OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE

A. RICHARD VIAL
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

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

TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

APD 52-2019

CHAPTER 411
DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES AND DEVELOPMENTAL DISABILITIES

FILED
12/20/2019 10:36 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Require staff in memory care facilities to complete dementia training requirements of HB 3359 (2017)

EFFECTIVE DATE: 01/01/2020 THROUGH 06/28/2020

AGENCY APPROVED DATE: 12/19/2019

CONTACT: Lynn Beaton
503-509-7076
lynn.d.beaton@state.or.us

3406 Cherry Avenue NE
Salem,OR 97303

Filed By:
Kristina Krause
Rules Coordinator

NEED FOR THE RULE(S):

The Department needs to immediately amend rule to be in compliance with HB 3359 (2017).

JUSTIFICATION OF TEMPORARY FILING:

Failure to act promptly and immediately amend OAR chapter 411, division 057 will result in serious prejudice to the public interest, the Department, and residents of memory care communities that are licensed as residential care, assisted living, and nursing facilities. These rules need to be adopted promptly so that memory care communities will be in compliance with new additional dementia training requirements, as required by HB 3359.

OAR chapter 411, division 054 needs to be amended promptly so that memory care communities are providing the latest evidence-based trainings on dementia. Having staff fully trained on dementia training is necessary if these facilities are to provide quality care to residents in those facilities. (Implements HB 3559)

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Information about HB 3359 (2017) is available on the Oregon Legislative Information System (OLIS) at https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/HB3359. HB 3359 (2017) is enrolled as Oregon Laws 2017, ch. 679 available at https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2017orlaw0679.pdf.

RULES:
411-057-0100, 411-057-0110, 411-057-0120, 411-057-0130, 411-057-0140, 411-057-0150, 411-057-0155, 411-057-0160, 411-057-0170, 411-057-0180, 411-057-0190

AMEND: 411-057-0100

RULE TITLE: Statement of Purpose

RULE SUMMARY: 411-057-0100: Housekeeping to update program name to Aging and People with Disabilities.

RULE TEXT:

The purpose of the rules in OAR chapter 411, division 057 is to establish standards for the endorsement of memory care communities. Memory care communities provide specialized services in a secured environment for individuals with dementia. These rules are designed to ensure that residents living in memory care communities have positive quality of life, consumer protection, and person directed care. Resident's rights, dignity, choice, comfort, and independence are promoted in this setting. The endorsement does not constitute a recommendation of any memory care community by the Department of Human Services, Aging and People with Disabilities Program.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0110

RULE TITLE: Definitions

RULE SUMMARY: 411-057-0110: Adds new definition of “Endorsed Memory Care Community” to replace original “Alzheimer’s Care Unit.”

RULE TEXT:

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-054-0005 relating to Residential Care and Assisted Living Facilities and OAR 411-085-0005 relating to Nursing Facilities apply to these rules.

(1) "Advertise" means to make publicly and generally known, usually by printed notice, broadcast, verbal marketing, website, or electronic communication.

(2) "Alzheimer's Disease" means a type of dementia that gradually destroys an individual's memory and ability to learn, reason, make judgments, communicate, and carry out daily activities.

(3) "Applicant" means the person, persons, or entity, required to complete a facility application for an endorsement. Applicant includes a sole proprietor, each partner in a partnership, and each member in a limited liability company, corporation, or entity that owns the residential care facility, assisted living facility, or nursing facility business. Applicant also includes the sole proprietor, each partner in a partnership, and each member in a limited liability company, corporation, or entity that operates the residential care facility, assisted living facility, or nursing facility on behalf of the facility business owner.

(4) "Assisted Living Facility" means assisted living facility as defined in OAR 411-054-0005.

