliance with all applicable laws and rules or if the State Fire Marshal or authorized representative has given notice of noncompliance.
(b) An applicant for license renewal must provide the Department with a completed background check request form for the applicant and for each individual with incident of ownership of 10

percent or more in the applicant when required by the Department. For those who serve the Medicaid population, a background check request form is required for the applicant and each individual with a 5 percent or more incident of ownership, regardless of the individual's effect on the operation of the facility.
(c) A building inspection may be requested at the Department's discretion. The Department may require physical improvements if the health or safety of residents is negatively impacted.
(3) DEMONSTRATED CAPABILITY.
(a) Prior to issuance of a license or a license renewal, the applicant must demonstrate to the satisfaction of the Department that the applicant is capable of providing services in a manner consistent with the requirements of these rules.
(b) The Department may consider the background and qualifications of any individual with a 10 percent or more incident of ownership in the applicant when determining whether an applicant may be licensed. For those who serve the Medicaid population, the background and qualifications of any individual with a 5 percent or more incident of ownership, regardless of the individual's effect on the operation of the facility, may be considered.
(c) The Department may consider the applicant's history of compliance with Department rules and orders including the history of compliance of any individual with a 10 percent or more incident of ownership in the applicant. For those who serve the Medicaid population, the history of compliance of the applicant and any individual with a 5 percent or more incident of ownership, regardless of the individual's effect on the operation of the facility, may be considered.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0016
New Applicant Qualifications
For the purpose of this rule, "applicant" means each entity, as defined in OAR 411-054-0005, who holds 10 percent or more incident of ownership in the applicant as described in OAR 411-054-0013(1)(b). For those who serve the Medicaid population, "applicant" means each entity, as defined in OAR 411-054-0005, who holds 5 percent or more incident of ownership regardless of the individual's effect on the operation of the facility. Applicants for licensure (excluding license renewal but including all changes of ownership, management, or operator) must meet the following criteria:
(1) BACKGROUND CHECK. Each applicant may not have convictions of any of the crimes listed in OAR 407-007-0275 and must complete a background check conducted by the Department in accordance with OAR 407-007-0200 to 407-007-0370.
(2) PERFORMANCE HISTORY. The Department shall consider an applicant's performance history, including repeat sanctions or rule violations, before issuing a license.
(a) Each applicant must be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill, or individuals with disabilities that had its license or certification involuntarily suspended or voluntarily terminated during any state or federal sanction process during the past five years.
(b) Applicants must be free of incident of ownership history in any facility in any state that had its license or certification involuntarily suspended or voluntarily terminated during any state or federal sanction process during the past five years.

(c) Failure to provide accurate information or demonstrate required performance history may result in the Department's denial of a license.
(3) FINANCIAL HISTORY. Each applicant must:
(a) Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years.
(b) Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, utilities, or other costs necessary for facility operation during the past five years.
(c) Submit proof of fiscal responsibility, including an auditor's certified financial statement, and other verifiable documentary evidence of fiscal solvency documenting that the prospective licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered "liquid assets," but may be considered "financial resources." Liquid assets may be demonstrated by:
(A) An unencumbered line of credit;
(B) A performance bond; or
(C) Any other method satisfactory to the Department.
(d) Provide a pro forma (revenues, expenditures, and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.
(4) EXPERIENCE. If an applicant does not have experience in the management of nursing facilities, assisted living, or residential care, the applicant must employ the services of a consultant or management company with experience in the provision of assisted living or residential care for a period of at least six months. The consultant and the terms and length of employment are subject to the approval of the Department.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0019
Change of Ownership or Management
(1) The licensee and the prospective licensee must each notify the Department in writing of a contemplated change in ownership or management entity. The written notification must be received at least 60 days prior to the proposed date of change.
(a) The prospective licensee or management entity must submit at least 60 days in advance of the proposed date change:
(A) A completed application form;
(B) A copy of policies, procedures, rental agreements, service plans, and required disclosure information; and
(C) A licensing fee, as described in ORS 443.415, submitted according to Department policy.
(b) The prospective licensee must notify the residents in writing 30 days in advance of a change in ownership or management entity. The notice to residents must include any changes to rates or policies.
(c) The prospective licensee or operator may not assume possession or control of the facility until the Department has notified the prospective licensee or operator that the license application has been approved.

