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ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

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APD 30-2017
CHAPTER 411
DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

FILING CAPTION: Individually-Based Limitations for Restraints in Residential Care (RCF) and Assisted Living Facilities (ALF)

EFFECTIVE DATE: 12/15/2017

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CONTACT: Rebecca Mapes
541-735-0058
rebecca.mapes@state.or.us

104 Litch Street
Enterprise,OR 97828

Filed By:
Kimberly Colkitt-Hallman
Rules Coordinator

RULES:
411-054-0005, 411-054-0027, 411-054-0038, 411-054-0060

AMEND: 411-054-0005

REPEAL: Temporary 411-054-0005 from APD 17-2017(TEMP)

RULE TITLE: Definitions

NOTICE FILED DATE: 10/20/2017

RULE SUMMARY: To implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Human Services (Department) is permanently updating the rules in OAR chapter 411, division 054, to ensure individuals who receive Home and Community-Based Services in RCFs and ALFs are free from restraint.
-411-054-0005 was amended to provide a new definition of restraint. This definition was changed to align with the overarching HCBS rules.
-Minor grammar, punctuation, spelling, housekeeping, and formatting issues were made to the rules as well.

RULE TEXT:
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), cognition, and 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) "Aging and People with Disabilities" means the program area of Aging and People with Disabilities, within the

Department of Human Services.
(7) "APD" means "Aging and People with Disabilities".
(8) "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 five 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.
(9) "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.
(c) Making recommendations to the Department regarding facility license approval, denial, revocation, suspension, non-renewal, and civil penalties.
(10) "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.
(11) "Building Codes" are comprised of the set of specialty codes, including the Oregon Structural Specialty Code (OSSC), Oregon Mechanical Specialty Code (OMSC), Oregon Electrical Specialty Code (OESC), Oregon Plumbing Specialty Code (OPSC), and their reference codes and standards.
(12) "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.
(13) "Change in Use" means altering the purpose of an existing room, within the facility, that requires structural changes.
(14) "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.
(15) "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).
(16) "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.
(17) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.
(18) "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.
(19) "Department" means the Department of Human Services (DHS).
(20) "Designated Representative" means:
(a) Any adult, such as a parent, family member, guardian, advocate, or other person, who is:
(A) Chosen by the individual or, as applicable, the legal representative;
(B) Not a paid provider for the individual; and
(C) Authorized by the individual, or as applicable the legal representative, to serve as the representative of the individual, or as applicable the legal representative, in connection with the provision of funded supports.
(D) The power to act as a designated representative is valid until the individual modifies the authorization or notifies the agency that the designated representative is no longer authorized to act on his or her behalf.
(b) An individual or the legal representative of the individual is not required to appoint a designated representative.
(21) "Dignity" means providing support in such a way as to validate the self-worth of the individual. Dignity is supported by creating an environment that allows personal assistance to be provided in privacy and by delivering services in a manner that shows courtesy and respect.
(22) "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.
(e) Serving meals, but not meal preparation.
(23) "Directly Supervised" means a qualified staff member maintains visual contact with the supervised staff.
(24) "Director" means the Director of the Department or that individual's designee.
(25) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or man-made, that renders the licensee unable to operate the facility or makes the facility uninhabitable.
(26) "Disclosure" means the written information the facility is required to provide to consumers to enhance the understanding of facility costs, services, and operations.
(27) "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.
(28) "Exception" means a written variance granted by the Department from a regulation or provision of these rules.
(29) "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. For purposes of HCBS, "facility" can also mean "provider".
(30) "FPS" means the Facilities, Planning, and Safety Program within the Public Health Division of the Oregon Health Authority (OHA).
(31) "HCB" means "Home and Community-Based".
(32) "HCBS" means "Home and Community-Based Services." HCBS are services provided in the home or community of an individual. DHS, Office of Licensing and Regulatory Oversight and OHA provide oversight and license, certify, and endorse programs, settings, or settings designated as HCB.

(33) "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.
(34) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interests.
(35) "Independence" means supporting resident capabilities and facilitating the use of those abilities. Creating barrier free structures and careful use of assistive devices supports independence.
(36) "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.
(37) "Individual" means a person enrolled in or utilizing HCBS.
(38) "Individually-Based Limitation" means any limitation to the qualities outlined in OAR 411-004-0020 (1)(d) and (2)(d) to (2)(j), due to health and safety risks. An individually-based limitation is based on specific assessed need and only implemented with the informed consent of the individual, or as applicable the legal representative, as described in OAR 411-004-0040.
(39) "Informed Consent" means options, risks, and benefits have been explained to an individual, and, as applicable, the legal representative of the individual, in a manner that the individual, and, as applicable, the legal representative, comprehends.
(40) "Individuality" means recognizing variability in residents' needs and preferences and having flexibility to organize services in response to different needs and preferences.
(41) "Licensed Nurse" means an Oregon licensed practical or registered nurse.
(42) "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.
(43) "Legal Representative" means a person who has the legal authority to act for an individual.
(a) The legal representative only has authority to act within the scope and limits of his or her authority as designated by the court or other agreement. Legal representatives acting outside of his or her authority or scope must meet the definition of designated representative.
(b) For an individual 18 years of age and older, a guardian appointed by a court order or an agent legally designated as the health care representative, where the court order or the written designation provide authority for the appointed or designated person to make the decisions indicated where the term "legal representative" is used in this rule.
(44) "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 rings, or casework).
(45) "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.
(46) "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.