(5) "Dementia" means the loss of intellectual function of sufficient severity that interferes with an individual's daily functioning. Dementia affects an individual's memory, ability to think, reason, speak, and move. Symptoms may also include changes in personality, mood, and behavior. Irreversible dementias include but are not limited to:

(a) Alzheimer’s disease;

(b) Vascular dementia;

(c) Lewy body dementia;

(d) Frontal-temporal lobe dementia;

(e) Alcohol dementia;

(f) Huntington’s disease; and

(g) Creutzfeldt-Jakob disease.

(6)"Dementia Trained Staff" means any employee that has completed the minimum training requirements and has demonstrated knowledge and understanding in supporting individuals with dementia.

(7) "Department" means the Department of Human Services (DHS).

(8) "Direct Care Staff" means a facility employed person 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.

(9) "Disclosure Statement" means the written information the facility is required to provide to consumers to enhance the understanding of memory care community services, costs, and operations.

(10)"Division" means the Department of Human Services, Aging and People with Disabilities Program APD).

(11) "Emergency Situation" means a disruption to normal care and services caused by an unforeseen occurrence beyond the control of the licensee whether natural, technological, or human caused where staff who are trained as required in these rules are not available.

(12) “Endorsed Memory Care Community” means a special care unit in a designated, separated area for residents with

Alzheimer's disease or other forms of dementia that is locked or secured to prevent or limit access by a resident outside the designated or separated area. For purposes of these rules an endorsed memory care community will be referred to as a memory care community.
(13) "Endorsement" means the community has met the requirements to provide specialized services in a memory care community and the requirements for the community's underlying license. An endorsement does not constitute a recommendation of any memory care community by the Department. For the purpose of these rules, "indorsement" is now spelled "endorsement".
(14) "Facility" for the purpose of these rules, means a nursing facility, residential care facility, or assisted living facility.
(15) "Interdisciplinary Team" means persons including community staff, family members, and case managers as applicable, who support the resident with direct care, nursing, activities, nutrition, and case management.
(16) "Licensee" means the entity that owns the residential care, assisted living, or nursing facility business, and to whom a residential care, assisted living, or nursing facility license has been issued.
(17) "Management" or "Operator" means the entity possessing the right to exercise operational or management control over, or directly or indirectly conduct, the day-to-day operation of a facility.
(18) "Nursing Facility" means a nursing facility as defined in OAR 411-085-0005.
(19) "Person Centered Care" is a process based on a set of principles of supporting an individual to direct their own care through developing a plan rooted in what is important to the individual while taking into account all the factors that impact the individual's life. Person- centered care promotes a positive relationship between the individual and staff which is accomplished by staff being knowledgeable about the individual's life story, routines, and habits, and incorporating that information into the individual's daily care and activities.
(20) "Pre-Service Training" means training that must be completed before staff takes responsibility for their job duties.
(21) "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, Oregon Health Authority, as required by OAR 333-675-0000.
(22) "Residency Agreement" means the information required to be disclosed prior to admission to a residential care or assisted living facility as described in OAR 411-054-0025(10).
(23) "Resident" as used in these rules, means any individual with Alzheimer's disease or other dementia who lives in a memory care community.
(24) "Residential Care Facility" means residential care facility as defined in OAR 411-054-0005.
(25) "These Rules" mean the rules in OAR chapter 411, division 057.
(26) "Universal Worker" means a universal worker as defined in OAR 411-054-0005.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0120

RULE TITLE: Application for Endorsement

RULE SUMMARY: 411-057-0120: Housekeeping to update decision-making level of authority from “Division” to “Department.” Minor grammar changes were made to improve readability.

RULE TEXT:

(1) ENDORSEMENT REQUIRED. Any residential care, assisted living, or nursing facility that offers or provides care to residents with dementias in a memory care community must obtain an endorsement on its facility license.

(2) APPLICATION. At least 60 days prior to the anticipated endorsement, the applicant must submit to the Department a completed Memory Care Community Endorsement Application (form 940). The Department shall return incomplete applications to the applicant.