(d) The licensee is responsible for the operation of the facility and resident services until a new license is issued to the new owner.
(2) A building inspection may be requested at the Department's discretion. The Department may require physical improvements if the health or safety of residents is negatively impacted.
(3) Resident records maintained by the licensee must be turned over to the new owner when the license application is approved and the new licensee assumes possession or control of the facility.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0025
Facility Administration
(1) FACILITY OPERATION.
(a) The licensee is responsible for the operation of the facility and the quality of services rendered in the facility.
(b) The licensee is responsible for the supervision, training, and overall conduct of staff when acting within the scope of their employment duties.
(c) The licensee is responsible for obtaining background checks on all subject individuals.
(A) Background checks must be submitted to the Department for a criminal fitness determination on all subject individuals in accordance with OAR chapter 407-007-0200 to 407-007-0370, including prior to a subject individual's change in position (for example, change from caregiver to med aide).
(B) PORTABILITY OF BACKGROUND CHECK APPROVAL. A subject individual may be approved to work in multiple facilities under the same operational entity. The Department's Background Check Request form must be completed by the subject individual to show intent to work at various facilities.
(d) The licensee is responsible for ensuring that the facility complies with the tuberculosis screening recommendations in OAR 333-019-0041.
(2) BACKGROUND CHECK REQUIREMENTS.
(a) On or after July 28, 2009, no individual may be a licensee, or employed in any capacity in a facility, who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.
(b) Subject individuals who are employees and hired prior to July 28, 2009 are exempt from subsection (a) of this section provided that the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.
(3) EMPLOYMENT APPLICATION. An application for employment in any capacity at a facility must include a question asking whether the applicant has been found to have committed abuse. The licensee must check all potential employees against the Oregon State Board of Nursing and inquire whether the individual is licensed or certified by the Board and whether there has been any disciplinary action by the Board against the individual or any substantiated abuse findings against a nursing assistant.
(4) Reasonable precautions must be exercised against any condition that may threaten the health, safety, or welfare of residents.
(5) REQUIRED POSTINGS. Required postings must be posted in a routinely accessible and conspicuous location to residents and visitors and must be available for inspection at all times. The licensee is responsible for posting the following:
(a) Facility license;

(b) The name of the administrator or designee in charge. The designee in charge must be posted by shift or whenever the administrator is out of the facility;
(c) The current facility staffing plan;
(d) A copy of the most recent re-licensure survey, including all revisits and plans of correction as applicable;
(e) The Ombudsman Notification Poster; and
(f) Other notices relevant to residents or visitors required by state or federal law.
(6) NOTIFICATION. The facility must notify the Department's Central Office immediately by telephone, fax, or email, (if telephone communication is used the facility must follow-up within 72 hours by written or electronic confirmation) of the following:
(a) Any change of the administrator of record;
(b) Severe interruption of physical plant services in which the health or safety of residents is endangered, such as the provision of heat, light, power, water, or food;
(c) Occurrence of epidemic disease in the facility. The facility must also notify the Local Public Health Authority as applicable;
(d) Facility fire or any catastrophic event that requires residents to be evacuated from the facility;
(e) Unusual resident death or suicide; or
(f) A resident who has eloped from the facility and has not been found within 24 hours.
(7) POLICIES AND PROCEDURES. The facility must develop and implement written policies and procedures that promote high quality services, health and safety for residents, and incorporate the community-based care principles of individuality, independence, dignity, privacy, choice, and a homelike environment. The facility must develop and implement:
(a) A policy on the possession of firearms and ammunition within the facility. The policy must be disclosed in writing and by one other means of communication commonly used by the resident or potential resident in their daily living.
(b) A written policy that prohibits sexual relations between any facility employee and a resident who did not have a pre-existing relationship.
(c) Effective methods of responding to and resolving resident complaints.
(d) All additional requirements for written policies and procedures as established in OAR 411-054-0012 (Requirements for New Construction or Initial Licensure), OAR 411-054-0040 (Change of Condition and Monitoring), OAR 411-054-0045 (Resident Health Services), and OAR 411-054-0085 (Refunds and Financial Management).
(e) A policy on smoking.
(A) The smoking policy must be in accordance with:
(i) The Oregon Indoor Clean Air Act, ORS 433.835 to 433.875;
(ii) The rules in OAR chapter 333, division 015; and
(iii) Any other applicable state and local laws.
(B) The facility may designate itself as non-smoking.
(f) A policy for the referral of residents who may be victims of acute sexual assault to the nearest trained sexual assault examiner. The policy must include information regarding the collection of medical and forensic evidence that must be obtained within 86 hours of the incident.
(g) A policy on facility employees not receiving gifts or money from residents.
(8) RECORDS. The facility must ensure the preparation, completeness, accuracy, and preservation of resident records.
(a) The facility must develop and implement a written policy that prohibits the falsification of records.

