

OREGON BULLETIN

Supplements the 2017 Oregon Administrative Rules Compilation

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the Oregon *Administrative Rules Compilation* and the online *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual print publication containing complete text of Oregon Administrative Rules (OARs) filed through November 15 of the previous year. The *Oregon Bulletin* is a monthly online supplement that contains rule text adopted or amended after publication of the print Compilation, as well as Notices of Proposed Rulemaking and Rulemaking Hearing. The Bulletin also includes certain non-OAR items when they are submitted, such as Executive Orders of the Governor, Opinions of the Attorney General and Department of Environmental Quality cleanup notices.

Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General’s Administrative Law Manual*. The Administrative Rules Unit assists agencies with the notification, filing and publication requirements of the administrative rulemaking process.

OAR Citations

Every Administrative Rule uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number (000-000-0000). For example, Oregon Administrative Rules, chapter 166, division 500, rule 0020 is cited as OAR 166-500-0020.

Understanding an Administrative Rule’s “History”

State agencies operate in an environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track changes to individual rules and organize the original rule documents for permanent retention, the Administrative Rules Unit maintains history lines for each rule, located at the end of the rule text. OAR histories contain the rule’s statutory authority, statutes implemented and dates of each authorized modification to the rule text. Changes are listed chronologically in abbreviated form, with the most recent change listed last. In the history line “OSA 4-1993, f. & cert. ef. 11-10-93,” for example, “OSA” is short for Oregon State Archives; “4-1993” indicates this was 4th administrative rule filing by the Archives in 1993; “f. & cert. ef. 11-10-93” means the rule was filed and certified effective on November 10, 1993.

Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through

November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin’s OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule’s effective date, rule-making action, and the issue of the Bulletin that contains the full text of the adopted or amended rule.

Locating Administrative Rule Publications

Printed volumes of the Compilation are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000. Complete sets and individual volumes of the printed OAR Compilation may be ordered from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701.

Filing Administrative Rules and Notices

All hearing and rulemaking notices, and permanent and temporary rules, are filed through the Administrative Rules Unit’s online filing system. To expedite the rulemaking process, agencies are encouraged to file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and to submit their filings early in the submission period. All notices and rules must be filed by the 15th of the month to be included in the next month’s Bulletin and OAR Compilation postings. Filings must contain the date stamp from the deadline day or earlier to be published the following month.

Administrative Rules Coordinators and Delegation of Signing Authority

Each agency that engages in rulemaking must appoint a rules coordinator and file an Appointment of Agency Rules Coordinator form with the Administrative Rules Unit. Agencies that delegate rule-making authority to an officer or employee within the agency must also file a Delegation of Rulemaking Authority form. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and keep the forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process.

Publication Authority

The Oregon Bulletin is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701. The Archives Division charges for such copies.

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division. Any discrepancies with the published version are satisfied in favor of the Administrative Order.

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OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR FORMER YORK RECYCLING PROPERTY

COMMENTS DUE: Thursday, Aug. 31, 2017

PROJECT LOCATION: Former York Recycling Property; 9217 North Peninsular Avenue, Portland OR, 97217

PROPOSAL: The Department of Environmental Quality (DEQ) seeks comments on its proposed consent order for a prospective purchaser agreement with Malarkey Oregon Holdings I, LLC concerning its acquisition of real property located at 9217 North Peninsular Avenue, Portland OR, 97217 (Property). The property proposed for acquisition is an approximately 1.32 acre site consisting of tax lot 1N1E09BB 200. The applicant proposes to re-develop the property for industrial uses consistent with City of Portland zoning requirements.

The property was developed in 1928 as Pacific Stoneware Company. Operations included steam-powered pottery production, primarily for flower pots and stoneware. These operations included use of petroleum hydrocarbons to heat kilns. In 1960, the Pacific Stoneware Company went bankrupt and the Property was bought by Tektronix Ceramics. Tektronix Ceramics appears to have used the Property for ceramics production. In 1988, the current owner purchased the property for interior and exterior materials storage and recycling. Multiple nuisance complaints were filed to City of Portland between 2003 and 2008 concerning inadequate storage of materials and unauthorized building occupation.

Under the proposed scope of work, Malarkey Oregon Holdings I, LLC will:

- Investigate recognized environmental conditions found on site including unknown material in containers, potentially contaminated soils, a potential historic pond-like feature and potential impacts from the adjacent former Lincoln Oil Company.
- Ensure proper management and handling of material on the property including: solid waste, stored chemicals, excavation and or proper management of contaminated site soils if found.
- Remove current structures and decommission water supply wells or septic systems.
- Document future site stormwater management to ensure consistency with current local, state and federal guidelines, encouraging on-site infiltration to the extent practical.
- Contribute \$60,000 to the Columbia Slough sediment investigation and remediation cleanup fund

DEQ created the Prospective Purchaser Agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The proposed consent order will provide Malarkey Oregon Holdings I, LLC with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent order will also provide Malarkey Oregon Holdings I, LLC with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Sarah Miller at 700 NE Multnomah St. Suite 600, Portland, Oregon 97323 or miller.sarah@deq.state.or.us For more information contact the project manager at 503-229-5040.

Request DEQ project file review.

File review (records request) application form

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter 6114 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #6114 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at: <http://www.deq.state.or.us/lq/ECSI/ecsidetail.asp?seqnbr=6189>

If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed remedial actions taken at the site.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, call DEQ at 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

REQUEST FOR COMMENTS PROPOSED CERTIFICATE OF COMPLETION AND NEA FOR UNITED STATES POSTAL SERVICE, AT COLWOOD NATIONAL GOLF COURSE- NORTH

COMMENTS DUE: 5 p.m., Thursday, August 31, 2017

PROJECT LOCATION: 7007 NE Cornfoot Rd. Portland, OR 97218

PROPOSAL: DEQ is preparing to certify that all actions required have been satisfactorily completed. This project has resulted in both environmental and economic benefits.

HIGHLIGHTS: In October 2014, Trammell Crowe Portland Development II, Inc entered a Prospective Purchaser Agreement Judgment with DEQ and agreed to complete a Scope of Work on the subject property, including:

- Prepare and comply with a Contaminated Media Management Plan for construction activities on the Property involving the removal or importation of soil.
- Conduct appropriate building/infrastructure demolition, abandonment, removal and disposal per county, state and federal guidelines for septic systems, wells and asbestos containing materials.
- Contribute \$60,000 to the Columbia Slough sediment remediation action fund.
- Assign Port of Portland the option rights to acquire Parcel 2.

On Aug. 16, 2016 Trammell Crow Portland Development II, Inc notified DEQ the United States Postal Service was acquiring the property and assume obligations of the Prospective Purchaser Agreement.

DEQ reviewed the requirements of the PPA and the corresponding actions, and has made a preliminary determination that all obligations of the PPA have been satisfactorily performed and that a Certification of Completion should be issued. In addition the site also meets the criteria for a No Further Action determination as documented in the proposed staff report.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The Certification of Completion confirms United States Postal Service release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The consent judgment and certification of completion also provide United States Postal Service with third party liability protection.

HOW TO COMMENT: Send comments to DEQ Project Manager Sarah Miller at 700 NE Multnomah St. Suite #600, Portland, Oregon 97232 or miller.sarah@deq.state.or.us. For more information, contact the project manager at 503-229-5040.

Request DEQ project file review.

File review application form

Access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter ECSI#5890 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #5890 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.aspx?SourceIdType=11&SourceId=5890&Screen=Load>

OTHER NOTICES

If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the completion of remedial actions and certification and No Further Action. A public notice of DEQ's final decision will be issued.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, call DEQ at 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

REQUEST FOR COMMENTS BULLSEYE GLASS DRYWELL CLEANUP

DEQ seeks comments on a draft cleanup action work plan for Bullseye Glass Company. Bullseye Glass Company is a manufacturer of clear and colored glass for art and architectural uses with worldwide distribution.

COMMENTS DUE: 5 p.m., Thursday, 8/31/2017

Project location: 3722 SE 21st Ave., Portland, Multnomah County, Oregon. The Bullseye Glass Company is located in a mixed industrial, commercial and residential area of inner southeast Portland.

Proposal: This draft work plan, entitled Draft Underground Injection Control Facility Investigation and Closure Plan, proposes to decommission and remediate Drywell #1 (UIC #11228-1) in accordance with Oregon Administrative Rules [OAR] 340-044-0040. All comments received will be considered prior to DEQ approval of the proposed work.

Drywell #1 was formerly used for the subsurface disposal of stormwater primarily draining from roofs at Bullseye's glass manufacturing facility. Proposed work will include removal of approximately 140 tons of drywell fill materials and concrete as well as surrounding soil down to approximately 15 feet. Work will include confirmation soil sampling and analysis.

In addition, this work plan includes installation of five monitoring wells to be installed upgradient, downgradient, and cross-gradient from Drywell #1. Groundwater sampling and analysis from these wells will be conducted quarterly for one year. Groundwater analy-

sis will further evaluate selenium (Se) concentrations that exceeded the U.S. Environmental Protection Agency (EPA) maximum contaminant level (MCL) for drinking water in several groundwater samples collected during January and February 2017. Lead (Pb) will also be analyzed in future groundwater samples.

HIGHLIGHTS: Bullseye Glass Company uses various metals and metal compounds during the manufacture of glass. Previously, it was found that a portion of these metals and metal compounds were vented to the atmosphere and a portion accumulated on facility roofs. Stormwater runoff from facility roofs previously drained to drywells. Current and future rooftop drainage water from the Bullseye Glass Company drains to the combined sewer system and flows to the municipal sewage treatment plant under permit from the City of Portland.

HOW TO COMMENT: Send comments to DEQ Project Manager Kenneth Thiessen at 700 NE Multnomah Street, Ste. 600, Portland OR 97232 or thiessen.kenneth@deq.state.or.us

For more information contact the project manager at 503 229-6015.

Find information about requesting a review of DEQ project files at: <http://www.oregon.gov/deq/about-us/Pages/Request-Public-Record.aspx>

Find the File Review Application form at: <http://www.oregon.gov/deq/about-us/Pages/Requesting-Public-Records-Form.aspx>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/ecsi.aspx>, select "Search complete ECSI database", then enter ECSI# 6143 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI # 6143 in the Site ID/Info column. Alternatively, you may go directly to the database website for this site at: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.ashx?SourceIdType=11&SourceId=6143&Screen=Load>

If you do not have web access and want to review the project file contact the DEQ project manager.

ACCESSIBILITY INFORMATION: Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

Public comment may be submitted in writing directly to an agency or presented orally at the rulemaking hearing. Written comment must be submitted to an agency by 5:00 p.m. on the Last Day for Comment listed, unless a different time of day is specified. Oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the Oregon Bulletin or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

**Auxiliary aids for persons with disabilities are available upon advance request. Contact the agency Rules Coordinator listed in the notice information.*

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Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: Increase license application and renewal fees for professional engineers, professional land surveyors, and professional photogrammetrists.

Date:	Time:	Location:
9-12-17	1 p.m.	670 Hawthorne Ave. SE Suite 220 Salem, OR

Hearing Officer: Shelly Duquette
Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255
Stats. Implemented: ORS 672.002 to 672.325
Proposed Amendments: 820-010-0505, 820-080-0010
Last Date for Comment: 9-12-17, Close of Hearing
Summary: OAR 820-010-0505 — The proposed amendments increase the biennial renewal rate for professional engineers, professional land surveyors, and registered professional photogrammetrists from \$150.00 every two years to \$190.00 every two years.

OAR 820-080-0010 — The proposed amendments increases the fee schedule for: the registration application fee and biennial renewal fees. The registration application fee increases from \$360.00 to \$400.00. This applies to applications for registration as a professional engineer, professional land surveyor, or professional photogrammetrist. The biennial renewal fees for professional registrants increase from \$150.00 every two years to \$190.00 every two years. The proposed amendments also takes into consideration the application fee for professional registration in a newly established branch of engineering, land surveying, or photogrammetric mapping (as allowed by ORS 672.153).

Rules Coordinator: Jenn Gilbert
Address: Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301
Telephone: (503) 934-2107

Board of Nursing Chapter 851

Rule Caption: Removes the 384 hour RN practice requirement for Initial NP licensure.

Date:	Time:	Location:
9-14-17	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Colin Hunter, Board President
Stat. Auth.: ORS 678.150, 678.245, 678.285, 678.111

Stats. Implemented: ORS 678.380 & 678.390

Proposed Amendments: 851-050-0004

Last Date for Comment: 9-14-17, Close of Hearing

Summary: This is in response to the Oregon Health & Sciences (OHSU) School of Nursing Faculty (SON) and the Advance Practice Registered Nurse (APRN) Rules Advisory Committee (RAC) recommendation to delete this requirement in Division 50 which is barrier to NP licensure in Oregon.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

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Rule Caption: Change will allow qualified NPs to prescribe medication assisted treatment medications to include Buprenorphine (Suboxone).

Date:	Time:	Location:
9-14-17	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Colin Hunter

Stat. Auth.: ORS 678.150, 678.245, 678.285, 678.111

Stats. Implemented: ORS 678.111, 678.370, 678.372, 678.375, 678.380, 678.385, 678.390

Proposed Amendments: 851-056-0026

Last Date for Comment: 9-14-17, Close of Hearing

Summary: This amendment to the rules will allow qualified Nurse Practitioners to prescribe medication assisted treatment (MAT) medications to include Buprenorphine (Suboxone).

This change is in response to Federal Legislation known as the CARA Act (July 2016) which made allowances for Nurse Practitioners to prescribe Buprenorphine for MAT.

Rules Coordinator: Peggy A. Lightfoot

Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

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Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Amends methodology for assessing and classifying registered sex offenders; amends Board notification and review procedures.

Date:	Time:	Location:
8-17-17	10:30 a.m.	Oregon Correctional Enterprises 3691 State St. Salem, OR 97301

Hearing Officer: Board Staff

Stat. Auth.: ORS 144.050, 144.140, 163A.100, 163A.105, 163A.110, 163A.115, 163A.125 & Section 7, Chapter 708, Oregon Laws 2013, as amended by Section 27, Chapter 820, Oregon Laws 2015; and SB 767 (2017).

Stats. Implemented: ORS 163A.100, 163A.105, 163A.110, 163A.115; Section 7, Chapter 708, Oregon Laws 2013, as amended by Section 27, Chapter 820, Oregon Laws 2015; and SB 767 (2017).

Proposed Amendments: 255-085-0060

Proposed Amendments: 255-085-0010, 255-085-0020, 255-085-0030, 255-085-0040, 255-085-0050

Last Date for Comment: 8-18-17, 4:30 p.m.

Summary: OAR 255-085 was adopted in 2015 to implement HB 2320 (2015). A temporary rule change was made on March 21, 2017,

NOTICES OF PROPOSED RULEMAKING

and another temporary change was made, effective July 1, 2017. This action seeks to amend the rules again and to make the rules, as amended, permanent.

The 2015 rules established a risk assessment methodology for assessing and classifying sex offenders into one of three risk levels, to be used by any agency that performs assessment and classification. The rules also established procedures that the Board of Parole and Post-Prison Supervision would use to notify registrants of their classification level, to review objections to the classification, and to finalize classification orders. On March 21, 2017, the Board adopted temporary rules that reorganized the rules, amended the definitions, the risk assessment methodology, and the procedures for reviewing objections, and made other changes. On July 1, 2017, the Board adopted temporary rules amending the March 21, 2017 rules.

The proposed amendments will correct typographical errors; amend definitions; amend the risk assessment methodology to allow classifying agencies to gather historical information about an offender from previous sex offender risk evaluations; amend the Board's notification procedures; clarify which registrants may obtain review by the Board and under what circumstances; modify the procedures relating to Board review of objections to classification levels; and make additional changes to the procedures for assessment and classification, notifications, objections, and review. The amendments will also adopt some new notification and review procedures and modify some others so that the Board's rules will be consistent with provisions contained in SB 767 (2017) when it becomes effective on January 1, 2018.

This notice supersedes any previous notice and provides more details on the proposed permanent changes. This notice is also made in order to provide an additional hearing date for any further public input.

Rules Coordinator: Perry Waddell

Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Parole Suite 100, Salem, OR 97301

Telephone: (503) 945-0946

Construction Contractors Board Chapter 812

Rule Caption: Eliminates redundant language regarding lead-based paint rules, and adopts federal regulations by reference.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.505-701.520, 701.992 & 701.995

Proposed Adoptions: 812-007-0015

Proposed Amendments: 812-005-0800, 812-007-0000, 812-007-0020, 812-007-0150, 812-007-0250, 812-007-0310, 812-007-0330, 812-007-0350

Proposed Repeals: 812-007-0140, 812-007-0240, 812-007-0302, 812-007-0340, 812-007-0370, 812-007-0372, 812-007-0374

Last Date for Comment: 8-21-17, 5 p.m.

Summary: ADOPT:

812-007-0015 is adopted to adopt federal regulations governing lead-based paint activities and lead-based paint renovation by reference.

AMEND:

812-005-0800 is amended to remove references to lead-based paint rules that will be repealed or that no longer exist.

812-007-0000 is amended to indicate the division 7 rules apply only to CCB.

812-007-0020 is amended to remove definitions already found in federal regulations.

812-007-0150 is amended to remove reference to OAR 333-069-0070 and adopt by reference the relevant federal regulation.

812-007-0250 is amended to remove reference to OAR 333-069-0070 and adopt by reference the relevant federal regulation.

812-007-0310 is amended to remove reference to OAR 333-070-0100 and adopt by reference the relevant federal regulation.

812-007-0330 is amended to remove reference to OAR 333-070-0100 and adopt by reference the relevant federal regulation.

812-007-0350 is amended to remove reference to OARs that no longer exist and adopt by reference the relevant federal regulations.

REPEAL:

812-007-0140 is repealed because it adopts by reference an OAR that no longer exists.

812-007-0240 is repealed because it adopts by reference an OAR that no longer exists.

812-007-0302 is repealed because it adopts by reference OARs that no longer exist.

812-007-0340 is repealed because it adopts by reference an OAR that no longer exists.

812-007-0370 is repealed because the rule is no longer necessary; CCB has adopted federal regulations that govern information distribution requirements for target housing dwelling units.

812-007-0372 is repealed because the rule is no longer necessary; CCB has adopted federal regulations that governs information distribution requirements for target housing common areas.

812-007-0374 is repealed because the rule is no longer necessary; CCB has adopted federal regulations that governs information distribution requirements for child-occupied facilities.

Rules Coordinator: Leslie Culpepper

Address: Construction Contractors Board, 201 High St. SE, Suite 600, Salem, OR 97301

Telephone: (503) 934-2228

Department of Administrative Services Chapter 125

Rule Caption: Amends Confidentiality and Inadmissibility of Mediation Communication and Workplace Interpersonal Dispute Mediation Communication.

Stat. Auth.: ORS 36.224 & 184.340

Stats. Implemented: OAR 36.224, 36.228, 36.230 36.232

Proposed Amendments: 125-140-0010, 125-140-0020

Proposed Repeals: 125-140-0010(T), 125-140-0020(T)

Last Date for Comment: 8-24-17, 5 p.m.

Summary: Pursuant to ORS 36.224(4), amending the Department of Administrative Services mediation confidentiality rules OAR 125-140-0010 and 125-140-0020 to adopt by reference the Confidentiality and Inadmissibility of Mediation Communications rule OAR 137-005-0052 and the Confidentiality and Inadmissibility of Workplace Interpersonal Mediation Communications rule OAR 137-005-0054 adopted by the Attorney General effective as of 10-27-15.

Also, repeal temporary rules.

Rules Coordinator: Janet Chambers

Address: Department of Administrative Services, 155 Cottage St. NE, Salem, OR 97301

Telephone: (503) 378-5522

Department of Agriculture Chapter 603

Rule Caption: Model rules of procedure.

Stat. Auth.: ORS 183.341(1)

Stats. Implemented: ORS 183.341(1)

Proposed Amendments: 603-001-0005

Last Date for Comment: 8-15-17, 5 p.m.

Summary: To update procedural rules to reflect most recent Attorney General's model rules.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

NOTICES OF PROPOSED RULEMAKING

Department of Agriculture, Oregon Sweet Cherry Commission Chapter 669

Rule Caption: Amendment to reduce assessment rate on brined sweet cherries.

Date:	Time:	Location:
8-23-17	10 a.m.	1207 NW Naito Pkwy. 2nd Floor Classroom Portland, OR

Hearing Officer: Staff

Stat. Auth.: ORS 576.304(2), 576.304(14), 576.325(2)(a)(b) & (4)(c)

Stats. Implemented: ORS 576.325

Proposed Amendments: 669-010-0020

Last Date for Comment: 8-23-17, 11 a.m.

Summary: This rule amendment may reduce the assessment rate for brined sweet cherries.

Rules Coordinator: Dana Branson

Address: Department of Agriculture, Sweet Cherry Commission, 2667 Reed Rd., Hood River, OR 97031-9609

Telephone: (541) 386-5761

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Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Oregon OSHA correction to the Personal Climbing Equipment rules for Telecommunication Activities in General Industry.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001–654.295

Proposed Amendments: 437-002-0300

Last Date for Comment: 8-31-17, Close of Business

Summary: This rule making is to keep Oregon OSHA in harmony with recent changes to federal OSHA's standards.

Oregon OSHA intended to adopt federal OSHA's revision to 1910.268(g)(1) with Oregon's Administrative Order (AO) 2-2017. AO 2-2017 adopted the majority of federal OSHA's final rule as published in the November 18, 2016 Federal Register for Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems). The final federal rule revised the language for personal climbing equipment for Telecommunications work in 1910.268(g)(1) in Subpart N of 1910; however, the federal language for 1910.268(g)(1) was unintentionally omitted in Oregon OSHA's rule-making process. This omission leaves in place existing rule language. By amending 1910.268(g)(1) in Subdivision 2R, Oregon OSHA will correct the omission, bringing Oregon OSHA's rule language for 1910.268(g)(1) into harmony with current federal OSHA standards before Oregon's 1910.268(g)(1) goes into effect on November 1, 2017.

Unless Oregon OSHA amends 1910.268(g)(1) to reflect the correct language in federal OSHA's adopted Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) rule, employers in Oregon will be directed to obsolete and inaccurate rule references when reading 1910.268(g)(1) in Oregon after November 1, 2017.

Rules Coordinator: Heather Case

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-7449

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Department of Corrections Chapter 291

Rule Caption: Religious Services for Inmates in DOC Facilities

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Proposed Adoptions: 291-143-0112, 291-143-0115, 291-143-0125

Proposed Amendments: 291-143-0005, 291-143-0010, 291-143-0070, 291-143-0080, 291-143-0090, 291-143-0100, 291-143-0110, 291-143-0120, 291-143-0130, 291-143-0140

Last Date for Comment: 9-15-17, 4:30 p.m.

Summary: The proposed amendments update policy and procedures regarding religious exercise, activities, and programming in department facilities. The rule changes provide further clarification for religious accommodations requests from inmates; establish a specific process for religious dietary accommodations that cannot be satisfied within the context of the regular cyclical menu; and eliminate the religious exercise dispute resolution and replace it with the inmate grievance review system established in OAR 291-109.

Other changes are of a housekeeping nature. Many revisions were made to reorganize the rules for readability and flow of content.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

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Department of Environmental Quality Chapter 340

Rule Caption: Clean Water State Revolving Fund 2017 Rulemaking

Date:	Time:	Location:
8-15-17	2 p.m.	OR Dept. of Environmental Quality 700 NE Multnomah St., Rm. 610 Portland, OR, 97232

Hearing Officer: Lee Ann Lawrence

Stat. Auth.: ORS 468.020–468.440

Stats. Implemented: ORS 468.423–468.440

Proposed Amendments: 340-054-0005, 340-054-0010, 340-054-0011, 340-054-0015, 340-054-0022, 340-054-0025, 340-054-0026, 340-054-0036, 340-054-0056, 340-054-0060, 340-054-0065, 340-054-0071, 340-054-0072

Last Date for Comment: 8-18-17, 4 p.m.

Summary: DEQ proposes the following changes to OAR 340, division 54 that will:

Amend Clean Water State Revolving Fund rules to align with amendments to federal law to:

- Expand eligible land purchase costs for treatment works construction projects,
- Define eligible recipients for additional subsidization,
- Incorporate federal regulation requirements for procuring architectural and engineering contracts.

Amend Clean Water State Revolving Fund rules to allow for fiscal and programmatic flexibility to ensure the fund's perpetuity and:

- Increase the extension period for applicants to remain on the program's Intended Use Plan,
- Establish criteria for refinancing and restructuring loans,
- Extend the timeframe for a borrower to request its first loan disbursement,
- Require a 30 day prepayment notification from borrowers that intend to prepay a loan,
- Offer eligible borrowers an alternate subsidy that is equivalent to principal forgiveness,
- Create a principal forgiveness calculation for eligible green projects based on the cost of the green project components,
- Clarify and simplify rule language to comply with plain language requirements.

Remove bond purchase language that expired on Feb. 1, 2016.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 700 NE Multnomah St., 6th Floor, Portland, OR 97232

Telephone: (503) 229-6478

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Air Toxics Benchmarks Review

Date: 8-17-17
Time: 9:30 a.m.
Location: 700 NE Multnomah St., Suite 600
Third Floor Conf. Rm. A
Portland, OR 97232

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 468.020, 468.065, 468.035, 468A.010(1), 468A.015

Stats. Implemented: ORS 468A.015, 468A.025

Proposed Amendments: 340-246-0090, 340-246-0010, 340-246-0030, 340-246-0050, 340-246-0070, 340-246-0110, 340-246-0130, 340-246-0150, 340-246-0170, 340-246-0190, 340-246-0210

Last Date for Comment: 8-21-17, 4 p.m.

Summary: DEQ proposes the Oregon Environmental Quality Commission adopt proposed rules that contain revisions to 23 standing Ambient Benchmark Concentrations, and new benchmarks for phosgene, n-propyl bromide, and styrene. DEQ is also proposing some minor plain language edits and to add which statutes the rules are implementing.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 700 NE Multnomah St., 6th Floor, Portland, OR 97232

Telephone: (503) 229-6478

Rule Caption: Clean Fuels Program Improvements 2017

Date: 8-16-17
Time: 1 p.m.
Location: Portland State Office Bldg.
800 NE Oregon St., Rm. 1E
Portland, OR 97232

Hearing Officer: Colin McConaha

Stat. Auth.: 468.020, 468A.275

Other Auth.: Sections 160, 161, 167 and 173 of Enrolled HB 2017-A from the 2017 Oregon Legislature

Stats. Implemented: 468A.275

Proposed Adoptions: 340-253-0470, 340-253-0640, 340-253-0670, 340-253-1040, 340-253-1055, 340-253-8090, 340-253-8100

Proposed Amendments: 340-253-0000, 340-253-0040, 340-253-0060, 340-253-0100, 340-253-0200, 340-253-0250, 340-253-0310, 340-253-0320, 340-253-0330, 340-253-0340, 340-253-0400, 340-253-0450, 340-253-0500, 340-253-0600, 340-253-0620, 340-253-0630, 340-253-0650, 340-253-1000, 340-253-1010, 340-253-1020, 340-253-1030, 340-253-2000, 340-253-2100, 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040, 340-253-8050, 340-253-8060, 340-253-8070, 340-253-8080

Proposed Repeals: 340-253-2200

Proposed Ren. & Amends: 340-253-1050 to 340-253-1005

Last Date for Comment: 8-25-17, 4 p.m.

Summary: DEQ proposes to amend the Oregon Clean Fuels Program (CFP) rules under division 253 of chapter 340 of the Oregon Administrative Rules. The proposed rule changes would complete the implementation of Senate Bill 324 (2015) by adopting more refined rules for managing and containing the costs of compliance with the CFP. DEQ is proposing to add provisions for a Credit Clearance Market (CCM) as an additional cost containment mechanism in place of the Monthly Fuel Price Deferral, which also implements enrolled HB 2017 A from the 2017 Legislature. In addition, DEQ proposes to amend the CFP rules under division 253 of chapter 340 of the Oregon Administrative Rules to:

- Update several provisions relating to electricity's use as a transportation fuel;
- Add electricity used for certain public transit applications to the program;
- Reclassify renewable hydrocarbon diesel as a regulated fuel because some types of renewable hydrocarbon diesel may have carbon intensities that exceed the clean fuel standard;
- Restrict the transfer of the compliance obligation for large importers of finished fuels for in-state transactions below the rack;
- Add market monitoring and enforcement provisions;

- Amend and rename the Emergency Fuel Supply Deferral to include the ability to respond to credit market disruptions;
- Update definitions;
- Streamline and clarify several administrative processes; and
- Update several tables to reflect the latest and most accurate information.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 700 NE Multnomah St., 6th Floor, Portland, OR 97232

Telephone: (503) 229-6478

Rule Caption: Update LRAPA Title 47 - "Open (Outdoor) Burning"

Date: 9-14-17
Time: 12:30 p.m.
Location: Lane Regional Air Protection Agency (LRAPA) Meeting Rm.
1010 Main St.
Springfield, OR 97477

Hearing Officer: Merlyn Hough

Stat. Auth.: ORS 468.020 & 468A

Stats. Implemented: ORS 468A.035 & 468A.135

Proposed Amendments: 340-200-0040

Last Date for Comment: 9-14-17, 12:30 p.m.

Summary: DEQ proposes to incorporate Lane Regional Air Protection Agency revised regulations for outdoor burning into Oregon's State Implementation Plan in Oregon Administrative Rule 340-200-0040. The LRAPA Board of Directors will consider the adoption of outdoor burning rules revisions in an effort to meet or maintain federal air quality standards for fine particulate matter and to improve the general air quality of Lane County. The proposed rules would:

- Change the term "Open Burning" to "Outdoor Burning" throughout Title 47.
 - Clarify terminology pertaining to size and materials of "religious ceremonial fires" and "bonfires"
 - Clarify terminology relative to outdoor burning during the LRAPA "Home Wood Heating Season"
 - Require residents within the Oakridge Urban Growth Boundary to be subject to outdoor burning prohibitions and exemptions during the November through February Oakridge "Home Wood Heating Season".
 - Identify the Eugene and Springfield Urban Growth Boundaries as separate
 - Identify cardboard, clothing and grass clippings as "prohibited materials"
 - Prohibit outdoor burning in barrels
 - Prohibit outdoor burning within the Eugene Urban Growth Boundary
 - Include in LRAPA rules Oakridge and Florence outdoor burning ordinances requirements
 - Limit outdoor burning to woody yard trimmings within the city limits of Junction City, Coburg, Cottage Grove, Creswell, Lowell, Westfir, Dunes City and Veneta and further clarified relative to affected areas
 - Update names of Fire Districts
 - Update "Forest Slash Outdoor Burning" requirements in areas not covered by Department of Forestry Smoke Management Plan.
 - Increase fee for prescribed burning of standing vegetation permits from \$100 to \$1,000 and include caveat relative to Director discretion in fee adjustment
 - Increase fee for permits required for materials other than prescribed burning of standing vegetation permits from \$4 per cubic yard to \$10 per cubic yard and minimum fee from \$50 to \$100.
- Rules Coordinator:** Meyer Goldstein
- Address:** Department of Environmental Quality, 700 NE Multnomah St., 6th Floor, Portland, OR 97232
- Telephone:** (503) 229-6478

NOTICES OF PROPOSED RULEMAKING

Department of Fish and Wildlife Chapter 635

Rule Caption: 2018 Big Game Tag Numbers, Dates, and Regulations

Date: 9-15-17
Time: 8 a.m.
Location: 68010 E Fairway Ave.
Welches, OR 97067

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162

Proposed Amendments: Rules in 635-002, 635-008, 635-043, 635-045, 635-049, 635-050, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080, 635-090, 635-200

Last Date for Comment: 9-15-17, Close of Hearing

Summary: Set hunting season regulations and controlled hunt tag numbers for 2018 for game mammals.

Rules Coordinator: Michelle Tate

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6044

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**Department of Human Services,
Administrative Services Division and Director's Office
Chapter 407**

Rule Caption: Update Serious Neglect As Potentially Disqualifying; Update Preliminary Hire and Abuse Expedited Hearings

Date: 8-22-17
Time: 9:30 a.m.
Location: State Library
250 Winter St. NE, 3rd Fl.,
Mt. Bachelor
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Other Auth.: ORS 181A.215; 42USC1320a-7(a); 42USC12645g

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027

Proposed Amendments: 407-007-0210, 407-007-0250, 407-007-0290, 407-007-0315, 407-007-0320, 407-007-0330, 407-007-0335

Last Date for Comment: 8-28-17, 5 p.m.

Summary: The Department of Human Services (Department) proposes to add serious neglect of vulnerable adults as potentially disqualifying abuse during background check of subject individuals offered employment, volunteering or other placement at or through a qualified entity providing care to Department or Oregon Health Authority clients. Since 2010, the rules have considered serious physical abuse, financial abuse, and sexual abuse of vulnerable adults potentially disqualifying; these rules would expand this so serious neglect. In addition, these rules clarify that an intent to deny with expedited hearing rights would apply only to background checks in which the subject individual has potentially disqualifying abuse of an adult as the only potentially disqualifying conviction and condition, and in which the Department's Background Check Unit determines that the subject individual did not receive notice of substantiation or notice of appeal or review of the finding.

The proposed rules also update a subject individual's ability to work without active supervision if the subject individual is approved to work and is going through a recheck due to program rules or the Long Term Care Registry rules (OAR 407-007-0600 to 407-007-0640).

These rules were recently updated on 7/1/2017. Deleted language was accidentally retained in the final version of the rules; this proposed rules making cleans up these errors.

Proposed rules are available on the Department of Human Services website: <http://www.oregon.gov/DHS/POLICIES/Pages/ss-admin-rules.aspx>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Administrative Services Division and Director's Office, 250 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-5250

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**Department of Human Services,
Self-Sufficiency Programs
Chapter 461**

Rule Caption: Amending rules relating to APD medical programs

Date: 8-23-17
Time: 11 a.m.
Location: 500 Summer St. NE, Rm. 254
Salem OR 97301

Hearing Officer: Robert Trachtenberg

Stat. Auth.: ORS 329A.500, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Other Auth.: 42 USC 1382c(f), 42 USC 1396d, 42 USC 1396r-5, Section 503 of Public Law 94-566 (90 Stat. 2685 (1976)), Public Law 106-501, 7 CFR 273.9, 20 CFR 416.1202, 20 CFR 416.1210, 20 CFR 416.1231, 42 CFR 431.201-213, 42 CFR 433.135, 42 CFR 433.145, 42 CFR 433.148, 42 CFR 435.622, 42 CFR 435.725, 42 CFR 435.726, 42 CFR 435.915, 45 CFR 261.10, 45 CFR 263.2

Stats. Implemented: ORS 329A.500, 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685, 659.830, 743B.470

Proposed Amendments: 461-001-0000, 461-110-0210, 461-110-0410, 461-110-0530, 461-115-0090, 461-120-0310, 461-120-0315, 461-120-0330, 461-135-0745, 461-135-0750, 461-135-0780, 461-135-0875, 461-135-0950, 461-140-0070, 461-145-0010, 461-145-0080, 461-145-0140, 461-145-0261, 461-145-0330, 461-145-0370, 461-145-0380, 461-155-0250, 461-155-0600, 461-155-0610, 461-155-0680, 461-160-0620, 461-160-0630, 461-165-0120, 461-175-0230, 461-180-0090

Proposed Repeals: 461-115-0090(T), 461-135-0950(T), 461-180-0090(T)

Last Date for Comment: 8-24-17, 5 p.m.

