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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

Oregon Health Authority

Date prior to or same as filing date
943

Agency and Division

Administrative Rules Chapter Number

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to become effective [**December 5, 2011** Rulemaking Notice was published in the [**November 1, 2011**] Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Abuse or Mistreatment Reporting and Protective Services in Community Programs for Adults with Mental Illness
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: OAR 943-045-0250; 943-045-0260; 943-045-0280; 943-045-0290; 943-045-0300; 943-045-0310; 943-045-0320; 943-045-0330; 943-045-0340; 943-045-0350; 943-045-0360; 943-045-0370

AMEND:

REPEAL: OAR 943-045-0250(T), 943-045-0260(T), 943-045-0280(T), 943-045-0290(T), 943-045-0300(T), 943-045-0310(T), 943-045-0320(T), 943-045-0330(T), 943-045-0340(T), 943-045-0350(T), 943-045-0360(T), 943-045-0370(T)

Stat. Auth.: **ORS 179.040 & 413.042, 414.715 & 430.731**

Other Auth.: **HB 2009, enacted in 2009 Or Laws, chapter 595 Sections 19-25**

Stats. Implemented: **ORS 413.032, 430.735-430.765, 443.400-443.460, 443.705-443.825**

FILED

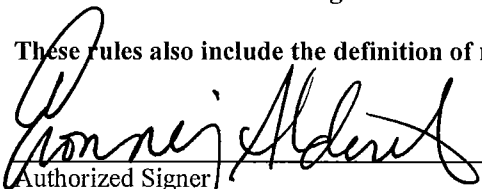
DEC 01 2011

**ARCHIVES DIVISION
SECRETARY OF STATE**

RULE SUMMARY

HB 2009 created the Oregon Health Authority and transferred to the Authority the Department of Human Services' Divisions responsible for health and health care. With the creation of a new agency, the community programs and community facilities serving adults with mental illness moved to the Authority. Community programs and facilities serving adults with developmental disabilities will continue to be governed by the Department of Human Services' rule found at OAR 407-045-0250 to 0370. The Authority needs to adopt these rules to reflect the separation of the Department of Human Services and Oregon Health Authority.

These rules also include the definition of mistreatment.



Evonne Alderete
Printed name

11/29/11
Date

*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

04A 29-2011

NEW RULE

DIVISION 45

OFFICE OF INVESTIGATIONS AND TRAINING

Abuse or Mistreatment Reporting and Protective Services in Community Programs and Community Facilities for Adults with Mental Illness

943-045-0250

Purpose

These rules, OAR 943-045-0250 to 943-045-0370, prescribe standards and procedures for the investigation of, assessment for, and provision of protective services in community programs and community facilities, and the nature and content of the abuse or mistreatment investigation and protective services report.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0260

Definitions

As used in OAR 943-045-0250 to 943-045-0370, the following definitions apply:

(1) “Abuse of an adult with mental illness” means:

(a) Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.

(b) “Neglect” means the active or passive withholding of services necessary to maintain the health and well-being of an adult, which leads to physical harm of an adult. “Services” include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the adult.

(c) “Physical abuse” means:

(A) Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

(B) Willful infliction of physical pain or injury.

(C) Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

(D) Physical abuse does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(d) “Sexual abuse” including:

(A) An act that constitutes a crime under ORS 163.375 (rape in the first degree), 163.405 (sodomy in the first degree), 163.411 (unlawful penetration in the first degree), 164.415 (sexual abuse in the third degree), 163.425 (sexual abuse in the second degree), (163.427 (sexual abuse in the first degree), 163.456 (public indecency) or 163.467 (private indecency).

(B) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

(C) Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage sexual contact between an employee of a community facility or community program, provider, or other caregiver and an adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome physical sexual contact including requests for sexual favors and other physical conduct directed toward an adult.

(D) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

(E) Any sexual contact that is achieved through force, trickery, threat, or coercion.