(3) FEE. The non-refundable endorsement application fee is due upon receipt of the application for an initial endorsement and whenever the facility’s license and endorsement is renewed. Endorsement application fees are in addition to fees required for facility licensure. Fees shall be as follows:

(a) $50 for each facility with a total memory care community endorsed capacity of 16 or fewer residents;

(b) $75 for each facility with a total memory care community endorsed capacity of 17 to 50; or

(c) $100 for each facility with a total memory care community endorsed capacity of 51 or more.

(4) The applicant must also include the following with the initial application and fee:

(a) Memory care community Uniform Disclosure Statement (form 9098 MC);

(b) Employee training curricula;

(c) Policies and procedures;

(d) Floor plan of the memory care community;

(e) Residency or admission agreement;

(f) Copy of the service or care planning tool; and

(g) Copies of brochures or advertisements that are used to advertise the facility and the facility's services.

(5) DEMONSTRATED CAPACITY. The applicant must demonstrate to the satisfaction of the Department, the ability to provide services in a manner that is consistent with the requirements of these rules.

(a) The Department shall consider the following criteria including but not limited to:

(A) The experience of the applicant in managing a memory care community or previous long-term care experience; and

(B) The compliance history of the applicant for endorsement or management company in the operation of any care facility licensed, certified, or registered under federal or state laws.

(b) If the applicant does not have experience in the operation of a memory care community, the applicant must employ a consultant or management company for at least the first six months of operation.

(A) The consultant or management company must have experience in dementia care operations and must be approved by the Department.

(B) The applicant must implement the recommendations of the consultant or management company or present an acceptable plan to the Department to address the consultant’s identified concerns.

(6) The Department shall conduct an on-site inspection prior to the issuance of an endorsement to ensure the memory care community is in compliance with the physical plant requirements as outlined in these rules.

(7) The endorsement shall be identified on the facility’s license.

(8) ENDORSEMENT RENEWAL. Renewal for endorsement must be made at the time of the renewal for the facility's license (form 940).

(9) RELINQUISHMENT OF ENDORSEMENT. The licensee must notify the Department in writing at least 60 days prior to the voluntary relinquishment of the endorsement of a memory care community. For voluntary relinquishment, the facility must:

(a) Give all residents and their designated representatives a 45-daynotice. The notice must include:

(A) The proposed effective date of the relinquishment;

(B) Changes in staffing;
(C) Changes in services including the elimination or addition of services; and
(D) Staff training that shall occur when the relinquishment becomes effective.
(b) Submit a transitional plan to the Department that demonstrates how the current residents shall be evaluated and assessed to reside in a memory care community that is not endorsed and is unsecured or would require move-out or transfer to other settings;
(c) Change each resident's service or care plans as appropriate to address any needs the residents may have with the transition;
(d) Notify the Department when the relinquishment process has been completed; and
(e) Revise advertising materials and disclosure information to remove any reference that the facility is an endorsed memory care community.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0130

RULE TITLE: Advertising of a Memory Care Community

RULE SUMMARY: 411-057-0130: Housekeeping to update decision-making level of authority from “Division” to “Department.”

RULE TEXT:

(1) An applicant may not advertise as a memory care community until the applicant has obtained an endorsement from the Department. A prospective memory care community may advertise if they have stated their intent to be endorsed and are in the initial endorsement process.

(2) A memory care community with a valid endorsement may advertise that it has an endorsement. However, the advertising materials may not imply or state that the Department recommends or supports a specific memory care community.

(3) All advertising material must be truthful and must not include or use coercive or misleading information about the endorsement of the memory care community.

(4) Upon the determination that a non-endorsed memory care community implies or advertises that they have an endorsement, the Department shall send a notice to the licensee to cease the advertising immediately. Failure to comply may result in a civil penalty as outlined in OAR 411-057-0190.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0140

RULE TITLE: Responsibilities of Administration

RULE SUMMARY: 411-057-0140: Housekeeping to update decision-making level of authority from “Division” to “Department.” Minor grammar changes were made to improve readability.