Summary: OAR 461-001-0000 defining terms is being amended to add definitions of "blind work expenses" "impairment related work expenses" "eligible child" "ineligible" and "ineligible child" as well as to revise the definitions of "child", "long term care" and "non-standard living arrangement" to support program requirements, make the rules consistent, and follow federal requirements. This rule is also being amended to treat emancipated minors in the same manner as adults for the REF and REFM programs and change the definition of "teen parent" to support program requirements for teens and participation in the JOBS, REF, REFM, and TANF programs.

OAR 461-110-0210 which sets out who is considered part of the household group for determining eligibility is being amended to add a reference to the acute care setting rule along with the existing references to service settings. The service settings language is being changed from home and community based and nursing facility care to nonstandard living arrangements. It is also being amended to specify that OSIPM recipients who remain in an acute care hospital for 30 days or more are no longer in the household group. These amendments clarify that individuals in acute care settings are treated like those applying for or receiving services when determining financial eligibility. This rule is also being amended to remove the 30-day limit on household membership for the Refugee and Refugee Medical programs when the absence is due to emergent need, correcting an error in the rule.

OAR 461-110-0410 about filing groups in the OSIPM and QMB programs is being amended to add a reference to the acute care setting rule along with the existing references to service settings to clarify that individuals in acute care settings are treated like those applying for or receiving services when determining financial eligibility.

OAR 461-110-0530 about financial groups is being amended to add a reference to the acute care setting rule along with the existing references to service settings to clarify that individuals in acute care settings are treated like those applying for or receiving services when

NOTICES OF PROPOSED RULEMAKING

determining financial eligibility. This rule is also being amended indicate that individuals outside the household in the filing group may be included in the financial group, aligning the rule text with current practices.

OAR 461-115-0090 about authorized representatives, OAR 461-135-0950 about eligibility for inmates and residents of state hospitals, and OAR 461-180-0090 about the effective date for starting medical benefits are being amended to make permanent temporary rule amendments effective July 1, 2017 that follow state statutes and state that incarcerated individuals and individuals in a state hospital may receive benefits under OSIPM and QMB when temporarily released for hospital procedures; remove a provision in the definition of serious mental illness regarding the substance abuse and the likelihood that a person will no longer meet an applicable diagnosis if the substance abuse discontinues or declines; substitute the term "state hospital" to clarify OAR 461-135-0950; remove the 12-month limit on suspension of benefits for individuals entering public institutions or the state hospital; replace the name of the specific former contractor for certification services with a general statement of certification; allow eligibility to certain state hospital residents who entered the state hospital before reaching age 22 (instead of age 21); authorize a designee of a correctional facility to apply for OSIPM and QMB on behalf of a person residing in that correctional facility; specify legitimate uses of confidential information for an applicant who is a resident of a correctional facility and when that information may be disclosed; and specify that the effective date for starting medical benefits under the OSIPM program for a person released from a correctional institution is the release date or the date the person begins hospitalization outside of the correctional facility.

OAR 461-120-0310 about assignment of support rights is being amended to state that the requirement to pursue healthcare/cash medical support applies only to the individual who can legally assign the rights and not someone who cannot legally assign rights (such as a child). OAR 461-120-0315 about medical assignment is being amended to clarify that the assignment of rights is automatic and not dependent on an individual's consent. The amendment also makes a further distinction between who actually has to assign to stay eligible for the OSIPM and QMB programs and whose rights that person must assign. The changes to both rules also clarify that those whose rights are automatically assigned or must be assigned do not have to be in the OSIPM/QMB filing or benefit group - rights are and must be assigned for anyone receiving any type of medical assistance under the state plan.

OAR 461-120-0330 regarding requirements to pursue assets is being amended to clarify that the penalty for failure to comply can only be applied while it is still possible to do so and that for OSIPM, cashing out or closing would constitute a conversion of a resource. This rule is also being amended to remove the requirement to pursue assets in an individual's home country for REF and REFM, consistent with federal requirements.

OAR 461-135-0745 about eligibility of individuals in acute care settings for the OSIPM program is being amended to add specific language regarding evaluating these individuals as if they were applying for services to clarify that individuals in acute care settings are treated like those applying for or receiving services when determining financial eligibility.

OAR 461-135-0750 about eligibility for individuals in long-term care or home and community-based care for the OSIPM program is being amended to clarify that individuals should be subject to the special income limit only if they do not otherwise qualify for OSIPM.

OAR 461-135-0780 is being amended to add language regarding the treatment of a spouse of an applicant or recipient who may be eligible under the provisions of the Pickle Amendment to the Social Security Act. These changes will bring the rule into compliance with federal law.

OAR 461-135-0875 regarding retroactive eligibility for medical assistance is being amended to clarify evaluation for retroactive eligibility and in the OSIPM program address when individuals

received Medicaid-covered medical services prior to the date of request. This amendment sets out policy for the QMB-DW program, when individuals paid or incurred Medicaid-covered Medicare Part A premiums, or were eligible for but not enrolled in Medicare Part A prior to the date of request and received Medicare Part A-covered services, including deceased individuals who would have been eligible for Medicaid-covered premiums had they, or someone acting on their behalf, applied. This amendment also clarifies that for the QMB-SMB and QMB-SMF programs, when individuals paid or incurred Medicaid-covered Medicare Part B premiums, or were eligible for but not enrolled in Medicare Part B prior to the date of request and received Medicare Part B-covered services, including deceased individuals who would have been eligible for Medicaid-covered premiums had they, or someone acting on their behalf, applied. This rule is also being amended to clarify that Refugee Medical (REFM) is not Medicaid. These amendments are intended to comply with federal law.

OAR 461-140-0070 about treatment of excluded income is being amended to establish that commingling of excluded assets is acceptable in APD medical programs as long as they are identifiable, and explain (for OSIPM) that if funds are made from an account containing commingled funds, the assumption is that non-excluded funds are withdrawn first. Also, if excluded funds are withdrawn, they can be added to, or built up again, by deposits of funds excluded under another rule in the 461 chapter of rules. This rule is also being amended to change the title to Treatment of Excluded Assets, since this rule deals with both income and resources. These changes align the rule with federal policy.

OAR 461-145-0010 about the consideration of the value of and income from animals in the eligibility process is being amended to add an exclusion in the OSIP, OSIPM, and QMB-DW programs for animals used in self-employment to be consistent with other rules about work-related capital assets, equipment, and inventory.

OAR 461-145-0080 about child support and cash medical support is being amended to add provisions about when to count and when to exclude child support in the OSIP, OSIPM, and QMB programs. These amendments exclude one-third of cash child support paid to an individual applying for or receiving child support; exclude child support collected by the state on behalf of children in the custody of the state; c) set out how to count other child support collected by the state on behalf of a person applying for or receiving benefits; and state when child support is allowed as an income deduction. These changes follow federal guidance and provide consistency with other Department rules.

OAR 461-145-0140 is being amended to state how the exclusion of the Earned Income Tax Credit (EITC) is limited in duration, aligning with federal regulations.

OAR 461-145-0261 is being amended to state that in the OSIP, OSIPM, and QMB programs, emergency withdrawals from an Individual Development Account are excluded, consistent with federal guidance.

OAR 461-145-0330 about loans and interest on loans is being amended to revise when certain loans are treated as resources in the OSIPM program. This amendment affects purchases of loans or notes from others, or loans made to others that either occurred prior to 2006, or occurred after 2006 and after the first continuous period of care (which is when the Department starts counting marital assets) and were not considered disqualifying. This rule is also being amended to change language that makes it appear as though only the client's life expectancy is taken into consideration when determining whether or not a loan is a disqualifying transfer. This particular change will clarify that the life expectancy of the owner of the loan is used to determine whether the requirements are met, and also clarify that if the loan is jointly owned, the repayment must be paid over either the spouse's or the client's life expectancy. These changes correct an error and clarify the rule.

OAR 461-145-0370 about the effect on financial eligibility of benefits under the Older Americans Act is being amended to remove

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unnecessary language about persons 55 and older. The provisions of Title V of the Older Americans Act only apply to individuals over the age of 55.

ORAR 461-145-0380 about pension and retirement plans is being amended to refer to the pursuit of assets rule, and removes language that suggests the rule only applies to pension and retirement plans that are purchased with funds from other pension and retirement plans, rather than a self-funded IRA (for example). This amendment also adds language to specify that the equity value of a non-applying spouse's retirement plan would be excluded as a resource for non-service applicants/recipients. For a child, the pension fund of a parent is also excluded. These amendments clarify the rule.

ORAR 461-155-0250 about income and payment standard for the OSIPM program is being amended with regard to the income standards for service settings by referring to the acute care setting rule instead of the definition of a nonstandard living arrangement as part of changes to treat individuals in acute care settings similarly to service applicants and recipients.

ORAR 461-155-0600 about special needs payments for home repairs is being amended to allow the Department to grant a hardship waiver to certain low-income Medicaid clients whose homes are in need of repair.

ORAR 461-155-0610 about special needs payments for moving costs is being amended to increase the maximum payment that the Department may issue a client to pay for the client's expenses associated with moving and clarify the circumstances under which a client may qualify for the payment.

ORAR 461-155-0680 about special needs payments for telephone allowances is being amended to broaden the rule and allow the Department to pay a portion of the cost of either telephone or broadband service for certain clients to better address how clients currently communicate.

ORAR 461-160-0620 about income deductions and client liability in the OSIPM program is being amended to eliminate the \$85 earned income deduction individuals in the Aid to the Blind subprogram, eliminate private health insurance premiums as a medical deduction, and update references to individuals with intellectual disabilities. These changes align the rule with federal requirements.

ORAR 461-160-0630 about the deduction for maintaining a home for long-term care clients is being amended to change how these deductions are calculated because the rule on which this deduction is based is being repealed.

ORAR 461-165-0120 about benefits for a client in an acute care hospital is being amended to specify that OSIPM recipients are evaluated under the acute care setting rule if they are expected to be in the hospital for 30 days or more and would otherwise lose OSIPM eligibility. This rule is also being amended to specify that QMB/SMB/SMF recipients' eligibility are evaluated under the rule on household groups when they enter an acute care hospital rather than treated as if they were in a nursing facility. These changes clarify the rule.

ORAR 461-175-0230 about notices to individuals in nonstandard living situations is being amended to state that the continuing benefit decision notice the Department sends to increase the liability of an individual must be a timely notice, consistent with federal requirements.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. Rule text showing edits for the rules described above is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Rules Coordinator: Robert Trachtenberg

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 947-5290

Rule Caption: Changing rules relating to self-sufficiency programs

Date:	Time:	Location:
8-23-17	11 a.m.	500 Summer St. NE, Rm. 254 Salem, OR 97301

Hearing Officer: Robert Trachtenberg

Stat. Auth.: ORS 181.537, 329A.500, 409.050, 410.070, 411.060, 411.070, 411.083, 411.117, 411.121, 411.122, 411.404, 411.706, 411.816, 411.825, 412.006, 412.009, 412.014, 412.049, 412.054, 412.064, 412.079, 412.124, 413.085, 414.685

Other Auth.: 7 USC 2015(d), 7 USC 2015(o), 7 USC 2029, 42 USC 9858(f)(1), 7 CFR 273.7, 7 CFR 273.12, 7 CFR 273.24, 45 CFR 98.42, 45 CFR 261.02, 45 CFR 261.10, 45 CFR 263.2, 45 CFR 263.20, 45 CFR 264.1

Stats. Implemented: ORS 181.537, 329A.340, 329A.500, 409.010, 409.610, 410.070, 411.060, 411.070, 411.081, 411.083, 411.087, 411.117, 411.121, 411.704, 411.706, 411.816, 412.001, 412.006, 412.009, 412.014, 412.049, 412.079, 412.124, 414.025

Proposed Amendments: 461-105-0006, 461-110-0330, 461-110-0350, 461-110-0430, 461-115-0030, 461-115-0040, 461-115-0050, 461-115-0190, 461-115-0651, 461-120-0125, 461-120-0510, 461-130-0305, 461-130-0310, 461-130-0315, 461-130-0328, 461-130-0330, 461-130-0335, 461-135-0070, 461-135-0075, 461-135-0475, 461-135-0915, 461-135-0930, 461-135-1260, 461-135-1270, 461-140-0110, 461-140-0210, 461-140-0220, 461-145-0001, 461-145-0110, 461-145-0200, 461-145-0250, 461-145-0360, 461-145-0420, 461-150-0060, 461-160-0010, 461-165-0180, 461-170-0010, 461-170-0103, 461-175-0220, 461-175-0270, 461-175-0280, 461-175-0305, 461-180-0006, 461-180-0010, 461-180-0070, 461-190-0171, 461-190-0211, 461-190-0231, 461-190-0310, 461-190-0406

Proposed Repeals: 461-170-0102, 461-170-0104, 461-175-0240, 461-165-0180(T)

Last Date for Comment: 8-24-17, 5 p.m.

Summary: ORAR 461-105-0006 about business continuity provisions is being amended to remove obsolete SNAP reporting references for Interim Change Reports. This rule is also being amended to update organization names and titles, restating who is authorized to initiate actions under this rule.

ORAR 461-110-0330 about the filing group in the TANF program is being amended to state that children receiving foster care payments are excluded from the filing group.

ORAR 461-110-0350 about who is considered part of the filing group for purposes of determining eligibility is being amended to include any parent of an unborn child in the ERDC filing group, consistent with current Department practices.

ORAR 461-110-0430 regarding filing group membership for the Refugee and Refugee Medical is being amended to treat emancipated minors in the same manner as adults for these two programs, consistent with current practices. An 18 or 19 year old head of household may be placed into JOBS activities if they have completed high school (or equivalent) education, or into an educational track if not completed.

ORAR 461-115-0030 about dates of request is being amended to align the REF, TA-DVS, and TANF programs with the SNAP program, using the filing date for application processing timeframes, reducing errors and confusion.

ORAR 461-115-0040 about filing dates is being amended to align the REF and TANF programs with the SNAP program, using the filing date for application processing timeframes. This rule is also being amended to clarify the minimum required elements to establish a filing date. These changes will reduce errors and confusion.

ORAR 461-115-0050 about when an application must be filed is being amended to clarify when a new or existing application may be used to establish eligibility in the Refugee, TA-DVS, and TANF pro-

NOTICES OF PROPOSED RULEMAKING

grams, decreasing the burden on field staff to gather a new completed application, and provide increased customer service for applicants requesting benefits in the second month following a denial.

OAR 461-115-0190 about application processing time frames is being amended to align the TANF program with the SNAP program by making eligibility decisions within 30 days of the filing date, while allowing extensions to the 45th day, consistent with federal guidance. This rule is also being amended to indicate that the TANF program does not delay eligibility decisions beyond 45-days.

OAR 461-115-0651 regarding verification requirements in the SNAP program is being amended to correct the ABAWD verification requirements by referring to the new definition of time limit counties that includes Clackamas County at the present time.

OAR 461-120-0125 about alien status and qualified non-citizen requirements is being amended to add Amerasians as lawful permanent residents to categorize their immigration status correctly.

OAR 461-120-0510 regarding age requirements for clients to receive benefits is being amended to exclude minors who are married, married but separated, and minors who are legally emancipated from eligibility for TANF benefits as dependent children, consistent with other rules in the TANF program. This rule also being amended to indicate the age requirements for the Refugee Medical (REFM) program, removing an internal inconsistency.

OAR 461-130-0305, 461-130-0310, 461-130-0315, 461-130-0330, and 461-130-0335 are being amended to update the language used to describe the participation categories as JOBS Eligible (previously mandatory), JOBS Exempt, and JOBS Volunteer. These rules are also being amended indicate that those that are mandatory are eligible for the JOBS program. These amendments align the definitions of individuals that meet federal exemptions (JOBS Exempt) and those that meet the state exemptions (JOBS Volunteer). OAR 461-130-0310 is also being amended to define JOBS exemptions for pregnant individuals to match state exemptions. These amendments define individuals eligible for the JOBS program using strength-based language supportive of the new engagement model.

OAR 461-130-0328 regarding the effect on eligibility of clients missing work due to a strike is being amended to include caretaker relatives as ineligible for Emergency Assistance and TANF when they are on strike, making the eligibility rules consistent in how parents and caretaker relatives are treated for determining eligibility. This rule is also being amended to set the policy on this topic in the Refugee Medical program as to when a striker is ineligible for this program, consistent with federal guidance.

OAR 461-135-0070 about eligibility requirements in the TANF program is being amended to remove language that excluded caretaker relatives receiving foster care payments from TANF program eligibility. This rule is also being amended to remove the "essential person" category of benefit eligibility, use the filing date for program benefits instead of date of request, apply the same policy to parents and caretaker relatives, and clarify the length of pregnancy for program benefit eligibility.

OAR 461-135-0075 about exemptions to the 60-month limit on TANF benefits is being amended to provide specific direction about when the Indian Country exemption applies to improve the accuracy of benefit decisions and clarity for clients, consistent with federal guidance. This amendment also modifies the direction in the temporary rule effective July 1, 2017 by updating the counties considered for Indian Country exemptions.

OAR 461-135-0475 about requirements for the Pre-TANF program is being amended to limit the duration of the Pre-TANF program consistent with other changes to the TANF program application timeframes. This rule is also being amended to exempt non-citizens ineligible to work in the U.S. from completing employment screening information. These changes clarify the policy and will reduce errors.

OAR 461-135-0915 about requirements for the Refugee Program is being amended to use the filing date as the ending point for the 30-day eligibility restriction after quitting employment and as the start-

ing point for the 30-day disability or medical condition for determining if an individual is in violation of employment separation requirement, aligning this program with the TANF policy.

OAR 461-135-0930 regarding the Refugee Medical (REFM) program is being amended to remove QMB and CAWEM programs from the list of Medicaid programs that must be reviewed prior to eligibility for the Refugee Medical (REFM) program. These programs should not be reviewed in this context because they are not full benefit programs on the same level as REFM.

OAR 461-135-1260 about requirements for the Job Participation Incentive is being amended to remove obsolete references to the interim change report as part of federally-required changes to the SNAP program.

OAR 461-135-1270 about requirements for employment payments is being amended to update the language used to describe the participation categories as JOBS Eligible (previously mandatory) consistent with other rule changes.

OAR 461-140-0110 regarding treatment of periodic income is being amended to state that periodic income in the Refugee Medical (REFM) program is averaged over the applicable time only if received in the month of application, so the rule accurately states Department practices.

OAR 461-140-0210 about the effect of asset transfers on eligibility is being amended to align the Refugee, Refugee Medical, and TANF programs with the SNAP program by referring to the filing date. This rule is also being amended to indicate in the Refugee and Refugee Medical programs that the asset transfer restrictions only apply to resources transferred in the United States.

OAR 461-140-0220 about transfers of assets that are not disqualifying is being amended to state for the SNAP program that asset transfers are not disqualifying when the compensation is at least equal to fair market value (instead of at least near market value), aligning the SNAP policy with APD medical program policy.

OAR 461-145-0001 about the effect of adoption assistance payments on financial eligibility for Department programs is being amended to state correctly that these payments are excluded from countable income in the TANF program, consistent with federal law and current Department practice.

OAR 461-145-0110 regarding the effect of Domestic Volunteer Services Act payments on financial eligibility for DHS programs is being amended to change the policy that applies to the REF, REFM, and TANF programs and exclude the value of the educational award (instead of compensation if below minimum wage), consistent with current Department practices.

OAR 461-145-0200 about foster care payments and benefits from the Guardianship Assistance program is being amended to clarify the differences between children in foster care, adults in foster care, and foster care providers as to how they are treated in the eligibility groups for the TANF program.

OAR 461-145-0250 the treatment of income-producing property for determining financial eligibility for Department programs is being amended to treat this property in the same manner as self-employment income in the Refugee, Refugee Medical, and TANF programs, aligning this rule with other TANF rules.

OAR 461-145-0360 about the effect of motor vehicle value on program eligibility is being amended to change the exclusion that applies to the value of motor vehicles from \$10,000 for one vehicle to \$10,000 for the total value of all vehicles so the rule text matches current practices.

OAR 461-145-0420 about the effect of property on financial eligibility for Department programs is being amended to indicate the exclusion for Interim Assistance Agreements is not limited to the TANF program.

OAR 461-150-0060 about eligibility and budgeting is being amended to remove obsolete references to the interim change report as part of federally-required changes to the SNAP program.

OAR 461-160-0010 regarding the use of resources in determining financial eligibility is being amended to indicate that individu-

NOTICES OF PROPOSED RULEMAKING

als and families will be ineligible for the Refugee Medical (REFM) program if their resources exceed the resource limits. This amendment follows federal guidance.

OAR 461-165-0180 about the eligibility of child care providers is being amended to make permanent a temporary rule change effective June 1, 2017 and require approved child care providers to provide care within the state of Oregon, allowing the state to monitor compliance with its child safety requirements.

OAR 461-170-0010 regarding changes clients are required to report is being amended to remove an obsolete reference to Interim Change Reports, consistent with federally-required changes in the SNAP program.

OAR 461-170-0102 and OAR 461-170-0104 about Interim Change Reports in the SNAP program are being repealed as part of federally-required changes in the SNAP program.

OAR 461-170-0103 regarding actions in the SNAP and JPI programs from changes in household circumstances is being amended to remove obsolete references to Interim Change Reports, as part of federally-required changes in the SNAP program.

OAR 461-175-0220 regarding notices of disqualification is being amended to remove obsolete references to Interim Change Reports, as part of federally-required changes in the SNAP program.

OAR 461-175-0240 about notices sent after lump-sum income is received is being repealed because its references to Interim Change Reports are no longer needed as part of federally-required changes in the SNAP program and its remaining sections are already covered in OAR 461-175-0200.

OAR 461-175-0270 about notice situations is being amended to remove obsolete references to Interim Change Reports, as part of federally-required changes in the SNAP program.

OAR 461-175-0280 about notices sent after Interim Change Reports and ERDC reapplications are not submitted is being amended to remove obsolete references to Interim Change Reports, as part of federally-required changes in the SNAP program.

OAR 461-175-0305 about notices sent when individuals are removed from need and benefit groups is being amended to clarify the rule and to remove obsolete references to Interim Change Reports, as part of federally-required changes in the SNAP program.

OAR 461-180-0006 about the effective dates for changes to SNAP benefits in the Simplified Reporting

System is being amended to remove obsolete references to Interim Change Reports, as part of federally-required changes in the SNAP program.

OAR 461-180-0010 about the effective date for adding a new person to an open case is being amended to state the date an additional child may start receiving subsidized child-care in the TA-DVS program. This rule is also being amended to reflect changes in the SFPSS and TANF programs in which the application time frame is generally shortened to 30 days, aligning with the SNAP program.

OAR 461-180-0070 regarding the date that benefits start is being amended to shorten the deadline in the Refugee and TANF programs by which an applicant must complete eligibility and interview requirements to preserve an earlier starting date for benefits. This change is consistent with federal regulation.

OAR 461-190-0171 about education requirements for teen parents in the JOBS program, OAR 461-190-0211 about case plan activities and standards for support service payments, OAR 461-190-0231 about re-engagement, and OAR 461-190-0406 about client eligibility are being amended to update the language used to describe the participation categories as JOBS Eligible (previously mandatory), JOBS Exempt, and JOBS Volunteer for individuals applying for TANF benefits. OAR 461-190-0211 is also being amended to remove the categories of job ready, near job ready, and not job ready; reduce support service payment restrictions, and set out the Department's policy on payment of vehicle repairs. This rule is being further amended to include both Program Entry (PE) and Domestic Violence Intervention (DV), allowing support service payments as needed to

engage in services. OAR 461-190-0231 is also being amended to clarify the policy about when the re-engagement process ends.

OAR 461-190-0310 is being amended to end the Oregon Food Stamps Employment and Training (OFSET) program in Benton, Lane, Lincoln, Linn, Marion, Polk, and Yamhill counties to prepare for implementation of the SNAP time limits. The SNAP program applies time limits to able-bodied individuals who are aged 18 through 49 and there is no child under age 18 in their SNAP filing group (ABAWD). Federal SNAP law allows ABAWDs who live in areas without a waiver to receive three months of benefits in a 36 month period without meeting the work requirements. New Employment and Training (E&T) contracts will begin October 1, 2017 and the contracts for these counties will focus on services for ABAWDs only.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. Rule text showing edits for the rules described above is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Rules Coordinator: Robert Trachtenberg

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 947-5290

Department of Transportation, Driver and Motor Vehicle Services Division Chapter 735

Rule Caption: Class C Non-Commercial Third Party Drive Testing Program

Date:	Time:	Location:
8-16-17	12 p.m.	DMV HQ, Conf. Rm. 382 1905 Lana Ave. Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.600

Stats. Implemented: ORS 802.600

Proposed Adoptions: 735-061-0400, 735-061-0410, 735-061-0420, 735-061-0430, 735-061-0440, 735-061-0450, 735-061-0460, 735-061-0470

Last Date for Comment: 8-21-17, 5 p.m.

Summary: ORS 809.600 authorizes DMV to enter into agreements with any person, who is not an employee of the department, to perform certain functions, including testing for driver licensing. DMV, through administrative rules in OAR chapter 735, division 061, authorized a pilot program for third parties to administer drive tests needed by persons applying for a Class C non-commercial driver license. DMV is undergoing this rulemaking to establish an on-going program for Class C non-commercial third party drive testing.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

Rule Caption: When DMV Can Issue Limited Term Commercial Learner Permit or Commercial Driver License

Stat. Auth.: ORS 184.616, 184.619, 802.010, and OL 2017, chapter 306, section 6

Other Auth.: 49 CFR 383.21, 383.23 and 383.71

Stats. Implemented: ORS 807.730 as amended by OL 2017, chapter 306, section 6

Proposed Adoptions: 735-063-0265

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 735-063-0250
Last Date for Comment: 8-21-17, 5 p.m.

Summary: OL 2017 chapter 306, (SB 36) specifies that “the department may adopt rules describing eligibility requirements for limited term commercial driver licenses and limited term commercial learner driver permits.” Therefore, DMV proposes to adopt 735-063-0265 to specify what documents, under what situations, DMV will accept as proof that the applicant is legally present in the U.S. on a temporary basis and may be eligible to apply for a limited term commercial driver permit or limited term commercial driver license. DMV proposes to amend OAR 735-063-0250 to avoid a conflict between rules. Applicants from Canada or Mexico with temporary work visas are not eligible for nonresident CDLs because the Federal Motor Carrier Safety Administration (FMCSA) has determined that commercial licenses issued by Canadian provinces and territories, and the United Mexican States, are in accordance with the standards established by FMCSA rules. Therefore, under the single license provision of 49 CFR 383.21 and FMCSA’s determination described in 49 CFR 383.23, all Mexican and Canadian drivers must have an appropriate license from their home country.

DMV adopted OAR 735-063-0245 and amended OAR 735-063-0250 on a temporary basis, since the pertinent section of the law was effective on passage and DMV needed those rules to comply with the law as soon as possible.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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**Department of Transportation,
Rail Division
Chapter 741**

Rule Caption: State Safety Oversight of Rail Fixed Guideway Public Transportation Systems

Date:	Time:	Location:
8-15-17	1 p.m.	TriMet Harrison Sq. Office Salzman Conf. Rm. (Garage level) 1800 SW First Ave. Portland, OR

Hearing Officer: Lynda Horst

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045, 824.990

Other Auth.: 49 CFR 659, 49 CFR 674, 49 USC 5329

Stats. Implemented: ORS 824.045

Proposed Adoptions: 741-060-0072, 741-060-0074, 741-060-0076, 741-060-0078, 741-060-0092, 741-060-0094, 741-060-0101, 741-060-0102, 741-060-0103, 741-060-0105, 741-060-0107

Proposed Amendments: 741-060-0010, 741-060-0020, 741-060-0030, 741-060-0040, 741-060-0070, 741-060-0090, 741-060-0100, 741-060-0110

Proposed Repeals: 741-060-0025, 741-060-0035, 741-060-0050, 741-060-0060, 741-060-0080, 741-060-0095

Last Date for Comment: 8-21-17, 5 p.m.

Summary: These rules amend and update the existing state safety oversight program for rail fixed guideway public transportation systems in Oregon. Changes are necessary to comply with changes to federal regulations governing the program, and to comply with new federal guidance related to the changes in 49 USC 5329 and 49 CFR 674. The rules reflect additional enforcement authority granted by the state legislature in accordance with the federal requirements.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Rail Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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**Employment Department
Chapter 471**

Rule Caption: Establish time frames in rule for unemployment recipients to respond to requests to furnish information

Date:	Time:	Location:
8-23-17	2 p.m.	Employment Dept. Auditorium 875 Union St. NE Salem, OR 97311

Hearing Officer: Staff

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.155

Proposed Amendments: 471-030-0025

Last Date for Comment: 8-23-17, 5 p.m.

Summary: This change establishes the requirement in rule that unemployment insurance (UI) recipients respond to requests to furnish information by the Employment Department within the following time frames, unless specifically instructed otherwise:

- (1) Five (5) calendar days for requests provided by letter; and
- (2) 48 hours for requests provided by phone, fax, email, or other electronic means.

Getting timely and accurate information from UI recipients is necessary to be able to meet federal and state requirements regarding the issuance of timely payments to recipients who meet eligibility requirements while avoiding improper payments.

The Employment Department requests public comment on whether other options should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the rule on business. The agency is holding a public hearing for this rule on Wednesday, August 23, 2017 from 2:00 p.m. - 4:00 p.m. in the Employment Department Auditorium (875 Union St NE, Salem, OR 97311). Anyone interested in providing the department feedback on the rule is welcome to attend the public hearing in person. If you are unable to attend the hearing in person but want to provide comments on the rule, you have the option of calling the conference line at 888-850-4523 (Passcode # 440528).

Written comments may also be submitted via e-mail to OED_Rules@oregon.gov by August 23, 2017 at 5:00 p.m. All comments received will be given equal consideration before the department proceeds with the permanent rulemaking.

Rules Coordinator: Cristina Koreski

Address: Employment Department, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1471

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Rule Caption: Align rule for offsetting employer debts through the federal Treasury Offset Program with state statute.

Date:	Time:	Location:
8-23-17	2 p.m.	Employment Dept. Auditorium 875 Union St. NE Salem, OR 97311

Hearing Officer: Staff

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.312

Proposed Amendments: 471-030-0058

Last Date for Comment: 8-23-17, 5 p.m.

Summary: The Employment Department is updating the language in the existing rule to be consistent with the changes to Oregon Revised Statute 657.312 resulting from the passage of Senate Bill 242 in the 2015 Legislative Session. The law expanded the department’s authority to intercept the federal tax refunds of employers with delinquent Unemployment Insurance tax obligations through the federal Treasury Offset Program (TOP).

The proposed amendment makes four changes to the existing rule:

- (1) Delinquent taxes are included in the types of debts which are eligible for referral to TOP for offset and which the department will notify about the intent to offset against federal tax refunds;
- (2) Update the references to the federal laws used to grant states with the authority to use TOP for offset against federal tax refunds;
- (3) The terminology used in the rule is being updated to identify the parties subject to the offsetting of refunds from “claimant” to “debtor” and the nature of the outstanding amount from “overpayment” to “debt”; and

NOTICES OF PROPOSED RULEMAKING

(4) A new stipulation that the department does not need to consider the merits of claim that a debt is not legally enforceable if the issue has already been adjudicated by a court of competent jurisdiction (in addition to the Office of Administrative Hearings and Employment Appeals Board).

The Employment Department requests public comment on whether other options should be considered for achieving the rule's substantive goals, while reducing the negative economic impact of the rule on business. The agency is holding a public hearing for this rule on Wednesday, August 23, 2017 from 2:00 p.m. - 4:00 p.m. in the Employment Department Auditorium (875 Union St NE, Salem, OR 97311). Anyone interested in providing the department feedback on the rule is welcome to attend the public hearing in person. If you are unable to attend the hearing in person but want to provide comments on the rule, you have the option of calling the conference line at 888-850-4523 (Passcode # 440528). Written comments may also be submitted via e-mail to OED_Rules@oregon.gov by August 23, 2017 at 5:00 p.m. All comments received will be given equal consideration before the department proceeds with the permanent rulemaking.

Rules Coordinator: Cristina Koreski

Address: Employment Department, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1471

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Rule Caption: Align definition of "Reasonable Assurance" with federal guidance.

Date:	Time:	Location:
8-23-17	2 p.m.	Employment Dept. Auditorium 875 Union St. NE Salem, OR 97311

Hearing Officer: Staff

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.167 & 657.221

Proposed Amendments: 471-030-0075

Last Date for Comment: 8-23-17, 5 p.m.

Summary: This change in rule enables employees working for educational institutions who voluntarily quit work for good cause, as determined by the Employment Department, to be eligible for unemployment insurance.

The Employment Department requests public comment on whether other options should be considered for achieving the rule's substantive goals, while reducing the negative economic impact of the rule on business. The agency is holding a public hearing for this rule on Wednesday, August 23, 2017 from 2:00 p.m. - 4:00 p.m. in the Employment Department Auditorium (875 Union St NE, Salem, OR 97311). Anyone interested in providing the department feedback on the rule is welcome to attend the public hearing in person. If you are unable to attend the hearing in person but want to provide comments on the rule, you have the option of calling the conference line at 888-850-4523 (Passcode # 440528). Written comments may also be submitted via e-mail to OED_Rules@oregon.gov by August 23, 2017 at 5:00 p.m. All comments received will be given equal consideration before the department proceeds with the permanent rulemaking.

Rules Coordinator: Cristina Koreski

Address: Employment Department, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1471

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**Oregon Health Authority,
Health Policy and Analytics
Chapter 409**

Rule Caption: Amendment of rules relating to Health Care Practitioner Credentialing, Telemedicine and Physician Credentialing

Date:	Time:	Location:
8-16-17	10 a.m.	500 Summer St. NE, Rm. 456 Salem OR 97301

Hearing Officer: Zarie Haverkate

Stat. Auth.: ORS 413.042, 441.056, 441.223 & 441.226

Stats. Implemented: ORS 441.056, 441.221 to 441.233 & 442.015

Proposed Amendments: 409-045-0025, 409-045-0030, 409-045-0035, 409-045-0040, 409-045-0045, 409-045-0050, 409-045-0060, 409-045-0065, 409-045-0070, 409-045-0075, 409-045-0115, 409-045-0120, 409-045-0125, 409-045-0130, 409-045-0135.

Last Date for Comment: 8-18-17, 5 p.m.

Summary: Since initial rules were developed in 2014, OHA has been continuing work with stakeholders on the implementation of the Oregon Common Credentialing Program. To ensure programmatic requirements and to comply with statutory provisions, OHA is proposing changes to the credentialing rules that:

1. Add an official operational date for the program;
2. Adjust definitions to include additional practitioner types and designees;
3. Adjust requirements to allow practitioners to request a waiver from electronic submission in extreme cases;
4. Add health system requirements to ensure those organizations and their expectations are defined;
5. Make grammatical and clarifying language changes where necessary;
6. Add fee structure requirements and amounts; and
7. Define directory related information based on legislative intent.

DISCLAIMER: The Program's operational date, the date in which program participation is mandatory, in rule and the specific treatment of health systems - including the health system definition - are tentative and will be finalized prior to Final Rule. OHA is working with vendors on the OCCP project schedule, and key stakeholders on the health system component to finalize these areas of the rule.

A copy of the proposed rule changes can be found at on the Division's website at: <http://www.oregon.gov/OHA/HPA/Pages/Rule-making.aspx>.