(F) As defined in ORS 163.305, "sexual contact" means any touching of sexual or other intimate parts of a person or causing such person to touch sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(G) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to mistreatment.

(2) "Abuse or Mistreatment Investigation and Protective Services Report" means a completed report.

(3) "Adult" means an individual who is 18 years of age or older who:

(a) Has a mental illness and is receiving services from a community program or facility;

(b) Receives services in a residential treatment home, residential care facility, adult foster home, or is in a facility approved by the Addictions and Mental Health Division (Division) for acute care services or crisis respite when the adult is in custody in the facility pursuant to ORS 426.072, and;

(c) Is the alleged abuse or mistreatment victim.

(4) "Adult Foster Home" means any home licensed by the Authority's Addictions and Mental Health Division pursuant to OAR 309-040-0300 *et seq.*, in which residential care is provided to five or fewer adults who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825.

(5) "Adult protective services" means the necessary actions taken to prevent abuse or mistreatment or exploitation of an adult, to prevent self-destructive acts, and to safeguard an allegedly abused or mistreated adult's person, property, or funds.

(6) "Authority" means the Oregon Health Authority.

(7) "Caregiver" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(8) "Community facility" means a community residential treatment home, residential care facility, adult foster home. "Community facility" also means a facility approved by the Division for acute care services or crisis respite when the adult is in custody in the facility pursuant to ORS 426.072.

(9) "Community program" means the community mental health program as established in ORS 430.610 to 430.695.

(10) "Designee" means the community program.

(11) "Department" means the Department of Human Services.

(12) "Inconclusive" means there is insufficient evidence to conclude the alleged abuse or mistreatment occurred or did not occur by a preponderance of the evidence. The inconclusive determination may be used only in the following circumstances:

(a) After diligent efforts have been made, the protective services investigator is unable to locate the person alleged to have committed the abuse or mistreatment, or cannot locate the alleged victim or another individual who might have information critical to the investigation; or
(b) Relevant records or documents are unavailable, or there is conflicting or inconsistent information from witnesses, documents, or records with the result that after the investigation is complete, there is insufficient evidence to support a substantiated or not substantiated conclusion.

(13) "Law enforcement agency" means any city or municipal police department, county sheriff's office, the Oregon State Police, or any district attorney.

(14) "Mandatory reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that an adult has suffered abuse, or that any individual with whom the official comes in contact while acting in an official capacity has abused an adult. Pursuant to ORS 430.765(2), psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 295.

(15) "Mistreatment" means mistreatment as defined in OAR 309-035-0105, OAR 309-035-0260 and OAR 309-040-0305.

(16) "Not substantiated" means the preponderance of evidence establishes the alleged abuse or mistreatment did not occur.

(17) "Office of Investigations and Training" (OIT) means the Department's Shared Services Division responsible for the investigation of allegations of abuse or mistreatment made in community programs and community facilities for adults with mental illness

(18) "Provider agency" means an entity licensed or certified to provide services to adults in Adult Foster Homes (AFH), Residential Treatment Homes (RTH) or Residential Care Facilities (RCF). "Provider agency" also means a facility approved by the Division for acute care services or crisis respite when the adult is in custody in the facility pursuant to ORS 426.072.

(19) "Public or private official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor, or podiatrist, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide, or employee of an in-home health services organization;

(c) Employee of the Authority, Department, county health department, community mental health or developmental disabilities program, or private agency contracting with a public body to provide any community services;

(d) Peace officer;

(e) Member of the clergy;

(f) Licensed clinical social worker;

(g) Physical, speech, or occupational therapist;

(h) Information and referral, outreach, or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Firefighter or emergency medical technician; or

(l) Any public official who comes in contact with adults in the performance of the official's duties.

(20) "Residential Care Facility (RCF)" means a facility licensed by the Division that is operated to provide services on a 24-hour basis for six or more residents pursuant to OAR 309-035-0100 *et seq.*.