RULE TEXT:

(1) The licensee is responsible for the operation of the memory care community and the provision of person directed care that promotes each resident’s dignity, independence, and comfort. This includes the supervision, training, and overall conduct of the staff.

(2) The licensee must follow both the licensing rules for the facility and these rules.

(3) The administrator of the memory care community must complete and document that at least 10 hours of their required annual continuing educational requirements, as required by the licensing rules of the facility type, relate to the care of individuals with dementia. Continuing education credits must be obtained through Department approved sources which may include college courses, preceptor credits, self-directed activities, course instructor credits, corporate training, in-service training, professional association trainings, web-based trainings, correspondence courses, telecourses, seminars, and workshops.

(4) The memory care community must provide a Department-designated Memory Care Community Uniform Disclosure Statement to each person who requests information about the memory care community.

(5) In addition to the policies and procedures required in the licensing rules for the facility, the memory care community must develop and implement policies and procedures that address:

(a) Philosophy of how services are provided based upon the memory care community’s values, mission, and the promotion of person directed care and how it shall be implemented;

(b) Evaluation of behavioral symptoms and design of supports for intervention plans;

(c) Wandering and egress prevention that provides detailed instructions to staff in the event a resident elopes;

(d) Assessment of residents for the use and effects of medications including psychotropic medications;

(e) Use of supportive devices with restraining qualities;

(f) Staffing plan for the memory care community;

(g) Staff training specific to dementia care;

(h) Description of life enrichment program and how activities are implemented;

(i) Description of family support programs and efforts on how the family shall remain engaged;

(j) Limiting use of public address and intercom systems for emergencies and evacuation drills only;

(k) Transportation coordination and assistance to and from outside medical appointments; and

(l) Safekeeping of residents’ possessions. This policy must be provided to each resident and the resident's representative at the time of move-in.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0150

RULE TITLE: Staffing Requirements

RULE SUMMARY: 411-057-0150: Moves training requirements from this section to a new section, OAR 411-057-0155. The change deletes reference to Table 1.

RULE TEXT:

STAFFING AND PERSON-CENTERED CARE. The facility must provide residents with dementia trained staff who have been instructed in the person-centered care approach. All direct care and other community staff assigned to the memory care community must be specially trained to work with residents with Alzheimer's disease and other dementias.

(1) Only staff trained as specified in OAR 411-057-0155 shall be assigned to the memory care community.

(2) Staffing levels must comply with the licensing rules of the facility and be sufficient to meet the scheduled and unscheduled needs of residents. Staffing levels during nighttime hours shall be based on the sleep patterns and needs of residents.

(3) In an emergency situation when trained staff are not available to provide services, the facility may assign staff who have not completed the required training as outlined in OAR 411-057-0155. The particular emergency situation must be documented and must address:

(a) The nature of the emergency;

(b) How long the emergency lasted; and

(c) The names and positions of staff that provided coverage.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

ADOPT: 411-057-0155

RULE TITLE: Staff Training Requirements

RULE SUMMARY: 411-057-0155: New section that contains all training requirements for memory care communities, including the new dementia training elements required by HB 3359.

RULE TEXT:

(1) A memory care community must ensure staff who provide support to residents with dementia have a basic understanding and fundamental knowledge of the residents' emotional and unique health care needs prior to providing services to residents. The training requirements for staff who work in memory care communities are described in the following sections.

(2) ALL STAFF TRAINING REQUIREMENTS. All staff who work in memory care communities that are licensed as residential care facilities or assisted living facilities must complete the following:

(a) Pre-service training as required in OAR 411-054-0070(3).

(b) Prior to providing personal care to residents, all staff must complete dementia care training that addresses the following topics:

(A) Education on the dementia disease process,
including the progression of the disease, memory loss and psychiatric and behavioral symptoms.