(b) Resident records must be kept for a minimum of three years after the resident is no longer in the facility.
(c) Upon closure of a facility, the licensee must provide the Department with written notification of the location of all records.
(9) QUALITY IMPROVEMENT PROGRAM. The facility must develop and conduct an ongoing quality improvement program that evaluates services, resident outcomes, and resident satisfaction.
(10) DISCLOSURE - RESIDENCY AGREEMENT. The facility must provide a Department designated Uniform Disclosure Statement (form SDS 9098A) to each individual who requests information about the facility. The residency agreement and the disclosure information described in subsection (a) of this section must be provided to all potential residents prior to move-in. All disclosure information and residency agreements must be written in compliance with these rules.
(a) The residency agreement and the following disclosure information must be reviewed by the Department prior to distribution and must include the following:
(A) Terms of occupancy, including policy on the possession of firearms and ammunition;
(B) Payment provisions including the basic rental rate and what it includes, cost of additional services, billing method, payment system and due dates, deposits, and non-refundable fees, if applicable;
(C) The method for evaluating a resident's service needs and assessing the costs for the services provided;
(D) Policy for increases, additions, or changes to the rate structure. The disclosure must address the minimum requirement of 30 days prior written notice of any facility-wide increases or changes and the requirement for immediate written notice for individual resident rate changes that occur as a result of changes in the service plan;
(E) Refund and proration conditions;
(F) A description of the scope of resident services available according to OAR 411-054-0030;
(G) A description of the service planning process;
(H) Additional available services;
(I) The philosophy of how health care and ADL services are provided to the resident;
(J) Resident rights and responsibilities;
(K) The facility's system for packaging medications including the option for residents to choose a pharmacy that meets the requirements of ORS 443.437;
(L) Criteria, actions, circumstances, or conditions that may result in a move-out notification or intra-facility move;
(M) Resident rights pertaining to notification of involuntary move-out;
(N) Notice that the Department has the authority to examine resident records as part of the evaluation of the facility; and
(O) The facility's staffing plan.
(b) The facility may not include any provision in the residency agreement or disclosure information that is in conflict with these rules and may not ask or require a resident to waive any of the resident's rights or the facility's liability for negligence.
(c) The facility must retain a copy of the original and any subsequent signed and dated residency agreements and must provide copies to the resident or to the resident's designated representative.
(d) The facility must give residents 30 days prior written notice of any additions or changes to the residency agreement. Changes to the residency agreement must be faxed or mailed to the Department before distribution.

Stat. Auth.: ORS 181.534, 410.070, 443.004, & 443.450
Stats. Implemented: ORS 181.534, 443.004, 443.400 to 443.455, & 443.991