Rules Coordinator: Zarie Haverkate

Address: Oregon Health Authority, Health Policy and Analytics, 500 Summer St. NE, E-65, Salem, OR 97301

Telephone: (503) 931-6420

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**Oregon Health Authority,
Health Systems Division: Medical Assistance Programs
Chapter 410**

Rule Caption: IMD Inpatient Psychiatric Services and an Addition of IMD to the Definition OAR

Date:	Time:	Location:
11-15-17	10:30 a.m.	500 Summer St. NE Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610-414.685

Proposed Amendments: 410-141-0000, 410-141-3160

Proposed Repeals: 410-141-0000(T), 410-141-3160(T)

Last Date for Comment: 11-17-17, 5 p.m.

Summary: This amendment is needed to give the CCOs the opportunity to cover and reimburse an Institution for Mental Diseases (IMD) as an alternative service or setting using Medicaid capitated funds for inpatient psychiatric services. Adding definition of IMDs to the OHP definition rules.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

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Rule Caption: Revise Payment Methodology for Doula Services to Include a Global Rate of \$350

Date:	Time:	Location:
8-15-17	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-130-0015

Proposed Repeals: 410-130-0015(T)

Last Date for Comment: 8-17-17, 5 p.m.

Summary: This rule specifies that doula services are included in the OHP benefit and gives details for billing the FFS program.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

Rule Caption: Amending PDL March 23, 2017 DUR/P&T Action

Date:	Time:	Location:
8-15-17	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.06, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Proposed Amendments: 410-121-0030

Proposed Repeals: 410-121-0030(T)

Last Date for Comment: 8-17-17, 5 p.m.

Summary: The Pharmaceutical Services program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Gabapentin tablets

Non-Preferred:

Benzodiazepine sedatives

Clerical - Various clerical changes were made to system class, drug and form names.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

Rule Caption: Amending Prior Authorization Approval Criteria Guide

Date:	Time:	Location:
8-15-17	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Proposed Amendments: 410-121-0040

Proposed Repeals: 410-121-0040(T)

Last Date for Comment: 8-17-17, 5 p.m.

Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-Pharmacy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek

Address: Oregon Health Authority, Health Systems Division: Medical Assistance Programs, 500 Summer St. NE, 3rd Floor, Salem, OR 97301

Telephone: (503) 945-6430

Oregon Liquor Control Commission Chapter 845

Rule Caption: The amendments remove the requirement for licensees to gain redundant approval for an outside area.

Stat. Auth.: ORS 471, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.001, 471.030(1), 471.313(1), 471.315(1)(d), 471.159, 471.313(1) & 471.315(1)(d)

Proposed Amendments: 845-005-0329, 845-005-0331, 845-006-0309

Last Date for Comment: 8-22-17, 5 p.m.

Summary: The amendments within this package are technical updates. Specifically, staff has revised rule citations, added the Special Event Brewery license to the list of special licenses to which these rules do not apply, and removed the provision that licenses and applicants must provide written proof that a property owner expressly allows the sale, service, and consumption of alcohol in the proposed outdoor area.

These rules were newly created in June 2014. Since then staff have found leases give tenants the authority to occupy a premises, and when appropriate for that business, define the premises to include one or more outdoor areas submitted by applicants. Leases also give tenants the authority to operate the tenant's business at the premises. For Commission licensees and applicants, this authority means that allowing the sale, service, and consumption of alcohol in the outdoor area is already included in the lease. Therefore, requiring the owner and tenant to create an additional document whereby the owner expressly allows the sale, service, and consumption of alcohol in the outdoor area is redundant.

Rules Coordinator: Bryant Haley

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5136

Oregon Medical Board Chapter 847

Rule Caption: Applications for licensure must be kept current throughout application process

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172, 677.190, 677.205, 677.415

Proposed Amendments: 847-008-0010

Last Date for Comment: 8-25-17, Close of Business

Summary: The proposed rule amendment clarifies that applicants for initial licensure must report during the application process any changes in information previously provided or any new information that becomes available. Updates must be made within ten business days. Such new information may include newly filed or resolved malpractice claims, adverse actions taken by health systems or regulatory bodies, arrests or convictions, and other information that would be relevant to the license application.

Rules Coordinator: Nicole Krishnaswami

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2667

Rule Caption: Application withdrawals and denials

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190, 677.220, 677.265, 677.512, 677.759, 677.820

Proposed Adoptions: 847-050-0070, 847-070-0060

Proposed Amendments: 847-020-0185, 847-020-0190, 847-080-0028, 847-080-0030

Last Date for Comment: 8-25-17, Close of Business

Summary: The proposed rule amendments and proposed new rules specify that an applicant who has withdrawn the application for licensure or whose application has been denied may submit a new application for licensure two years after the date of withdrawal or denial.

Rules Coordinator: Nicole Krishnaswami

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

Rule Caption: Licensing examination requirement for acupuncture licensure

Stat. Auth.: ORS 677.265, 677.759

Stats. Implemented: ORS 677.265, 677.759, 677.780

Proposed Amendments: 847-070-0016

Last Date for Comment: 8-25-17, Close of Business

Summary: The proposed rule amendment allows the applicant to request a waiver of the requirement to pass the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) exam within four attempts. This provision will keep the four attempt limit but provide the possibility of a waiver, which is consistent with the requirements for other OMB-licensed professionals.

Rules Coordinator: Nicole Krishnaswami

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2667

Rule Caption: Medical school clinical clerkships and preceptorships

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.010, 677.100, 677.265, 677.800

Proposed Amendments: 847-010-0090

Proposed Repeals: 847-010-0005, 847-010-0010, 847-010-0025, 847-010-0030, 847-010-0035, 847-010-0038, 847-010-0045

Last Date for Comment: 8-25-17, Close of Business

Summary: The proposed rule amendment in OAR 847-010-0090 will update the requirements for clinical clerkships and preceptorships in line with current medical education programs. The proposed repeal of the remaining rules is needed for general housekeeping because these are outdated, unneeded, and duplicative.

Rules Coordinator: Nicole Krishnaswami

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2667

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarify PERS membership of elected and appointed officers.

Date:	Time:	Location:
8-22-17	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.015

Proposed Amendments: 459-010-0180

Last Date for Comment: 9-1-17, 5 p.m.

Summary: Clarify PERS practice that allows an established Tier One or Tier Two member who is appointed or elected to a fixed term to maintain PERS membership during the appointive or elective term of office in the absence of an election form if contributions are made on the member's behalf for more than one pay period.

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

Oregon State Marine Board Chapter 250

Rule Caption: Rule action will update division definitions, clarify safety equipment requirements and establish incident reporting requirements.

Date:	Time:	Location:
8-15-17	7 p.m.	Oregon State Marine Board 435 Commercial St. NE Salem, OR 97301
8-16-17	7 p.m.	Jackson County Sheriff's SAR Station 7 620 Antelope Rd. White City, OR 97503

Hearing Officer: Mervin Hee

Stat. Auth.: ORS 830.430, 830.437 & 830.450

Stats. Implemented: ORS 830.430 & 830.450

Proposed Adoptions: Rules in 250-015

Proposed Amendments: Rules in 250-015

Proposed Repeals: Rules in 250-015

Last Date for Comment: 8-31-17, 5 p.m.

Summary: The Marine Board is proposing rules that will define an Inland Charter Boat to mean only "motorized" vessels, establish a damage reporting requirement for Charter owners or operators, and set safety and equipment requirements for Charter vessels operation on sole-state waters.

Rules Coordinator: June LeTarte

Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065

Telephone: (503) 378-2617

Rule Caption: Rules specify health, drug, and boat knowledge testing, safety equipment and incident reporting requirements.

Date:	Time:	Location:
8-15-17	7 p.m.	Oregon State Marine Board 435 Commercial St. NE Salem, OR 97301
8-16-17	7 p.m.	Jackson County Sheriff's SAR Station 7 620 Antelope Rd. White City, OR 97503

Hearing Officer: Mervin Hee

Stat. Auth.: ORS 704.020, 704.060, 704.500, 704.900

Stats. Implemented: ORS 704

Proposed Adoptions: Rules in 250-016

Proposed Amendments: Rules in 250-016

Proposed Repeals: Rules in 250-016

Last Date for Comment: 8-31-17, 5 p.m.

Summary: The Marine Board is proposing changes to the Outfitter Guide Program that will implement HB 2039 establishing health, drug, and boat knowledge testing requirement. The Board is also proposing a requirement for Outfitter Guides to report damage, accidents or injuries to the Marine Board with 48 hours; and establish safety and equipment requirements for guides operating on land and water.

Rules Coordinator: June LeTarte

Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065

Telephone: (503) 378-2617

Parks and Recreation Department Chapter 736

Rule Caption: Amend Camping Rates for State Parks

Date:	Time:	Location:
8-15-17	6 p.m.	725 Summer St., Rm. 124A Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121, 390.124

Proposed Amendments: 736-015-0020, 736-015-0040

Proposed Repeals: 736-015-0043

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 8-31-17, 5 p.m.

Summary: Revision to rules under OAR Chapter 736, divisions 15, Overnight Rentals and Miscellaneous Rentals and Products that establish rates for camping in properties managed by the Oregon Parks and Recreation Department. An increase in overnight rental fees for select types of campsites was as approved by the Legislature in the 2017-19 Oregon Parks and Recreation Department budget.

** Those who wish to make public comment must register with the hearings officer by 6:30 pm on the hearing day.

Rules Coordinator: Katie Gauthier

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301

Telephone: (503) 947-8625

Rule Caption: Amend rules governing criminal background checks

Stat. Auth.: ORS 181A.195, 390.124, 390.131, 390.140, 390.200

Stats. Implemented: ORS 181A.195, 390.200

Proposed Amendments: Rules in 736-002

Proposed Repeals: 736-002-0032, 736-002-0042, 736-002-0052, 736-002-0058, 736-002-0070, 736-002-0082, 736-002-0092, 736-002-0102, 736-002-0150

Last Date for Comment: 8-31-17, 5 p.m.

Summary: Changes to statewide policy related to criminal record checks require revisions to Oregon Administrative Rule 736, Division 2, rules governing how the department conducts criminal records reviews of potential employees, volunteers, contractors or licensees.

Rules Coordinator: Katie Gauthier

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301

Telephone: (503) 947-8625

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Rules Regarding Oregon Universal Service Fund Process and Procedures (AR 611).

Stat. Auth.: ORS Ch. 183, 192, 756, 759

Stats. Implemented: ORS 756.040, 759.005, 759.015, 759.020, 759.425, OR Laws 2017 ch. 32

Proposed Adoptions: 860-100-0105, 860-100-0115, 860-100-0125, 860-100-0200

Proposed Amendments: 860-100-0005, 860-100-0100, 860-100-0150

Last Date for Comment: 8-22-17, 5 p.m.

Summary: This rulemaking is the second step in creating a separate division of Administrative Rules to house a comprehensive framework for definitions, processes, and procedures with regards to the Oregon Universal Service Fund (OUSF). This rulemaking provides additional definitions and general provisions, and introduces rules which address the distribution and identification worksheets as well as support eligibility and portability.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 611 on comments and attach them to an e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us.

Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=20653>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088

Telephone: (503) 378-4372

Public Utility Commission, Oregon Board of Maritime Pilots Chapter 856

Rule Caption: Amends applicant selection requirements.

Date:	Time:	Location:
8-24-17	10:30 a.m.	800 NE Oregon St. 1-C Portland, OR 97232

Hearing Officer: Board of Maritime Pilots

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Proposed Amendments: 856-010-0026

Last Date for Comment: 8-24-17, 3 p.m.

Summary: Counsel to the Board has determined that applicant interviews as prescribed by 856-010-0026(2)(c) constitute a public meeting. This amendment corrects the process so that applicant interviews do not constitute a public meeting.

Rules Coordinator: Susan Johnson

Address: Public Utility Commission, Oregon Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

Telephone: (971) 673-1530

Secretary of State, Archives Division Chapter 166

Rule Caption: Rulemaking transparency and streamlining; Implementation of Senate Bill 227

Date:	Time:	Location:
8-23-17	9 a.m.	Oregon State Archives 800 Summer St. NE Large Conf. Rm. Salem, OR 97310

Hearing Officer: Colleen Needham

Stat. Auth.: ORS 183.355, 183.360

Stats. Implemented: ORS 183.360

Proposed Adoptions: 166-500-0035, 166-500-0060, 166-500-0070

Proposed Amendments: 166-500-0010, 166-500-0020, 166-500-0025, 166-500-0030, 166-500-0040, 166-500-0050, 166-500-0055

Proposed Repeals: 166-500-0000, 166-500-0005, 166-500-0015

Last Date for Comment: 8-23-17, 5 p.m.

Summary: These rule changes are needed to implement Senate Bill 227 (Chapter 518, 2017 Laws) and to bring the rule language up to date with the new rules database and online filing and rules search system.

Rules Coordinator: Julie Yamaka

Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310

Telephone: (503) 378-5199

Secretary of State, Elections Division Chapter 165

Rule Caption: Adopts revisions to the state initiative processes contained in OAR Chapter 165 Division 14.

Date:	Time:	Location:
8-25-17	10 a.m.	255 Capitol St. NE, Suite 501 Salem, OR

Hearing Officer: Brenda Bayes

Stat. Auth.: ORS 246.150, 250.015, 250.048, 255.135

Stats. Implemented: ORS 250.015, 250.045, 250.048, 250.052, 250.085, 250.105

Proposed Adoptions: 165-014-0034

Proposed Amendments: 165-014-0005, 165-014-0030, 165-014-0275

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 8-25-17, 5 p.m.

Summary: 165-014-0005 — The proposed rule amendment adopts current revisions to the State Initiative and Referendum Manual as the procedures and forms to be used for the state initiative and referendum process. Specifically incorporates changes made by the 2017 Legislative Assembly and provides a process for chief petitioners to circulate a state initiative petition during the ballot title process.

165-014-0030 — Adopts revisions to the state initiative verification process. Defines terms to provide clarification between verification processes. Incorporates verification procedures for signatures gathered during the ballot title process. Clarifies signature sheet errors and signature lines which will not be accepted for verification.

165-014-0034 — Allows for any number of signatures gathered using sponsorship templates to be submitted not later than October 1, 2017, and subsequently processed the same as signatures gathered on primary templates.

165-014-0275 — Clarifies that signature lines which appear to have been completed by the same member of the household will not be rejected as altered.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

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Rule Caption: Clarifies process of registering qualified individuals to vote using DMV data.

Date:	Time:	Location:
8-25-17	10 a.m.	255 Capitol St. NE, Suite 501 Salem, OR

Hearing Officer: Brenda Bayes

Stat. Auth.: ORS 246.150, 247.017

Stats. Implemented: ORS 247.002, 247.012, 247.016, 247.171, 247.292, 247.302

Proposed Amendments: 165-005-0170

Last Date for Comment: 8-25-17, 5 p.m.

Summary: This proposed amendment adopts current revisions to the Oregon Motor Registration Manual. Updates include clarifying what is included in the OMV mailing, removing redundant information, streamlining the process and incorporating changes made by the 2017 Legislative Assembly.

To request a draft copy of any manual please contact Summer Davis, Compliance Specialist, phone 503-986-1518; fax 503-373-7414; or email summer.s.davis@oregon.gov.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

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Teacher Standards and Practices Commission Chapter 584

Rule Caption: Adopts and amends rules related to licensure, professional practices and approval of preparation programs.

Date:	Time:	Location:
9-27-17	4 p.m.	TSPC Office 250 Division St. NE Salem, OR 97301

Hearing Officer: Tamara Dykeman

Stat. Auth.: ORS 342

Other Auth.: SB 205 (2017), HB 3351 (2017)

Stats. Implemented: ORS 342.120–342.430, 342.455–342.495 & 342.553

Proposed Adoptions: 584-420-0050

Proposed Amendments: 584-020: 584-020-0000, 584-050: 584-050-0035, 584-070: 584-070-0112, 584-070-0441, 584-080: 584-080-0153, 584-200: 584-200-0005, 584-200-0020, 584-200-0030, 584-200-0070, 584-210: 584-210-0080, 584-210-0100, 584-210-

0190, 584-220: 584-220-0010, 584-220-0015, 584-220-0120, 584-225: 584-225-0010, 584-225-0050, 584-255: 584-255-0030,

Last Date for Comment: 10-1-17, 5 p.m.

Summary: The Teacher Standards and Practices Commission is proposing to adopt new rules and amend existing rules for educator licensure, professional practices and state approval of educator preparation programs. Specifically, the rulemaking includes the following proposed changes:

State Approval of Educator Preparation Programs:

- Adopts 584-420-0050 to create standards for Career and Technical Education programs. The Commission is proposing to adopt CTE program standards to allow educator preparation programs, school districts, education service districts, community colleges and other education entities to develop pedagogy programs for new CTE teachers who have not completed a teacher preparation program. The Commission requires the completion of a pedagogy coursework or program prior to obtaining a Preliminary CTE teaching license. Persons may hold a Restricted CTE teaching license while completing the CTE pedagogy program.

Professional Practices (Educator Discipline)

-Amends Division 20; 584-020-0000 to allow the Commission to delay undertaking an investigation until it receives verification of attempts to resolve the complaint through the school district's complaint process. The rule is being amended to meet the new statutory provisions in HB 3351 (2017).

-Amends Division 50; 584-050-0035 to allow educators to work for 90 days without a license if certain background clearance conditions are met. This rule is being amended to meet the new statutory provision in SB 205 (2017).

Licensure

-Amends Division 70; 584-070-0112 to allow 120 grace period for Restricted School Counselor and to allow up to 18 month term if apply after Jan 1. The proposed changes also remove redundant provisions related to Emergency Licenses and to update terms and rule number references.

Amends Division 70; 584-070-0441 to allow 120 grace period for Restricted School Social Worker and to allow up to 18 month term if apply after Jan 1. The proposed changes also remove redundant provisions related to Emergency Licenses and to update terms and rule number references.

Amends Division 80; 584-080-0153 to allow 120 grace period for Restricted Administrator License and to allow up to 18 month term if apply after Jan 1. The proposed changes also remove redundant provisions related to Emergency Licenses and to update terms and rule number references.

-Amends Division 200; 584-200-0005 to allow educators who held a multiple subjects endorsement with a middle level authorization prior to July 1, 2015 to be eligible for a legacy middle-level endorsement. May make other changes in this area, as needed for consistency.

-Amends Division 200; 584-200-0020 to allow educators to work for 90 days without a license if certain background clearance conditions are met. This rule is being amended to meet the new statutory provision in SB 205 (2017).

-Amends Division 200; 584-200-0030 to allow grace periods for restricted licenses.

-Amends Division 200; 584-200-0070 to remove PEER form and transcripts from list of verifying documentation of name change. The proposed changes also clarify that only a copy of the official document is required.

-Amends Division 210; 584-210-0080 to adds languages to list of approved American Indian Language endorsements. The propose changes also allow tribal governments to verify statutory civil rights and ethics requirements.

-Amends Division 210; 584-210-0100 to allow 120 grace period for Restricted Teaching License and to allow up to 18 month term if apply after Jan 1. The proposed changes also add provisions related to transfer to new sponsoring district, remove redundant provi-

NOTICES OF PROPOSED RULEMAKING

sions related to Emergency Teaching Licenses and update terms and rule number references.

-Amends Division 210; 584-210-0190 to add provisions related to reinstatement requirements for American Indian Languages Teaching, Substitute and District-sponsored licenses.

-Amends Division 220; 584-220-0010 to add Legacy Middle Level endorsement to list of Commission-adopted teaching endorsements. May make other changes in this area, as needed for consistency.

-Amends Division 220; 584-220-0015 to create a process for verifying Oregon license holders completing out-of-state endorsement programs and to clarify that out-of-state applicant seeking waiver of testing requirement must meet the waiver rule provisions.

-Amends Division 220; 584-220-0120 to add Legacy Middle Level endorsement to list of legacy teaching endorsements and to add provisions to allow educators who held a multiple subjects endorse-

ments with a middle level authorization prior to July 1, 2015 to be eligible for a legacy middle level endorsement. May make other changes in this area, as needed for consistency.

-Amends Division 225; 584-225-0010 to create provisions for applicants seeking to add Out-of-state specializations to their license.

-Amends Division 225; 584-225-0050 to allow tribal governments to verify American Indian Languages for the purposes of bilingual specialization.

-Amends Division 225; 584-255-0030 to rephrases provisions related to advanced PDUs for clarification, remove provisions related to other advanced programs as they are not PDU based and removes redundant provisions.

Rules Coordinator: Tamara Dykeman

Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301

Telephone: (503) 378-3586

ADMINISTRATIVE RULES

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: Amend rules related to registration qualifications, renewal of registrations, inactive status, CWRE examination, housekeeping.

Adm. Order No.: BEELS 4-2017

Filed with Sec. of State: 7-12-2017

Certified to be Effective: 7-12-17

Notice Publication Date: 6-1-2017

Rules Amended: 820-010-0505, 820-010-0510, 820-010-0520, 820-010-1020, 820-010-2020, 820-010-3010, 820-010-5000, 820-025-0005, 820-080-0010

Subject: OAR 820-010-0505 and OAR 820-010-0520 - The amendments allow for a registrant to be in an “inactive” status not predicated upon serious illness or disability.

OAR 820-010-0510 and OAR 820-025-0005 - The amendments address a “pending” status for registrants who timely make an application to renew a registration, in accordance with the agency’s rules, but the review of the renewal application extends past the registration expiration date.

OAR 820-010-1020 - The amendments clarify the qualifying programs where six of the nine required academic subjects can be obtained.

OAR 820-010-2020 and OAR 820-010-3010 - The amendments are minor housekeeping (renumbering of rules and adding the word “professional” to land surveyor).

OAR 820-010-5000 - The amendments add a date to withdraw from a Certified Water Right Examiner examination administration and to forward the application and fees to the next available administration.

OAR 820-080-0010 - The amendment decreases the fee for an inactive registrant or certificate holder to reinstate from \$225 to \$50.

Rules Coordinator: Jenn Gilbert—(503) 934-2107

820-010-0505

Biennial Renewal of Registration or Certification

(1) Registration with the Board as a professional engineer, professional land surveyor, or professional photogrammetrist is on a biennial renewal schedule. As a condition of registration renewal, registrants must demonstrate compliance with the continuing professional development requirements in OAR 820-010-0635. Verification of completing the required professional development requirements on the CPD Organizational Form and fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the registration. The biennial fee to renew a registration is described below:

- (a) Professional Engineer — \$150.00;
- (b) Professional Land Surveyor — \$150.00;
- (c) Professional Photogrammetrist — \$150.00;

(2) Certification as a certified water right examiner is on a biennial renewal schedule. The fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the certification. The biennial fee to renew a certification as a water right examiner is \$40.00

(3) A delinquent fee of \$80.00 will be assessed on the first day following the expiration date of each registration or certification for each biennial renewal period in which renewal fee payment or verification of having timely completed the required continuing professional development hours has not been submitted.

(a) A registration or certification that is delinquent for failure to pay the renewal fee will remain in “delinquent” status until all delinquent fees that are due, and the required renewal fee, are paid.

(b) A registration or certification that is delinquent for failure to submit verification of having timely completed the required continuing professional development hours, when such hours have been completed, will remain in “delinquent” status until the delinquent fee is paid and the verification is submitted.

(c) A registration or certification that is suspended or for which renewal is refused because of failure to complete the required continuing professional development hours cannot be returned to active status or renewed until any delinquent fees and any biennial renewal fees due are paid, in addition to any conditions imposed by the Board for renewal or lifting of the suspension.

(4) Registrations or certificates in the delinquent or retired status for a period of 5 years or more may not be renewed. Delinquent or retired registrants or certificate holders must re-apply and re-take any applicable examination to obtain their certificate of registration or other certificate after their registrations have been delinquent or retired for a period of 5 years or more.

Stat. Auth.: ORS 670.310, 672.168, 672.170, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2012(Temp), f. & cert. ef. 3-16-12 thru 5-15-12; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2015, f. & cert. ef. 2-3-15; BEELS 2-2015, f. & cert. ef. 5-21-15; BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 3-2016, f. & cert. ef. 2-16-16; BEELS 4-2017, f. & cert. ef. 7-12-17

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Registrants or Certificate Holders Qualified to Practice

(1) Active registrants or certificate holders authorized to engage in the professional practice of engineering, land surveying, photogrammetric mapping, or the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR chapter 690, and who are current with regards to payment of application and biennial renewal fees and continuing Professional Development Hour (PDH) requirements, if applicable, may practice in their respective professions. These registrants maintain an “active status.”

(2) Registrants or certificate holders with a “pending” status are authorized to engage in the professional practice of engineering, land surveying, photogrammetric mapping, or the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR chapter 690.

Stat. Auth.: ORS 672.255(1)(g).

Stats. Implemented: ORS 672.020(1), 672.025(1), 672.028(1), 672.045(1)

Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 4-2017, f. & cert. ef. 7-12-17

820-010-0520

Registrants or Certificate Holders Not Qualified to Practice

Registrants or certificate holders who are delinquent, retired, inactive, suspended or revoked by the Board, are not authorized to engage in the professional practice of engineering, land surveying, photogrammetric mapping, or the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR chapter 690. Except as provided in section (2), registrants or certificate holders who are delinquent, retired, inactive, suspended or revoked may not hold out as professional engineers, professional land surveyors, professional photogrammetrists, or certified water right examiners.

(1) Delinquent registrants or certificate holders. Registrants or certificate holders become delinquent because they fail, within a period of five years from the renewal date, to renew their certificate of registration or to pay their renewal or delinquent fees, or satisfy the required PDH units. A delinquent registrant or certificate holder, who is not subject to suspension or revocation of registration, or PDH audit may return to active status:

(a) Upon application to the Board;

(b) By paying any delinquent renewal fee required by OAR 820-080-0010;

(c) By paying any biennial renewal fee required by OAR 820-010-0505; and

(d) By completing and submitting proof of completion on a form approved by the Board of all delinquent PDH units, at a rate of 15 PDH units per year delinquent.

(2) Delinquent registrants who are subject to suspension of registration must comply with all terms of the Final Order of Suspension of Registration issued against them and, if suspension of registration was not related to registration delinquency, must also comply with subsection (1) of this rule, in order to return to active status.

(3) Delinquent registrants who are subject to revocation of registration must reapply for registration and have complied with subsection (1) of this rule, in order for their registration applications to be considered.

(4) Retired registrants or certificate holders. Registrants or certificate holders may retire once they notify the Board that they are not providing engineering, land surveying, photogrammetric mapping services, or professional activities of a certified water right examiner to the public and they request retired status. Registrants or certificate holders who are retired may not use their seal. However, retired registrants may sign documents, listing after their name the designation “PE (Retired),” “SE (Retired),” “PLS (Retired),” “Photogrammetrist (Retired),” or “CWRE (Retired),” as appropriate. A retired registrant or certificate holder may, within a period of 5 years from retirement, return to active status:

(a) Upon application to the Board,

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- (b) By paying the reinstatement fee required by OAR 820-080-0010;
- (c) By paying the biennial renewal fee required by OAR 820-010-0505; and
- (d) By satisfying and submitting proof of completion on a form approved by the Board of 15 PDH units per year for each year (or part of a year) retired.

(5) Inactive registrants or certificate holders. Registrants or certificate holders may place their license or certification on inactive status, upon application to the Board, if the registrant or certificate holder maintains a current registration or certification in another jurisdiction. An inactive registrant or certificate holder may return to active status at any time:

- (a) Upon application to the Board;
- (b) By demonstrating to the satisfaction of the Board that the registrant or certificate holder has maintained active status in good standing of the same registration or certification in another U.S. jurisdiction throughout the period the registrant or certificate holder has been in inactive status in Oregon;
- (c) By paying the reinstatement fee required by OAR 820-080-0010;
- (d) By paying the biennial renewal fee required by OAR 820-010-0505; and
- (e) By satisfying and submitting proof of completion on a form approved by the Board of 30 PDH units within two years preceding application, except for certificate holders, who must satisfy and submit proof of completing 10 PDH units within two years preceding application.

Stat. Auth: ORS 672.255(1)(g)

Stats. Implemented: ORS 672.170(4), 672.180 & 672.255(1)(g)

Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 1-2015, f. & cert. ef. 2-3-15; BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 8-2016, f. & cert. ef. 12-29-16; BEELS 4-2017, f. & cert. ef. 7-12-17

820-010-1020

Education and Experience Requirements for Registration as a Professional Engineer

The following combinations of education and experience may be used to satisfy subsection (3) of OAR 820-010-1000 (Qualifications for Registration as a Professional Engineer):

(1) Accredited Baccalaureate Degree in Engineering or Construction Engineering Management, and Four Years of Experience.

(a) Graduation from:

- (A) EAC of ABET accredited baccalaureate of engineering degree program;
- (B) ETAC of ABET accredited baccalaureate of engineering degree program; or
- (C) ACCE accredited four-year baccalaureate of construction engineering management degree program; and

(b) Four years of active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in engineering, from a college or university that offers an EAC of ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of the rule.

(2) Accredited Two Year Degrees, Specified Coursework, and Four Years of Experience.

(a) Graduation from:

(A) ETAC of ABET accredited two-year Engineering Technology program that includes:

- (i) A total of at least 64 semester or 96 quarter hours;
- (ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;
- (iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra);

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; or

(B) ETAC of ABET accredited two-year Associate of Applied Science degree program in Engineering Technology that includes:

- (i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;

(iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra);

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; and

(b) Completion of additional course work in the Applicant's degree program, identified in subsection (2)(a) of this rule, or from another ABET accredited program, consisting of 21 semester or 32 quarter hours in at least six of the nine following subjects: Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals, and Strength of Materials; and

(c) Four years of active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(3) Accredited Two Year Degrees and Six Years of Experience.

(a) Graduation from:

(A) ETAC of ABET accredited two-year Engineering Technology program that includes:

- (i) A total of at least 64 semester or 96 quarter hours;
- (ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;
- (iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra); and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; or

(B) ETAC of ABET accredited two-year Associate of Applied Science degree program in Engineering Technology that includes:

- (i) A total of at least 64 semester or 96 quarter hours;
- (ii) At least 32 semester or 48 quarter hours in technical courses that cover skills and knowledge of appropriate methods, procedures, and techniques, as well as provide experience in established engineering procedures;
- (iii) At least 16 semester or 24 quarter total hours in: math and science that include 4 semester or 6 quarter hours in basic sciences (physics, chemistry, earth and life sciences) and 8 semester or 12 quarter hours in mathematics (not including courses in computer programming or courses below the level of college algebra); and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities and communications; and

(b) Six years of active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or six years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(4) Graduate Degree in Engineering and Four Years of Experience.

(a) Graduation from a graduate degree program in engineering at a college or university that offers an EAC of ABET accredited undergraduate degree in the same program as the graduate degree;

(b) Completion of 21 semester or 32 quarter hours of engineering related technical course work in the Applicant's graduate degree program, in another graduate degree program at a college or university that offers an EAC of ABET accredited undergraduate degree in the same program as that graduate degree program, or in an ABET accredited undergraduate degree program, which shall include at least six of the nine following subjects: Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals, and Strength of Materials; and

(c) Four years of active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

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(5) Non-accredited Baccalaureate Degree in Engineering and Four Years of Experience.

(a) Graduation from a four-year baccalaureate degree program in engineering, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to the educational requirements in subsection (1) of this rule; and

(b) Four years of active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or four years of active practice in engineering work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in engineering, from a college or university that offers an EAC of ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of the rule.

(6) Course work from an Accredited Baccalaureate Program in Engineering, Accredited Two-Year Program in Engineering Technology, Qualifying Graduate Program, or Equivalent Baccalaureate Program in Engineering, with Additional Experience.

(a) Course work from a qualifying program identified in subsections (1) to (5) of this rule, without graduation from that program, may be considered toward qualifying an Applicant for registration to the extent that the course work involves engineering principles or was obtained by the Applicant while enrolled in that engineering program.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Engineer.

(c) When relying on course work from a qualifying program identified in subsections (1) to (5) of this rule, without graduation from that program, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's engineering work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

(7) Non-accredited Baccalaureate Degree in Engineering, with Additional Experience.

(a) Graduation from a non-accredited baccalaureate degree program evaluated by NCEES Credential Evaluations, which is determined by the Board not to be substantially equivalent to the educational requirements in subsection (1) of this rule, course work from that program may be considered toward qualifying an Applicant for registration to the extent that the course work involves engineering principles. The cost of any NCEES Credentials Evaluation must be borne by the Applicant.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Engineer.

(c) When relying on course work credit from a non-accredited degree that has been evaluated by NCEES Credential Evaluations but determined by the Board not to be equivalent to a degree from a program identified in subsection (1) of this rule, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's engineering work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

(8) Military Experience and Training.

(a) Military experience and training may be considered as qualifying for the required education and experience under this rule if it is evaluated by the Joint Services Transcript (JST) and the Board determines that it is sub-

stantially equivalent to the education and experience listed in subsections (1), (2), (3) or (4) of this rule.

(b) Military experience and training that is not determined to be substantially equivalent to the education and experience listed in subsections (1), (2), (3) or (4) of this rule may be considered toward qualifying an Applicant for registration to the extent that the experience and training involves engineering principles or qualifies as experience.

(c) The Board will determine the amount of educational credit, if any, the military training and experience will be given towards qualifying the Applicant for registration as a Professional Engineer.

(d) If applying with military training and experience, whether by qualifying military experience alone, a combination of educational credit and qualifying military experience, or a combination of educational credit, qualifying military experience, and qualifying non-military experience, an Applicant must demonstrate that the Applicant's training and experience is equivalent to a total of 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for military training and experience under this subsection, must demonstrate 10 years of qualifying education, experience, or both outside of the military.

(e) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

(9) Experience Only.

(a) 12 years of qualifying experience.

(b) Qualifying experience under this subsection is:

(A) Active practice in engineering work as defined in OAR 820-005-0036, in the Applicant's area of competence, and under the direction and supervision of a registered professional engineer; or

(B) Active practice in engineering work while registered in another jurisdiction with NCEES membership.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 4-2017, f. & cert. ef. 7-12-17

820-010-2020

Education and Experience Requirements for Registration as a Professional Land Surveyor

The following combinations of education and experience may be used to satisfy subsection (4) of OAR 820-010-2000 (Qualifications for Registration as a Professional Land Surveyor):

(1) Accredited Four Year Baccalaureate Degree in Land Surveying and Four Years of Experience.

(a) Graduation from:

(A) EAC of ABET accredited baccalaureate of land surveying degree program;

(B) ETAC of ABET accredited baccalaureate of land surveying degree program; or

(C) ASAC of ABET accredited baccalaureate of land surveying degree program.

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or ETAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(2) Accredited Four Year Baccalaureate Degree in Engineering, Additional Course Work, and Four Years of Experience.

(a) Graduation from:

(A) ETAC of ABET accredited baccalaureate of engineering degree program with 11 semester or 16 quarter hours of surveying instruction and surveying law;

(B) EAC of ABET accredited baccalaureate of engineering degree program with 11 semester or 16 quarter hours of surveying instruction and surveying law; or

(C) ACCE accredited baccalaureate of engineering degree program with 11 semester or 16 quarter hours of surveying instruction and surveying law.

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(b) Four years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or ETAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(3) Accredited Two Year Degree in Land Surveying Meeting Specific Criteria, with Six Years of Experience.