(21) "Residential Treatment Home (RTH)" means a home licensed by the Division that is operated to provide services on a 24-hour basis for five or fewer residents pursuant to OAR 309-035-0250 *et seq.*.

(22) "Substantiated" means that the preponderance of evidence establishes the abuse or mistreatment occurred.

(23) "Unbiased investigation" means an investigation that is conducted by a community program that does not have an actual or potential conflict of interest with the outcome of the investigation.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0280

Training for Individuals Investigating Reports of Alleged Abuse or Mistreatment

(1) The Authority shall provide sufficient and timely training and consultation to community programs to ensure that the community program is able to conduct a thorough and unbiased investigation and reach a conclusion about the abuse or mistreatment. Training shall include initial and continuing education of any individual designated to conduct protective services investigations.

(2) The training shall address the cultural and social diversity of the State of Oregon.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0290

General Duties of the Community Program and Initial Action on Report of Alleged Abuse or Mistreatment

(1) For the purpose of carrying out these rules, community programs are Authority designees.

(2) If mandatory reporters have reasonable cause to believe abuse of an adult has occurred, the reporter must report the abuse to the community program, to a local law enforcement agency, or to the Authority when the reporter believes a crime may have been committed.

(3) Each community program shall designate at least one employee to conduct protective services investigations. Community programs shall require their designated protective services investigators to participate in training and to demonstrate an understanding of investigative core competencies.

(4) If the Authority or community program has reasonable cause to believe abuse or mistreatment occurred, it must immediately notify the appropriate public licensing or certifying agency and provide a copy of the abuse investigation and completed protective services report.

(5) If the Authority or community program has reasonable cause to believe that an individual licensed or certified by any state agency to provide care has committed abuse or mistreatment, it must immediately notify the appropriate state licensing or certifying agency and provide that agency with a copy of the abuse or mistreatment investigation and completed protective services report.

(6) The Authority or community program may share information prior to the completion of the abuse or mistreatment investigation and protective services report if the information is necessary for:

- (a) The provision of protective services; or
- (b) The function of licensing and certifying agencies or law enforcement agencies.

(7) Each community program must establish an after hours reporting system.

(8) Upon receipt of any report of alleged abuse or mistreatment or upon receipt of a report of a death that may have been caused by other than accidental or natural means, the community program must begin:

(a) Investigation into the nature and cause of the alleged abuse or mistreatment within one working day of receipt of the report to determine if abuse or mistreatment occurred or whether a death was caused by abuse or mistreatment;

(b) Assessment of the need for protective services; and

(c) Provision of protective services, if protective services are needed.

(9) The community program receiving a report alleging abuse or mistreatment must document the information required by ORS 430.743(1) and any additional reported information. The community program must attempt to elicit the following information from the individual making a report:

(a) The name, age, and present location of the adult;

(b) The names and addresses of the adult's programs or facilities responsible for the adult's care;

(c) The nature and extent of the alleged abuse or mistreatment, including any evidence of previous abuse or mistreatment of the adult or evidence of previous abuse or mistreatment by the person alleged to have committed the abuse or mistreatment;

(d) Any information that led the individual making the report to suspect abuse or mistreatment had occurred;

(e) Any information that the individual believes might be helpful in establishing the cause of the abuse or mistreatment and the identity of the person alleged to have committed the abuse or mistreatment; and

(f) The date of the incident.

(10) The community program shall maintain all reports of abuse or mistreatment in a confidential location.

(11) If there is reason to believe a crime has been committed, the community program must contact the law enforcement agency with jurisdiction in the county where the report is made.

(12) Upon receipt of a report of abuse or mistreatment, the community program must notify the case manager providing primary case management services to the adult. The community program must also notify the guardian of the adult unless doing so would undermine the integrity of the abuse or mistreatment investigation or a criminal investigation because the guardian or case manager is suspected of committing abuse or mistreatment.