411-054-0027
Resident Rights and Protections
(1) The facility must implement a residents' Bill of Rights. Each resident or the resident's designated representative must be given a copy of the resident's rights and responsibilities prior to moving into the facility. The Bill of Rights must state that residents have the right:
(a) To be treated with dignity and respect;
(b) To be given informed choice and opportunity to select or refuse service and to accept responsibility for the consequences;
(c) To participate in the development of their initial service plan and any revisions or updates at the time those changes are made;
(d) To receive information about the method for evaluating their service needs and assessing costs for the services provided;
(e) To exercise individual rights that do not infringe upon the rights or safety of others;
(f) To be free from neglect, financial exploitation, verbal, mental, physical, or sexual abuse;
(g) To receive services in a manner that protects privacy and dignity;
(h) To have prompt access to review all of their records and to purchase photocopies. Photocopied records must be promptly provided, but in no case require more than two business days (excluding Saturday, Sunday, and holidays);
(i) To have medical and other records kept confidential except as otherwise provided by law;
(j) To associate and communicate privately with any individual of choice, to send and receive personal mail unopened, and to have reasonable access to the private use of a telephone;
(k) To be free from physical restraints and inappropriate use of psychoactive medications;
(l) To manage personal financial affairs unless legally restricted;
(m) To have access to and participate in social activities;
(n) To be encouraged and assisted to exercise rights as a citizen;
(o) To be free of any written contract or agreement language with the facility that purports to waive their rights or the facility's liability for negligence;
(p) To voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of retaliation;
(q) To be free of retaliation after they have exercised their rights provided by law or rule;
(r) To have a safe and homelike environment;
(s) To be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion; and
(t) To receive proper notification if requested to move out of the facility, and to be required to move out only for reasons stated in OAR 411-054-0080 (Involuntary Move-out Criteria) and have the opportunity for an administrative hearing, if applicable.
(2) Licensees and facility personnel may not act as a resident's guardian, conservator, trustee, or attorney in fact unless related by birth, marriage, or adoption to the resident as follows: parent, child, brother, sister, grandparent, grandchild, aunt or uncle, or niece or nephew. An owner, administrator, or employee may act as a representative payee for the resident or serve in other roles as provided by law.
(3) Licensees and facility personnel may not spend resident funds without the resident's consent.
(a) If the resident is not capable of consenting, the resident's representative must give consent.

(b) If the resident has no representative and is not capable of consenting, licensees and facility personnel must follow the requirements described in OAR 411-054-0085 and may not spend resident funds for items or services that are not for the exclusive benefit of the resident.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0034
Resident Move-In and Evaluation
(1) INITIAL SCREENING AND MOVE-IN.
(a) The facility must determine whether a potential resident meets the facility's admission requirements.
(b) Prior to the resident moving in, the facility must conduct an initial screening to determine the prospective resident's service needs and preferences. The screening must determine the ability of the facility to meet the potential resident's needs and preferences while considering the needs of the other residents and the facility's overall service capability.
(c) Prior to move-in and updated as needed, each resident record must include the following information:
(A) Prior living arrangements;
(B) Emergency contacts;
(C) Service plan involvement - resident, family, and social supports;
(D) Financial and other legal relationships if applicable, including but not limited to:
(i) Advance directives;
(ii) Guardianship;
(iii) Conservatorship; and
(iv) Power of attorney.
(E) Primary language;
(F) Community connections; and
(G) Health and social service providers.
(2) RESIDENT EVALUATION - GENERAL. The resident evaluation is the foundation that a facility uses to develop the service plan and reflects the resident's current health and mental status. The evaluation information may be collected using tools and protocols established by the facility, but must contain the elements stated in this rule.
(a) Resident evaluations must be performed:
(A) Before the resident moves into the facility, with updates and changes as appropriate within the first 30 days; and
(B) At least quarterly, to correspond with the quarterly service plan updates.
(b) Resident evaluations must be reviewed and updates documented each time a resident has a significant change in condition.
(c) The resident evaluation must be done in person and the facility must gather data that is relevant to the needs and current condition of the resident.
(d) Resident evaluations must be documented, dated, and indicate who was involved in the evaluation process.
(e) Twenty-four months of past evaluations must be kept in the resident's files in an accessible, on-site location.
(f) The facility administrator is responsible for assuring that only trained and experienced staff perform resident evaluations.