(B) Techniques for understanding, communicating and responding to distressful behavioral symptoms;

(C) Strategies for addressing social needs of persons with dementia and engaging them with meaningful activities;

(D) Information concerning specific aspects of dementia care and ensuring safety of residents with dementia including, but not limited to, how to:

(i) Prevent wandering and elopement, and apply the memory care community's policies and procedures
in the event a resident elopes;

(ii) Use a person-centered approach for people with dementia.

(E) Environmental factors that are important to resident's well-being (e.g. noise, staff interactions, lighting, room temperature, etc.);

(c) Within 30 days of hire, all staff must complete training addressing:

(A) Family support and the role the family may have in the care of the resident;

(B) How to evaluate behavior and what behaviors mean by observing, collecting information, and reporting behaviors that require on-going assessment.

(3) DIRECT CARE STAFF TRAINING REQUIREMENTS. In addition to training required for all staff as described in section (2), direct care staff must complete:

(a) Pre-service training that includes how to:

(A) Identify and address pain;

(B) Provide food and fluids;

(C) Reduce the use of antipsychotic medications for non-standard uses when responding to distressful behavioral symptoms;

(D) Provide personal care to a resident with dementia, including an orientation to the resident's service plan; (training must be completed before providing personal care to a resident);

(b) Training required within 30 days after hire for direct care staff as outlined in OAR 411-054-0070(5). Training required within 30 days also includes use of supportive devices with restraining qualities;

(c) Direct care staff who work in memory care communities licensed as residential care facilities or assisted living facilities must complete a total of 16 hours of in-service training annually. The six hours of annual dementia care training required pursuant to OAR 411-054-0070(6) may be included in the 16 hours of in-service training. Annual in-service hours are due by the anniversary date of hire. All completed trainings must be documented by the facility.

(4) NURSING FACILITY STAFF. Staff who work in memory care communities licensed as nursing facilities must complete the following:

(a) Orientation as outlined in OAR 411-086-0310, 42 CFR §483.95 (F 943).
(b) Pre-service dementia care training as outlined in subsections (2) (b) and (3)(a) of this section.
(c) A total of 16 hours of annual in-service training must be completed by direct care staff only. Four of the 16 hours must be dementia care training and may be included in the 16 hours of in-service training. Annual in-service hours are due by the anniversary date of hire. All completed trainings must be documented by the facility.
(5) Persons providing or overseeing the training of staff must have experience and knowledge in the care of individuals with dementia.
(6) Pre-service and in-service training may include various methods of instruction, for example, classroom style, web-based training, video, or one to one training. The memory care community must have a method for determining and documenting each staff person's knowledge and understanding of the training provided. All training must be documented.
(7) Portability of pre-service dementia training in residential care and assisted living facilities: After completing the pre-service training, if a direct care staff person in a residential care or assisted living facility is hired within 24 months by a different residential care or assisted living facility, the hiring facility may choose to accept the previous training or require the direct care staff to complete the hiring facility's pre-service dementia training.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0160

RULE TITLE: Resident Services in a Memory Care Community

RULE SUMMARY: 411-057-0160: Housekeeping to correct grammar.

RULE TEXT:

(1) Only individuals with a diagnosis of dementia who are in need of support for the progressive symptoms of dementia for physical safety, or physical or cognitive function may reside in a memory care community. Services must be delivered in a manner that promotes the autonomy and dignity of each resident, to maintain or enhance the resident's remaining abilities for self-care.

(2) At time of move-in, the community must make reasonable attempts to identify the customary routines of each resident and the resident's preferences in how services may be delivered. Minimum services to be provided include:

(a) Assistance with activities of daily living that addresses the needs of each resident with dementia due to cognitive or physical limitations. These services must meet or be in addition to the requirements in the licensing rules for the facility. Services must be provided in a manner that promotes resident choice, dignity, and sustains the resident's abilities.

(b) Health care services provided in accordance with the licensing rules of the facility.