(13) If there is reasonable cause to believe that abuse or mistreatment has occurred, the community program must determine if the adult is in danger or in need of immediate protective services and shall provide those services immediately. Under these circumstances, the community program must also advise the provider agency or guardian about the allegation, and must include any information appropriate or necessary for the health, safety, and best interests of the adult in need of protection.

(14) The community program shall immediately, but no later than one working day, notify the Authority it has received a report of abuse or mistreatment, in the format provided by the Authority.

(15) In addition to the notification required by section (12) of these rules, if the community program determines that a report will be assigned for investigation, the community program must notify the provider agency, guardian, and any other individual with responsibility for providing services and protection, unless doing so would compromise the safety, health, or best interests of the adult in need of protection, or would compromise the integrity of the abuse or mistreatment investigation or a criminal investigation. The notice shall include information that the case shall be assigned for investigation, identify the investigator, and provide information regarding how the assigned investigator may be contacted. The notice must be provided within five working days from the date the report was received.

(16) If the community program determines from the report that there is no reasonable cause to believe abuse or mistreatment occurred, the community program shall notify the provider agency within five working days that a protective services investigation shall not commence and explain the reasons for that decision. The community program shall document the notice and maintain a record of all notices.

(17) The community program or law enforcement agency shall notify the appropriate medical examiner in cases where the community program or law enforcement agency finds reasonable cause to believe that an adult has died as a result of abuse or mistreatment or where the death occurred under suspicious or unknown circumstances.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0300

Investigation of Alleged Abuse or Mistreatment

(1) Investigation of abuse or mistreatment shall be thorough and unbiased. Community programs may not investigate allegations of abuse or mistreatment made against employees of the community program. Investigations of community program staff shall be conducted by the Authority or other community programs not subject to an actual or potential conflict of interest.

(2) In conducting an abuse or mistreatment investigation, the investigator must:

(a) Make in-person contact with the adult;

(b) Interview the adult, witnesses, the person alleged to have committed the abuse or mistreatment, and other individuals who may have knowledge of the facts of the abuse or mistreatment allegation or related circumstances. Interviews must be conducted in-person where practicable. The investigator must attempt to elicit the date of birth for each individual interviewed and shall obtain the date of birth of any person alleged to have committed the alleged abuse or mistreatment;

(c) Review all evidence relevant and material to the complaint; and

(d) Photograph the adult consistent with forensic guidelines, or arrange for the adult to be photographed, to preserve evidence of the alleged abuse or mistreatment and of the adult's physical condition at the time of investigation, unless the adult knowingly refuses.

(3) All records necessary for the investigation shall be available to the community program for inspection and copying. A community facility shall provide community programs access to employees, the adult, and the premises for investigation purposes.

(4) When a law enforcement agency is conducting a criminal investigation of the alleged abuse or mistreatment, the community program shall also perform its own investigation as long as it does not interfere with the law enforcement agency investigation under the following circumstances:

- (a) There is potential for action by a licensing or certifying agency;
 - (b) Timely investigation by law enforcement is not probable; or
 - (c) The law enforcement agency does not complete a criminal investigation.
- (5) When a law enforcement agency is conducting an investigation of the alleged abuse or mistreatment, the community program must communicate and cooperate with the law enforcement agency.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0310

Assessment for and Provision of Protective Services to the Adult

The community program shall ensure that appropriate and necessary protective services are provided to the adult to prevent further abuse or mistreatment and must be undertaken in a manner that is least intrusive to the adult and provide for the greatest degree of independence available within existing resources. Assessment for the provision of protective services may include:

- (1) Arranging for the immediate protection of the adult;
- (2) Contacting the adult to assess his or her ability to protect his or her own interest or give informed consent;
- (3) Determining the ability of the adult to understand the nature of the protective service and his or her willingness to accept services;
- (4) Coordinating evaluations to determine or verify the adult's physical and mental status, if necessary;
- (5) Assisting in and arranging for appropriate services and alternative living arrangements;
- (6) Assisting in or arranging the medical, legal, financial, or other necessary services to prevent further abuse or mistreatment;
- (7) Providing advocacy to assure the adult's rights and entitlements are protected; and
- (8) Consulting with the community facility, program, or others as appropriate in developing recommendations or requirements to prevent further abuse or mistreatment.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0320

Abuse or Mistreatment Investigation and Protective Services Report

- (1) The Authority shall provide abuse or mistreatment investigation and protective services report formats.
- (2) Upon completion of the investigation and within 45 calendar days of the date the community program has assigned a report alleging abuse or mistreatment for investigation, the community programs shall prepare an abuse or mistreatment investigation and protective services report. This 45-day time period does not include an additional five-working day period allowing OIT to review and approve the report. The protective services report shall include:
 - (a) A statement of the allegations being investigated, including the date, location, and time;

- (b) A list of protective services provided to the adult;
 - (c) An outline of steps taken in the investigation, a list of all witnesses interviewed, and a summary of the information provided by each witness;
 - (d) A summary of findings and conclusion concerning the allegation of abuse or mistreatment;
 - (e) A specific finding of "substantiated," "inconclusive," or "not substantiated";
 - (f) A plan of action necessary to prevent further abuse or mistreatment of the adult;
 - (g) Any additional corrective action required by the community program and deadlines for completing these actions;
 - (h) A list of any notices made to licensing or certifying agencies;
 - (i) The name and title of the individual completing the report; and
 - (j) The date the report is written.
- (3) In cases where, for good cause shown, the protective services investigator cannot complete the report within 45 days, the investigator shall submit a request for time extension to OIT.
- (a) An extension may be granted for good cause shown which includes but is not limited to:
 - (A) When law enforcement is conducting an investigation;
 - (B) A material party or witness is temporarily unavailable;
 - (C) New evidence is discovered;
 - (D) The investigation is complex (e.g. large numbers of witnesses need to be interviewed taking into account scheduling difficulties and limitations; consultation with experts, or a detailed review of records over an extended period of time is required); or
 - (E) For some other mitigating reason.
 - (b) When granting an extension, OIT shall consult with the program about the need for an extension and determine the length of the extension as necessary.
 - (c) The community program shall notify the provider agency and guardian when an extension is granted and advise them of the new report due date.
- (4) A copy of the final abuse or mistreatment investigation and protective services report shall be provided to the Authority within five working days of the report's completion and approval by OIT.
- (5) The community program must provide notice of the outcome of the investigation, or assure that notice is provided to the alleged victim, guardian, provider agency, accused person, and to any law enforcement agency which previously received notice of the initial report. Notice of outcome shall be provided to a reporter upon the reporter's request. Notice of outcome must be made within five working days after the date the case is completed and approved by OIT. The community program must document how the notice was provided.
- (6) A centralized record of all abuse or mistreatment investigation and protective services reports shall be maintained by community programs for all abuse or mistreatment investigations conducted in their county, and by the Authority for all abuse or mistreatment investigations in the state.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0330

Disclosure of the Abuse or Mistreatment Investigation and Protective Services Report and Related Documents

- (1) Portions of the abuse or mistreatment investigation and protective services report and underlying investigatory documents are confidential and are not available for public inspection.

Pursuant to ORS 430.763, names of abuse or mistreatment reporters, witnesses, and the alleged abuse or mistreatment victim are confidential and shall not be available for public inspection. Investigatory documents, including portions of the abuse or mistreatment investigation and protective services report that contains "individually identifiable health information," as that term is defined under ORS 192.519 and 45 CFR 160.103, are confidential under federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 45 CFR Parts 160 and 164, and ORS 192.520 and 179.505-179.509.