(3) EVALUATION REQUIREMENTS AT MOVE-IN.
(a) The resident evaluation must be completed before the resident moves into the facility. This evaluation provides baseline information of the resident's physical and mental condition at move-in.
(b) If there is an urgent need and the evaluation is not completed prior to move-in, the facility must document the reasons and complete the evaluation within eight hours of move-in.
(c) The initial evaluation must contain the elements specified in section (5) of this rule, and address sufficient information to develop an initial service plan to meet the resident's needs.
(d) The initial evaluation must be updated and modified as needed during the 30 days following the resident's move into the facility.
(e) After the initial 30 day move-in period, the initial evaluation must be retained in the resident's file for 24 months. Future evaluations must be separate and distinct from the initial evaluation.
(4) QUARTERLY EVALUATION REQUIREMENTS.
(a) Resident evaluations must be performed quarterly after the resident moves into the facility.
(b) The quarterly evaluation is the basis of the resident's quarterly service plan.
(c) The most recent quarterly evaluation, with documented change of condition updates, must be in the resident's current record and available to staff.
(d) If the evaluation is revised and updated at the quarterly review, changes must be dated and initialed and prior historical information must be maintained.
(5) The resident evaluation must address the following elements:
(a) Resident routines and preferences including:
(A) Customary routines - sleep, dietary, social, and leisure; and
(B) Spiritual, cultural preferences.
(b) Physical health status including:
(A) List of current diagnoses;
(B) List of medications and PRN use;
(C) Visits to health practitioners, emergency room, hospital, or nursing facility in the past year; and
(D) Vital signs if indicated by diagnoses, health problems, or medications.
(c) Mental health issues including:
(A) Presence of depression, thought disorders, or behavioral or mood problems;
(B) History of treatment; and
(C) Effective non-drug interventions.
(d) Cognition, including:
(A) Memory;
(B) Orientation;
(C) Confusion; and
(D) Decision making abilities.
(e) Communication and sensory including:
(A) Hearing;
(B) Vision;
(C) Speech;
(D) Assistive devices; and
(E) Ability to understand and be understood.
(f) Activities of daily living including:

(A) Toileting, bowel, and bladder management;
(B) Dressing, grooming, bathing, and personal hygiene;
(C) Mobility - ambulation, transfers, and assistive devices; and
(D) Eating, dental status, and assistive devices.
(g) Independent activities of daily living including:
(A) Ability to manage medications;
(B) Ability to use call system;
(C) Housework and laundry; and
(D) Transportation.
(h) Pain - pharmaceutical and non-pharmaceutical interventions.
(i) Skin condition.
(j) Nutrition habits, fluid preferences, and weight if indicated.
(k) List of treatments - type, frequency, and level of assistance needed.
(l) Indicators of nursing needs, including potential for delegated nursing tasks.
(m) Review of risk indicators including:
(A) Fall risk or history;
(B) Emergency evacuation ability;
(C) Complex medication regimen;
(D) History of dehydration or unexplained weight loss or gain;
(E) Recent losses;
(F) Unsuccessful prior placements;
(G) Elopement risk or history;
(H) Smoking. The resident's ability to smoke without causing burns or injury to themselves or others or damage to property must be evaluated and addressed in the resident's service plan; and
(I) Alcohol and drug use. The resident's use of alcohol or the use of drugs not prescribed by a physician must be evaluated and addressed in the resident's service plan,
(6) If the information has not changed from the previous evaluation period, the information does not need to be repeated. A dated and initialed notation of no changes is sufficient. The prior evaluation must then be kept in the current resident record for reference.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0085
Refunds and Financial Management
(1) RESIDENT DEATH. If a resident dies, the licensee may not require payment for more than 15 days, or the time specified in the admission agreement, whichever is less, after the date of the resident's death.
(2) RESIDENT UNABLE TO RETURN. If a resident must leave the facility for medical reasons and the resident or the resident's representative indicates the intent not to return, the facility may not charge the resident for more than 15 days after the date notification is received from the resident or the resident's representative, or the time specified in the admission agreement, whichever is less.
(a) If the resident's personal belongings are not removed from the facility within the 15-day timeframe, the facility may charge the resident as specified in the admission agreement. However, the facility may not charge for more than 30 days after receiving notification that the resident is unable to return.