(47) "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.
(d) Additions, conversions, renovations, or remodeling of existing buildings.
(48) "Nursing Care" means the practice of nursing as governed by ORS chapter 678 and OAR chapter 851.
(49) "OHA" means the Oregon Health Authority.
(50) "Owner" means an individual with an ownership interest.
(51) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.
(52) "Person-Centered Service Plan" means the details of the supports, desired outcomes, activities, and resources required for an individual to achieve and maintain personal goals, health, and safety, as described in OAR 411-004-0030.
(a) FOR INDIVIDUALS RECEIVING MEDICAID. The person-centered service plan coordinator completes the person-centered service plan.
(b) FOR NON-MEDICAID INDIVIDUALS. The person-centered service plan may be completed by the resident, and as applicable, the representative of the individual, and others as chosen by the individual. The licensee may assist non-Medicaid individuals in developing person-centered service plans when no alternative resources are available. The elements of the individual's person-centered service plan may be incorporated into the resident's care plan.
(53) "Person-Centered Service Plan Coordinator" means a:
(a) Resident's AAA or APD case manager assigned to provide case management services or person-centered service planning for and with individuals; or
(b) Person of the individual's choice for individuals who pay privately.
(54) "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.
(55) "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.
(56) "Provider" means any person or entity providing HCBS.
(57) "P.R.N." means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.
(58) "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.
(59) "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.
(60) "Renovate" means to restore to good condition or to repair.
(61) "Residency Agreement" means the written, legally enforceable agreement between a facility and an individual, or legal representative receiving services in a residential setting.
(62) "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.
(63) "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.
(64) "Restraint" means:

(a) Physical restraints are any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the individual's body that the individual cannot remove easily, which restricts freedom of movement or normal access of the individual to the individual's body. Any manual method includes physically restraining someone by manually holding someone in place.
(b) Chemical restraints are any substance or drug used for the purpose of discipline or convenience that has the effect of restricting the individual's freedom of movement or behavior and is not used to treat the individual's medical or psychiatric condition.
(65) "Retaliation" means to threaten, intimidate, or take an action that is detrimental to an individual (for example, harassment, abuse, or coercion).
(66) "Risk Agreement" means a process where 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.
(67) "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.
(68) "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.
(69) "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.
(70) "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 receiving training in an assisted living or residential care facility.
(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.
(B) Individuals that provide services to residents who are employed by a private business not regulated by the Department.
(71) "Supportive Device" means a device that may have restraining qualities that supports and improves a resident's physical functioning.
(72) "These Rules" mean the rules in OAR chapter 411, division 054.
(73) "Underserved" means services are significantly unavailable within the service area in a comparable setting for:
(a) The general public.
(b) A specific population, for example, residents with dementia or traumatic brain injury.
(74) "Unit" means the personal and sleeping space of an individual receiving services in a RCF or ALF setting, as agreed to in the Residency Agreement.
(75) "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.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.450, 443.738

STATUTES/OTHER IMPLEMENTED: ORS 443.400-443.455, 443.738, 443.991

AMEND: 411-054-0027

REPEAL: Temporary 411-054-0027 from APD 17-2017(TEMP)

RULE TITLE: Resident Rights and Protections

NOTICE FILED DATE: 10/20/2017

RULE SUMMARY: To implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Human Services (Department) is permanently updating the rules in OAR chapter 411, division 054, to ensure individuals who receive Home and Community-Based Services in RCFs and ALFs are free from restraint.

-411-054-0027 was amended to change and effective date to align with the OAR chapter 411, division 004 HCBS rules.
-Minor grammar, punctuation, spelling, housekeeping, and formatting issues were made to the rules as well.

RULE TEXT:

(1) The facility must implement a residents' Bill of Rights. Each resident and the resident's designated representative, if appropriate, must be given a copy of the resident's rights and responsibilities before 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.

(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) HCBS RIGHTS.