(a) Graduation from:

(A) ASAC of ABET accredited two-year Surveying Technology program that includes:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as: college level algebra; college level trigonometry; college level statistics; science; basic electricity; hydraulics; road design; construction management and estimating; engineering economics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications;

(B) ETAC of ABET accredited two-year Surveying Technology program that includes the following:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications; or

(C) ETAC of ABET accredited Associate of Applied Science degree program in Surveying Technology program that includes the following:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or six years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(4) Accredited Two Year Degree in Engineering Meeting Specific Criteria, with Six Years of Experience.

(a) Graduation from an ETAC of ABET accredited Associate of Applied Science degree program in Engineering Technology that includes the following:

(A) A total of at least 64 semester or 96 quarter hours;

(B) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(C) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(D) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or six years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(5) Graduate Degree in Land Surveying and Four Years of Experience.

(a) Graduation from a post-baccalaureate degree program in land surveying at a college or university that offers an ABET accredited undergraduate degree program in the same field.

(b) Completion of 11 semester or 16 quarter hours of surveying instruction from a college or university with an ABET accredited undergraduate degree program in land surveying or land surveying technology.

(c) Four years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(6) Accredited Baccalaureate Degree Related to Land Surveying or Engineering and Four Years of Experience

(a) Graduation from an EAC, ETAC, or ASAC of ABET accredited baccalaureate degree program related to engineering or land surveying that includes:

(A) 21 semester or 32 quarter hours of course work with a direct focus on geomatics that requires direct application of geomatics knowledge and skills. At least one of these courses must be related to surveying law;

(B) 27 semester or 40 quarter hours of course work that requires the application of mathematics for problem solving. At least one of these courses must focus on the integration of differential and integral calculus;

(C) 24 semester or 35 quarter hours of course work related to physical and natural sciences, with laboratory application; and

(D) 4 semester or 6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in problem solving.

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(7) Non-accredited Baccalaureate Degree in Land Surveying with Four Years of Experience.

(a) Graduation from a four-year baccalaureate degree program in land surveying, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to the educational requirements in subsection (1) of this rule; and

(b) Four years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or four years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in surveying, from a college or university that offers an ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(8) Accredited Baccalaureate Degree with "Core Requirements" or Non-accredited Baccalaureate Degree with "Core Requirements," and Six Years of Experience.

(a) Graduation from an ABET accredited Bachelor of Science baccalaureate degree program that is not a degree in "land surveying," if the curriculum for that degree includes all of the following:

(A) 18 semester credit hours of mathematics and basic sciences, including:

(i) At least 12 semester credit hours in mathematics beyond basic mathematics, such as college algebra and higher mathematics, and that focus on mathematical concepts and principles rather than computation. Such courses include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) At least 6 semester credits must be in the basic sciences, including one or more of the following topics: biology, general or advanced chemistry, geology, ecology, general or advanced physics.

(B) At least 16 college semester credit hours of general education courses, excluding routine exercises of personal craft. Such courses include, philosophy, religion, history, literature, fine arts, sociology, social sciences, economics, and professional ethics and responsibility.

(C) At least 30 college semester credit hours of surveying science and practice, taught by qualified surveying faculty as determined by the Board,

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and which must include basic and route surveying, geodesy, Geographic Information Systems or Global Positioning Systems, land development design and planning, mapping, photogrammetry or remote sensing, and surveying law; or

(b) Graduation from a Bachelor of Science baccalaureate degree program that is not a degree in "land surveying" and is not ABET accredited, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to an ABET accredited Bachelor of Science baccalaureate degree program that includes all of the following:

(A) 18 semester credit hours of mathematics and basic sciences, including:

(i) At least 12 semester credit hours in mathematics beyond basic mathematics, such as college algebra and higher mathematics, and that focus on mathematical concepts and principles rather than computation. Such courses include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) At least 6 semester credits must be in the basic sciences, including one or more of the following topics: biology, general or advanced chemistry, geology, ecology, general or advanced physics.

(B) At least 16 college semester credit hours of general education courses, excluding routine exercises of personal craft. Such courses include, philosophy, religion, history, literature, fine arts, sociology, social sciences, economics, and professional ethics and responsibility.

(C) At least 30 college semester credit hours of surveying science and practice, taught by qualified surveying faculty, and which must include basic and route surveying, geodesy, Geographic Information Systems or Global Positioning Systems, land development design and planning, mapping, photogrammetry or remote sensing, and surveying law. Graduate-level surveying classes may be evaluated by NCEES for consideration in fulfilling the requirements of this sub-paragraph.

(D) The costs of any NCEES evaluation shall be borne by the Applicant.

(c) In addition to fulfilling the degree requirements of either subsection (a) or (b) above, the Applicant must also have completed six years of active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or six years of active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(9) Course work from an Accredited Baccalaureate Program in Land Surveying or Engineering, Accredited Two-Year Program in Land Surveying Technology or Applied Science in Land Surveying or Engineering, Qualifying Graduate Program, or Equivalent Baccalaureate Program in Land Surveying or Engineering, with Additional Experience.

(a) Course work from a qualifying program identified in subsections (1) to (4), (6), (7) or (8) of this rule, without graduation from that program, may be considered toward qualifying an Applicant for registration to the extent that the course work involves the following classes:

(A) Advanced mathematics, including college algebra, probabilities and statistics, or higher mathematics, all of which must emphasize mathematical concepts and principles rather than computation;

(B) Geology;

(C) Biology;

(D) Ecology;

(E) General or advanced physics;

(F) General or advanced chemistry;

(G) Surveying law;

(H) Basic or route surveying;

(I) Geodesy;

(J) Geographic Information Systems;

(K) Global Positioning Systems;

(L) Land development design and planning;

(M) Photogrammetry;

(N) Mapping;

(O) Remote sensing.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Land Surveyor.

(c) When relying on course work from a qualifying program identified in subsections (1) to (4), (6), (7) or (8) of this rule, without graduation from that program, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's qualify-

ing land surveying work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or

(B) Active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(10) Military Experience and Training.

(a) Military experience and training may be considered as qualifying for the required education and experience under this rule if it is evaluated by the Joint Services Transcript (JST) and the Board determines that it is substantially equivalent to the education and experience listed in subsections (1) to (4), (6) or (7) of this rule.

(b) Military experience and training that is not determined to be substantially equivalent to the education and experience listed in sections (1) to (4), (6), (7) or (8) of this rule may be considered toward qualifying an Applicant for registration to the extent that the experience and training involves the subjects listed in subsection (9)(a) of this rule, or to the extent it qualifies as experience.

(c) The Board will determine the amount of educational credit, if any, the military training and experience will be given towards qualifying the Applicant for registration as a Professional Land Surveyor.

(d) If applying with military training and experience, whether by qualifying military experience alone, a combination of educational credit and qualifying military experience, or a combination of educational credit, qualifying military experience, and qualifying non-military experience, an Applicant must demonstrate that the Applicant's training and experience is equivalent to a total of 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for military training and experience under this subsection, must demonstrate 10 years of qualifying education, experience, or both outside of the military.

(e) Qualifying experience under this subsection is:

(A) Active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or

(B) Active practice in land surveying work while registered in another jurisdiction with NCEES membership.

(11) Experience Only.

(a) 12 years of qualifying experience.

(b) Qualifying experience under this subsection is:

(A) Active practice in land surveying work as defined in OAR 820-005-0051, in the Applicant's area of competence, and under the direction and supervision of a registered professional land surveyor; or

(B) Active practice in land surveying work while registered in another jurisdiction with NCEES membership.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 4-2017, f. & cert. ef. 7-12-17

820-010-3010

Education and Experience Requirements for Registration as a Professional Photogrammetrist

The following combinations of education and experience may be used to satisfy subsection (4) of OAR 820-010-3000 (Qualifications for Registration as a Professional Photogrammetrist):

(1) Accredited Four Year Baccalaureate Degree in Land Surveying and Four Years of Experience.

(a) Graduation from:

(A) EAC of ABET accredited four-year baccalaureate of land surveying;

(B) ETAC of ABET accredited four-year baccalaureate of land surveying program; or

(C) ASAC of ABET accredited four-year baccalaureate of land surveying program.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or ETAC of ABET,

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or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(2) Accredited Four Year Baccalaureate Degree in Engineering, Additional Course Work, and Four Years of Experience.

(a) Graduation from:

(A) ETAC of ABET accredited baccalaureate of engineering program with 11 semester or 16 quarter hours of surveying instruction and surveying law;

(B) EAC of ABET accredited baccalaureate of engineering program with 11 semester or 16 quarter hours of surveying instruction and surveying law; or

(C) ACCE accredited baccalaureate of engineering program with 11 semester or 16 quarter hours of surveying instruction and surveying law.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in land surveying, from a college or university that offers an EAC or ETAC of ABET, or ACCE accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of this rule.

(3) Accredited Baccalaureate Degree in Geomatics or related Geospatial Science and Four Years of Experience

(a) Graduation from a EAC, ETAC, or ASAC of ABET accredited baccalaureate degree related to Geomatics or Geospatial Science that includes:

(A) 19 semester or 28 quarter hours of course work with a direct focus on geomatics/geospatial science that requires direct application of geomatics/geospatial science knowledge and skills;

(B) At least 8 semester or 12 quarter hours in mathematics, such as college level algebra, trigonometry, and statistics; and

(C) At least 8 semester or 12 quarter hours in computer science courses; and

(D) 24 semester or 35 quarter hours of course work related to physical and natural sciences.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(4) Accredited Two Year Degree in Land Surveying Meeting Specific Criteria, with Six Years of Experience.

(a) Graduation from:

(A) ASAC of ABET accredited Surveying Technology program that includes:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications;

(B) ETAC of ABET accredited two-year Surveying Technology program that includes the following:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications; or

(C) ETAC of ABET accredited Associate of Applied Science in Surveying Technology program that includes the following:

(i) A total of at least 64 semester or 96 quarter hours;

(ii) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 16 quarter hours are in surveying instruction;

(iii) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(iv) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(5) Accredited Two Year Degree in Engineering Meeting Specific Criteria, with Six Years of Experience.

(a) Graduation from an ETAC of ABET accredited Associate of Applied Science in Engineering Technology program that includes the following:

(A) A total of at least 64 semester or 96 quarter hours;

(B) At least 32 semester hours or 48 quarter hours in technical courses, in which a minimum of 11 semester or 6 quarter hours are in surveying instruction;

(C) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating, engineering economics with college level algebra, trigonometry and statistics; and

(D) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(6) Accredited Two Year Degree in Geomatics or related Geospatial Science Meeting Specific Criteria, with Six Years of Experience

(a) Graduation from a ETAC of ABET accredited Associate of Applied Science in Geomatics Technology or Geospatial Technology program that includes the following:

(A) A total of at least 64 semester or 96 quarter hours;

(B) At least 32 semester hours or 48 quarter hours in technical courses in which a minimum of 6 semester or 11 quarter hours are in geomatics or geospatial sciences;

(C) At least 16 semester or 24 quarter hours in subjects such as math, science, basic electricity, hydraulics, engineering economics with college level algebra trigonometry and statistics; and

(D) At least 9 semester or 13 quarter hours in social sciences, humanities, and communications.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(7) Graduate Degree in Land Surveying or Geomatics-based program and Four Years of Experience.

(a) Graduation from a graduate degree program in land surveying at a college or university that offers an ABET accredited undergraduate degree program in the same field.

(b) Completion of 11 semester or 16 quarter hours of surveying instruction from a college or university with an ABET accredited undergraduate degree program in land surveying or land surveying technology.

(c) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(8) Accredited Baccalaureate Degree Related to Land Surveying or Engineering and Four Years of Experience

(a) Graduation from an EAC, ETAC, or ASAC of ABET accredited baccalaureate degree related to engineering or land surveying that includes:

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(A) 21 semester or 32 quarter hours of course work with a direct focus on geomatics that requires direct application of geomatics knowledge and skills. At least one of these courses must be related to surveying law;

(B) 27 semester or 40 quarter hours of course work that requires the application of mathematics for problem solving. At least one of these courses must focus on the integration of differential and integral calculus;

(C) 24 semester or 35 quarter hours of course work related to physical and natural sciences, with laboratory application; and

(D) 4 semester or 6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in problem solving.

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(9) Non-accredited Baccalaureate Degree in Land Surveying with Four Years of Experience.

(a) Graduation from a four-year baccalaureate program in land surveying, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to the educational requirements in subsection (1) of this rule; and

(b) Four years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or four years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(c) Graduation from a post-baccalaureate degree program in surveying, from a college or university that offers an ABET accredited undergraduate program in a discipline similar to that of the post-baccalaureate degree program, may be substituted for one year of the experience required in subsection (b) of the rule.

(10) Non-accredited Baccalaureate Degree with "Core Requirements" with Six Years of Experience.

(a) Graduation from a four-year baccalaureate program in land surveying, not accredited by ABET, if the degree is evaluated by NCEES Credential Evaluations (Note: The cost of any NCEES Credentials Evaluation must be borne by the Applicant), and the Board determines that the degree is substantially equivalent to a degree that includes the following:

(A) 18 semester credit hours of mathematics and basic sciences, including:

(i) At least 12 semester credit hours in mathematics beyond basic mathematics, such as college algebra and higher mathematics, and that focus on mathematical concepts and principles rather than computation. Such courses include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) At least 6 semester credits must be in the basic sciences, including one or more of the following topics: biology, general or advanced chemistry, geology, ecology, general or advanced physics;

(B) At least 16 college semester credit hours of general education courses, excluding routine exercises of personal craft. Such courses include, philosophy, religion, history, literature, fine arts, sociology, social sciences, economics, and professional ethics and responsibility;

(C) At least 20 college semester credit hours of surveying science and practice, taught by qualified surveying faculty. Graduate-level surveying classes may be evaluated by NCEES for consideration in fulfilling the requirements of subsection (a)(C) above.

(b) Six years of active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor or photogrammetrist; or six years of active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(11) Course work from: an Accredited Baccalaureate Program in Land Surveying, Engineering, Geomatics, or Geospatial Sciences Program; Accredited Two-Year Program in Land Surveying Technology or Applied Science in Land Surveying, Engineering, Geomatics, or Geospatial Sciences Program; Qualifying Graduate Program; or Equivalent

Baccalaureate Program in Land Surveying, Engineering, Geomatics, or Geospatial Sciences Program, with Additional Experience.

(a) Course work from a qualifying program identified in subsections (1) to (6), (8), (9) or (10) of this rule, without graduation from that program, may be considered toward qualifying an Applicant for registration to the extent that the course work involves the following classes:

(A) Advanced mathematics, including college algebra, probabilities and statistics, or higher mathematics, all of which must emphasize mathematical concepts and principles rather than computation;

(B) Geology;

(C) Biology;

(D) Ecology;

(E) General or advanced physics;

(F) General or advanced chemistry;

(G) Surveying law;

(H) Basic or route surveying;

(I) Geodesy;

(J) Geographic Information Systems;

(K) Global Positioning Systems;

(L) Land development design and planning;

(M) Photogrammetry;

(N) Mapping;

(O) Remote sensing.

(b) The Board will determine the amount of credit, if any, the course work will be given towards qualifying the Applicant for registration as a Professional Photogrammetrist.

(c) When relying on course work from a qualifying program identified in subsections (1) to (10) of this rule, without graduation from that program, an Applicant must also demonstrate that the Applicant's Board-credited course work, when combined with the Applicant's qualifying photogrammetric mapping work, is equivalent to 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for course work under this subsection, must demonstrate 10 years of qualifying experience.

(d) Qualifying experience under this subsection is:

(A) Active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor, or photogrammetrist; or

(B) Active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(12) Military Experience and Training.

(a) Military experience and training may be considered as qualifying for the required education and experience under this rule if it is evaluated by the Joint Services Transcript (JST) and the Board determines that it is substantially equivalent to the education and experience listed in subsections (1) to (6) of this rule.

(b) Military experience and training that is not determined to be substantially equivalent to the education and experience listed in sections (1) to (6) or (9) of this rule may be considered toward qualifying an Applicant for registration to the extent that the experience and training involves the subjects listed in subsection (10)(a)(A) of this rule, or to the extent it qualifies as experience.

(c) The Board will determine the amount of educational credit, if any, the military training and experience will be given towards qualifying the Applicant for registration as a Professional Photogrammetrist.

(d) If applying with military training and experience, whether by qualifying military experience alone, a combination of educational credit and qualifying military experience, or a combination of educational credit, qualifying military experience, and qualifying non-military experience, an Applicant must demonstrate that the Applicant's training and experience is equivalent to a total of 12 years of qualifying experience. For example, an Applicant who is granted two years of credit for military training and experience under this subsection, must demonstrate 10 years of qualifying education, experience, or both outside of the military.

(e) Qualifying experience under this subsection is:

(A) Active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor, or photogrammetrist; or

(B) Active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

(13) Experience Only.

(a) 12 years of qualifying experience.

(b) Qualifying experience under this subsection is:

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(A) Active practice in photogrammetric mapping work as defined in OAR 820-005-0066, in the Applicant's area of competence, and under the direction and supervision of a registered engineer, land surveyor, or photogrammetrist; or

(B) Active practice in photogrammetric mapping work while registered in another jurisdiction with NCEES membership.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 4-2017, f. & cert. ef. 7-12-17

820-010-5000

Qualification to Sit for Examination as a Water Right Examiner

In order to qualify for examination to sit for the Water Right Examiner, an applicant for certification must provide all of the following:

(1) Evidence satisfactory to the Board of active Oregon registration as a Professional Engineer, Professional Land Surveyor, or Geologist, in good standing.

(2) The Certified Water Right Examiner examination is held once a year, in April. To sit for the Certified Water Right Examiner examination, a completed Application for Certification form and required application fee must be received by the Board offices no later than February 1.

(3) To withdraw from the Certified Water Right Examiner examination, and forward the Examination form and examination fees to the next examination administration, a written request to withdraw and forward the Examination form and examination fees must be received by the Board office no later than March 1 for the next April Examination.

(4) Examinees may request reasonable accommodations to the examination's administration.

(a) Reasonable accommodations will be provided for examinees who have a documented disability within the meaning of the Americans with Disabilities Act of 1990. Reasonable accommodations may be provided for examinees whose religious convictions prohibit them from testing on the scheduled examination dates.

(b) Requests for reasonable accommodations must be submitted on the Board approved form, and accompanied by supporting documentation, by the February 1 deadline.

(5) Review of Examinations. With respect to the certified water right examiner examination, an Applicant may submit a written request to review the Applicant's own examination results. The Board will allow an examination review where the Applicant failed the examination and the applicant achieved a score within five points of the cutoff score. With respect to such reviews.

(a) The Applicant may examine only the question, solution, and answer key for the failed problem.

(b) The Applicant may review the examination on only one occasion. The Board will prescribe a time and place for the review.

(c) All examination reviews will be conducted in the presence of a person designated by the Board.

(d) Except as allowed by the Board for persons requiring disability assistance, no person may accompany the Applicant during the examination review.

(6) Examination Subversion.

(a) Any examinee who is under investigation for examination subversion, as defined in OAR 820-005-0040 will not be considered for certification until the investigation and any ensuing disciplinary action are complete.

(b) An Applicant disciplined for examination subversion is subject to imposition of civil penalties and denial of certification. A registrant who is disciplined for examination subversion is subject to imposition of civil penalties and suspension or revocation of certification.

Stat. Auth.: ORS 537.797, 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 2-2016(Temp), f. & cert. ef. 1-15-16 thru 6-30-16; BEELS 5-2016, f. & cert. ef. 5-12-16; BEELS 4-2017, f. & cert. ef. 7-12-17

820-025-0005

Official Seal

(1) Seals, as referenced by ORS 672.020(2) and 672.025(2), must contain the printed name of the registrant, the date of registration, the number of the registrant's certificate of registration, and the registrant's professional title. The registrant's printed name on the seal will be exactly the same as the registrant's name on file with the Board.

(2) The size, design and content of the seal will be an exact replica, in style, of the examples shown in Exhibit 1 (Official Seals) for the profession or branch of the profession in which the registrant is licensed. (A tolerance of 1/4" is permitted as to the size of the seal). The expiration or renewal

date may be made part of the seal. If the expiration or renewal date is not made part of the seal, it must be handwritten, in permanent ink, after the word "Expires" or "Renews." Reduced or enlarged seals are not permitted on final documents. In addition to these requirements, registrants will use the following seals:

(a) Professional engineers holding a structural engineering certificate will use the seal with the designation "Structural" above the words "Registered Professional Engineer," as shown in Exhibit 1-b. Other registered professional engineers will use the seal shown in Exhibit 1-a; [Exhibit not included. See ED. NOTE.]

(b) Registered professional traffic engineer, who may practice only traffic engineering will use the seal shown in Exhibit 1-f; [Exhibit not included. See ED. NOTE.]

(c) Registered professional land surveyors will use the seal shown in Exhibit 1-c; [Exhibit not included. See ED. NOTE.]

(d) Registered professional photogrammetrists will use the seal shown in Exhibit 1-d; [Exhibit not included. See ED. NOTE.]

(e) Registered water rights examiners will use the seal shown in Exhibit 1-e. [Exhibit not included. See ED. NOTE.]

(3) The seal may be applied to a document by rubber stamp or it may be computer-generated onto the document.

(4) The registrant will sign through the middle of the seal or in the place on the seal as indicated for signature, in handwriting, and in permanent ink.

(5) A digital signature, for final documents is acceptable as an alternative to a handwritten signature in permanent ink if the digital signature:

(a) Is unique to the registrant using it;

(b) Is independently verifiable by a Certificate Authority (3rd Party);

(c) Is under the sole control of the registrant using it;

(d) Is linked to the document in such a manner that the digital signature is invalidated if any data in the document is changed; and

(e) Bears the phrase "digitally signed" in place of a handwritten signature.

(6) Only individuals registered as professional engineers, professional traffic engineers, professional land surveyors, professional photogrammetrists, or certified water rights examiners may use a seal with a shape, form or wording similar to those shown in Exhibit 1. Using such a seal without registration constitutes falsely representing that the person is authorized to practice the profession.

(7) Registrants in the "pending" status must, as part of their seal or handwritten in permanent ink, write the word "pending" as the expiration date if their expiration date is part of their seal, and write the word "pending" as their renewal date if their renewal date is part of their seal.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; Administrative correction, 6-16-07; BEELS 4-2007, f. & cert. ef. 8-15-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp), f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 2-2014, f. & cert. ef. 2-26-14; Renumbered from 820-010-0620 by BEELS 7-2015, f. & cert. ef. 9-16-15; BEELS 5-2016, f. & cert. ef. 5-12-16; BEELS 8-2016, f. & cert. ef. 12-29-16; BEELS 4-2017, f. & cert. ef. 7-12-17

820-080-0010

Fees

For the purposes of ORS 672.155, the Board shall charge the following fees:

(1) Registration application fee — \$360.

(2) Additional branch fee — \$35.

(3) Examination application fees:

(a) Oregon Specific Acoustical examination — \$55.

(b) Oregon Specific Forest examination — \$55.

(c) Oregon Specific Land Surveying examination — \$55.

(4) Certified Water Right Examiner examination and certification application fee — \$200.

(5) Biennial registration renewal fee:

(a) Professional engineer — \$150.

(b) Professional land surveyor — \$150.

(c) Professional photogrammetrist — \$150.

(d) Certified water right examiner — \$40.

(6) Delinquency renewal fee — \$80 for any part of each biennial registration renewal period during delinquency.

(7) Issuance of a temporary permit under ORS 672.109 or 672.127 — \$100.

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- (8) Declaration/issuance of an intern enrollment number — \$35.
- (9) Re-issuance of professional wall certificate — \$35.
- (10) Re-issuance of renewal certificate and pocket card — \$10.
- (11) Verification of certification(s) and/or registration(s) — \$15.
- (12) Issuance of certificate of registration under ORS 672.153, without examination based on experience — \$250.
- (13) Reinstatement for inactive registrant or certificate holder — \$50.
- (14) Reinstatement for retired registrant or certificate holder — \$225.
- (15) Re-score of an Oregon specific examination item — \$50.

Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 5-2015(Temp), f. & cert. ef. 8-19-15 thru 2-12-16; BEELS 8-2015, f. & cert. ef. 11-13-15; BEELS 6-2016, f. & cert. ef. 10-4-16; BEELS 4-2017, f. & cert. ef. 7-12-17

Board of Nursing Chapter 851

Rule Caption: To update references and language.

Adm. Order No.: BN 5-2017

Filed with Sec. of State: 7-3-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 5-1-2017

Rules Adopted: 851-001-0115, 851-001-0125, 851-001-0135

Rules Amended: 851-001-0000, 851-001-0005, 851-001-0010, 851-001-0015, 851-001-0020, 851-001-0030, 851-001-0100

Subject: Amend OAR 851-001 related to Board Rules of Practice and Procedure.

Updating of Model Rules Reference and eliminate redundant and outdated rule language.

Rename process for license application after voluntary surrender/revocation to match current process.

Eliminate process language from the Fitness for Practice evaluation, process will be part of agency internal workflow.

Clarify that SSNs are required to be produced at initial licensure and not at renewal.

Change consultant contracting language to match DAS rules and eliminate agency specific procurement language.

Align Criminal Background Check process with DAS rules regarding Criminal Background Checks for applicants and employees.

Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

851-001-0000

Notice of Proposed Rulemaking

Prior to adoption, amendment or repeal of any rule, the Board of Nursing shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action.

(2) Mail a copy of the notice to persons on the Board of Nursing mailing list(s) established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) At least 49 days before the effective date of the rule, the Board shall provide notice to the persons specified in ORS 183.335(15); and

(4) Mail or furnish a copy of the notice to:

(a) The Associated Press; and

(b) The Capitol Press Room.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.335 & 678.150

Hist.: NER 27, f. & ef. 12-16-75; NER 3-1985, f. & ef. 5-2-85; NB 3-1988, f. & cert. ef. 7-5-88; NB 1-1990, f. & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 4-2006, f. & cert. ef. 5-8-06; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0005

Model Rules of Procedure

(1) The Model Rules for Contested Cases of the Attorney General under the Administrative Procedures Act in effect, January 1, 2014, and all amendments thereto are hereby adopted by reference as the rules of the State Board of Nursing.

(2) Contested case hearings are closed to members of the public who are not parties or representatives of the parties in the proceedings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Nursing.]

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: Renumbered from 851-040-0005, 4-1-76; NER 17, f. 6 16-72, ef. 7-1-72; NER 18, f. 3-18-74, ef. 4-11-74; NER 31, f. & ef. 3-30-76; NER 20-1980, f. & ef. 6-24-80; NER 1-1982, f. & ef. 1-29-82; NER 2-1983, f. & ef. 10-4-83; NER 3-1986, f. & ef. 6-6-86; NB 3-1988, f. &

cert. ef. 7-5-88; NB 11-1990, f. & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 10-2002, f. & cert. ef. 4-25-02; BN 9-2004, f. & cert. ef. 5-4-04; BN 13-2004, f. & cert. ef. 10-26-04; BN 4-2006, f. & cert. ef. 5-8-06; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0010

Post Hearing Procedure

(1) Following a hearing and the Board's decision to censure, reprimand, impose a civil penalty, place on probation, suspend, revoke or deny the nursing license of a Licensed Practical Nurse or Registered Nurse or Certified Registered Nurse Anesthetist, place a disciplinary sanction on the certificate of a Nurse Practitioner or place a disciplinary sanction on a nursing assistant, a copy of the Board's Findings of Fact, Conclusions of Law and Order shall be sent to the licensed nurse or nursing assistant whose license/certificate the Board has sanctioned.

(2) Notice of the Board's disciplinary action shall be sent to the National Council State Boards of Nursing (NCSBN) for inclusion in the NURSUS dataset and the National Practitioner Data Bank (NPDB).

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: NER, f. & ef. 11-25-77; NB 3-1988, f. & cert. ef. 7-5-88; NB 11-1990, f. & cert. ef. 11-6-90; BN 4, f. & cert. ef. 4-24-00; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0015

Petition for Reinstatement

A licensee or certificate holder whose license or certificate has been revoked or who voluntarily surrendered the license or certificate in lieu of revocation may seek reinstatement under the following conditions:

(1) The license or certificate has been revoked or surrendered for a minimum period of three years;

(2) The licensee or certificate holder has documented evidence of reformation of the issues that originally brought the licensee or certificate holder to the Board's attention;

(3) The licensee or certificate holder has made application to the Board for reinstatement of the license/certificate; and

(4) The licensee or certificate holder agrees to additional education/training or other activities necessary to demonstrate competence at the level of licensure/certification for which the applicant is seeking reinstatement.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 183.341 & 678.150

Hist.: BN 10-2002, f. & cert. ef. 4-25-02; BN 9-2004, f. & cert. ef. 5-4-04; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0020

Orders for an Evaluation to Determine Fitness to Practice

(1) Evaluations will be performed by a board approved evaluator. If the assessment does not address the issues of concern, the Board may order an evaluation with an Independent third party evaluator which will be paid by the licensee/applicant.

(2) The Respondent shall pay for costs associated with complying with the Board's Order for Evaluation, to include paying the health care professional(s) in a timely manner to ensure that the Board receives the report of assessment and evaluation by the specified due date.

(3) If the health assessment and evaluation is a mental health evaluation that offers a diagnosis of mental disorders, the evaluation shall follow the guidelines of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV or V), published by the American Psychiatric Association. The health care professional shall indicate in the written assessment and evaluation the information relied upon that formed the basis for the findings and conclusions in the report.

(4) If the health assessment is a substance use disorder that offers a diagnosis of substance use disorder, the evaluator shall follow professionally accepted guidelines for the evaluation which may include the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV or V), published by the American Psychiatric Association or ASAM criteria published by the American Society of Addiction Medicine. The health care professional shall indicate in the written assessment and evaluation the information relied upon that formed the basis for the finding and conclusions in the report.

(5) If the health assessment is a physical health evaluation that offers a diagnosis of a physical condition, the evaluator shall follow the professionally recognized standard of care to arrive at a diagnosis and shall indicate both the diagnosis and the information relied on to make the diagnosis in a written report to the Board.

Stat. Auth.: ORS 678.113 & 678.150

Stats. Implemented: ORS 678.113

Hist.: BN 20-2002, f. & cert. ef. 12-17-02; BN 9-2004, f. & cert. ef. 5-4-04; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

ADMINISTRATIVE RULES

851-001-0030

Social Security Numbers

(1) The Board will not issue a license or certificate unless an applicant provides his or her social security number on the application. The applicant need not provide the social security number on the application for renewal, if the applicant's social security number has previously been provided to agency and is in the record.

(2) If an applicant has not been issued a social security number by the United States Social Security Administration, the Board will accept a written statement from the applicant to fulfill the requirements of section (1). The applicant may submit a written statement on the form provided by the Board or by written statement. The written statement submitted must:

- (a) Be signed by the applicant;
- (b) Attest to the fact that no social security number has been issued to the applicant by the United States Social Security Administration;
- (c) Acknowledge that knowingly supplying false information under this section is a Class A misdemeanor, punishable by imprisonment of up to one year and a fine of up to \$6250.

(3) The applicant must provide the Board with their social security number within 30 days of obtaining it if it is received subsequent to submitting their renewal application and while the license or certificate is active.

Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.150 & 25.785
Hist.: BN 9-2004, f. & cert. ef. 5-4-04; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0100

Delegation of Signature Authority

(1) Approval of Interim Order By Consent (ICO): The Executive Director or designee via her/his signature has the delegated authority to grant approval of an ICO that has been signed by a licensee/certificate holder.

(2) Approval of Notices of Proposed Discipline: The Executive Director or designee has delegated authority to sign all Notices for Proposed Discipline.

(3) The Executive Director or designee may sign Stipulated Orders for Civil Penalties levied due to reactivation of licenses when the RN/LPN continues to practice nursing for more than 60 days after license expiration date.

(4) The signature allows the document to become a public document.
Stat. Auth.: ORS 279.051 & 291.021
Stats. Implemented:
Hist.: NB 9-1993, f. & cert. ef. 10-15-93; BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0115

Criminal Background Checks

The Board of Nursing will perform national fingerprint and state records criminal background checks on all Licensee Applicants; or Persons who are employed or who seek to be employed by the Board; or who is providing services or seeks to provide services to the Board on a contractual or volunteer basis will be referred to in this rule as an "SI" as defined in ORS 181A.190(1)(c), OAR 125-007-0210(10):

(1) The Board of Nursing, in making fitness determinations consistent with the intent of ORS 181A and rules promulgated by the Department of Administrative Services 125-007-0200 to 0330 et seq. shall consider:

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of a false statement;
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, license, certification or registration;
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the position, license, certification, or registration, such as:
 - (A) The passage of time since the commission of the crime;
 - (B) The age of the subject individual at the time of the crime;
 - (C) The likelihood of a repetition of the offenses or of the commission of the crime;
 - (D) The subsequent commission of another relevant crime;
 - (E) Whether the conviction was set aside and the legal effect of setting aside of the conviction; and
 - (F) Letters of support that would supply evidence of current character.

(2) The Board will evaluate a conviction or pending indictment or that indicate the making of a false statement; crime or offense on the basis of law of the jurisdiction in which the crime or offense occurred.

(3) A conviction of any of the following crimes or offenses is potentially disqualifying, unless otherwise provided by law.

- (a) All Felonies.
- (b) All misdemeanors.
- (c) Any U.S. military crimes or international crimes.
- (4) The Board of Nursing in and through its designee(s) shall evaluate a crime or offense on the basis of the law of the jurisdiction in which the crime or offense occurred.

(5) The following are examples of crimes likely to result in denial unless there are significant mitigating circumstances.

- (a) Aggravated murder as in ORS 163.095
- (b) Murder as in ORS 163.115
- (c) Rape 1 as in ORS 163.375
- (d) Sodomy 1 as in ORS 163.405
- (e) Unlawful sexual penetration as in ORS 163.411
- (f) Sexual Abuse as in ORS 163.427
- (6) Under no circumstances shall a SI be denied under these rules because of a juvenile record that has been expunged or set aside pursuant to ORS 419A.260 to 419A.262.

(7) Under no circumstances shall SI be denied under these rules due to existence of contents of an adult record that has been set aside pursuant to ORS 137.225.

(8) Examples of other criminal offender information that may be potentially disqualifying may include:

- (a) Sex offender registration;
- (b) Conditions of parole, probation, or diversion program; or
- (c) Unresolved arrest, charge, pending indictment or outstanding warrant.

(9) The Board will be the determiner of the validity of all criminal background check information received.

Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.150
Hist.: BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0125

Appealing a Fitness Determination

(1) An SI may contest a final fitness determination outcome of a denied or restricted approval.

(2) To request a contested case hearing, the SI or the SI's legal representative shall submit a written request for a contested case hearing to the address specified in the notice provided under OAR 851-001-0115 within the time required by law or a reasonable time period.

(3) Confidentiality. The Board or the administrative law judge may protect information made confidential by ORS 181A.195(11) or other applicable law as provided in OAR 137-003-0570(7) or (8).

(4) No Public Attendance. Unless otherwise provided by law, contested case hearings on fitness determinations are closed to non-participants.

(5) Alternative Process. An SI currently employed by the Board may choose to appeal a fitness determination either under the process made available by this rule or through the process made available by applicable personnel rules, policies and collective bargaining provisions. An SI's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(6) Challenging Criminal Offender Information. An SI may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by OSP, the FBI, or agencies reporting information to OSP or the FBI. To challenge information, an SI may use any process made available by the providing agency.

(7) Remedy. When the fitness determination is performed as part of the Board's hiring process or employment decision, the only remedy that may be awarded is a determination the SI is fit or not fit. Under no circumstances shall the Board be required to place an SI in any position, nor shall the Board be required to accept services or enter into a contractual agreement with an SI.