(2) Notwithstanding section (1) of this rule, the Authority shall make confidential information available, including any photographs if appropriate, to any law enforcement agency, public agency that licenses or certifies facilities or licenses or certifies the individuals practicing therein, and any public agency providing protective services for the adult. The Authority shall make the protective services report and underlying investigatory materials available to any private agency providing protective services for the adult and to the protection and advocacy system designated pursuant to ORS 192.517(1).

(3) Individuals or entities receiving confidential information pursuant to this rule shall maintain the confidentiality of the information and shall not redisclose the confidential information to unauthorized individuals or entities, as required by state or federal law.

(4) The community program shall prepare a redacted version of the final completed abuse or mistreatment investigation report within 10 days after the date of the final report. The redacted report shall not contain any confidential information which is prohibited from disclosure pursuant to state or federal law. The redacted report shall be submitted to the provider agency.

(5) The community program shall provide a redacted version of the written report to the public for inspection upon written request.

(6) When the abuse or mistreatment investigation and protective services report is conducted by a community program as the Authority's designee, the protective services investigation may be disclosed pursuant to this rule either by the community program or the Authority.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400-443.460, 443.705-443.825

943-045-0340

Prohibition Against Retaliation

(1) A community facility, community program, or individual shall not retaliate against any individual who reports suspected abuse or mistreatment in good faith, including the adult.

(2) Any community facility, community program, or individual that retaliates against any individual because of a report of suspected abuse or mistreatment shall be liable, according to ORS 430.755, in a private action to that individual for actual damages and, in addition, a civil penalty up to \$1,000, notwithstanding any other remedy provided by law.

(3) Any adverse action creates a presumption of retaliation if taken within 90 days of a report of abuse or mistreatment. For purposes of this sub-section, "adverse action" means any action taken by a community facility, community program, or individual involved in a report against the individual making the report or against the adult because of the report and includes but is not limited to:

- (a) Discharge or transfer from the community facility, except for clinical reasons;
- (b) Termination of employment;
- (c) Demotion or reduction in remuneration for services; or
- (d) Restriction or prohibition of access to the community facility or its residents.

(4) Adverse action may also be evidence of retaliation after 90 days even though the presumption no longer applies.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0350

Immunity of Individuals Making Reports in Good Faith

(1) Any individual who makes a good faith report and who had reasonable grounds for making the report shall have immunity from civil liability with respect to having made the report.

(2) The reporter shall have the same immunity in any judicial proceeding resulting from the report as may be available in that proceeding.

(3) An individual who has personal knowledge that an employee or former employee of the adult was found to have committed abuse is immune from civil liability for the disclosure to a prospective employer of the employee of known facts concerning the abuse.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0360

Authority Investigation of Alleged Abuse or Mistreatment

(1) If determined necessary or appropriate, the Authority may conduct an investigation rather than allow the community program to investigate the alleged abuse or mistreatment or in addition to the investigation by the community program. Under such circumstances, the community program must receive authorization from the Authority before conducting any separate investigation.

(2) The community program shall make all records necessary for the investigation available to the Authority for inspection and copying. The community facilities and community programs must provide the Authority access to employees, the adult, and the premises for investigation purposes.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825

943-045-0370

County Multidisciplinary Teams

(1) The community program must participate in its county Multidisciplinary Team (MDT) to coordinate and collaborate on protective services for the abuse or mistreatment of adults with developmental disabilities or mental illness or both.

(2) All confidential information protected by state and federal law that is shared or obtained by MDT members in the exercise of their duties on the MDT is confidential and may not be further disclosed except as permitted by law.

(3) The community program or OIT shall provide an annual report to the MDT reporting the number of investigated and substantiated allegations of abuse or mistreatment of adults and the number referred to law enforcement in the county.

Stat. Authority: ORS 179.040 & 413.042, 414.715 & 430.731

Stats. Implemented: ORS 413.032, 430.735–430.765, 443.400–443.460, 443.705–443.825