(a) Effective January 1, 2016 for providers initially licensed after January 1, 2016, and effective no later than June 30, 2019 for providers initially licensed before January 1, 2016 the following rights must include the freedoms authorized by 42 CFR 441.301(c)(4) & 42 CFR 441.530(a)(1):
(A) Live under a legally enforceable residency agreement.
(B) The freedom and support to access food at any time.
(C) To have visitors of the resident's choosing at any time.
(D) Choose a roommate when sharing a bedroom.
(E) Furnish and decorate the resident's bedroom according to the Residency Agreement.
(F) The freedom and support to control the resident's schedule and activities.
(b) The rights described in (B) through (F) of this section must meet the requirements set forth in OAR 411-054-0038 and shall not be limited without the informed, written consent of the resident or the resident's representative, and approved by the person-centered service plan coordinator.
(3) 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.
(4) 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.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.450

STATUTES/OTHER IMPLEMENTED: ORS 443.400 - 443.455, 443.991

AMEND: 411-054-0038

REPEAL: Temporary 411-054-0038 from APD 17-2017(TEMP)

RULE TITLE: Individually-Based Limitations

NOTICE FILED DATE: 10/20/2017

RULE SUMMARY: To implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Human Services (Department) is permanently updating the rules in OAR chapter 411, division 054, to ensure individuals who receive Home and Community-Based Services in RCFs and ALFs are free from restraint.
-411-054-0038 was amended to align dates with the HCBS rules and outline that a specific process must be followed in order to propose the need for and possible use of a restraint. Also laid out the requirement that must be met in order to use a restraint.
-Minor grammar, punctuation, spelling, housekeeping, and formatting issues were made to the rules as well.

RULE TEXT:
This rule will begin being implemented January 1, 2017. The requirements in this rule must be in place no later than June 30, 2019.
(1) When the condition under OAR 411-004-0020(1)(d) may not be met due to a threat to the health and safety of an individual or others, an individually-based limitation process, as described in this rule, must apply in any residential or non-residential setting.
(2) When a condition under OAR 411-004-0020(2)(d) to (2)(j) may not be met due to a threat to the health and safety of an individual or others, in a provider owned, controlled, or operated residential setting, an individually-based limitation process, as described in this rule, must apply.
(3) An individually-based limitation must be supported by a specific assessed need and documented in the person-centered service plan by completing and signing a program approved form documenting the consent to the appropriate individually-based limitation. The form identifies and documents, at a minimum, all of the following requirements:
(a) The specific and individualized assessed need justifying the individually-based limitation.
(b) The positive interventions and supports used prior to any individually-based limitation.
(c) Less intrusive methods that have been tried but did not work.
(d) A clear description of the limitation that is directly proportionate to the specific assessed need.
(e) Regular collection and review of data to measure the ongoing effectiveness of the individually-based limitation.
(f) Established time limits for periodic reviews of the individually-based limitation to determine if the limitation should be terminated or remains necessary. The individually-based limitation must be reviewed at least annually.
(g) The informed consent of the individual or, as applicable, the legal representative of the individual, including any discrepancy between the wishes of the individual and the consent of the legal representative.
(h) An assurance that the interventions and support do not cause harm to the individual.
(i) If using a restraint, a facility must meet the requirements of OAR 411-054-0060.
(4) Providers are responsible for:
(a) Maintaining a copy of the completed and signed form documenting the consent to the appropriate limitation. The form must be signed by the individual, or, if applicable, the legal representative of the individual prior to the implementation being implemented.
(b) Regular collection and review of data to measure the ongoing effectiveness of and the continued need for the individually-based limitation.
(c) Requesting a review of the individually-based limitation when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed.

STATUTORY/OTHER AUTHORITY: ORS 409.050, 413.042, 413.085, 443.738

STATUTES/OTHER IMPLEMENTED: ORS 409.050, 413.042, 413.085, 443.738

AMEND: 411-054-0060

REPEAL: Temporary 411-054-0060 from APD 17-2017(TEMP)

RULE TITLE: Restraints and Supportive Devices

NOTICE FILED DATE: 10/20/2017

RULE SUMMARY: To implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department of Human Services (Department) is permanently updating the rules in OAR chapter 411, division 054, to ensure individuals who receive Home and Community-Based Services in RCFs and ALFs are free from restraint.

-411-054-0060 added in language to align with HCBS and state the individually-based limitations rule must be followed if a device with restraining qualities is going to be used on a resident. The rule state the date by which all requirements of the individually-based limitations rule must be implemented.
-Minor grammar, punctuation, spelling, housekeeping, and formatting issues were made to the rules as well.

RULE TEXT:
Residential care and assisted living facilities are intended to be restraint free environments.
(1) Restraints are not permitted except when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.
(2) Supportive devices with restraining qualities are permitted under the following documented circumstances:
(a) The resident specifically requests or approves of the device and the facility has informed the individual of the risks and benefits associated with the device;
(b) The facility registered nurse, a physical therapist or occupational therapist has conducted a thorough assessment;
(c) The facility has documented other less restrictive alternatives evaluated prior to the use of the device; and
(d) The facility has instructed caregivers on the correct use and precautions related to use of the device.
(3) Supportive devices with restraining qualities may be utilized for residents who are unable to evaluate the risks and benefits of the device when sections (2)(b), (2)(c) and (2)(d) have been met. As of July 1, 2018 the process as identified in 411-054-0038 for Individually-Based Limitations must be followed for anything that meets the definition of restraint, including, but not limited to, supportive devices with restraining qualities.
(4) Documentation of the use of supportive devices with restraining qualities must be included in the resident service plan and evaluated on a quarterly basis.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.450

STATUTES/OTHER IMPLEMENTED: ORS 443.400 - 443.455, 443.991