(8) No delay in hiring. Appealing a final fitness determination, challenging criminal offender information with the Board that provided the information, or requesting a new criminal records check may not delay or postpone the Board's hiring process or employment decisions.

Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.150
Hist.: BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

851-001-0135

Record Keeping and Confidentiality

(1) Criminal offender information obtained in the criminal records check is confidential. The Board must restrict the dissemination of infor-

ADMINISTRATIVE RULES

mation obtained in the criminal records check. Only those persons, as identified by the Board, with a demonstrated and legitimate need to know the information, may have access to criminal records check records. Any request to review criminal offender information must be made in person at the Board office and the information will be reviewed in the presence of Board staff. Original documents will be retained by the Board.

(2) Sharing information. Final fitness determination results may be shared pursuant to ORS 181A.195(10)(c)(A).

Stat. Auth.: ORS 678.150
Stats. Implemented.: ORS 678.150
Hist.: BN 5-2017, f. 7-3-17, cert. ef. 8-1-17

Rule Caption: Amends rules to reflect the entity that licenses schools that provide training and certificate programs.

Adm. Order No.: BN 6-2017

Filed with Sec. of State: 7-3-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 5-1-2017

Rules Amended: 851-061-0030

Subject: Amends OAR 851-061-0030 to reflect the Oregon Higher Education Coordinating Commission (HECC) Office of Private Postsecondary.

Education Private Career Schools (PCS) Licensing Unit as the entity that licenses schools that provide training and certificate programs in

Oregon. The Division 61 rules still refer to the Oregon Department of Education as the licensing entity of PCS.

Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

851-061-0030

Process for Program Approval

(1) Any person, partnership, association, corporation, or limited liability company desiring to offer training other than just nursing assistant or medication aide training to non-employed students will need to be licensed through the Oregon Higher Education Coordinating Commission in addition to meeting the Board's standards as described in these rules.

(2) All nursing assistant level one, level two, or medication aide training programs shall be Board-approved prior to being offered. Retroactive approval shall not be granted.

(3) Application for initial approval of level one, level two, and medication aide training programs: A facility, agency, on-line program provider, or individual wishing to establish a new nursing assistant level one, level two, or medication aide training program shall make application to the Board at least 45 days in advance of expected start date. The application for initial approval of a training program shall include:

- (a) A completed form provided by the Board;
- (b) Appropriate fees;
- (c) Faculty names and qualifications;
- (d) Names of classroom and clinical facilities;
- (e) Name of person authorized to accept service of notices issued by the Board;

(f) Program rationale, philosophy and purpose;

(g) Program outline:

- (A) Objectives;
- (B) Curriculum content divided into number and sequence of didactic and clinical hours; and

- (C) Teaching methodology.
- (h) Evaluation method:
- (A) Laboratory and clinical skills checklist approved by the Board;
- (B) Final exam; and
- (C) In addition, for level 2 training programs, a Board approved competency validation.

- (i) Enrollment agreement and disclosure statement that includes:
 - (A) Beginning and ending dates of the training;
 - (B) An outline of the instructional program as required by these rules for which the student is enrolled;
- (C) Fees, tuition, and other program costs (books, clothing, etc.) itemized separately;

(D) A published cancellation and refund policy, procedure, and schedule that is fully explained during orientation, prior to the beginning of instruction, and requires no less than:

(i) If the training program discontinues after the fees and tuition have been paid, the program provider must refund the tuition and fees in full if the closure re the course is completed;

(ii) If the student cancels enrollment in writing three days before the commencement of the first day of classes or three days before they receive access to the online didactic training, all tuition and fees paid to the program specific to the enrollment agreement, will be refunded, less a cancellation fee that cannot exceed ten percent of the tuition and fees paid; and

(iii) Clearly stated reasons for which a refund will not be granted; and

(E) Information about how the student can file a complaint about the program with the Board.

(j) Tentative time schedule for initiating the program; and

(k) Plan for what job placement assistance will consist of from the training program.

(4) A site visit may be conducted by a representatives of the Board;

(5) The program director will be notified of approval or non-approval. Following receipt of notification from the Board of approval or non-approval:

(a) A program that is approved may begin classes according to the schedule submitted;

(b) A program that is not approved will be notified of the deficiencies and will be re-evaluated after appropriate modifications are made;

(c) A program denied approval may petition the Board for reconsideration.

(6) An approved nursing assistant level one, level 2, or medication aide training program:

(a) Shall be required to demonstrate ongoing compliance with the standards of approval at least every two years for continued approval.

(b) Shall be surveyed for consideration of continued approval and may have a survey visit or interim self-evaluation report required by the Board at any time.

(c) May be subject to scheduled or non-scheduled site visits for continued approval or any other purpose at any time.

(d) Shall submit an interim self-evaluation during the intervening year or as requested by the Board on forms provided by the Board.

(e) Shall have records available for review.

(f) Shall have adequate financial support for the stability and continuation of the program.

(7) An on-line provider shall have a proven track record of successfully providing professional development, training and educational programs in both classroom and on-line environments in Oregon, either directly or in partnership, in the previous 24 months, and meet all Board requirements prior to being approved.

(8) Program changes requiring Board approval:

(a) Change of program ownership:

(A) If the change only causes minor changes, there is no need to seek new approval of the program.

(B) If the change causes a substantial difference as determined by the Board through the impact on the students, faculty, or program resources, an application and approval for the program shall be required.

(b) Changes in course content, lab/clinical skill checklist, final exam, certificate of completion, program director, primary instructor, clinical teaching associate, policies and procedures related to attendance, course requirements, cancellation and refunds, or classroom or clinical training sites shall be submitted to the Board for approval.

Stat. Auth.: ORS 678.440 & 678.444

Stats. Implemented: ORS 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 5-2002, f. & cert. ef. 3-5-02; BN 1-2004, f. 1-29-04, cert. ef. 2-12-04; BN 7-2006, f. & cert. ef. 5-8-06; BN 2-2008, f. & cert. ef. 2-25-08; BN 2-2011, f. & cert. ef. 7-11-11; BN 13-2013, f. 12-3-13, cert. ef. 1-1-14; BN 5-2014, f. 12-1-14, cert. ef. 1-1-15; BN 6-2017, f. 7-3-17, cert. ef. 8-1-17

Rule Caption: Repeals rule language covered in statute and administrative rule.

Adm. Order No.: BN 7-2017

Filed with Sec. of State: 7-3-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 5-1-2017

Rules Repealed: 851-063-0080, 851-063-0110

Subject: It is being proposed at this time that OAR 851-063-0080 and OAR 851-063-0110 be deleted from Division 63 when the revisions to Division 1 get approved. The content of OAR 851-063-0800 is covered in ORS 678.442 and OAR 851-063-0110 is in conflict with current Oregon Statutes. The proposed language revision in Division 1 will replace the current OAR 851-063-0110.

Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

ADMINISTRATIVE RULES

Rule Caption: To amend, adopt and repeal various rules within Chapter 851 Division 45

Adm. Order No.: BN 8-2017

Filed with Sec. of State: 7-7-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 5-1-2017

Rules Adopted: 851-045-0035

Rules Amended: 851-045-0030, 851-045-0040, 851-045-0050, 851-045-0060, 851-045-0070, 851-045-0090, 851-045-0100

Rules Repealed: 851-045-0080

Subject: Amends Division 45 to contain practice setting neutral language, adopts new rule number for definitions, adopts stand-alone standards related to documentation, adopts standards related to licensee practice role disclosure to clients, per Board direction incorporates former policy language related to accepting and implementing orders for client care and treatment into rule, provides greater clarity in scope of practice standards at the registered nurse level of licensure and the licensed practical nurse level of licensure, incorporates standards related to ORS 433.800 training on lifesaving treatments, per Board direction incorporates standards specific to ORS 678.038 for registered nurses employed by a school, incorporates former policy language related to supervision of the registered nurse as first assistant into rule, sequences conduct derogatory to the practice of nursing standards with similar conduct unbecoming a certified nursing assistant and conduct unbecoming a certified medication aide, repeals 851-0045-0080 Criminal Conviction History/Falsification of Application Denial of Licensure, Revocation of Licensure.

Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

851-045-0030

Purpose of Standards and Scope of Practice

(1) To establish acceptable levels of safe practice for the Licensed Practical Nurse (LPN) and Registered Nurse (RN);

(2) To serve as a guide for the Board to evaluate safe and effective nursing care;

(3) To serve as a guide for the Board to determine when nursing practice is below the expected standard of care; and

(4) To provide a framework for evaluation of continued competency in nursing practice.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.010

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12; BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

851-045-0035

Definitions

(1) "Assign" means directing and distributing, within a given work period, the work that each staff member is already authorized to perform.

(2) "Board" means the Oregon State Board of Nursing.

(3) "Client" means an individual, person, family, group, community, organization, population, or a student cohort who is engaged in a professional relationship with a licensee.

(4) "Clinical Supervision" means the RN's provision of guidance, direction, oversight and evaluation of another RN, LPN, certified nursing assistant (CNA), certified medication aide (CMA), or unlicensed assistive person (UAP) in their implementation of the plan of care.

(5) "Community-Based Setting" means a setting where federal law or state law does not require the presence of licensed nursing personnel 24-hours a day. These settings include private homes, congregate housing, home-like settings, schools, and those settings identified in ORS 678.150(8).

(6) "Competency" or competence means demonstrating specified levels of knowledge, technical skill, ability, ethical principle, and clinical reasoning which are relevant to the practice role, prevailing standards, and client safety.

(7) "Comprehensive Assessment" means the collection, in-depth analysis and synthesis of client data performed by the RN.

(8) "Context of Care" means the variables that guide a licensee's nursing service delivery and include, but are not limited to, the practice setting, the licensee's role within the setting, the regulations governing the setting, the policies and procedures of the setting, specialty nursing practice stan-

dards applicable to the nursing activity, and the ability of the client to engage in their own care.

(9) "Delegation Process" means the process an RN uses to authorize an unlicensed assistive person to perform a nursing procedure for a client while retaining accountability for the outcome.

(10) "Ethical Practice" means nursing practice consistent with the ethics of the profession of nursing.

(11) "Focused Assessment" means for the purpose of these rules, the collection and appraisal of data related to the client's health status performed by the LPN that occurs as assigned to the LPN by the RN or by the licensed independent practitioner who is providing clinical direction and supervision of the LPN.

(12) "Focused Plan of Care" means the outline authored by the LPN, at the direction of the RN or licensed independent practitioner, that identifies a client problem or risk, identifies a measurable client outcome, and identifies nursing interventions designed to mitigate the problem or risk.

(13) "Health Care Team" means those working with the client to achieve the client's identified outcomes. The composition of the health care team is appropriate to the context of care, includes the client, can be multidisciplinary, and is not limited to licensed health professionals.

(14) "Impaired Function" means the inability to practice nursing with professional skill and safety.

(15) "Individual Scope of Practice" means an individual licensee's demonstrated competency developed and maintained through practice experience and through engagement in independent and formal learning experiences, which occurs within the boundaries of nursing practice allowed by statute.

(16) "Licensed Independent Practitioner (LIP)" means a health care professional who is authorized by Oregon statute to independently diagnose and treat.

(17) "Licensee" means the RN, RN emeritus, LPN, LPN emeritus, nurse practitioner (NP), clinical nurse specialist (CNS), certified registered nurse anesthetist (CRNA) as licensed pursuant to ORS Chapter 678.

(18) "Noninjectable Medication" means a medication that is not administered by injection.

(19) "Nursing Intervention" means an action deliberately designed, selected and performed to implement the plan of care.

(20) "Nursing Judgment" means the intellectual process the nurse exercises in forming an opinion and reaching a clinical decision based on analysis of evidence or data.

(21) "Nursing Procedure" means a health-related procedure that is commonly taught in nursing education programs and normally performed by an RN or LPN when implementing the nursing plan of care.

(22) "Nursing Process" means the critical thinking model used at the RN level of practice that integrates the singular and concurrent actions of assessment, identification of client problems or risks, identification of expected outcomes, planning, implementation, and evaluation.

(23) "Plan of Care" means the comprehensive outline authored by the RN that communicates the client's identified problems or risks, identifies measurable client outcomes, and identifies nursing interventions chosen to mitigate the identified problems or risks.

(24) "Professional Boundaries" means nurse and client therapeutic relationship limitations that guide appropriate and professional interactions. Professional boundaries are established under the scope of one's license to practice nursing, are applicable in and outside of the practice setting, and protect the space between the licensee's power, the client, and the client's vulnerability.

(25) "Reasoned Conclusion" means the RN's identification of client problems or risks through the application of scientific evidence, clinical experience, and nursing knowledge to comprehensive assessment data. Reasoned conclusions are also known as nursing diagnostic statements.

(26) "Self-Regulate" means the licensee's personal responsibility and accountability for adhering to legal, ethical, and professional practice standards, and professional performance standards.

(27) "Teaching" means the development and provision of instruction and learning experiences for the purpose of promoting wellness, preventing illness or disability, maintaining or restoring health, or assisting a client to adapt to the effects of illness or disability.

(28) "Unlicensed Assistive Person (UAP)" means a person who holds a job, position, or role within the client health care team where the individual is not required to be licensed or certified by a state of Oregon health-related licensing body. This may include, but is not limited to, the lay care provider, direct care staff, traditional health worker, medical assistant, volunteer, or technician.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.010

Hist.: BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

ADMINISTRATIVE RULES

851-045-0040

Scope of Practice Standards for All Licensed Nurses

(1) Standards related to the licensee's responsibility for safe nursing practice. The licensee shall:

(a) Practice within the laws and rules governing the practice of nursing at the level the nurse is licensed;

(b) Ensure competency in the cognitive and technical aspects of a nursing intervention or a nursing procedure prior to its performance; and

(c) Self-regulate one's professional practice by:

(A) Adhering to professional practice and performance standards;

(B) Practicing within the context of care; and

(C) Removing one's self from practice when unable to practice with professional skill and safety.

(d) Establish, communicate, and maintain professional boundaries.

(2) Standards related to the licensee's responsibility for licensure and practice role disclosure. The licensee shall disclose licensure type and practice role to the client unless the disclosure creates a safety or health risk for either the licensee or the client.

(3) Standards related to the licensee's responsibility regarding technology. The licensee shall:

(a) Acquire and maintain the competency necessary to properly use the informatics and technologies of the practice setting; and

(b) Advocate for the use of informatics and technologies that are compatible with the safety, dignity, and rights of the client.

(4) Standards related to the licensee's responsibility for documentation of nursing practice. The licensee shall document nursing practice in a timely, accurate, thorough, and clear manner.

(5) Standards related to the licensee's responsibility to accept and implement orders for client care and treatment.

(a) The licensee may accept and implement orders from a licensed independent practitioner (LIP) authorized by Oregon statute to independently diagnose and treat:

(A) Clinical nurse specialist licensed under ORS Chapter 678;

(B) Certified registered nurse anesthetist licensed under ORS Chapter 678;

(C) Nurse practitioner licensed under ORS Chapter 678;

(D) Medical doctor (MD) licensed under ORS Chapter 677;

(E) Doctor of osteopathic medicine (DO) licensed under ORS Chapter 677;

(F) Doctor of podiatric medicine licensed under ORS Chapter 677;

(G) Dentist licensed under chapter ORS 679;

(H) Naturopathic physician licensed under ORS Chapter 685;

(I) Optometrist licensed under ORS Chapter 683;

(J) Chiropractor physician licensed under ORS Chapter 684;

(K) MD volunteer emeritus license licensed under ORS Chapter 677; and

(L) DO volunteer emeritus license licensed under ORS Chapter 677.

(b) May accept and implement orders for client care and treatment from a Physician Assistant (PA) licensed under ORS Chapter 677, provided that the name of the supervising or agent physician is recorded with the order, in the narrative notes, or by a method specified by the health care facility. At all times the supervising or agent physician must be available to the licensed nurse for direct communication.

(c) Prior to implementation of an order, the licensee:

(A) Must have knowledge that the order is within the LIP's or PA's scope of practice and determine that the order is consistent with the overall plan for the client's care; and

(B) Shall question any order that is not clear, determined to be unsafe, contraindicated for the client, or is inconsistent with the overall plan for the client's care.

(d) The licensee may accept and implement recommendations for care from the following health care professionals licensed in Oregon:

(A) Acupuncturist licensed under ORS Chapter 677;

(B) Dietitian licensed under ORS Chapter 691;

(C) Occupational therapist licensed under ORS Chapter 675;

(D) Physical therapist licensed under ORS Chapter 688;

(E) Pharmacist licensed under ORS Chapter 689;

(F) Psychologist licensed under ORS Chapter 675;

(G) Registered nurse licensed under ORS Chapter 678;

(H) Respiratory therapist licensed under ORS Chapter 688;

(I) Social worker licensed under ORS Chapter 675; and

(J) Speech therapist licensed under ORS Chapter 681.

(e) Prior to implementation of a recommendation, the licensee must have knowledge that the recommendation is within the health care profes-

sional's scope of practice and determine that the recommendation is consistent with the overall plan for the client's care.

(f) When the licensee has determined that an order or a recommendation is not clear, unsafe, contraindicated for the client, or inconsistent with the overall plan for the client's care, the licensee has the responsibility to decline implementation and contact the health care professional making the order or recommendation.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.010

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

851-045-0050

Scope of Practice Standards for Licensed Practical Nurses

(1) The Board recognizes that the LPN has a supervised practice that occurs at the clinical direction and under the clinical supervision of the RN or LIP who have authority to make changes in the plan of care, and encompasses a variety of roles, including, but not limited to:

(a) Provision of client care;

(b) Supervision of others in the provision of care;

(c) Participation in the development and implementation of health care policy;

(d) Participation in nursing research; and

(e) Teaching health care providers and prospective health care providers.

(2) Standards related to the LPN's responsibility for ethical practice, accountability for services provided, and competency. The LPN shall:

(a) Base LPN practice on current nursing science, other sciences, and the humanities;

(b) Be knowledgeable of the statutes and regulations governing LPN practice and practice within those legal boundaries;

(c) Be knowledgeable of the professional nursing practice standards applicable to LPN practice and adhere to those standards;

(d) Demonstrate honesty, integrity and professionalism in the practice of licensed practical nursing;

(e) Be accountable for individual LPN actions;

(f) Maintain competency in one's LPN practice role;

(g) Maintain documentation of the method that competency was acquired and maintained;

(h) Accept only LPN assignments that are within one's individual scope of practice;

(i) Recognize and respect a client's autonomy, dignity and choice;

(j) Accept responsibility for notifying employer of an ethical objection to the provision of a specific nursing intervention;

(k) Ensure unsafe nursing practice is addressed immediately;

(l) Ensure unsafe practice and unsafe practice conditions are reported to the appropriate regulatory agency; and

(m) Protect confidential client information and only share information in a manner that is consistent with current law.

(3) Standards related to the LPN's responsibility for nursing practice. Applying practical nursing knowledge, at the clinical direction and under the clinical supervision of the RN or LIP, the LPN shall:

(a) Conduct focused assessments by:

(A) Collecting data through observations, examinations, interviews, and records in an accurate and timely manner as appropriate to the client's health care needs and context of care;

(B) Validating data by utilizing available resources, including interactions with the client and health care team members;

(C) Distinguishing abnormal from normal data, sorting, selecting, recording, and reporting the data discrepancies to the supervising RN or supervising LIP;

(D) Identifying potentially inaccurate, incomplete or missing data and reporting as needed;

(E) Recognizing signs and symptoms of deviation from current health status; and

(F) Evaluating data to identify problems or risks presented by the client.

(b) Select reasoned conclusions that communicate client problems or risks;

(c) Contribute to the development of a comprehensive plan of care or develop a focused plan of care. This includes:

(A) Identifying priorities in the plan of care;

(B) Setting measurable outcomes in collaboration with the client; and

(C) Selecting appropriate nursing interventions as established by the RN or consistent with the LIP's plan of care.

(d) Implement the plan of care; and

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(e) Evaluate client responses to nursing interventions, progress toward measurable outcomes, and communicate such to appropriate members of the health care team.

(4) Standards related to the LPN's responsibility to assign and supervise care. At the clinical direction and under the clinical supervision of the RN or LIP, the LPN:

(a) May assign to an LPN, nursing interventions that fall within LPN scope of practice and that the licensee receiving the assignment possesses the competency to perform safely;

(b) May assign to the CNA and CMA the duties identified within Chapter 851 Division 63 that the certificate holder possesses the competency to perform safely;

(c) May assign to the UAP work the UAP is authorized to perform within the practice setting and that the UAP possesses the competency to perform safely;

(d) Shall ensure the assignment matches client service need;

(e) Shall provide clinical supervision of the LPN, CNA, CMA, and UAP to whom an assignment possesses been made:

(A) Provides supervision per the context of care;

(B) Ensures documentation of supervision activities occurs per the context of the assignment;

(C) Evaluates the effectiveness of the assignment; and

(D) Reports effectiveness of assignment to the supervising RN or supervising LIP.

(f) Shall revise the assignment as directed by the supervising RN or supervising LIP; and

(g) Prior to making an assignment, the LPN is responsible to know the duties, activities or procedures the recipient of the assignment is authorized to perform within the setting.

(5) Standards related to the LPN's responsibility for client advocacy. The LPN shall:

(a) Advocate for the client's right to receive appropriate care, including client-centered care and end-of-life care, that is respectful of the client's needs, choices and dignity;

(b) Intervene on behalf of the client to identify changes in health status, to protect, promote and optimize health, and to alleviate suffering;

(c) Advocate for the client's right to receive appropriate and accurate information;

(d) Communicate client's choices, concerns and special needs to the supervising RN or supervising LIP and to other members of the health care team; and

(e) Protect the client's right to participate or decline to participate in research.

(6) Standards related to the LPN's responsibility for collaboration with the health care team. The LPN shall:

(a) Function as a member of the health care team;

(b) Collaborate in the development, implementation and evaluation of an integrated plan of care appropriate to the context of care;

(c) Demonstrate a knowledge of health care team members' roles;

(d) Communicate with the supervising RN or supervising LIP and other relevant health care team members regarding the plan of care; and

(e) Make referrals as directed in a timely manner and follow up on referrals made.

(7) Standards related to the LPN's responsibility for the environment of care. The LPN shall:

(a) Promote and advocate for an environment conducive to safety; and

(b) Identify safety and environmental concerns, take action to address those concerns, and report to the supervising RN or supervising LIP.

(8) Standards related to the LPN's responsibility for leadership and quality of care. The LPN shall:

(a) Identify factors that affect the quality of nursing service delivery and report to the supervising RN or LIP;

(b) Implement policies, protocols, and guidelines that are pertinent to nursing service delivery;

(c) Contribute to development and implementation of policies, protocols, and guidelines that are pertinent to the practice of nursing and to health services delivery;

(d) Participate in quality improvement initiatives and activities within the practice setting; and

(e) Participate in the development and mentoring of new licensees, nursing colleagues, students, and members of the health care team.

(9) Standards related to the LPN's responsibility for health promotion and teaching. At the clinical direction and under the clinical supervision of the RN or LIP, the LPN may participate in the development, implementa-

tion and evaluation of teaching plans appropriate to the context of care, that address the learner's learning needs, readiness to learn, and ability to learn.

(10) Standards related to the LPN's responsibility for cultural responsiveness. The LPN shall:

(a) Apply a basic knowledge of cultural diversity; and

(b) Recognize and respect the cultural values, beliefs, and customs of the client.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.010

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851-045-0060

Scope of Practice Standards for Registered Nurses

(1) The Board recognizes that the scope of practice for the RN encompasses a variety of roles, including, but not limited to:

(a) Provision of client care;

(b) Clinical direction and clinical supervision of others in the provision of care;

(c) Development and implementation of health care policy;

(d) Consultation in the practice of nursing;

(e) Nursing administration;

(f) Nursing education;

(g) Case management;

(h) Nursing research;

(i) Teaching health care providers and prospective health care providers;

(j) Nursing Informatics; and

(k) Specialization as an NP, CRNA, or CNS.

(2) Standards related to the RN's responsibility for ethical practice, accountability for services provided, and competency. The RN shall:

(a) Base RN practice on current and evolving nursing science, other sciences, and the humanities;

(b) Be knowledgeable of the professional nursing practice and performance standards and adhere to those standards;

(c) Be knowledgeable of the Oregon statutes and regulations governing RN practice and practice within those legal boundaries;

(d) Demonstrate honesty, integrity and professionalism in the practice of registered nursing;

(e) Be accountable for individual RN actions;

(f) Maintain competency in one's RN practice role;

(g) Maintain documentation of the method that competency was acquired and maintained;

(h) Accept only RN assignments that are within one's individual scope of practice;

(i) Recognize and respect a client's autonomy, dignity and choice;

(j) Accept responsibility for notifying employer of an ethical objection to the provision of a specific nursing intervention;

(k) Ensure unsafe nursing practices are addressed immediately;

(l) Ensure unsafe practice and practice conditions are reported to the appropriate regulatory agency; and

(m) Protect confidential client information and only share information in a manner that is consistent with current law.

(3) Standards related to the RN's responsibility for nursing practice. Through the application of scientific evidence, practice experience, and nursing judgment, the RN shall:

(a) Conduct comprehensive assessments by:

(A) Collecting data from observations, examinations, interviews, and records in an accurate and timely manner as appropriate to the client's needs and context of care;

(B) Validating data by utilizing available resources, including interactions with the client, with health care team members, and by accessing scientific literature;

(C) Distinguishing abnormal from normal data, sorting, selecting, recording, evaluating, synthesizing and communicating the data;

(D) Identifying potentially inaccurate, incomplete or missing data and reporting data discrepancies as appropriate for the context of care;

(E) Identifying signs and symptoms of deviation from current health status;

(F) Anticipating changes in client status; and

(G) Evaluating the data to identify problems or risks presented by the client.

(b) Develop reasoned conclusions that identify client problems or risks;

(c) Develop a client-centered plan of care based on analysis of the client's problems or risks that:

(A) Establishes priorities in the plan of care;

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- (B) Identifies measurable outcomes; and
 - (C) Includes nursing interventions to address prioritized diagnostic statements or reasoned conclusions.
 - (d) Implement the plan of care;
 - (e) Evaluate client responses to nursing interventions and progress toward identified outcomes; and
 - (f) Update and modify the plan of care based on ongoing client assessment and evaluation of data.
- (4) Standards related to the RN's responsibility to assign and supervise care.
- (a) The RN may assign to the RN, nursing interventions that fall within RN scope of practice and that the licensee receiving the assignment possesses the competency to perform safely.
 - (b) The RN may assign to the LPN nursing interventions that fall within LPN scope of practice and that the licensee receiving the assignment possesses the competency to perform safely.
 - (c) The RN may assign to the CNA and CMA authorized duties identified within Chapter 851 Division 63 that the certificate holder possesses the competency to perform safely.
 - (d) The RN may assign to the UAP work the UAP is authorized to perform within the setting and that the UAP possesses the competency to perform safely.
 - (e) The RN shall ensure the assignment matches the client's service needs with qualified personnel and available resources.
 - (f) The RN shall provide clinical supervision of the RN, LPN, CNA, CMA, and UAP to whom an assignment has been made:
 - (A) Provide clinical supervision per the context of care;
 - (B) Ensure documentation of supervision activities per the context of the assignment; and
 - (C) Evaluate the effectiveness of the assignment.
 - (g) The RN shall revise the assignment as indicated by client outcome data, availability of qualified personnel and available resources.
 - (h) Prior to making an assignment, the RN is responsible to know the duties, activities or procedures the recipient of the assignment is authorized to perform within the setting.
 - (5) Standards related to the RN's responsibility for client advocacy. The RN shall:
 - (a) Advocate for the client's right to receive appropriate care, including client-centered care and end-of-life care, that is respectful of the client's needs, choices and dignity;
 - (b) Intervene on behalf of the client to identify changes in health status, to protect, promote and optimize health, and to alleviate suffering;
 - (c) Advocate for the client's right to receive appropriate and accurate information;
 - (d) Communicate client's choices, concerns and special needs to other members of the health care team; and
 - (e) Protect the client's right to participate or decline to participate in research.
 - (6) Standards related to the RN's responsibility for collaboration with the health care team. The RN shall:
 - (a) Function as a member of the health care team;
 - (b) Collaborate in the development, implementation and evaluation of integrated plans of care as appropriate to the context of care;
 - (c) Demonstrate a knowledge of health care team members' roles;
 - (d) Communicate with health care team members regarding the plan of care; and
 - (e) Make referrals in a timely manner and ensure follow-up on referrals.
 - (7) Standards related to the RN's responsibility for the environment of care. The RN shall:
 - (a) Promote and advocate for an environment conducive to safety; and
 - (b) Identify safety and environmental concerns, take action to address those concerns and report as needed.
 - (8) Standards related to the RN's responsibility for leadership and quality of care. The RN shall:
 - (a) Identify factors that affect quality of nursing service, health services delivery, and client care, and develop quality improvement standards and processes;
 - (b) Interpret and evaluate policies, protocols, and guidelines that are pertinent to nursing practice and to health services delivery;
 - (c) Develop and implement policies, protocols, and guidelines that are pertinent to the practice of nursing and to health services delivery;
 - (d) Participate in quality improvement initiatives and activities within the practice setting; and
 - (e) Participate in the development and mentoring of new licensees, nursing colleagues, students and members of the health care team.
 - (9) Standards related to the RN's responsibility for health promotion and teaching. The RN shall develop, implement and evaluate evidence-based teaching plans that address the client's learning needs, readiness to learn and ability to learn. This includes:
 - (a) Client health promotion and health education;
 - (b) Teaching a UAP how to administer injectable emergency medications as provided in ORS 433.800 to 433.830;
 - (c) Teaching a UAP how to administer naloxone as authorized by ORS 689.681;
 - (d) Teaching school personnel how to administer premeasured doses of epinephrine as provided in ORS 339.869; and
 - (e) Teaching a UAP how to administer noninjectable medications to a client in a community-based setting as codified in chapter 851 division 47.
 - (10) Standards related to the RN's responsibility for cultural responsiveness. The RN shall:
 - (a) Apply a broad knowledge and awareness of cultural diversity; and
 - (b) Recognize and respect the cultural values, beliefs, and customs of the client.
 - (11) Standards related to the RN who delegates the performance of a nursing procedure to a UAP.
 - (a) The RN may authorize a UAP to perform a nursing procedure through delegation process when policies of the setting, or policies supporting the RN's practice role, allow for RN delegation.
 - (b) The nursing process components of assessment, identification of reasoned conclusions, identification of outcomes, planning, and evaluation shall not be delegated.
 - (c) The RN maintains sole accountability for the decision to delegate, which includes the decision to decline to delegate, based on application of these rules and nursing judgment.
 - (d) The RN maintains sole accountability for the completion of all delegation process steps.
 - (e) The RN's authorization of a UAP to perform a nursing procedure shall only occur when the following delegation process steps are met:
 - (A) Based on nursing judgment, the RN determines that:
 - (i) The procedure does not require interpretation or independent decision making during its performance on the client;
 - (ii) The results of performing the procedure are reasonably predictable;
 - (iii) The client's condition does not warrant assessment during performance of the procedure; and
 - (iv) The selected client and circumstances of the delegation are such that delegation of the procedure to the UAP poses minimal risk to the client and the consequences of performing the procedure are not life-threatening.
 - (B) The RN teaches the nursing procedure to the UAP and competency validates the UAP in the safe and accurate performance of the procedure on the client. The RN holds sole accountability for these actions;
 - (C) The RN provides clear, accurate, retrievable, and accessible directions detailing the performance of the procedure and verifies the UAP's adherence to those directions; and
 - (D) The RN retains accountability for nursing care as provided.
 - (f) The RN shall provide clinical supervision of the UAP to whom the procedure has been delegated. The clinical supervision shall include:
 - (A) Monitoring of the UAP's performance of the procedure to verify the UAP's adherence to written directions; and
 - (B) Engaging in ongoing evaluation of the client and associated data to determine the degree to which client outcomes related to performance of the procedure are being met.
 - (g) The RN shall only delegate the performance of the procedure to a UAP when standards 851-045-0060(11)(a) through (f) are met.
 - (h) The RN holds the responsibility and accountability to rescind the UAP's authorization to perform the procedure based upon the RN's nursing judgment concerning the client's situation. Causes for rescinding the UAP's authorization to perform the procedure include, but are not limited to, decreasing stability of the client's condition, increased potential for harm to the client, decreasing predictability of client outcomes, failure of the UAP to adhere to directions for performance of the procedure, or inability of the RN to provide clinical supervision of the UAP to whom a procedure has been delegated.
 - (i) The RN who accepts an assignment to delegate a nursing procedure to a UAP in a community-based care environment shall also adhere to Chapter 851 Division 47 standards on community-based RN delegation.
 - (12) Standards related to the RN in the role of registered nurse first assistant (RNFA) in surgery.

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(a) The RN who accepts an assignment to practice in the role of RNFA shall have successfully completed an RNFA program that meets the Association of Perioperative Nurses standards for the RN first assistant programs;

(b) Intraoperatively, the RNFA shall practice at the direction of the surgeon and not concurrently function in any non-RNFA practice role; and

(c) The RNFA shall practice under the direct supervision of the surgeon who is on site in the unit of care and not otherwise engaged in any other uninterrupted procedure or activity.

(13) Standards related to the RN who is employed by a public or private school. Pursuant to ORS 678.038, an RN who is employed by a public or private school may accept orders from a physician or osteopath who is licensed to practice in another state or US territory if the order is related to the treatment of a student who has been enrolled at the school for not more than 90 days.

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851-045-0070

Conduct Derogatory to the Standards of Nursing Defined

Conduct that adversely affects the health, safety, and welfare of the public, fails to conform to legal nursing standards, or fails to conform to accepted standards of the nursing profession, is conduct derogatory to the standards of nursing. Such conduct includes, but is not limited to:

(1) Conduct related to general fitness to practice nursing:

(a) Demonstrated incidents of violent, abusive, intimidating, neglectful or reckless behavior; or

(b) Demonstrated incidents of dishonesty, misrepresentation, or fraud.

(2) Conduct related to achieving and maintaining clinical competency:

(a) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established;

(b) Performing acts beyond the authorized scope or beyond the level of nursing for which the individual is licensed; or

(c) Accepting an assignment when individual competency necessary to safely perform the assignment have not been established or maintained.

(3) Conduct related to the client's safety and integrity:

(a) Developing, modifying, or implementing policies that jeopardize client safety;

(b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment;

(c) Failing to develop, implement or modify the plan of care;

(d) Assigning persons to perform functions for which they are not prepared to perform or that are beyond their scope of practice, authorized duties, or job functions;

(e) Failing to clinically supervise persons to whom an assignment has been made;

(f) Assuming duties and responsibilities within the practice of nursing when competency has not been established or maintained;

(g) Improperly delegating the performance of a nursing procedure to a UAP;

(h) Failing to clinically supervise a UAP to whom a nursing procedure has been delegated.

(i) Leaving or failing to complete any nursing assignment, including a supervisory assignment, without notifying the appropriate personnel and confirming that nursing assignment responsibilities will be met;

(j) Failing to report through proper channels, facts known regarding the incompetent, unethical, unsafe or illegal practice of any health care provider pursuant to ORS chapter 676;

(k) Failing to respect the dignity and rights of clients, inclusive of social or economic status, age, race, religion, gender, gender identity, sexual orientation, national origin, nature of health needs, physical attributes, or disability;

(l) Failing to report actual or suspected incidents of abuse, neglect or mistreatment;

(m) Engaging in or attempting to engage in sexual contact with a client in any setting;

(n) Engaging in sexual misconduct with a client in the workplace;

(o) Failing to establish or maintain professional boundaries with a client; or

(p) Using social media to communicate, post, or otherwise distribute protected client data including client image and client identifiers.