(c) A daily meal program for nutrition and hydration must be provided and available throughout each resident’s waking hours. The individualized nutritional plan for each resident must be documented in the resident’s service or care plan. In addition, the memory care community must provide:

(A) Visual contrast between plates, eating utensils, and the table to maximize the independence of each resident; and

(B) Adaptive eating utensils for those residents who have been evaluated as needing them to maintain their eating skills.

(d) Meaningful activities that promote or help sustain the physical and emotional well-being of residents. The activities must be person directed and available during residents’ waking hours.

(A) Each resident must be evaluated for activities according to the licensing rules of the facility. In addition, the evaluation must address the following:

(i) Past and current interests;

(ii) Current abilities and skills;

(iii) Emotional and social needs and patterns;

(iv) Physical abilities and limitations;

(v) Adaptations necessary for the resident to participate; and

(vi) Identification of activities for behavioral interventions.

(B) An individualized activity plan must be developed for each resident based on their activity evaluation. The plan must reflect the resident’s activity preferences and needs.

(C) A selection of daily structured and non-structured activities must be provided and included on the resident’s activity service or care plan as appropriate. Daily activity options based on resident evaluation may include but are not limited to:

(i) Occupation or chore related tasks;

(ii) Scheduled and planned events (e.g. entertainment, outings);

(iii) Spontaneous activities for enjoyment or those that may help diffuse a behavior;

(iv) One to one activities that encourage positive relationships between residents and staff (e.g. life story, reminiscing, music);

(v) Spiritual, creative, and intellectual activities;

(vi) Sensory stimulation activities;

(vii) Physical activities that enhance or maintain a resident’s ability to ambulate or move; and

(viii) Outdoor activities.

(e) Behavioral symptoms which negatively impact the resident and others in the community must be evaluated and included on the service or care plan. The memory care community must initiate and coordinate outside consultation or acute care when indicated.

(f) Support must be offered to family and other significant relationships on a regularly scheduled basis not less than quarterly. Examples in which support may be provided include support groups, community gatherings, social events, or meetings that address the needs of individual residents or their family or significant relationships.
(g) Access to secured outdoor space and walkways which allow residents to enter and return without staff assistance, except when indicated by OAR 411-057-0170(5)(e).

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0170

RULE TITLE: Physical Design, Environment, and Safety

RULE SUMMARY: 411-057-0170: Housekeeping to update decision-making level of authority from “Division” to “Department.” Renumbers Table 2 to Table 1.

RULE TEXT:

(1) It is the intent of these rules that the physical environment and design support the needs of individuals who are cognitively impaired. The physical environment should maximize functional abilities, accommodate behavior that is related to dementia, promote safety, enhance personal dignity, and encourage independence.

(2) BUILDING CODES. Each memory care community must meet the following building codes:

(a) Newly endorsed memory care communities must comply with the Oregon Structural Specialty Code (OSSC) SR-2 occupancy classification. If endorsed prior to the SR-2 requirement, the facility must comply with the building code in place at the time of original endorsement.

(b) Memory care communities must be located on the ground level of the building to ensure access to outdoor space and safe evacuation.

(3) LIGHTING.

(a) Research conducted in regards to lighting intensities has shown an impact on individuals with dementia. Lighting throughout the day or night may have an impact on an individual's functional abilities, as well as in mood and behavior. For communities that are in development or remodeling to new standards, the Department encourages facilities to review and implement the Recommended Practice for Lighting and Visual Environment for Senior Living as outlined in the ANSI/IESNA RP-28-07.

(b) The following lighting requirements must be met. These requirements apply to newly endorsed, constructed, or remodeled communities which have construction documents approved on or after November 1, 2010.

(A) Light fixtures must be designed to minimize direct glare (for example: indirect or diffused lighting). Bare light bulbs or tubes are not allowed;

(B) Lighting fixtures and circuitry must conform to lighting intensities shown in Table 1;

(C) Windows and skylights must be utilized to minimize the need for artificial light and to allow residents to experience the natural daylight cycle; and

(D) All windows must have coverings which diffuse daylight and minimize glare without blocking all light during the day. In addition, bedroom window coverings must provide privacy and block light from street lights or parking lot lights from entering the bedroom at night.