(b) A reasonable storage fee may be charged for storage of the resident's belongings beyond 30 days if the admission agreement includes fees for storage.
(3) SUBSTANTIATED ABUSE. If a resident dies or leaves a facility due to substantiated neglect, substantiated abuse, or due to conditions of imminent danger of life, health, or safety, as substantiated by the Department, the facility may not charge the resident beyond the resident's last day in the facility.
(4) INVOLUNTARY MOVE-OUT. If the facility gives written notice for the resident to leave, the facility waives the right to charge for services or room and board beyond the date of the resident's departure. If applicable, the facility may pursue past due charges that the resident incurred prior to move-out.
(5) REFUNDS. The provider must refund any advance payments within 30 days after the resident leaves the facility.
(6) RATE INCREASES. The facility must provide 30 days written notice prior to any facility-wide increases, additions, or changes.
(7) SERVICE RATE INCREASES. The facility must provide immediate written notice to the resident at the time the facility determines the resident's service rates shall increase due to increased service provision, as negotiated in the resident's service plan.
(8) MEDICAID PERSONAL INCIDENTAL FUNDS. The facility must have written policies, procedures, and accounting records for handling residents' personal incidental funds that are managed in the resident's own best interest.
(a) The resident may manage their personal financial resources, or may authorize another individual or the facility to manage their personal incidental funds.
(b) The facility must hold, manage, and account for the personal incidental funds of the resident when requested in writing by the resident.
(c) Records must include the Resident Account Record (SDS 713) or other comparable expenditure form if the facility manages or handles a resident's personal incidental funds.
(A) The resident account record must show in detail, with supporting documentation, all monies received on behalf of the resident and the disposition of all funds received.
(B) Individuals shopping for residents must provide a list showing description and price of items purchased, along with payment receipts for these items.
(C) The facility must provide a copy of the individual Resident Account Record to the resident on a quarterly basis.
(d) Resident personal incidental fund accounts may not be co-mingled with facility funds.
(e) Residents must have reasonable access to their personal incidental funds. At minimum, requests to access personal incidental funds must be acted upon by the facility within one day of the request, excluding weekends and holidays.
(f) Upon the death of a Medicaid resident with no known surviving spouse, personal incidental funds held by the facility for the resident must be forwarded within 10 business days of the death of the resident to the Department of Human Services, Estate Administration Unit, P.O. Box 14021, Salem OR 97309.
(g) The facility must maintain documentation of the action taken and the amount of personal incidental funds conveyed.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0093

Emergency and Disaster Planning
An emergency preparedness plan is a written procedure that identifies a facility's response to an emergency or disaster for the purpose of minimizing loss of life, mitigating trauma, and to the extent possible, maintaining services for residents, and preventing or reducing property loss.
(1) The facility must prepare and maintain a written emergency preparedness plan in accordance with the Oregon Fire Code (OFC) in OAR chapter 837, division 040.
(2) The emergency preparedness plan must:
(a) Include analysis and response to potential emergency hazards including but not limited to:
(A) Evacuation of a facility;
(B) Fire, smoke, bomb threat, and explosion;
(C) Prolonged power failure, water, and sewer loss;
(D) Structural damage;
(E) Hurricane, tornado, tsunami, volcanic eruption, flood, and earthquake;
(F) Chemical spill or leak; and
(G) Pandemic.
(b) Address the medical needs of the residents including:
(A) Access to medical records necessary to provide services and treatment; and
(B) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation.
(c) Include provisions and supplies sufficient to shelter in place for a minimum of three days without electricity, running water, or replacement staff.
(3) The facility must notify the Department, or the local AAA office or designee, of the facility's status in the event of an emergency that requires evacuation and during any emergent situation when requested.
(4) The facility must conduct a drill of the emergency preparedness plan at least twice a year in accordance with the OFC in OAR chapter 837, division 040 and other applicable state and local codes as required. One of the practice drills may consist of a walk-through of the duties or a discussion exercise with a hypothetical event, commonly known as a tabletop exercise. These simulated drills may not take the place of the required fire drills.
(5) The facility must annually review or update the emergency preparedness plan as required by the OFC in OAR chapter 837, division 040 and the emergency preparedness plan must be available on-site for review upon request.
Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455, 443.991, & OL 2007 chapter 205