(4) Conduct related to communication:

(a) Failure to accurately document nursing interventions and nursing practice implementation;

(b) Failure to document nursing interventions and nursing practice implementation in a timely, accurate, thorough, and clear manner. This includes failing to document a late entry within a reasonable time period;

(c) Entering inaccurate, incomplete, falsified or altered documentation into a health record or agency records. This includes but is not limited to:

(A) Documenting nursing practice implementation that did not occur;

(B) Documenting the provision of services that were not provided;

(C) Failing to document information pertinent to a client's care;

(D) Documenting someone else's charting omissions or signing someone else's name;

(E) Falsifying data;

(F) Altering or changing words or characters within an existing document to mislead the reader; or

(G) Entering late entry documentation into the record that does not demonstrate the date and time of the initial event documented, the date and time the late entry is being placed into the record, and the signature of the licensee entering the late entry to the record.

(d) Destroying a client or agency record to conceal a record of care;

(e) Directing another individual to falsify, alter or destroy an agency record, a client's health record, or any document to conceal a record of care;

(f) Failing to communicate information regarding the client's status to members of the health care team in an ongoing and timely manner as appropriate to the context of care; or

(g) Failing to communicate information regarding the client's status to other individuals who are authorized to receive information and have a need to know.

(5) Conduct related to the client's family:

(a) Failing to be respectful to the client's family and the client's relationship with their family.

(b) Using one's title or position as a nurse to exploit the client's family for personal gain or for any other reason;

(c) Stealing money, property, services or supplies from the client's family;

(d) Soliciting or borrowing money, materials or property from the client's family; or

(e) Engaging in unacceptable behavior towards, or in the presence of, the client's family. Such behavior includes, but is not limited to, using derogatory names, derogatory or threatening gestures, or profane language.

(6) Conduct related to co-workers and health care team members:

(a) Engaging in violent, abusive or threatening behavior towards a co-worker; or

(b) Engaging in violent, abusive, or threatening behavior that relates to the delivery of safe nursing services.

(7) Conduct related to impaired function:

(a) Practicing nursing when unable or unfit due to:

(A) Physical impairment as evidenced by documented deterioration of functioning in the practice setting or by the assessment of an LIP qualified to diagnose physical condition or status; or

(B) Psychological or mental impairment as evidenced by documented deterioration of functioning in the practice setting or by the assessment of an LIP qualified to diagnose mental conditions or status.

(b) Practicing nursing when physical or mental ability to practice is impaired by use of a prescription or non-prescription medication, alcohol, or a mind-altering substance; or

(c) The use of a prescription or non-prescription medication, alcohol, or a mind-altering substance, to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice of nursing.

(8) Conduct related to other federal or state statute or rule violations:

(a) Aiding, abetting, or assisting an individual to violate or circumvent any law, rule or regulation intended to guide the conduct of nurses or other health care providers;

(b) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client, unless required by law to disclose such information;

(c) Discriminating against a client on the basis of age, race, religion, gender, gender identity, sexual preference, national origin or disability;

(d) Abusing a client;

(e) Neglecting a client;

(f) Failing to report actual or suspected incidents of client abuse to the appropriate state agencies;

(g) Failing to report actual or suspected incidents of client abuse or neglect through the proper channels in the workplace;

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(h) Engaging in other unacceptable behavior towards or in the presence of a client. Such conduct includes but is not limited to using derogatory names, derogatory gestures or profane language;

(i) Soliciting or borrowing money, materials, or property from the client;

(j) Stealing money, property, services or supplies from the client;

(k) Possessing, obtaining, attempting to obtain, furnishing, or administering prescription or controlled medications to any person, including self, except as directed by a person authorized by law to prescribe medications;

(l) Unauthorized removal or attempted removal of medications, supplies, property, or money from anyone in the work place;

(m) Unauthorized removal of client records, client information, facility property, policies or written standards from the work place;

(n) Using one's role as a nurse to defraud a person of their personal property or possessions;

(o) Violating a person's rights of privacy and confidentiality of information by accessing information without proper authorization or without a demonstrated need to know;

(p) Engaging in unsecured transmission of protected client data;

(q) Failing to dispense or administer medications in a manner consistent with state and federal law;

(r) Failure to release a client's health record within 60 days from receipt of written notice for release of records. This includes requests for records after closure of practice;

(s) Improper billing practices including the submission of false claims;

(t) Failing to properly maintain records after closure of practice or practice setting;

(u) Failure to notify client of closure of practice and of the location of their health records;

(v) Failure to report to the Board the licensee's arrest for a felony crime within 10 days of the arrest; or

(w) Failure to report to the Board the licensee's conviction of a misdemeanor or a felony crime within 10 days of the conviction.

(9) Conduct related to licensure or certification violations:

(a) Resorting to fraud, misrepresentation or deceit during the application process for licensure or certification, while taking the examination for licensure or certification, obtaining initial licensure or certification, or renewal of licensure or certification;

(b) Practicing nursing without a current Oregon license or certificate;

(c) Practicing as an NP or CNS without a current Oregon certificate;

(d) Practicing as a CRNA without a current Oregon CRNA license;

(e) Allowing another person to use one's nursing license or certificate for any purpose;

(f) Using another person's nursing license or certificate for any purpose;

(g) Impersonating an applicant or acting as a proxy for the applicant in any nurse licensure or certification examination; or

(h) Disclosing the contents of a nurse licensure or certification examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration.

(10) Conduct related to the licensee's relationship with the Board:

(a) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except client-attorney privilege;

(b) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or during the course of an investigation or any other question asked by the Board;

(c) Failing to provide the Board with any documents requested by the Board;

(d) Violating the terms and conditions of a Board order; or

(e) Failing to comply with the terms and conditions of Health Professionals' Services Program agreements.

(11) Conduct related to advanced practice nursing:

(a) Ordering laboratory or other diagnostic tests or treatments or therapies for one's self;

(b) Prescribing for or dispensing medications to one's self;

(c) Using self-assessment and diagnosis as the basis for the provision of care which would otherwise be provided by a client's professional caregiver; or

(d) Ordering unnecessary laboratory or other diagnostic test or treatments for the purpose of personal gain.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150, 678.111 & 678.390

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 2-2010(Temp), f. & cert. ef. 4-19-10 thru 10-15-10; BN 12-2010, f. & cert. ef. 9-30-10; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12; BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

851-045-0090

Duty to Report

These standards provide further interpretation of reporting requirements pursuant to ORS 678.135 with application to all licensees, including one's own practice, when behavior or practice presents a potential for, or actual danger to, a client or to the public's health, safety and welfare.

(1) A licensee knowing of a licensed nurse whose nursing practice fails to meet accepted standards for the level at which the nurse is licensed, shall report the nurse to the person in the work setting who has authority to institute corrective action.

(2) A licensee who has knowledge or concern that a nurse's behavior or practice presents a potential for, or actual danger to, a client or to the public's health, safety and welfare, shall initiate a report to be made to the Board.

(3) A licensee who is aware of a licensed nurse's arrest or conviction of a crime related to a client, or related to the public's health, safety, and welfare shall initiate a report to the Board.

(4) Any organization representing licensed nurses shall report a suspected violation of ORS chapter 678, or the rules adopted within, in the manner prescribed by sections (5) and (6) of this rule.

(5) The decision to report a suspected violation of ORS Chapter 678, or the rules adopted within, shall be based on, but not limited to, the following:

(a) The past history of the licensee's performance;

(b) A demonstrated pattern of substandard practice, errors in practice or conduct derogatory to the standards of nursing, despite efforts to assist the licensee to improve practice or conduct through a plan of correction; and

(c) The magnitude of any single occurrence for actual or potential harm to the public's health, safety and welfare.

(6) The following shall always be reported to the Board:

(a) Practicing nursing when the license has become void due to non-payment of fees;

(b) Practicing nursing as defined in ORS 678.010 unless licensed as an RN, LPN, or CRNA, or certified as a CNS or NP;

(c) Dismissal from employment due to unsafe practice or conduct derogatory to the standards of nursing;

(d) Client abuse or neglect;

(e) A pattern of conduct derogatory to the standards of nursing as defined by the rules of the Board or a single serious occurrence;

(f) Any violation of a disciplinary sanction imposed on the licensee by the Board;

(g) Failure of a nurse not licensed in Oregon and hired to meet a temporary staffing shortage to apply for Oregon licensure by the day the nurse is placed on staff;

(h) Practicing nursing when physical or mental ability to practice is impaired;

(i) An arrest for a felony crime which shall be reported to the Board within 10 days of the arrest; or

(j) A conviction for a misdemeanor or felony crime which shall be reported to the Board within 10 days of the conviction.

(7) Failure of a licensee to comply with these reporting standards may in itself constitute a violation of nursing standards.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

851-045-0100

Imposition of Civil Penalties

(1) Imposition of a civil penalty does not preclude disciplinary sanction against the nurse's license. Disciplinary sanction against the nurse's license does not preclude imposing a civil penalty. Criminal conviction does not preclude imposition of a civil penalty for the same offense.

(2) Civil penalties may be imposed according to the following schedule:

(a) Practicing nursing as an LPN, RN, NP, CRNA or CNS without a current license or certificate or Board required concurrent national certification; or prescribing, dispensing, or distributing drugs without current prescription writing authority, due to failure to renew and continuing to practice \$50 per day, up to \$5,000.

(b) Using a limited license to practice nursing for other than its intended purpose \$100 per day.

(c) Nurses not licensed in Oregon hired to meet a temporary staffing shortage who fail to make application for an Oregon license by the day placed on staff \$100 per day up to \$3,000.

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(d) Practicing nursing prior to obtaining an Oregon license by examination or endorsement \$100 per day.

(e) Unlicensed practice pursuant to ORS 678.021 up to \$5,000.

(f) Conduct derogatory to the standards of nursing \$1,000–\$5,000. The following factors will be considered in determining the dollar amount, to include, but not be limited to:

(A) Intent;

(B) Damage and/or injury to the client;

(C) History of performance in current and former employment settings;

(D) Potential danger to the public health, safety and welfare;

(E) Prior offenses or violations including prior complaints filed with the Board and past disciplinary actions taken by the Board;

(F) Severity of the incident;

(G) Duration of the incident; and

(H) Economic impact on the person.

(g) Violation of any disciplinary sanction imposed by the Board \$1,000–\$5,000.

(h) Conviction of a crime which relates adversely to the practice of nursing or the ability to safely practice \$1,000–\$5,000.

(i) Gross incompetence in the practice of nursing \$2,500–\$5,000.

(j) Gross negligence in the practice of nursing \$2,500–\$5,000.

(k) Employing any person without a current Oregon LPN, RN or CRNA license, NP or CNS certificate to function as an LPN, RN, CRNA, NP or CNS subject to the following conditions:

(A) Knowingly hiring an individual in a position of an LPN, RN, NP, CRNA or CNS when the individual does not have a current, valid Oregon license or certificate for the position hired \$5,000; or

(B) Allowing an individual to continue practicing as an LPN, RN, NP, CRNA or CNS knowing that the individual does not have a current, valid Oregon license or certificate for the position hired \$5,000.

(l) Employing an LPN, RN, NP, CRNA or CNS without a procedure in place for checking the current status of that nurse's license or certificate to ensure that only those nurses with a current, valid Oregon license or certificate be allowed to practice nursing \$5,000;

(m) Supplying false information regarding conviction of a crime, discipline in another state, physical or mental illness/physical handicap, or meeting the practice requirement on an application for initial licensure or re-licensure, or certification or recertification \$5,000; and

(n) Precepting a nursing student at any level without verifying their appropriate licensure, registration, or certification \$5,000.00

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.117

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 2-2012(Temp), f. & cert. ef. 4-26-12 thru 10-1-12; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12; BN 9-2012, f. & cert. ef. 6-5-12; BN 11-2012, f. 7-6-12, cert. ef. 8-1-12; BN 8-2017, f. 7-7-17, cert. ef. 8-1-17

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Procedures for classification and review of sex offenders to determine level of sex offender notification.

Adm. Order No.: PAR 5-2017(Temp)

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Adopted: 255-085-0060

Rules Amended: 255-085-0010, 255-085-0020, 255-085-0030, 255-085-0040, 255-085-0050

Subject: Amend rules to classify sex offender registrants into a risk level under the Sex Offender Notification Level System; define terms used in classification; amend methodology and procedures for classification; amends procedures for assessments and reassessments; create procedures for review of assessment; amends procedures for classification and final decision.

Rules Coordinator: Perry Waddell—(503) 945-0946

255-085-0010

Definitions

The following definitions apply to this Division:

(1) "Adult male registrant" means a male registrant who was at least 18 years of age when he committed the sex crime offense.

(2) "Board registered victim" means a victim, as defined in OAR 255-005-0005 who is registered with the Board.

(3) "Category B registrant" means a person of any gender or age at the time of crime commission who is required to register as a sex offender based only on a conviction for a Category B sex crime.

(4) "Category B sex crime" means any type of criminal offense within the scope of "Category B offenses" used to administer the Static-99R and listed on the Board's website that is also a sex crime for which reporting is required.

(5) "Existing registrant" means a registrant for whom the event triggering the obligation to make an initial report as a sex offender occurred before January 1, 2014.

(6) "Failed to participate" means the registrant has been out of compliance with ORS 163A.010-020 for more than 90 days; or a letter sent to the registrant's latest address in the Oregon sex offender registry is returned "undeliverable"; or the registrant does not return a request for information from a classifying agency.

(7) "Female registrant" means a female registrant, regardless of her age when she committed the sex crime offense.

(8) "Other registrant" means a registrant who is not an adult male registrant. Other Registrant includes, but is not limited to: female registrants; Category B registrants; and young male registrants.

(9) "Predatory sex offender" has the definition contained in 255-060-0011(1).

(10) "Registrant" means a person convicted of a sex crime and required to register as a sex offender or found guilty except for insanity of a sex crime and required to register as a sex offender under ORS Chapter 163A.

(11) "Risk assessment" means a sex offense-specific assessment of the person's risk to sexually reoffend, using the risk assessment methodology in OAR 255-085-0020.

(12) "Sex crime" has the definition contained in ORS 181.805(5).

(13) "Young male registrant" means a male registrant who was 17 years of age or younger when he committed the sex crime offense.

Stat. Auth.: ORS 181.800 and 181.803

Stat. Implemented:

Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16; PAR 5-2016(Temp), f. 12-28-16, cert. ef. 1-3-17 thru 7-1-17; PAR 1-2017(Temp), f. & cert. ef. 3-21-17 thru 9-16-17; PAR 5-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

255-085-0020

Sex Offender Risk Assessment Methodology

(1) For classification and community notification for adult male registrants, the classifying agency shall use the Static-99R actuarial instrument to conduct a sex offender risk assessment. Classifying agencies may score registrants using information from previous Static-99 or Static-99R assessments. Classifying agencies shall score and place into one of the following levels:

(a) Notification Level 1: Low risk (Static-99R score of -3 to 3);

(b) Notification Level 2: Moderate risk (Static-99R score of 4 to 5);

or

(c) Notification Level 3: High risk (Static-99R score of 6 or higher).

(2) For classification of other registrants, the classifying agency shall assess registrants using the Level of Services/Case Management Inventory (LS/CMI) as supplemented by an independent sexual offense-specific evaluation report. This assessment shall be performed by an independent evaluator who is a licensed provider, or a Sex Offender Treatment Board-certified provider, qualified to conduct sexual offense risk assessments. The independent evaluator will provide the classifying agency with a written report, and will provide information regarding the registrant's risk for sexual re-offense. Classifying agencies shall place the registrant into one of the following levels:

(a) Notification Level 1: Low risk;

(b) Notification Level 2: Moderate risk; or

(c) Notification Level 3: High risk.

Stat. Auth.: ORS 181.800, 181.803

Stat. Implemented: ORS 181.800, 181.803

Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16; PAR 5-2016(Temp), f. 12-28-16, cert. ef. 1-3-17 thru 7-1-17; PAR 1-2017(Temp), f. & cert. ef. 3-21-17 thru 9-16-17; PAR 5-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

255-085-0030

Assessments and Reassessments

(1) Automatic Assessments. Classifying agencies shall classify the following registrants as Level 3 sex offenders:

(a) A person who was previously designated as a predatory sex offender between February 10, 2005 and December 31, 2013;

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(b) A person who is designated as a sexually violent dangerous offender under ORS 137.765;

(c) A registrant who has failed or refused to participate in a sex offender risk assessment.

(2) Initial Assessments

(a) When a person convicted of a crime described in ORS 163.355 to 163.427 is sentenced to a term of imprisonment in a Department of Corrections institution for that crime, the Board shall conduct a risk assessment of the person before the person is released from custody.

(b) Subject to the procedures set forth in this rule, for a person described in ORS 163A.105(2) or 163A.105(4) who has not been assessed or classified prior to release, the Board shall conduct a risk assessment of the person within 90 days of either the person's release from custody or after receiving notice of a person's obligation to report in this state from the Department of State Police.

(c) If a registrant classified as a level three sex offender under subsection 255-085-0030(1)(a)(iii) notifies Board of the willingness to participate in a sex offender risk assessment, the Board shall perform the assessment.

(d) For persons who were released from custody or whose initial obligation to register occurred on or after January 1, 2014, the Board shall conduct a risk assessment as soon as practicable.

(3) Subsequent Assessments:

(a) Upon conviction of a new qualifying sex offense after a previous classification, the classifying agency shall reassess the offender and may reclassify the offender if the risk assessment changes the notification level.

(b) The Board may reassess or reclassify an existing registrant placed in one of the levels described in ORS 163A.100 if the Board determines that a factual mistake caused an erroneous assessment or classification.

(4) Notifications and Objections: Objections that are not received within these timelines will not be reviewed, and the Board will proceed to final classification.

(a) Registrants who are classified a Notification Level 2 or Level 3 sex offender may petition the Board for review.

(b) The Board will provide to the Level 2 or Level 3 registrant the assessment, a Notice of Rights form, and a Written Objections form. Following this notification:

(A) If the Level 2 or Level 3 registrant is supervised or in custody of the Department of Corrections, the Board must receive the Notice of Rights form, and the form for Written Objections or Waiver of Objections to the assessment, within thirty (30) days after the mailing date on the Notice of Rights.

(B) If the Level 2 or Level 3 registrant is neither supervised or in custody of the Department of Corrections, the Board must receive the Notice of Rights form, and the form for Written Objections or Waiver of Objections to the assessment, within sixty (60) days after the mailing date on the Notice of Rights.

Stat. Auth: ORS 181.801, 181.802

Stat. Implemented: ORS 181.801, 181.802

Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16; PAR 1-2017(Temp), f. & cert. ef. 3-21-17 thru 9-16-17; PAR 5-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

255-085-0040

Reviews – Adult Male Registrants

(1) Written objections trigger review consideration. Written objections are limited to presenting factual evidence or information regarding the Static-99R score. Objections must be plain, concise, and directly relate to specific items on the Static-99R that the Registrant claims were not scored correctly. Objections are limited to forms provided by the classifying agency. That limitation does not include additional documentation necessary to support the request. Objections must be incorporated into the objection form; any claims or allegations included solely in the "additional documentation" will not be considered by the Board in its response.

(2) Criteria for Granting a Review:

(a) The item was not scored correctly in light of the Registrant's criminal history; or

(b) Pertinent information was available at the time of the assessment which, through no fault of the Registrant, was not considered; or

(c) Pertinent information was not available at the time of the assessment.

(3) Upon receipt of any timely submitted Written Objections, and compliance with 255-085-0040(1) and (2), a Board Hearings Officer will conduct a review of the objections and supporting documents. The Hearings Officer will consider relevant written objections from the registrant and make a determination as to whether the registrant's score is accurate or should be changed.

(4) If the Hearings Officer's review reveals new information that was not available at the time the registrant was provided the opportunity to make objections, notifications will be made under 255-080-0030(4). Under this section, objections are limited to the new information provided in this notification.

(5) Upon completing the review, the Hearings Officer will submit to the Board a memo detailing the review, as well as any information considered by the Hearings Officer.

Stat. Auth: ORS 181.800, 181.801, 181.802

Stat. Implemented: ORS 181.800, 181.801, 181.802

Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16; PAR 1-2017(Temp), f. & cert. ef. 3-21-17 thru 9-16-17; PAR 5-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

255-085-0050

Hearings – Other Registrants

(1) Upon the Board's receipt of relevant Written Objections, a Hearings Officer will complete a review of the LS/CMI evaluator's recommendation, evaluation report, and supporting documents. The review will verify the information, and the Hearings Officer will prepare a memo responding to the written objections, detail the finding of the evaluator, and make a determination as to whether the recommendation should be changed.

(2) If the Hearings Officer's review reveals new information that was not available at the time that the registrant was provided the opportunity to make objections, notification will be made under 255-080-0030(4). Under this section, objections are limited to the new information provided in the notification.

(3) If the evaluator's recommendation places the registrant in Level 2, the Hearings Officer will provide this memo to the Board along with any information considered in the review.

(4) If the evaluator's recommendation places the registrant in Level 3, the Hearings Officer will schedule a hearing with the registrant.

(5) The Hearings Officer will provide the registrant with the documentation submitted for review at least 14 days before the hearing.

(6) At the hearing, the registrant may present additional factual evidence or information regarding the evaluator's recommendation and report.

(7) For the hearing, the Hearings Officer will write a supplement to the memo as provided for in subsection (1) of this rule and will provide the supplement to the Board.

(8) A registrant who has failed or refused to participate in a hearing shall be considered to have waived their hearing.

(9) The following procedures shall apply:

(a) A registrant may waive a hearing.

(b) The registrant is limited to presenting additional evidence or information regarding the evaluator's recommendation and report.

(c) Hearings may be conducted by a panel of two. The panel may consist of one Board Member and one Hearings Officer, or of two Board Members. The panel may make the final decision. The Chair may require a panel of more than two members. If the panel is more than two members, the final decision shall be made by a majority of all panel members. In the case of a tie, an additional Board Member may vote administratively after reviewing the material from the hearing.

(d) The Board will provide the registrant with notice and the documentation submitted for the hearing at least 14 days before the hearing. The registrant may waive this 14 day notice.

(e) At the Chair's discretion, the Board may conduct any hearing in person, by teleconference call, by videoconference, or by other electronic medium that ensures the registrant, the panel, and other participants the opportunity to hear and be heard.

(f) The registrant shall be present in person, by telephone or videoconference, or by any other electronic medium that ensures the registrant, the panel, and other participants the opportunity to hear and be heard. If a registrant refuses or fails to appear at a hearing, the refusal will be considered to be the registrant's waiver of appearance.

(g) The Board will allow at the hearing, evidence of a type that reasonably prudent persons would commonly rely upon in the conduct of serious affairs. The Board may exclude evidence if it is irrelevant or immaterial to the decision to be made at the hearing or is unduly repetitious. At its discretion, the Board may consider relevant material and additional written information and recommendations from those with a special interest in the case. The Board must receive any information submitted pursuant to this section at least 14 days prior to the hearing. The Board may waive the 14 day requirement.

(10) Conduct of Hearing: the hearing shall be conducted by and under control of the Chair or designated representative. The Chair may set reasonable time limits for oral presentation and may exclude or limit cumula-

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tive, repetitious, or immaterial matter. The Board may eject any disruptive person from a hearing. The Board may require all persons to leave the designated hearing area during deliberations.

Stat. Auth: ORS 181.800, 181.801, 181.802
Stat. Implemented: ORS 181.800, 181.801, 181.802
Hist.: PAR 3-2015(Temp), f. & cert. ef. 8-27-15 thru 2-19-16; PAR 1-2016, f. & cert. ef. 1-27-16; PAR 1-2017(Temp), f. & cert. ef. 3-21-17 thru 9-16-17; PAR 5-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

255-085-0060

Classification and Final Decision

(1) The Board will make a final classification decision by reviewing the documents relied upon for the assessment, any Hearings Officer's memos or documents, all timely submitted objections, and any relevant documents from a review or hearing, if one was held, and ordering the final classification level.

(2) Following the Board decision, the Board shall send notice of the Board's final order to the registrant and any board registered victims.

(3) The Board's classification decision shall be final. The Board's classification decision is not subject to review under OAR Chapter 255 Division 80.

(4) The Board will notify the Department of State Police of the registrant's final classification after the classification order.

Stat. Auth: ORS 163A.100, 163A.125, Sec. 7, Ch. 708, OL 2013
Stat. Implemented: ORS 163A.100, 163A.105, 163A.110, 163A.115, 163A.125, Sec. 7, Ch. 708, OL 2013
Hist.: PAR 1-2017(Temp), f. & cert. ef. 3-21-17 thru 9-16-17; PAR 5-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

Board of Pharmacy Chapter 855

Rule Caption: Amends Div 065 Wholesaler rules to reflect changes in DEA law for reporting suspicious orders.

Adm. Order No.: BP 2-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 5-1-2017

Rules Amended: 855-065-0010

Subject: Amends rule to add requirement for Wholesaler Class 1 (with prescription) distributor must notify the Board of suspicious orders. The rule is specific to controlled substances to be distributed into or within Oregon reporting. This matches the DEA requirement in 21 CFR 1301.74 and the Board simply wants to receive the same notification. Suspicious orders include orders of unusual size, orders that deviate substantially from a normal pattern and orders of unusual frequency.

This notification must be made in writing, which means a written letter, email or fax copy of what is submitted to the DEA.

The text of the adopted rule is available at: www.pharmacy.state.or.us on the Laws and Rules page.

Rules Coordinator: Mo Klein—(971) 673-0001

855-065-0010

Minimum Requirements for Reporting, Record Keeping and Inventory Management

(1) A Wholesale distributor must establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs. These records must comply with all federal drug laws and regulations unless exempted.

(2) Inventories and records required by this rule must be made available for inspection and copying by any authorized official of the Drug Enforcement Agency, the Food and Drug Administration, the Department of Agriculture, law enforcement agencies, and this Board.

(3) Inventories and records required under these rules must be maintained for a minimum of three years following disposition of the drugs.

(4) Records described in this section that are less than 13 months old must be kept at the inspection site or be immediately retrievable by computer or other electronic means, and must be immediately available for inspection. All other records required by this rule must be made available for inspection within three business days of a request.

(5) A wholesale distributor must establish, maintain, and adhere to written policies and procedures for the receipt, security, storage, inventory, transport, shipping and distribution of drugs, including policies and procedures for identifying, recording, and reporting any loss, theft, counterfeiting or diversion of any drug and for correcting all errors and inaccuracies

in inventories. A wholesale distributor must include in its written policies and procedures the following:

(a) A procedure whereby the oldest approved stock of a drug is distributed first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate.

(b) A procedure to be followed for handling a recall or withdrawal of a drug. Such procedure must be adequate to deal with a recall or withdrawal due to:

(A) Any action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement or other government agency, including the Board;

(B) Any voluntary action by the manufacturer to remove a defective or potentially defective drug from the market; or

(C) Any action undertaken to promote public health and safety by replacing an existing drug with an improved product or new package design.

(c) A procedure to prepare for, protect against, and handle any crisis that affects the security or operation of the facility in the event of strike, fire, flood, or other natural disaster, or other local, state, or national emergencies.

(d) A procedure to ensure that any outdated drug is segregated from other drugs and either returned to the manufacturer or destroyed. This procedure must provide for written documentation of the disposition of an outdated drug. This documentation must be maintained for three years after disposition of the outdated drug.

(e) Disposition and destruction of containers, labels, and packaging to ensure that the containers, labels, and packaging are not used in counterfeiting activities, including necessary documentation and witnessing in accordance with state and federal law.

(f) Investigation of discrepancies in the inventory involving counterfeit, suspected counterfeit, contraband, or suspected contraband drugs and reporting of discrepancies within three business days to the Board and any other appropriate state or federal agency.

(g) Reporting of criminal or suspected criminal activities involving the inventory of drugs to the Board within three business days.

(h) Conducting for cause authentication as required under section (7) of this rule.

(i) Procedures for accurately documenting the temperature and humidity conditions of the storage facility.

(6) A wholesale distributor must maintain and adhere to written policies and procedures for all incoming and outgoing product shipments, including but not limited to the following:

(a) Upon receipt, visual examination of each shipping container sufficient to identify the drugs in the container and to determine whether the drugs may be outdated, adulterated, misbranded, contaminated, contraband, counterfeit, damaged, or otherwise unfit for distribution.

(b) Upon receipt, review of records for accuracy and completeness, considering the:

(A) Total facts and circumstances surrounding each transaction involving the drugs; and

(B) Wholesale distributors involved.

(c) Quarantine of a drug considered to be outdated, adulterated, misbranded, contaminated, contraband, counterfeit, damaged, or otherwise unfit for distribution until:

(A) Examination and a determination is made that the drug is fit for distribution; or

(B) The drug is destroyed or returned to the manufacturer or wholesale distributor from which the drug was acquired.

(d) If the wholesale distributor identifies a suspect product, the wholesale distributor must quarantine the product and promptly conduct an investigation to determine whether the suspect product is illegitimate. If it is determined to be an illegitimate product the wholesale distributor must provide notice to the Board, the Food and Drug Administration, and the trading partners involved in the transaction, within 24 hours.

(e) If the immediate or sealed outer or secondary container or labeling of a drug is adulterated, misbranded, counterfeit, or suspected counterfeit, the wholesale distributor must:

(A) Quarantine the drug until the drug is destroyed or returned to the manufacturer or wholesale distributor from which the drug was acquired; and

(B) Provide notice of the adulteration, misbranding, counterfeiting, or suspected counterfeiting to the Board, the Food and Drug Administration, and the manufacturer or wholesale distributor from which the drug was acquired, within 24 hours.

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(f) A drug that is not adulterated, misbranded, counterfeit, or suspected counterfeit, but has been opened or used, is identified as such and quarantined until the drug is destroyed or returned to the manufacturer or wholesale distributor from which the drug was acquired.

(g) A drug that will be returned to a manufacturer or wholesale distributor is stored, handled and transported under proper conditions before the return, and documentation showing that proper conditions were maintained must be provided to the manufacturer or wholesale distributor to which the drug is returned.

(h) Inspection of each outgoing shipment to verify the identity of each drug and to ensure that each drug has not been damaged in storage or held under improper conditions.

(i) Contraband, counterfeit, or suspected counterfeit drugs, other evidence of criminal activity, and accompanying documentation are retained until a disposition is authorized by the Board or the Food and Drug Administration.

(j) Any sealed outer or secondary shipping container or labeling, and accompanying documentation, for a drug that is suspected to be counterfeit or fraudulent, is retained until a disposition is authorized by the Board and the Food and Drug Administration.

(k) Operations comply with all state and federal laws, rules and regulations applicable to wholesale drug distribution.

(l) All confidential information is stored in an area with restricted access and in such a way as to protect the integrity and confidentiality of the information.

(7) A wholesale distributor must maintain pedigree records for a minimum of three years.

(8) If the wholesale distributor is involved in the distribution of controlled substances, the distributor must register with the Drug Enforcement Administration and the Board, and comply with all laws related to the storage, handling, transport, shipment, and distribution of controlled substances including, but not limited to, the isolation of controlled substances from non-controlled substances and storage of the controlled substances in a secure area in accordance with Drug Enforcement Administration security requirements and standards.

(9) A wholesale distributor must notify the Board in writing of suspicious orders of controlled substances to be distributed within Oregon upon discovery. Suspicious orders include, but are not limited to orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155, 689.315, 689.325 & 689.765

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 3-1992, f. & cert. ef. 3-26-92 (and corrected 4-8-92); BP 12-2006, f. & cert. ef. 12-19-06; BP 4-2015, f. & cert. ef. 7-1-15; BP 2-2017, f. 6-30-17, cert. ef. 7-1-17

Rule Caption: Amendments to Div 041 Prescription Refills related to the auto-refilling of prescriptions by pharmacy outlets.

Adm. Order No.: BP 3-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 5-1-2017

Rules Amended: 855-041-1120

Subject: Amendments to Div 041 Prescription Refill rules modify previously adopted rules that the Board decided to delay implementation and were not enforced in 2016. These rules are the result of a Stakeholder Work Group, which was required by a legislative committee.

The rules ensure that auto refill programs in retail pharmacies are not used without the prior authorization of the patient or the patient's agent. Auto refill programs in retail pharmacy practice settings can not be used for controlled substance prescriptions in order to help limit the potential for abuse; ensure that outlets appropriately enroll individual prescription medications in auto refill programs; that outlets ensure that medications on auto refill are consistent with the patient's current medication therapy, and that the outlet ensures removal of a prescription from the automatic refilling processes when the prescription is returned to stock or delivery is refused.

This notice and rules can be found on the Board's website at: www.pharmacy.state.or.us.

Rules Coordinator: Mo Klein—(971) 673-0001

855-041-1120

Prescription Refills

(1) Where refill authority is given other than by the original prescription, documentation that such refill authorization was given, the date of authorization, and name of the authorizing prescriber or the prescriber's agent must be recorded. This documentation must be readily retrievable. Prescriptions for controlled substances in Schedules III and IV are limited to five refills or six months from date of issue, whichever comes first.

(2) If the practitioner is not available and in the professional judgment of the pharmacist an emergency need for the refill of a prescription drug has been demonstrated, the pharmacist may dispense a sufficient quantity of the drug consistent with the dosage regimen, provided it is not a controlled substance, to last until a practitioner can be contacted for authorization, but not to exceed a 72-hour supply. The practitioner shall be promptly notified of the emergency refill.

(3) Each refilling of a prescription must be accurately documented, readily retrievable, and uniformly maintained for three years. This record must include:

- The identity of the responsible pharmacist;
- Name of the patient;
- Name of the medication;
- Date of refill; and
- Quantity dispensed.

(4) Refill quantities may be combined into a single filling if the prescription is not for a controlled substance or psychotherapeutic drug and the prescriber is notified of the change.

(5) A retail pharmacy may only dispense a prescription refill upon request of the patient or patient's agent. A request specific to each prescription medication is required, unless the requested fill or refill is part of an auto-refill program and is a continuation of therapy.

(6) Auto-Refill Programs. A mail order or retail pharmacy, excluding cycle-fill for long term care, may use a program that automatically refills non-controlled prescription medications, that have existing refills available and are consistent with the patient's current medication therapy only when the following conditions are met:

(a) A patient or patient's agent must enroll each prescription medication in an auto-refill program before a pharmacy can include the prescription medication as part of the auto-refill program; and

(b) The prescription is not a controlled substance; and

(c) The pharmacy must discontinue auto-refill program enrollment when requested by the patient or patient's agent; and

(d) Pick-up notification to a patient or patient's agent may be generated upon completion of a prescription refill; and

(e) When an auto-refill prescription is returned to stock or when delivery is refused that prescription medication is removed from the auto-refill program for that patient.

(7) An automated reminder cannot be used to generate a prescription refill unless the patient or patient's agent provides authorization for each individual prescription refill. The content of each reminder must include:

- Drug name and strength; and
- Date of last fill.