(4) SURFACE FINISHES. The following requirements for surface finishes must be met. These requirements apply to newly endorsed, constructed, or remodeled communities which have construction documents approved on or after November 1, 2010.

(a) Walls, floors, ceilings, and woodwork must be finished to minimize reflected glare and must have a low sheen or matte finish;

(b) There must be high visual surface contrasts to assist residents with limited visual acuity to distinguish between floor and wall, between wall and door, and between floor and other objects (e.g. toilet);

(c) Paint and other finishes used on the ceiling must have a light reflectance value of 80 percent or higher; and

(d) Paint and other finishes used on walls above 36 inches from the floor must have a light reflectance value of 60 percent or higher.

(5) SECURE OUTDOOR RECREATION AREA. The memory care community must comply with facility licensing requirements for outdoor recreation areas as well as the following standards. These requirements apply to newly endorsed, constructed, or remodeled communities which have construction documents approved on or after November 1, 2010 with the exception of subsections (d) and (e) of this section.

(a) The space must be a minimum of 600 square feet or 15 square feet per resident, whichever is greater and is exclusive of normal walkways and landscaping. The space must have a minimum dimension of 15 feet in any direction;

(b) Fences surrounding the perimeter of the outdoor recreation area must be no less than six feet in height, constructed to reduce the risk of resident elopement, and maintained in functional condition;
(c) Walkways must meet the accessibility requirements of the Oregon Structural Specialty Code. Walkway surfaces must be a medium to dark reflectance value to prevent glare from reflected sunlight;
(d) Outdoor furniture must be sufficient weight, stability, design, and be maintained to prevent resident injury or aid in elopement; and
(e) Doors to the outdoor recreation area may be locked during nighttime hours or during severe weather per facility policy.
(6) COMMON AREAS. Common areas must include the following requirements:
(a) Freedom of movement for the residents to common areas and to the resident's personal spaces;
(b) A multipurpose room for dining, group and individual activities, and family visits that complies with the facility licensing requirements for common space;
(c) Comfortable seating;
(d) Safe corridors and passageways through the common areas that are free of objects that may cause falls; and
(e) Windows or skylights that are at least as large as 12 percent of the square footage of the common area.
(7) A public address or intercom system is not required, however if one exists it must be used within the memory care community only for emergencies.
(8) RESIDENT ROOMS.
(a) Residents may not be locked out of or inside of their rooms at any time.
(b) Residents must be encouraged to decorate and furnish their rooms with personal items and furnishings based on the resident's needs, preferences, and appropriateness.
(c) The memory care community must individually identify residents' rooms to assist residents in recognizing their room.
(9) EXIT DOORS.
(a) Locking devices used on exit doors, as approved by the Building Codes Agency and Fire Marshal having jurisdiction over the memory care community, must be electronic and release when the following occurs:
(A) Upon activation of the fire alarm or sprinkler system;
(B) Power failure to the facility; or
(C) By activating a key button or key pad located at exits for routine use by staff.
(b) If the memory care community uses keypads to lock and unlock exits, then directions for the keypad code and their operation must be posted on the outside of the door to allow access to the unit. However, if all of the community is endorsed, then directions for the operation of the locks need not be posted on the outside of the door.
(c) Memory care communities may not have entrance and exit doors that are closed with non-electronic keyed locks. A door with a keyed lock may not be placed between a resident and the exit.
(d) If the memory care community does not post the code, the community must develop a policy or a system that allows for visitor entry.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

Light Levels for Memory Care Communities
Minimum Maintained Average Luminance Measured in Foot-candles
Table 1