(8) Pick-up notification to a patient or patient's agent may only be generated upon full completion of the prescription refill.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.505, 689.515 & 2013 OL Ch. 342

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 3-1984, f. & ef. 4-16-84; 1PB 1-1986, f. & ef. 6-5-86; PB 8-1987, f. & ef. 9-30-87; PB 10-1989, f. & cert. ef. 7-20-89; PB 1-1991, f. & cert. ef. 1-24-91; PB 4-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1995, f. & cert. ef. 4-27-95; PB 1-1996, f. & cert. ef. 4-5-96; PB 3-1997(Temp), f. & cert. ef. 11-12-97; BP 1-1998(Temp), f. & cert. ef. 1-27-98 thru 5-4-98; BP 2-1998, f. & cert. ef. 3-23-98; BP 2-1999(Temp), f. & cert. ef. 8-9-99 thru 1-17-00; BP 2-2000, f. & cert. ef. 2-16-00; BP 3-2000, f. & cert. ef. 2-16-00; BP 6-2000, f. & cert. ef. 6-29-00; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 12-2010, f. & cert. ef. 12-23-10; Renumbered from 855-041-0065, BP 7-2012, f. & cert. ef. 12-17-12; BP 12-2014, f. 12-30-14, cert. ef. 1-1-16; BP 9-2015, f. 12-23-15, cert. ef. 7-1-16; BP 3-2017, f. 6-30-17, cert. ef. 7-1-17

Citizens' Initiative Review Commission Chapter 710

Rule Caption: Amendment of rules related to the 2017–2019 budget and administration for Citizens' Initiative Review Commission

Adm. Order No.: CIRC 1-2017

Filed with Sec. of State: 6-21-2017

Certified to be Effective: 6-21-17

Notice Publication Date: 4-1-2017

Rules Amended: 710-005-0005

ADMINISTRATIVE RULES

Subject: The Citizens' Initiative Review Commission hereby adopts by reference the Citizens' Initiative Review Commission 2015-2017 Biennium Budget of \$243,250 covering the period from July 1, 2017 through June 30, 2019. The Chair of the Commission, in consultation with the Commission, will amend budgeted accounts as necessary within the approved budget of \$243,250 for the effective operation of the Commission. The Commission will not exceed the approved 2017-2019 Biennium Budget without amending this rule and holding a public hearing thereon as required, by ORS 182.462(1). The budget can be found on the Commission's website.

Rules Coordinator: Sarah Giles—(503) 725-5248

710-005-0005

Commission Budget

The Citizens' Initiative Review Commission hereby adopts by reference the Citizens' Initiative Review Commission 2015-2017 Biennium Budget of \$243,250 covering the period from July 1, 2017 through June 30, 2019. The Chair of the Commission, in consultation with the Commission, will amend budgeted accounts as necessary within the approved budget of \$243,250 for the effective operation of the Commission. The Commission will not exceed the approved 2017-2019 Biennium Budget without amending this rule and holding a public hearing thereon as required, by ORS 182.462(1). The budget can be found on the Commission's website.

Stat. Auth.: ORS 250.137(3)(b), 182.462(1) & 2013 OL Ch. 722, Sec. 11

Stats. Implemented: ORS 182.462(1) & 2013 OL Ch. 722, Sec. 11

Hist.: CIRC 1-2014, f. & cert. ef. 2-11-14; CIRC 1-2015, f. 6-23-15, cert. ef. 7-1-15; CIRC 1-2017, f. & cert. ef. 6-21-17

Construction Contractors Board Chapter 812

Rule Caption: Construction Flagging Contractor, Old Dispute Resolution Process, Dual and Inactive Licenses Continuing Education, Fee Changes

Adm. Order No.: CCB 1-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Adopted: 812-020-0083

Rules Amended: 812-003-0131, 812-003-0142, 812-003-0171, 812-003-0221, 812-004-1001, 812-020-0071, 812-020-0085, 812-022-0000, 812-022-0021, 812-022-0025, 812-022-0028, 812-022-0040

Rules Repealed: 812-004-0001, 812-004-0110, 812-004-0120, 812-004-0140, 812-004-0160, 812-004-0180, 812-004-0195, 812-004-0210, 812-004-0240, 812-004-0250, 812-004-0260, 812-004-0300, 812-004-0320, 812-004-0340, 812-004-0350, 812-004-0360, 812-004-0400, 812-004-0420, 812-004-0440, 812-004-0450, 812-004-0460, 812-004-0470, 812-004-0480, 812-004-0500, 812-004-0510, 812-004-0520, 812-004-0530, 812-004-0535, 812-004-0537, 812-004-0540, 812-004-0550, 812-004-0560, 812-004-0590, 812-004-0600, 812-022-0016, 812-022-0026, 812-022-0027, 812-022-0029

Subject: AMEND:

812-003-0131 is amended to add Construction Flagging Contractor to the license endorsements issued by CCB.

812-003-0142 is amended to reduce the license fee for 2017 - 2019 biennium to \$250.

812-003-0171 is amended to add a \$20,000 bond (or letter of credit) for a Construction Flagging Contractor license endorsement.

812-003-0221 is amended to add a \$500,000 per occurrence minimum liability insurance policy for a Construction Flagging Contractor license endorsement.

812-004-1001 is amended because rules that applied to complaints filed before July 1, 2011 will be repealed.

812-020-0071 is amended to work with OAR 812-022-0021(10), which exempts 'dual' contractors from residential continuing education requirements.

812-020-0085 is amended to require that holders of lapsed licenses must complete continuing education regardless of the period of lapse.

812-022-0000 is amended to remove reference to fees for continuing education.

812-022-0021 is amended to exempt 'dual' endorsed contractors from residential education.

812-022-0025 is amended to remove the reference to fees for continuing education and remove requirement for surety bond to assure payment of fees by providers.

812-022-0028 is amended to remove reference to fees.

812-022-0040 is amended to require that any renewal to active status requires completion of residential continuing education.

REPEAL:

812-004-0001 is repealed to remove the rule relating to the application of rules for complaints filed before July 1, 2011.

812-004-0110 is repealed to remove the complaint processing fee for complaints filed before July 1, 2011.

812-004-0120 is repealed to remove the individual liability of certain licensees for complaints filed before July 1, 2011.

812-004-0140 is repealed to remove the liability of a contractor filing a complaint for complaints filed before July 1, 2011.

812-004-0160 is repealed to remove the rule allowing a person to become a co-complainant for complaints filed before July 1, 2011.

812-004-0180 is repealed to remove the rule relating to pursuit of a complaint for complaints filed before July 1, 2011.

812-004-0195 is repealed to remove the rule relating to exhibits for complaints filed before July 1, 2011.

812-004-0210 is repealed to remove the rule relating to addresses and notices for complaints filed before July 1, 2011.

812-004-0240 is repealed to remove the rule relating to exhausted surety bonds, letters of credit or cash deposits for complaints filed before July 1, 2011.

812-004-0250 is repealed to remove the rule relating to complaint processing fees, attorney fees, interest, and other costs for residential complaints filed before July 1, 2011.

812-004-0260 is repealed to remove the rule relating to closing a complaint for complaints filed before July 1, 2011.

812-004-0300 is repealed to remove the rule relating to filing dates for complaints filed before July 1, 2011.

812-004-0320 is repealed to remove the rule relating to jurisdictional requirements for complaints filed before July 1, 2011.

812-004-0340 is repealed to remove the rule relating to the form of complaints and pre-complaint notice for complaints filed before July 1, 2011.

812-004-0350 is repealed to remove the rule relating to the agency's procedure if information is incomplete for complaints filed before July 1, 2011.

812-004-0360 is repealed to remove the rule relating to the adding complaint items at the on-site meeting for complaints filed before July 1, 2011.

812-004-0400 is repealed to remove the rule relating to the initial processing of and collecting fees for complaints filed before July 1, 2011.

812-004-0420 is repealed to remove the rule relating to processing owner with primary contractor complaints filed before July 1, 2011.

812-004-0440 is repealed to remove the rule relating to contracts with arbitration agreements involved in complaints filed before July 1, 2011.

812-004-0450 is repealed to remove the rule relating to the on-site meeting for complaints filed before July 1, 2011.

812-004-0460 is repealed to remove the rule relating to the agency recommendation for complaints filed before July 1, 2011.

812-004-0470 is repealed to remove the rule relating to a challenge to the investigation report for complaints filed before July 1, 2011.

812-004-0480 is repealed to remove the rule relating to settlements and settlement agreements for complaints filed before July 1, 2011.

812-004-0500 is repealed to remove the rule relating to closing a complaint after settlement for complaints filed before July 1, 2011.

812-004-0510 is repealed to remove the rule relating to court judgments, arbitration awards and other determinations involving complaints filed before July 1, 2011.

ADMINISTRATIVE RULES

812-004-0520 is repealed to remove the rule relating to processing certain complaints filed before July 1, 2011.

812-004-0530 is repealed to remove the rule relating to construction lien complaints filed before July 1, 2011.

812-004-0535 is repealed to remove the rule relating to elements that must be proved for complaints filed before July 1, 2011.

812-004-0537 is repealed to remove the rule relating to standards of care and workmanship for complaints filed before July 1, 2011.

812-004-0540 is repealed to remove the rule relating to establishing damages and issuing proposed default orders or hearing referrals for complaints filed before July 1, 2011.

812-004-0550 is repealed to remove the rule relating to proposed default orders for complaints filed before July 1, 2011.

812-004-0560 is repealed to remove the rule relating to general requirements for proposed default orders or hearing requests for complaints filed before July 1, 2011.

812-004-0590 is repealed to remove the rule relating to arbitration, contested case or court proceeding for complaints filed before July 1, 2011.

812-004-0600 is repealed to remove the rule relating to payment from surety bond, letter of credit or cash deposit for complaints filed before July 1, 2011.

812-022-0016 is repealed to remove the \$15 per hour fees paid by contractors to the Construction Contractors Board (CCB) for three hours of courses prepared by the board; remove fees for processing, shipping and handling of CCB course materials; and remove \$4 per student per course hour fees if CCB enters into an agreement for a provider to offer CCB's courses.

812-022-0026 is repealed to remove \$2,000 provider approval fees and remove the \$4 per student per hour Series A course fees.

812-022-0027 is repealed to remove requirement for surety bond to assure payment of fees by providers.

812-022-0029 is repealed to remove non-refundable \$100 course application fee for Series A courses.

ADOPT:

812-020-0080 is adopted to require CE every time a license is activated, unless CE was completed at the last renewal.

Rules Coordinator: Leslie Culpepper—(503) 934-2228

812-003-0131

License Endorsements

The following are license endorsements for new and renewal licenses:

(1) Residential General Contractor. A licensee holding this endorsement may bid or perform work involving an unlimited number of unrelated building trades or crafts on residential or small commercial structures.

(2) Residential Specialty Contractor. A licensee holding this endorsement may:

(a) Bid or perform work involving two or less unrelated building trades or crafts on residential or small commercial structures.

(b) If three or more unrelated trades or crafts are performed or sub-contracted out, the entire contract price cannot exceed \$2,500.

(3) Residential Limited Contractor. A licensee holding this endorsement may bid or perform work involving residential or small commercial structures, as long as all of the following conditions are met:

(a) The licensee's annual gross business sales do not exceed \$40,000.

(b) The licensee does not enter into a contract in which the contract price exceeds \$5,000.

(c) If the contract price in a contract for work performed by the licensee is based on time and materials, the amount charged by the licensee shall not exceed \$5,000.

(d) The licensee consents to inspection by the Construction Contractors Board of its Oregon Department of Revenue tax records to verify compliance with paragraph (3)(a) of this rule.

(e) For purposes of this section, "contract" includes a series of agreements between the licensee and a person for work on any single work site within a one-year period.

(4) Residential Developer. A licensee holding this endorsement may develop property zoned for or intended for use compatible with a residential or small commercial structure as long as the licensee meets the conditions in ORS 701.042.

(5) Residential Locksmith Services Contractor. A licensee holding this endorsement may operate a business that provides the services of locksmiths for residential or small commercial structures. The licensee may not, however, engage in any other contractor activities. The licensee must have at least one owner or employee who is a certified locksmith.

(6) Home Inspector Services Contractor. A licensee holding this endorsement may operate a business that provides the services of home inspectors. The licensee may not, however, engage in any other contractor activities. The licensee must have at least one owner or employee who is a certified home inspector.

(7) Home Services Contractor. A licensee holding this endorsement may operate a business that provides service, repair or replacement pursuant to the terms of a home service agreement. The licensee may not, however, engage in any other contractor activities.

(8) Home Energy Performance Score Contractor. A licensee holding this endorsement may operate a business that assigns home energy performance scores. The licensee may not, however, engage in any other contractor activities. The licensee must have at least one owner or employee who is a certified home energy assessor.

(9) Residential Restoration Contractor. A licensee holding this endorsement may perform restoration work on residential or small commercial structures. A licensee holding this endorsement is not licensed to engage in any other contractor activities.

(10) Commercial General Contractor – Level 1. A licensee holding this endorsement may bid or perform work involving an unlimited number of unrelated building trades or crafts on small or large commercial structures.

(11) Commercial Specialty Contractor – Level 1. A licensee holding this endorsement may bid or perform work involving two or less unrelated building trades or crafts on small or large commercial structures.

(12) Commercial General Contractor – Level 2. A licensee holding this endorsement may bid or perform work involving an unlimited number of unrelated building trades or crafts on small or large commercial structures.

(13) Commercial Specialty Contractor – Level 2. A licensee holding this endorsement may bid or perform work involving two or less unrelated building trades or crafts on small or large commercial structures.

(14) Commercial Developer. A licensee holding this endorsement may develop property zoned for or intended for use compatible with a small or large commercial structure as long as the licensee meets the conditions in ORS 701.042.

(15) Construction Flagging Contractor. A licensee holding this endorsement may direct or control the flow of motor vehicle traffic on a public roadway to prevent or reduce conflict between the flow of traffic and construction activity on or near the roadway.

(16) A contractor's license may contain:

(a) One residential endorsement;

(b) One commercial endorsement; or

(c) One residential endorsement and one commercial endorsement.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.042, 701.081, 701.084, 701.470 & 701.540

Hist.: CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 6-2013, f. 12-19-13, cert. ef. 1-1-14; CCB 2-2016, f. 12-29-16, cert. ef. 1-1-17; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-003-0142

License Application Fees

(1) The application fee for all new, renewal, or reissued licenses is \$325.

(2) For the period from July 1, 2017, through June 30, 2019, the application fee for all new, renewal, or reissued licenses is \$250.

(3) Except as provided in section (4) of this rule, application fees will not be refunded.

(4) If a licensee submits an application to renew a license and the agency cannot renew the license because the applicant has formed a new business entity, the agency may refund the renewal application fee, less a \$40 processing fee.

(5)(a) Any licensee in the United States armed forces need not pay a license renewal fee if such fee would be due during the licensee's active duty service.

(b) A licensee in the United States armed forces shall pay the next license renewal fee that will become due after the licensee is discharged from active duty service.

(c) The agency may request that the licensee provide documentation of active duty status and of discharge.

(d) Section (5) of this rule applies to licensees that are sole proprietors or partners in a general partnership.

Stat. Auth.: ORS 670.310, 701.238 & 701.235

ADMINISTRATIVE RULES

Stats. Implemented: ORS 701.056, 701.063 & 701.238
Hist.: CCB 4-2014(Temp), f. & cert. ef. 5-5-14 thru 10-31-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-003-0171

Bond, Letter of Credit or Cash Deposit

For all new and renewal license applications, a surety bond as required under ORS 701.068, or a surety bond, letter of credit or cash deposit as required under ORS 701.088, must be in one of the following amounts:

- (1) Residential General Contractor — \$20,000.
- (2) Residential Specialty Contractor — \$15,000.
- (3) Residential Limited Contractor — \$10,000.
- (4) Residential Developer — \$20,000.
- (5) Residential Locksmith Services Contractor — \$10,000.
- (6) Home Inspector Services Contractor — \$10,000.
- (7) Home Services Contractor — \$10,000.
- (8) Home Energy Performance Score Contractor — \$10,000.
- (9) Residential Restoration Contractor — \$10,000.
- (10) Commercial General Contractor Level 1 — \$75,000.
- (11) Commercial Specialty Contractor Level 1 — \$50,000.
- (12) Commercial General Contractor Level 2 — \$20,000.
- (13) Commercial Specialty Contractor Level 2 — \$20,000.
- (14) Commercial Developer — \$20,000.
- (15) Construction Flagging Contractor — \$20,000.

Stat. Auth.: ORS 670.310, 701.068, 701.088 & 701.235
Stats. Implemented: ORS 701.068, 701.081, 701.084, 701.088, 701.470 & 701.540
Hist.: CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 6-2013, f. 12-19-13, cert. ef. 1-1-14; CCB 2-2016, f. 12-29-16, cert. ef. 1-1-17; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-003-0221

Insurance Amounts

For all new and renewal license applications, insurance amounts as required under ORS 701.073, 701.081, and 701.084, must be in one of the following amounts:

- (1) Residential General Contractor — \$500,000 per occurrence.
- (2) Residential Specialty Contractor — \$300,000 per occurrence.
- (3) Residential Limited Contractor — \$100,000 per occurrence.
- (4) Residential Developer — \$500,000 per occurrence.
- (5) Residential Locksmith Services Contractor — \$100,000 per occurrence.
- (6) Home Inspector Services Contractor — \$100,000 per occurrence.
- (7) Home Services Contractor — \$100,000 per occurrence.
- (8) Home Energy Performance Score Contractor — \$100,000 per occurrence.
- (9) Residential Restoration Contractor — \$100,000 per occurrence.
- (10) Commercial General Contractor Level 1 — \$2,000,000 aggregate.
- (11) Commercial Specialty Contractor Level 1 — \$1,000,000 aggregate.
- (12) Commercial General Contractor Level 2 — \$1,000,000 aggregate.
- (13) Commercial Specialty Contractor Level 2 — \$500,000 per occurrence.
- (14) Commercial Developer — \$500,000 per occurrence.
- (15) Construction Flagging Contractor — \$500,000 per occurrence.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.073, 701.081, 701.084, 701.470 & 701.540
Hist.: CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 6-2013, f. 12-19-13, cert. ef. 1-1-14; CCB 2-2016, f. 12-29-16, cert. ef. 1-1-17; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-004-1001

Application of Rules

- (1) The rules in 812-004-1001 to 812-004-1600 apply to complaints filed under ORS 701.145.
- (2) The following rules apply to complaints filed under ORS 701.146:
 - (a) OAR 812-004-1001 through 812-004-1240;
 - (b) OAR 812-004-1260 through 812-004-1320;
 - (c) OAR 812-004-1340, except 812-004-1340(2)(c), (2)(i) and (8);
 - (d) OAR 812-004-1420;
 - (e) OAR 812-004-1520; and
 - (f) OAR 812-004-1600.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: OAR 701.133, 701.139, 701.140, 701.145, & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-020-0071

Hours Earned as Residential Contractor — Continuing Education for Commercial Contractors

Notwithstanding OAR 812-022-0021(10), a commercial contractor also endorsed as a residential contractor may take credit for continuing education earned under ORS 701.082 and OAR division 22.

Stat. Auth.: ORS 670.310, 701.086 & 701.235
Stats. Implemented: ORS 701.082 & 701.086
Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 3-2014, f. & cert. ef. 4-30-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-020-0083

Inactive Status During the License Period or Upon Renewal — Continuing Education for Commercial Contractors

(1) If a contractor is inactive at the time of renewal and seeks to renew in active status, the contractor must complete all commercial continuing education required under OAR 812-020-0065 and 812-020-0070. The contractor may satisfy the requirement by commercial continuing education completed during the inactive period.

(2) If a contractor is inactive at the time of renewal and seeks to renew in inactive status, the contractor is not required to complete commercial continuing education required under OAR 812-020-0065 and 812-020-0070.

(3) If a contractor is active at the time of renewal and seeks to renew in inactive status, the contractor is not required to complete the commercial continuing education requirements under OAR 812-020-0065 and 812-020-0070.

(4) Notwithstanding section (3), if an inactive contractor renews to inactive status and seeks to change to active status during the two-year licensing period, the contractor must complete commercial continuing education required in OAR 812-020-0065 and 812-020-0070. The contractor may satisfy the requirement by commercial continuing education completed during the inactive period.

(5) Hours completed and credited towards one renewal may not be included for contractor's next renewal.

Stat. Auth.: ORS 670.310, 701.086 & 701.235
Stats. Implemented: ORS 701.086
Hist.: CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-020-0085

Lapse in License — Continuing Education for Commercial Contractors

If a license lapses and a contractor applies for renewal as provided in ORS 701.063(4) and OAR 812-003-0300, the contractor must satisfy the commercial continuing education requirements of OAR 812-020-0065 and 812-020-0070. The contractor may satisfy the requirement by commercial continuing education completed during the lapse period.

Stat. Auth.: ORS 670.310, 701.086 & 701.235
Stats. Implemented: ORS 701.086
Hist.: CCB 21-2008, f. & cert. ef. 11-20-08; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-022-0000

Authority, Purpose, Scope, Applicable Dates — Continuing Education for Residential Contractors (SB 783)

(1) Authority. These rules are promulgated in accordance with ORS 701.082, which requires CCB to establish a residential continuing education system for licensed residential contractors, other than developers.

(2) Purpose. The purpose of these rules is to create a residential continuing education system. The Board shall adopt minimum standards for:

- (a) Approving providers of residential continuing education;
- (b) Approving courses for residential continuing education; and
- (c) Where available, giving consideration to any residential continuing education program adopted by national construction licensing trade associations.

(3) Scope.

(a) These rules establish the content and hours required for residential continuing education.

(b) These rules establish procedures for recordkeeping, for verifying attendance or completion of residential continuing education hours and for sanctions for failing to comply.

(c) These rules establish procedures and standards for provider and course approval.

Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: ORS 701.082
Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2014, f. & cert. ef. 4-30-14; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

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812-022-0021

Exemptions from Continuing Education — Continuing Education for Residential Contractors (SB 783)

(1) Residential contractors subject to regulation under ORS 479.510 to 479.945 or 480.510 to 480.670 or ORS Chapter 693 do not need to satisfy the continuing education requirements. These contractors include, but are not limited to:

(a) Electrical contractors subject to regulation under ORS 479.510 to 479.945.

(b) Plumbing contractors subject to regulation under ORS 447.040 and Chapter 693.

(c) Boiler contractors subject to regulation under ORS 480.510 to 480.670.

(d) Elevator contractors subject to regulation under ORS 479.510 to 479.945.

(e) Renewable energy contractors subject to regulation under ORS 479.510 to 479.945.

(f) Pump installation contractors subject to regulation under ORS 479.510 to 479.945.

(g) Limited sign contractors subject to regulation under ORS 479.510 to 479.945. (2) Residential contractors endorsed only as residential developers do not need to satisfy the continuing education requirement.

(3) Contractors owned by or having an officer or an employee who is an electrician licensed under ORS 479.510 to 479.945 do not need to satisfy the continuing education requirement.

(4) Contractors owned by or having an officer or an employee who is a plumber licensed under ORS chapter 693 do not need to satisfy the continuing education requirement.

(5) Contractors owned by or having an officer or an employee who is an architect registered under ORS 671.010 to 671.020 do not need to satisfy the continuing education requirement.

(6) Contractors owned by or having an officer or an employee who is a professional engineer licensed under ORS 672.002 to 672.325 do not need to satisfy the continuing education requirement.

(7) Contractors licensed as landscape contracting businesses under ORS 671.510 to 671.760 do not need to satisfy the continuing education requirement.

(8) Contractors owned by or having an employee who is a home inspector certified under ORS 701.350 do not need to satisfy the continuing education requirement.

(9) Contractors certified as master builders under ORS 455.810 do not need to satisfy the continuing education requirement.

(10) Contractors holding both a residential endorsement under ORS 701.081 and a commercial endorsement under ORS 701.084 do not need to satisfy the residential continuing education requirements.

Stat. Auth.: ORS 670.310, 701.082, 701.083, & 701.235

Stats. Implemented: ORS 701.082, 701.083

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 4-2013(Temp), f. & cert. ef. 11-26-13 thru 5-23-14; CCB 1-2014, f. & cert. ef. 2-6-14; CCB 2-2014(Temp), f. & cert. ef. 3-26-14 thru 9-22-14; CCB 6-2014, f. 6-26-14, cert. ef. 7-1-14; CCB 1-2016, f. 6-6-16, cert. ef. 7-1-16; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-022-0025

Provider Approval — Continuing Education for Residential Contractors (SB 783)

(1) The agency will review and approve providers offering residential continuing education.

(2) Providers will apply for approval on a form prescribed by the agency.

(3) Providers seeking approval to offer residential continuing education must submit the following to the agency:

(a) Name, address and contact information of the provider;

(b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;

(c) Description of the subject area(s) the provider intends to offer;

(d) Indication whether provider will offer:

(A) Series A Courses;

(B) Series B Courses; or

(C) Both Series A and Series B Courses; and

(e) Such other information or documentation as the agency may request.

(4) To qualify for approval, providers must:

(a) Employ or contract with instructors who have at least four years work experience or four years of education, or any combination of both, in the subject that they instruct;

(b) Be capable of entering and transmitting electronic data to the agency;

(c) Describe and follow a process for prompt resolution of complaints by registrants;

(d) Describe a process for cancellations and refunding registrant payments. If the provider does not permit cancellation or refunds, it must provide notice of that fact in a conspicuous manner in its advertising, solicitation and registration materials;

(e) Describe and follow attendance verification procedures;

(f) Provide an evaluation opportunity as prescribed by the agency for course attendees to complete;

(g) Be capable of submitting rating results to the agency by 12:00 noon of the business day following the day the contractor completes the course; and

(h) Maintain records available for agency to inspect for at least six years.

(5) Only an approved provider may offer or provide residential continuing education to a contractor or a contractor's employees.

(6) An approved provider may not allow any person not approved by the agency as a provider to offer or provide courses of the approved provider. For purposes of this rule, "offer or provide" includes, but is not limited to, assisting the contractor or the contractor's employees in obtaining or completing the courses or acting on behalf of an approved provider in advertising or soliciting the courses.

(7) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.

(8) If providers change or add course types (Series A Courses or Series B Courses), they shall notify the agency within 24 hours.

(9) If providers change or add instructors, they shall notify the agency within 24 hours.

(10) Providers must re-submit an application for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.

(11) The agency may withdraw approval issued to any provider that violates Oregon Laws 2013, chapter 718, or any rule of the agency.

Stat. Auth.: ORS 670.310, 701.265, 701.235

Stats. Implemented: ORS 701.265

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 5-2013(Temp), f. & cert. ef. 12-12-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-022-0028

Course Approval — Continuing Education for Residential Contractors

(1) The agency will approve Series A Courses required under OAR 812-022-0015(2)(b). Providers seeking course approval must be approved providers under OAR 812-022-0025.

(2) A provider seeking approval for Series A Courses must submit the following:

(a) Course name, course description, objective of the offered course, and number of hours of continuing education credit sought (must be no less than one hour);

(b) A written description of the course instructors' credentials, including years of education and experience in the subject matter they instruct;

(c) Course syllabus;

(d) Comprehensive course outline;

(e) Copies of the course materials provided to students;

(f) Cost of the offered course;

(g) For live classes and classes held in real time:

(A) Anticipated date, time, place of the course; and

(B) Number of registrants that each course can accommodate;

(h) For self-study courses:

(A) Anticipated date when the course will first be offered;

(B) Description of provider's procedures to answer student questions;

and

(C) The length of time a student has to complete the course and receive credit.

(i) Any other information as directed by the agency.

(3) The agency will only approve Series A Courses that the agency, in its sole discretion, considers offer high quality in the following respects:

(a) The course relates to one or more of the subjects listed in OAR 812-022-0015(2)(b);

(b) The course's use of animation, audio, video or color to stimulate multiple learning styles;

(c) The course holds interest through the use of visual, textual, audio or interactive components;

(d) The course material is presented in a logical and understandable manner;

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(e) The spelling, grammar and sentence structure in written materials are correct;

(f) For courses using internet, video, audio or other electronic media, the course program is technically sufficient (e.g., video does not “stutter”; internet material does not “lock up”); and

(g) For courses using internet, video, audio or other electronic media, there is adequate instruction and guidance to navigate from the beginning to the end of the course.

(4) The agency will only approve Series A Courses that provide qualified instructors to answer questions in real-time, either in person, by telephone or by electronic means (e.g. chat rooms, e-mail, instant message).

(5) Series A Course approval will be valid for two (2) years from the date the provider is approved by the agency.

(6) Providers must re-submit an application for renewal of Series A Course approval. Renewal of approval will be subject to the same requirements as initial approval.

Stat. Auth.: ORS 670.310, 701.235, 701.265, 701.267

Stats. Implemented: ORS 701.265, 701.267

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

812-022-0040

Inactive Status During the License Period or Upon Renewal — Continuing Education for Residential Contractors

(1) If a contractor is inactive at the time of renewal and seeks to renew in active status, the contractor must complete all residential continuing education required under OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the inactive period.

(2) If a contractor is inactive at the time of renewal and seeks to renew in inactive status, the contractor is not required to complete residential continuing education required under OAR 812-022-0015.

(3) If a contractor is active at the time of renewal and seeks to renew in inactive status, the contractor is not required to complete the residential continuing education requirements under OAR 812-022-0015.

(4) Notwithstanding section (3), if an inactive contractor renews to inactive status and seeks to change to active status during the two-year licensing period, the contractor must complete residential continuing education required in OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the inactive period.

(5) Hours completed and credited towards one renewal may not be included for contractor’s next renewal.

Stat. Auth.: ORS 670.310, 701.082 & 701.235

Stats. Implemented: ORS 701.063 & 701.082

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2014, f. & cert. ef. 4-30-14; CCB 1-2017, f. 6-28-17, cert. ef. 7-1-17

Department of Administrative Services Chapter 125

Rule Caption: Amends Inmate Injury rules updating how eligibility is determined and benefits are provided.

Adm. Order No.: DAS 2-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 125-160-0010, 125-160-0100, 125-160-0110, 125-160-0300, 125-160-0710, 125-160-0800, 125-160-0900

Subject: The primary reason for the rule amendment is to convert references to age 65 to references of attaining ‘other benefit eligibility.’ A definition has been added which defines “other benefit eligibility” as attainment of the age when eligibility for Social Security, Medicare and Medicaid occurs for the claimant. The amendments increase the amount of maximum medical benefits to \$75,000 from \$50,000.

Rules Coordinator: Janet Chambers—(503) 378-5522

125-160-0010

Definitions

As used in chapter 125, division 160, unless the context requires otherwise:

(1) “Awards” or “benefits” include one or more of the following types:

(a) “Death benefit” means the monthly amount of disability award the person deceased from a covered death would have received at a disability

rating of 100 percent. Death benefit also includes any payment to the claimant’s estate of burial expenses.

(b) “Final benefit or award” means the Department’s final notice of all benefits due to claimant. It is normally issued upon claimant’s request for reaffirmation or modification of the initial estimate. Benefits do not increase after final award appeal rights are exhausted.

(c) “Initial estimate” means the Department’s notice to a claimant that the injury qualifies for permanent disability benefits. It includes the estimate of disability rating and benefits.

(d) “Medical services” means those medications, medical procedures, rehabilitation services, physical aids, and prosthetics that are duly prescribed by the attending physician. Medical Services must be of proven therapeutic value. They must be medically necessary to the process of recovery from the covered injury. They permanently cease when a claimant is medically stationary.

(e) “Permanent disability benefit or award” means the Department’s estimated and final calculations of the benefit for a permanent disability from a covered injury.

(f) “Prosthetics benefit” means an amount paid, reserved, or added to permanent disability benefits for the repair or replacement of prosthetics. The cause of repair or replacement must be normal wear and tear or medical need caused by the covered injury and no other cause. The award shall be the Department’s estimate of current replacement cost, multiplied by the probability of replacement before other benefit eligibility is attained multiplied by the disability rating. Covered prosthetics are only those prescribed by the attending physician and not available over the counter. They must be medically necessary due to the covered injury and no other cause. No prosthetics awards shall be made for pre-existing prosthetics or for glasses, hairpieces, or dentures. Prosthetics benefits shall cease if and when permanent disability award payments cease to be paid or payable for any reason.

(g) “Rehabilitation Services” means physical restorative services prescribed by the attending physician. They must be necessary to recovery from a covered injury. They are part of medical services.

(h) “Training benefit” means any training provided by Corrections during confinement that may improve the chances of employment.

(2) “Authorized work or training assignment” is the duties of, and travel to and from, work or occupational training assigned to the claimant by Corrections. It applies only to assignments during confinement in a facility or institution located within Oregon and operated by Corrections. An assignment begins with the first line movement going to, and ends with the last line movement leaving, the assignment.

(3) “Beneficiary” is a dependent of the claimant who may claim death benefits upon claimant’s covered death. Beneficiaries shall meet the following tests:

(a) A beneficiary must, on the date of injury and on the date of covered death, be one of the following, in relationship to the deceased inmate-claimant:

(A) Legal husband or wife of the claimant.

(B) Child of the claimant. Child includes claimant’s natural child, born or unborn, claimant’s legally adopted child, stepchild, or other child toward whom the claimant stands in loco parentis.

(C) Father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece or nephew of the claimant.

(b) A beneficiary must also meet the following with regard to the deceased inmate-claimant:

(A) A beneficiary shall have relied upon the claimant for the major part of beneficiary’s financial support. He or she shall have done so for the twelve months preceding the date of Corrections confinement, date of injury, or date of covered death. The Department shall select from these three dates the one it deems the most reasonable indicator of dependency under the circumstances.

(B) A beneficiary who is the deceased’s child shall not have attained 18 years of age or have married. He or she shall not be legally emancipated and not, since claimant’s confinement, have filed for emancipation from the claimant’s parenting. He or she shall not have had a court terminate the inmate’s parental rights. He or she shall not, since the inmate’s confinement, have filed for, or had a parent or legal guardian file for, the termination of the claimant’s parental rights.

(C) A beneficiary shall not have terminated nor, since claimant’s confinement, applied in any way to terminate the familial, legal relationship of the beneficiary to the claimant.

(D) A beneficiary shall not be divorced from, nor have applied for legal separation or divorce from, the claimant during the period between the claimant’s Corrections’ confinement and covered death. Divorce or separa-

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tion shall not bar a beneficiary if the beneficiary also applied for, received, or attempted by process of law, to collect funds from the claimant for support or maintenance throughout that period.

(4) "Claim," "request," or "application" means written requests delivered to the Department claiming benefits due the claimant. Claims shall be on the forms or in the formats set from time to time by the Department. They shall be filed within the times set by these rules.

(5) "Claimant" is an inmate who has filed a claim for benefits claimed to be due to him or her under these rules. As applicable, claimant also includes beneficiaries, legal representatives of inmates' estates, and medical providers. Someone other than the inmate may be a claimant only of benefits due directly to him or her, not to benefits which the inmate may claim.

(6) "Confinement" means the claimant, inmate or beneficiary, is held in the legal and physical custody of any government penal, or other agency or institution, under court order. Confinement stops permanent disability and death benefits.

(7) "Corrections" means the State of Oregon Department of Corrections.

(8) "Corrections Medical Staff" means the physicians, nurses, and medical contractors of Corrections. It includes the medical staff of any penal institution where a claimant is confined when designated by Corrections or the Department to provide medical services under these rules.

(9) "Covered Death" means the claimant's death due, in large part, to a covered injury. A death may be a covered death only if it occurs within one year after the date of injury or if a claim for the covered injury was filed within 90 days of the date of injury and was not denied.

(10) "Covered Disease" means a disease or infection that meets all the following tests:

(a) It is caused in major part by the accidental exposure to substances in the course of authorized work or training assignment. Exposure means ingestion, absorption or inhalation of, or accidental contact with, the substance. Substances include dust, fumes, vapors, gases, radiation and the like. Substances shall only be those to which a worker who is not an inmate is not ordinarily exposed.