Areas	Ambient Light	Task Light
Exterior Entrance (Night)	10	NA
Interior Entry (Day – within the first 10 feet from door	50	NA
Interior Entry (Night)	10	NA
Exit Stairways and Landings (Value Contrast on edge)	30	NA
Elevator Interiors	30	NA
Exterior Walking Surface (Night)	5	NA
Administrative Areas	30	50
Visiting Areas (Day)	30	NA
Visiting Areas (Night)	10	NA
Resident Bedroom/Apartment		
Entrance	30	NA
Wardrobe	30	NA
Living Room	30	75
Bedroom (Day)	30	75
Make-up/Shaving Vanity	30	60
Shower/Bathing Room	30	NA
Activity Areas	30	50
Chapel or Quiet Area	30	NA
Barber/Beautician (Day)	50	NA
Hallways (Day)	30	NA
Hallways (Night/Sleeping)	10	NA
Dining (Active Hours)	30	50 (On table surface)

Notes:

- Utilization of daylight is encouraged in entry ways to provide transition between outside and interior illumination levels. Areas commonly used by residents, i.e. dining, activity and living rooms should maximize use of daylight.
- Ambient light levels are minimum averages measured at 30 inches above the floor in a horizontal plane. Task light levels are absolute minimums taken on the work surface. In the Make-up/Shaving area the measurement is to be taken four feet above the finished floor.

AMEND: 411-057-0180

RULE TITLE: Exceptions

RULE SUMMARY: 411-057-0180: Housekeeping to update decision-making level of authority from “Division” to “Department.”

RULE TEXT:
Exceptions to these rules shall be reviewed by the Department and processed in accordance with the licensing rules of the facility.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886

AMEND: 411-057-0190

RULE TITLE: Complaints, Inspections, and Sanctions

RULE SUMMARY: 411-057-0190: Housekeeping to update decision-making level of authority from “Division” to “Department.”

RULE TEXT:

(1) COMPLAINTS AND INVESTIGATIONS. The Department shall investigate complaints regarding an endorsed memory care community in accordance with the complaint and investigation procedures in the licensing rules of the facility. Complaints and investigations may include alleged violations of ORS 443.886 or violations of these rules. When the Department requests documents or records during an investigation, the licensee must make the information available to the investigator promptly for review and copying.

(2) INSPECTIONS. At the time of the memory care community’s regular license renewal, the Department shall inspect the memory care community to determine compliance with these rules.

(3) SANCTIONS. Sanctions for failure to comply with these rules may include the imposition of civil penalties, licensing conditions, suspension, denial, non-renewal, or revocation of the endorsement. Sanctions involving the endorsement shall be in accordance with the licensing rules of the facility type applicable to the type of sanction imposed.

(a) SUSPENSION. The Department may immediately suspend a memory care community’s endorsement if the Department finds a serious threat to the public health and safety and sets forth specific reasons for such findings.

(b) DENIAL AND NON-RENEWAL OF ENDORSEMENT APPLICATION. The Department may deny or refuse to renew an endorsement under the following circumstances:

(A) Failure to demonstrate capacity as required in OAR 411-057-0120(5);

(B) Substantial failure to comply with Department rules;

(C) Failure to provide complete and accurate information on the application;

(D) When the State Fire Marshal or authorized representative certifies there is failure to comply with all applicable ordinances and rules pertaining to safety from fire; and

(E) Failure to implement a plan of correction or comply with a licensing or endorsement condition that ensures the safety and security of residents or fails to provide the required dementia care programming to residents living within the memory care community.

(c) REVOCATION. The Department may issue a notice of revocation of endorsement upon finding that there is substantial failure to comply with these rules such that the health, safety, or welfare of residents is jeopardized, or any substantial failure to comply with one or more of these rules.

(4) The licensee is entitled to a hearing in accordance with the provisions of ORS chapter 183 when the Department takes enforcement action on the endorsement of a memory care community.

STATUTORY/OTHER AUTHORITY: ORS 410.070, 443.886

STATUTES/OTHER IMPLEMENTED: ORS 443.886