(b) It causes damage to physical body tissues or organs.

(c) It requires medical services.

(d) It is not an injury, illness, disease, or condition already awarded compensation by public or private funds.

(e) The Department has found it eligible for benefits under these rules.

(11) "Covered Injury" means that injury which meets all the following tests:

(a) It is accidental.

(b) It causes sudden damage to physical body tissues or organs, or accidental injury to prosthetic devices.

(c) It occurs in the course of, and is caused in major part by, an authorized work or training assignment.

(d) It requires medical services.

(e) It is not an injury, illness, disease, or condition already awarded compensation by public or private funds.

(f) The Department has found it eligible for benefits under these rules.

(g) Unless the context clearly requires otherwise, covered injury also includes covered disease.

(12) "Date of injury" means:

(a) For a covered injury, the day on which the accident occurred.

(b) For a covered disease, the earlier of the date of first medical treatment or date of diagnosis of the covered disease. Date of injury shall not be later than two years after the last exposure to the alleged disease-causing substance in the authorized work or training assignment.

(13) "Department" means Risk Management of the Enterprise Goods and Services Division of the Department of Administrative Services. It also means any contractor or agency designated by the Department to perform the Department's duties under these rules.

(14) "Disability" means the attending physician's determination of permanent disability from objective medical findings.

(15) "Disability rating" means the attending physician's determination from objective medical findings of claimant's percent of permanent disability due solely to the covered injury. The rating shall conform to the following:

(a) If the claimant has no pre-existing disabilities or disability awards, the disability rating shall be the claimant's permanent impairment. It shall be found according to the **3rd Revised**, or later, edition of the **AMA Guides to the Evaluation of Permanent Impairment**. The physician shall

identify the edition used. The disability rating shall be expressed as a percentage of a whole person. If more than one organ system is rated, the percentage of impairment of the whole person shall be combined using the combined values chart in the AMA Guides.

(b) If the claimant has pre-existing disabilities or disability awards, the maximum disability from all sources and causes shall not exceed 100 percent. The Department or the physician shall combine the current disability rating for the covered injury with all prior disabilities and disability awards from any source. The combined values chart in the AMA Guides shall be used. If the combined disability rating exceeds 100 percent, the disability rating for the covered injury shall be reduced to lower the total to 100 percent. The Department shall convert a disability award from any other system to an impairment rating of a whole person when necessary.

(16) "Employment" means claimant's ability, after release from confinement, to seek and perform employment. It shall include any lawful employment which pays at least the then statutory minimum wage of the State of Oregon. It shall be immaterial whether employment is obtained or exists.

(17) "Inmate" is a person committed to the physical and legal custody of Corrections.

(18) "Inmate Hourly Wage Rate," for purposes of calculating benefits under these administrative rules only, means:

(a) For inmates working in PIECP work projects, the Inmate Hourly Wage Rate is the rate established by Oregon Corrections Enterprises in accordance with the annual prevailing hourly wage rate determination completed by the Oregon Department of Employment.

(b) For other inmates, the Inmate Hourly Wage Rate is the state hourly minimum wage established under ORS 653.025.

(19) "Major part" means clearly and substantially more than half of the whole of all causes or contributing factors. Major part does not mean merely disproving factors deemed to be other possible causes.

(20) "Medically Stationary" or "Stationary" means that the attending physician finds that no further material medical improvement would reasonably be expected from medical treatment or the passage of time.

(21) "Other benefit eligibility" means:

(a) A claimant is deemed to be eligible to receive social security benefits in lieu of wage replacement benefits made available to claimants under these rules or

(b) A claimant is deemed to be eligible to receive Medicare benefits in lieu of medical payment benefits made available to claimants under these rules.

(22) "Permanent disability" means that the claimant is medically stationary and has a disability rating from the covered injury that will be permanent.

(23) "Physician" means a person licensed, in the state where he or she provides medical services, as a medical doctor, doctor of osteopathy, doctor of optometry, doctor of dentistry or nurse practitioner. All physicians may only provide medical services within the scope of their license. Physician includes one or both of the following:

(a) "Attending physician," Corrections medical staff or other physician authorized in advance by the Department. Attending physicians may diagnose and evaluate injuries and diseases. They may provide or direct medical services to claimants. They may send claimants to medically appropriate specialists for specific treatment, evaluation, advice, or consultation. They determine permanent disability ratings, and medically stationary dates.

(b) "Consulting or advisory physician," a physician selected and paid by the Department, Corrections, or the claimant to advise the attending physician. The consulting physician shall review the findings of the attending physician or evaluate the claimant to advise whether the claimant is medically stationary, permanently disabled, and the degree of disability rating.

(24) "PIECP" means a Department of Corrections inmate work program certified under the federal Prison Industries Enhancement Certification Program (PIECP) as exempted under 18 USC 1761(c) from the federal prohibition against the transport of inmate-produced goods in interstate commerce.

(25) "PIECP Work Project" means a specific inmate work project that is part of the Prison Industry Enhancement Program.

(26) "Release" means the claimant's release from Corrections' confinement. When the context requires, release also means the date of release from any subsequent confinement.

(27) "Substantial evidence" means that all the discovered evidence, taken together, would lead a reasonable fact finder to believe the facts asserted are more probably true than false. When the weight of the evidence

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is equal to both sides or only slightly greater to the claimant's side, the fact finder shall find against the claimant.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 7-2008(Temp), f. & cert. ef. 10-15-08 thru 4-11-09; DAS 3-2009, f. & cert. ef. 1-23-09; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

125-160-0100

Medical Services Limits

The Department shall calculate and limit medical services as follows:

(1) While still in confinement, benefits shall be limited to medical services provided by or at the direction of Corrections medical staff.

(2) After the release date, any medical services shall be payable for no more than the 6 months immediately following release. Medical services shall be provided only by, or at the direction of, the attending physician and only while the claimant is not stationary.

(3) After the release date, medical services shall be limited to \$10,000. No more than \$2,000 of that limit may be applied to rehabilitation services. The limit does not apply to services provided by and through Corrections medical staff while the claimant is confined.

(4) In response to the attending physician's request, Department may waive the foregoing limit on medical services payments. Waiver shall be in increments of \$5,000 not to exceed a total medical services limit of \$75,000. Any conditions that Department may deem reasonable may be attached to its waiver. Any waiver shall conform to one of the following:

(a) Corrections medical staff may request a waiver shortly before or after the date of release if these conditions are met:

(A) Claimant's medical condition shall have remained medically unstationary from time of injury through time of waiver request and release.

(B) Claimant shall be reported by Corrections to be actively cooperating toward recovery.

(C) The treating physician shall give Department a written report. It shall state that the medical condition is due to the covered injury and no other cause. It shall estimate the amount by which essential medical treatment will exceed the foregoing limit on medical services. It shall include a plan of essential treatment.

(b) A post-release attending physician may request a waiver no later than 90 days after release if the foregoing conditions are met. Also, this additional condition shall be met: Due to a covered injury and from no other cause, claimant shall be in dire medical condition that directly threatens death or a permanent disability rating of 70 percent or more.

(5) Further medical services limits after release are as follows:

(a) Prior to the first visit to any post-release physician, the claimant shall obtain the Department's written approval for that attending physician. If the Department disapproves the claimant's request, it shall provide the claimant with a list of physicians with whom the claimant may treat. The Department may require a claimant to seek medical treatment through a contract medical service or a Corrections institution's medical staff. A claimant may not change physicians without prior approval of the Department.

(b) The Department may require any physician to provide a written plan for treatment of the covered injury and any other reports, useful under these rules.

(c) Attending physicians, and any medical providers to whom the attending physician or the Department refer claimant under these rules, may bill the Department for reasonable and necessary medical expenses. They shall do so in the same manner and amounts as provided for services under ORS Chapter 656 and related rules, or as provided in any contract with the Department.

(d) The Department shall be required to pay for an examination, investigation, or report only if it is required by the Department or provided or required by the attending physician. This shall include consulting or advisory physicians' examinations and reports. Department may choose to pay anyone for any actual expense which it considers necessary or useful to determine a claim or to prove a subrogation claim.

(e) The cost of reasonable and necessary medications, prescriptions, physical aids, and prosthetics are medical services. Only those required solely for recovery from the covered injury and duly prescribed by the attending physician qualify. Department may require that these be obtained from the Department, its contract provider, a mail-order service, or any other means determined by the Department to be economical or reasonable.

(f) The Department may require claimants to purchase any prescribed items through a contract pharmacy or mail order supplier. The Department may, from time to time, provide claimants with any terms and conditions for reimbursement of prescription purchases that it deems reasonable. All

reimbursement requests shall be submitted in a form required by the Department, with all required documentation, and within 30 days following purchase.

(g) The attending physician shall closely monitor medications. Department shall only pay for a two week supply and one refill of a two week supply. Physician must see the claimant before further refill. The physician may prescribe larger quantities under the terms of a contract with the Department of Corrections or if the medication is known to the physician to be without potential for abuse.

(6) Any and all benefits payable or potentially payable to any claimant after release from confinement may be permanently terminated by Department without notice when any of the following occur:

(a) Attending physician's estimated duration of the need for medical services expires without medical findings that claimant continues to require medical services related to the covered injury.

(b) Attending physician reports that claimant is not cooperating in claimant's own recovery.

(c) Claimant fails to appear for any appointment with the attending physician.

(d) Claimant fails to appear for any appointment with any physician designated by the Department or the attending physician for which at least 14 days of notice was given to the claimant.

(e) Claimant becomes medically stationary.

(7) Medical services may be permanently terminated by Department without notice, upon claimant commencing work or applying for, or receiving, unemployment compensation.

(8) Minor injuries, those that require only first aid or that do not result in permanent disability as defined by these rules, shall qualify only for any medical services that may be provided by Corrections.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

125-160-0110

Benefit Limits During Permanent Disability

(1) For purposes of initial estimates and final awards, the Department shall calculate and limit benefits for permanent disability as described in this rule:

(2) While still in confinement, all permanent disability and training benefits shall be limited to training provided by Corrections. The need for, and type of, any training shall be decided solely by Corrections. All medical services benefits are permanently terminated.

(3) Upon release all permanent disability benefits shall be limited to the permanent disability payments and prosthetics awards approved under these rules. All medical services benefits except preparation of reports for final award or appeals are permanently terminated. No training benefit shall be provided after release except that the Department, solely upon the request and advice of Corrections, may extend a program commenced in confinement.

(4) Upon release with permanent disability, any prosthetics award may be paid in advance. It may be reserved to pay when actual need is proven. It may be converted to a periodic payment and paid as part of the permanent disability award. Department shall select the payment method it deems reasonable in its final award.

(5) Upon release with permanent disability, the permanent disability award shall be payable for limited periods. The periods start when release and medically stationary dates are both attained. Although no payment shall be made, time spent in later confinement shall count against the period in which benefits would be payable. Disability ratings and periods shall be as follows:

(a) For a rating of 10 percent or less, the permanent disability award shall be zero.

(b) For a rating of more than 10 percent through 20 percent, the permanent disability award shall be payable for a period of 24 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(c) For a rating of more than 20 percent through 30 percent, the permanent disability award shall be payable for a period of 48 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(d) For a rating of more than 30 percent through 40 percent, the permanent disability award shall be payable for a period of 96 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

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(e) For a rating of more than 40 percent through 50 percent, the permanent disability award shall be payable for a period of 132 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(f) For a rating more than 50 percent through 60 percent, the permanent disability award shall be payable for a period of 180 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(g) For a rating of more than 60 percent through 70 percent, the permanent disability award shall be payable for a period of 240 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(h) For a rating of more than 70 percent through 80 percent, the permanent disability award shall be payable for a period of 300 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(i) For a rating of more than 80 percent through 90 percent, the permanent disability award shall be payable for a period of 360 months or until the claimant attains an age when other benefit eligibility occurs, whichever occurs first.

(j) For a rating of more than 90 percent through 100 percent, the permanent disability award shall be payable until the claimant attains an age when other benefit eligibility occurs.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

125-160-0300

Evaluating Claims

(1) No benefit shall be awarded or paid except through request and proof of eligibility as required by these rules and related law. A claim shall be approved if the claimant proves to the Department that the claim, injury, disability, and all related issues qualify and conform to these rules and related law.

(2) Department shall investigate any claim for benefits as it deems necessary to determine eligibility under these rules and the extent of any benefits. Department shall notify claimant of its denial or initial estimate of benefits in a reasonable time. When practical, Department shall issue its initial estimate in the period after claimant is stationary and before claimant is released.

(3) The attending physician shall make all medical determinations with regard to the claim. If Department finds the attending physician is not complying with these rules, Department may name a new attending physician to provide all medical services. The attending physician shall:

(a) Determine the existence and nature of the reported injury, its extent and expected duration of the need for medical services.

(b) Determine the claimant's medically stationary date and any permanent disability rating.

(c) Estimate likelihood or frequency of necessary repair and replacement of prosthetics.

(d) Report to the Department. Reports shall be in sufficient detail to show that all determinations are based on medical evidence supported by objective findings as provided in ORS 655.510(2). The reports shall show due consideration of any input from advisory or consulting physicians. Reported pain or alleged limited range of motion, without objective findings, shall not meet this requirement.

(4) Department may require a claimant to be examined by any physician or physicians if Department considers such examination necessary to determine a claim. Failure to attend the examination will be considered abandonment of benefits.

(5) If there is a dispute among physicians as to any medical fact or issue, the attending physician shall determine the dispute. He or she shall give due consideration to the reports of consulting or advisory physicians.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

125-160-0710

Termination of Benefits

(1) Any and all benefits payable or potentially payable to a claimant shall be terminated fully and finally, without prior notice, upon the occurrence of any of the following:

(a) Claimant gives Department of Corrections any kind of false report or supplies any false information in connection with a claim.

(b) Inmate dies due, in large part, to any cause or causes other than the covered injury.

(c) Claimant, receiving permanent benefits or death benefits, attains an age when other benefit eligibility occurs.

(d) The date is reached at which an inmate deceased from a covered death would have attained other benefit eligibility.

(e) A beneficiary dies, ceases to be a beneficiary under these rules or, if a child, attains 18 years of age.

(2) Anyone who receives benefits shall return at once to Department any payment that he or she is not entitled to under these rules due to termination of benefits or any other cause.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

125-160-0800

Subrogation

Applying for and accepting benefits under these rules shall transfer to the Department all the acceptors' rights, claims, and causes of action against any third party for the covered injury or death to the extent of benefits paid or payable hereunder. Department shall be entitled to the net recovery against the third party to the extent of benefits paid or payable hereunder. Except as provided by ORS 655.510(4), if the Department does not choose to claim damages from a third party, all these rights shall revert to claimant and Department shall waive any interest it has in any recovery.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

125-160-0900

Appealing Claims Decisions and Actions

(1) These shall be the rules of procedure for appeals and contested case hearings for actions under these rules. Except as noted, the administrative procedures act shall not apply.

(2) When these rules permit an action of the Department to be contested by the claimant, the Department shall give the notice required by ORS 183.415(2). The following three levels of appeal shall then apply.

(a) Claimant shall first appeal through request for review by Department:

(A) One request for review of an action by Department may be made by the affected claimant. It shall be received by the Department within 60 days after the date of Department's contested decision unless the decision includes the grant of a longer period.

(B) Claimant's written request for review shall list and explain all contested matters of fact and law in writing. It shall state the action the claimant is requesting. New supporting documents, if consistent with these rules, may be enclosed. Any revised attending physician's response or report shall be enclosed as part of the request for review. A timely request for review that conforms to these rules is a prerequisite to further appeal or hearing.

(C) Requests for review may contest allegations of omitted fact, factual error, lack of required evidence for the Department's pertinent findings and conclusions, or legal error by Department. Any medical evidence shall be submitted to the attending physician, whose report shall be provided with the request for review. Only issues subject to the jurisdiction of these rules may be raised or contested.

(D) When the Department receives a request for review, it shall consider the record it relied upon and any information contained in or attached to the request for review. If the Department finds that its action is not correct under these rules or is not supported by substantial evidence, the Department shall modify its decision. The Department shall respond to claimant's request for review by affirming, rescinding, or modifying its decision.

(b) Upon completion of the review level of appeal, claimant may request a contested case hearing as follows:

(A) Claimant may request a hearing if the Department does not acknowledge a valid and complete request for review or does not grant the relief requested.

(B) Written request for hearing shall be received by the Department no later than 30 days after the request for review is received by Department or after Department's final response to request for review, whichever is later.

(C) A request for contested case hearing shall list and explain each contested matter of fact or law. It shall state the action the claimant is requesting. A request for a contested case hearing shall raise no issues nor

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make any request that was not in the request for review. A timely request for contested case hearing that conforms to these rules is a prerequisite to any hearing.

(D) Hearings officers may only consider legal error by Department and the sufficiency of evidence for the Department's decision or action, as modified by any response to the request for review. Only issues raised in claimant's request for review may be considered. A claimant may not contest any issues of timeliness, inclusion or omission, or other procedural requirements, unless claimant submitted to Department, with or before request for review, clear and convincing evidence that met the procedural requirement.

(c) Upon exhausting the review and hearings levels of appeal, claimant may appeal the final decision of the director to the Court of Appeals as provided by ORS 183.480 to 183.482.

(3) Only the following actions of the Department may be appealed:

(a) Partial or full claim denial based on Department's findings and conclusions.

(b) Partial or full denial of request for reaffirmation or modification of initial estimate.

(c) Refusal to pay any requested payment or benefit due to claimant under these rules.

(d) Termination, reduction, forfeiture, or denial of retroactive restoration of any benefit already awarded to claimant under these rules.

(e) Death benefit determination or denial.

(f) Denial of a provider's billing or a claimant's reimbursement request for medical services.

(4) The following actions of Department may not be appealed under these rules:

(a) Initial estimate by Department.

(b) Temporary suspension of payments.

(c) The form or procedure of benefit payment chosen by the Department, including the amount of discount in any lump sum payment, annuity, or settlement.

(d) Any medical service the attending physician orders or refuses to order.

(e) Department's decision to require that the claim must be proven by clear and convincing evidence.

(f) Denial of any request for increased or additional benefit in a claim on which claimant did not appeal final award, or exhausted appeals.

(g) Any action taken by anyone other than Department or not solely within Department's authority under these rules.

(h) Any action of Department for which these rules do not expressly provide for appeal.

(5) A claimant may appeal a Department action once. After appeal under these rules is exhausted, that issue may not be raised again.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555

Stats. Implemented: ORS 655.505 - 655.555

Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 2-2017, f. 6-28-17, cert. ef. 7-1-17

Department of Administrative Services, Chief Financial Office Chapter 122

Rule Caption: Establishes expenditure limits allowing agencies without a 2017-19 Legislatively Adopted Budget to continue operating.

Adm. Order No.: DCFO 1-2017(Temp)

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17 thru 9-15-17

Notice Publication Date:

Rules Adopted: 122-001-0039

Subject: This rule establishes expenditure limits allowing state agencies without a 2017-19 Legislatively Adopted Budget to continue operating after June 30, 2017.

Rules Coordinator: Janet Chambers—(503) 378-5522

122-001-0039

Continuing Resolution for State Agency Expenditure Limitations

(1) A state agency, as defined in Senate Bill 5544 (Oregon Laws 2017), may incur obligations and authorized expenditures to continue operations into the 2017–2019 biennium at:

(a) The agency's 2015–2017 eighth quarter allotment level; or

(b) For the Department of Human Services, the agency's 2015–2017 seventh quarter allotment level; or

(c) For the Oregon Health Authority, the agency's 2015–2017 seventh quarter allotment level; or

(d) A higher or lower level as approved by the Chief Financial Office.

(e) In establishing an alternative expenditure level, the Chief Financial Office shall consider pending legislative budget direction.

(2) Each state agency without a legislatively adopted budget as of June 30, 2017, shall send a signed letter of verification to the Chief Financial Office on or before June 30, 2017, acknowledging:

(a) The agency does not have a legislatively adopted budget as of June 30, 2017;

(b) The continuing resolution ends September 15, 2017 or when an adopted budget is signed by the Governor;

(c) Expenditures will not be authorized above the level established pursuant to section (1) of this rule;

(d) Expenditures incurred under the continuing resolution will be part of the 2017–2019 adopted budget and not permanently charged against 2015–2017 expenditure limitation or appropriation; and

(e) The agency will not begin new programs or hire new staff positions until an adopted budget is signed by the Governor.

(3) Upon receipt of the signed verification letter, the Chief Financial Office shall establish an allotment level pursuant to section (1) of this rule. The Chief Financial Office shall notify each agency of the action taken.

Stat.Auth.: ORS 184.340

Stats. Implemented: Oregon Laws 2017 (Senate Bill 5544)

Hist.: DCFO 1-2017(Temp), f. & cert. ef. 6-28-17 thru 9-15-17

Department of Agriculture Chapter 603

Rule Caption: Increase in annual registration fees for industrial hemp growers, handlers, and seed producers.

Adm. Order No.: DOA 11-2017

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 7-13-17

Notice Publication Date: 6-1-2017

Rules Amended: 603-048-0700

Rules Repealed: 603-048-0700(T)

Subject: The industrial hemp program (program) is financially insolvent. Current registration fees do not generate funds sufficient to cover the cost to pay for administration of the program. Without sufficient funds, the program will go further in debt, the program's ability to register and regulate registrants will be impaired, and the new industry will be prejudiced. The only mechanism available for financing the program under the current statute (ORS 571.300 to 571.315, as modified by Oregon Laws 2016, Chapter 71) is annual registration fees. The proposed fee change increases annual registration fees for industrial hemp as follows:

Industrial hemp grower registration increases from \$500 to \$1300;

Industrial hemp handler registration increases from \$500 to \$1300;

Agriculture hemp seed producer registration increases from \$25 to \$120.

These rules provide funding for the department to implement the industrial hemp program, including registering and regulating registrants, and facilitate the growth of this new industry.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-048-0700

Registration Fees

The following designated annual registration fees shall be applicable to each described activity under authority of ORS 571.305:

(1) Industrial hemp grower registration: \$1300.00;

(2) Industrial hemp handler registration: \$1300.00; and

(3) Agricultural hemp seed producer registration: \$120.00.

Stat. Auth.: ORS 561.190, 569.445, 571.300 - 571.315, 633.511 - 633.996, OL 2016, Ch. 71

Stats. Implemented: ORS 571.300 - 571.315

Hist.: DOA 3-2015, f. & cert. ef. 1-29-15; DOA 11-2016(Temp), f. & cert. ef. 5-3-16 thru 10-29-16; DOA 19-2016, f. & cert. ef. 10-28-16; DOA 2-2017(Temp), f. & cert. ef. 1-18-17 thru 7-16-17; DOA 7-2017(Temp), f. 3-14-17, cert. ef. 3-15-17 thru 9-10-17; DOA 11-2017, f. & cert. ef. 7-13-17

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Department of Consumer and Business Services, Building Codes Division Chapter 918

Rule Caption: Adopts minimum safety standards for recreational vehicles and clarifies types of recreational vehicles regulated

Adm. Order No.: BCD 6-2017

Filed with Sec. of State: 6-27-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 2-1-2017

Rules Amended: 918-098-1305, 918-098-1325, 918-500-0450, 918-525-0000, 918-525-0005, 918-525-0015, 918-525-0020, 918-525-0035, 918-525-0040, 918-525-0042, 918-525-0065, 918-525-0090, 918-525-0100, 918-525-0310, 918-525-0320, 918-525-0330, 918-525-0350, 918-525-0360, 918-525-0410, 918-525-0420, 918-525-0430, 918-525-0440, 918-525-0450, 918-525-0510, 918-525-0520

Rules Repealed: 918-525-0045, 918-525-0055, 918-525-0120, 918-525-0130, 918-525-0140, 918-525-0150, 918-525-0160, 918-525-0170, 918-525-0210, 918-525-0220, 918-525-0240, 918-525-0250, 918-525-0260, 918-525-0270, 918-525-0325, 918-525-0370, 918-525-0460, 918-530-0005, 918-530-0010, 918-530-0020, 918-530-0040, 918-530-0050, 918-530-0060, 918-530-0070, 918-530-0080, 918-530-0090, 918-530-0100, 918-530-0110, 918-530-0120, 918-530-0310, 918-530-0320, 918-530-0340, 918-098-1505(T), 918-098-1325(T), 918-500-0450(T), 918-525-0000(T), 918-525-0005(T), 918-525-0015(T), 918-525-0020(T), 918-525-0035(T), 918-525-0040(T), 918-525-0042(T), 918-525-0045(T), 918-525-0055(T), 918-525-0060(T), 918-525-0065(T), 918-525-0070(T), 918-525-0080(T), 918-525-0090(T), 918-525-0100(T), 918-525-0210(T), 918-525-0220(T), 918-525-0260(T), 918-525-0270(T), 918-525-0310(T), 918-525-0320(T), 918-525-0325(T), 918-525-0330(T), 918-525-0350(T), 918-525-0370(T), 918-525-0410(T), 918-525-0420(T), 918-525-0430(T), 918-525-0440(T), 918-525-0450(T), 918-525-0460(T), 918-525-0510(T), 918-525-0520(T), 918-530-0005(T), 918-530-0010(T), 918-530-0020(T), 918-530-0040(T), 918-530-0050(T), 918-530-0060(T), 918-530-0070(T), 918-530-0080(T), 918-530-0090(T), 918-530-0100(T), 918-530-0110(T), 918-530-0120(T), 918-530-0310(T), 918-530-0320(T), 918-530-0340(T)

Rules Ren. & Amend: 918-525-0060 to 918-525-0056, 918-525-0070 to 918-525-0054, 918-525-0080 to 918-525-0052

Subject: These rules make a variety of changes to the state's Recreational Vehicle Program. These changes include, but are not limited to, adopting current editions of the minimum safety standards for the construction of recreational vehicles, clarifying the types of recreational vehicles regulated by the state, eliminating the recreational vehicle repair program, eliminating plan review requirements for manufacturers, and clarifying the requirements for the manufacture and sale of recreational vehicles in Oregon. These rules repeal temporary rules that were adopted on January 19, 2017.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-098-1305

Manufactured Structure Installation Inspector Certification

(1) Scope of Activities and Authority.

(a) A manufactured structure installation inspector conducts onsite field inspections of manufactured dwelling installations including site preparation, setbacks, drainage, stand, foundation support, earthquake bracing systems, tie-downs, under-floor enclosures, access, egress, plumbing utility connections (within 30 lineal feet of the manufactured dwelling), mechanical connections and electrical feeder assembly connections (as defined by Article 550 of the National Electrical Code), electrical fixture connections, and plumbing, mechanical, and electrical crossover connections for manufactured structures under ORS 446.230 and 446.240;

(b) This certification does not include inspections or plan reviews of manufactured dwelling alterations or manufactured structure accessory structures and accessory buildings. See OAR 918-098-1325 and 918-098-1330 for certification requirements.

(c) This certification can be used only in a jurisdiction that:

(A) Meets all of the requirements of this rule and OAR 918-500-0055;

(B) Complies with ORS 446.250 and 446.253(2) relating to the delegation of full responsibility for permit issuance and inspections;

(C) Issues permits according to ORS 446.253; and

(D) Enforces the current edition of the Oregon Manufactured Dwelling Installation Specialty Code, the provisions of OAR chapter 918, division 500, and all referenced standards contained therein.

(2) A Manufactured Structure Installation Inspector must also possess an Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing inspections.

(3) Revocation. The division is authorized to revoke this certification under ORS 446.255. Persons certified under this rule who fail to meet the minimum continuing education requirements are subject to revocation. If the minimum continuing education is met within 60 days from the date it was originally due, the division may discontinue any pending revocation action based on a failure to meet minimum continuing education requirements.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 446.250, 446.255 & 455.720

Stats. Implemented: ORS 446.250, 446.255 & 455.720

Hist.: BCA 25-1990, f. & cert. ef. 10-17-90; BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; Renumbered from 918-099-0135; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; Renumbered from 918-098-0310; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; Renumbered from 918-098-0310; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 6-2016, f. & cert. ef. 4-1-16; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-098-1325

Requirements for Alteration Inspection and Plan Review of Manufactured Dwellings

(1) Scope of Work. Manufactured dwelling alteration inspections and plan reviews include on-site field inspections of alterations including structural, fire and life safety, electrical, plumbing, and mechanical alterations made to manufactured dwellings after the initial sale of the home to the first consumer after all the terms of the sales contract have been met. Most alteration inspections made prior to this time are the responsibility of the division and must be performed by a certified manufactured structure construction inspector.

(2) Certifications. Inspectors of manufactured dwelling alterations are required to be certified by ORS 446.250. The division requires that persons performing inspections or plan reviews on manufactured dwelling alterations have:

(a) An Oregon Inspector Certification and the appropriate Oregon Code Certification under OAR 918-098-1015 for the Oregon Residential Specialty Code for the specific discipline being used; or

(b) An Oregon Inspector Certification and the appropriate ICC Residential Certification as described in OAR 918-098-1010.

(3) The requirement in section (2) is not applicable to alteration inspections performed on manufactured homes still under the jurisdiction of the U.S. Department of Housing and Urban Development (HUD).

(4) Authority. Inspectors and plans examiners of manufactured dwelling alterations may only inspect or review plans in a jurisdiction that has been delegated the manufactured dwelling alteration program and that:

(a) Complies with ORS 446.250 and 446.253(2) relating to the delegation of full responsibility for permit issuance and inspections;

(b) Issues permits and enforces the current edition of ORS chapter 446 and OAR chapter 918, division 500;

(c) Meets the requirements of OAR 918-500-0055 for delegation; and

(d) Enforces the current edition of the Oregon Manufactured Dwelling Installation Specialty Code and all referenced standards contained therein.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 446.250 & 455.720

Stats. Implemented: ORS 446.250 & 455.720

Hist.: BCD 13-1997, f. 9-18-97, cert. ef. 10-1-97; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; Renumbered from 918-098-0350; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; Renumbered from 918-098-0350; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-500-0450

Insignia and Label Requirements

All manufactured dwellings constructed on or after June 15, 1976, must bear an insignia of compliance.

Stat. Auth.: ORS 446.176 & 446.230

Stats. Implemented: ORS 446.170

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 10-1992, f. 6-15-92, cert. ef. 7-1-92; BCD 2-1994, f. 1-14-94, cert. ef. 2-1-94; BCD 19-1995, f. 12-15-95, cert. ef. 1-1-96; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

ADMINISTRATIVE RULES

918-525-0000

Reasonable Notice to Interested Parties

Before the adoption, amendment, or repeal of any rule relating to the construction or inspection of recreation vehicles adopted under ORS 446.003 to 446.280 and 446.990, the Building Codes Division must give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.335 at least 21 days before the effective date; and

(2) By mailing a copy of the notice to persons on the interested parties mailing list established under ORS 183.335 and OAR 918-001-0210.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 183.335

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0005

Definitions

The following definitions are in addition to those included in ORS 446.003:

(1) "Accessible" means having access thereto, but which may require removal of an access panel or opening a door.

(2) "Adjustment of Equipment" means the adjustment of the rate, flow, speed, temperature, etc. as necessary for the continued operation of the equipment but does not include the repair, replacement, conversion, alteration, or addition to any equipment.

(3) "Field Technical Service" means the clarification of technical data, including but not limited to division interpretations of, or investigations into, the application of laws, rules, standards, and regulations administered and enforced by the Building Codes Division.

(4) "Labeled" means equipment or materials, used in the manufacture or installation of a recreational vehicle, to which has been attached a label, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization, which evaluates products to nationally recognized standards and periodically inspects production of equipment and materials to show compliance with those standards for usage in a specified manner.

(5) "Listing Agency" means an agency that:

(a) Is regularly engaged in conducting its own tests, or listing, labeling, or contracting its testing procedures to a nationally recognized testing agency;

(b) Maintains a periodic inspection program on production of currently listed products; and

(c) Publishes, at a minimum, an annual report which is used to determine whether products have been tested to such national standards and found safe for use in a specified manner.

(6) "Noncompliance" means a failure of a recreational vehicle, equipment, or installation to comply with these rules or the codes and standards described in OAR 918-525-0040.

(7) "Notice of Violation" means written notification by the division stating the recreational vehicle or equipment may not be used, rented, leased, or sold or offered for sale, rent, or lease due to violations of ORS chapter 446 or these rules.

(8) "Readily Accessible" means having direct access without the necessity of removing a panel, door, or similar obstruction.

(9) "Recreational Vehicle" means a vehicle as defined in ORS 446.003 and is a vehicular-type unit that contains 12-volt interior and exterior lighting, eating and sleeping facilities, is designed as temporary living quarters for recreational, seasonal, or emergency use, and has its own motive power or is mounted on or towed by another vehicle and meets all of the following:

(a) Is regulated and registered by the National Highway Traffic Safety Administration as a vehicle or vehicle equipment;

(b) Does not require a special highway use permit for operation on a highway;

(c) Is designed to be easily transported and set up on a daily basis by an individual;

(d) Is represented in 2015 NFPA 1192 Figure A.3.3.50;

(e) Has exterior wall and roof coverings of aluminum, fiberglass, fiberglass composite or rubber membrane; and

(f) Does not have a pitched roof or bay windows.

(10) "Replacement in Kind" means replacing equipment or accessories with approved like equipment or accessories such as switches, thermostats, fittings, elements, or motors, but does not include the replacement of major portions of the structural, plumbing, electrical, or mechanical systems.

(11) "Testing Laboratory" or "Testing Agency" means an organization:

(a) In the business of testing equipment and systems;

(b) Qualified and equipped to perform or to observe experimental testing to approved standards;

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry;

(d) Publishing reports, including specific information about the equipment and systems tested and found safe for use in a specified manner; and

(e) Whose methods and standards have been approved by the division.

(12) "Travel Mode" means the overall size of the recreational vehicle as it travels on a highway including all horizontal projections except for expandable rooms, retractable awnings, exterior plumbing, mechanical, or electrical fixtures, or equipment or other minor exterior attachments.

(13) "Visual inspection" means an inspection by the division of the visible portions of completed construction of a recreational vehicle for the purpose of identifying code violations or approving and issuing an insignia of compliance.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 11-1997, f. 7-23-97, cert. ef. 1-1-98; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 12-2011(Temp), f. 4-29-11, cert. ef. 5-2-11 thru 10-29-11; BCD 20-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0015

Objective

The provisions of OAR chapter 918, division 525 apply to the design and manufacture of recreational vehicles rented, leased, sold, or offered for rent, lease, or sale in Oregon.

Stat. Auth.: ORS 446.185

Stats. Implemented: ORS 446.155

Hist.: BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0020

Equipment and Equipment Installations

(1) All equipment and equipment installations in the thermal, fire and life safety, plumbing, mechanical, and electrical systems of recreational vehicles or intended for use in recreational vehicles are subject to the provisions of these rules.

(2) The division may accept for approval equipment and equipment installations listed and labeled by a testing agency using standards approved by the division.

(3) If the division determines that listed or labeled equipment and equipment installations are not adequate for the protection of health, safety, and the general welfare, then the division may revoke the approval for installation in recreational vehicles manufactured, sold, rented, leased, or offered for sale, rent, or lease in Oregon.

Stat. Auth.: ORS 446.155

Stats. Implemented: ORS 446.155

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0035

Allowable Floor Areas

(1) Recreational vehicles are limited to a maximum gross floor area of 400 square feet in the setup mode, including all tip-outs, slide-outs, expandable rooms, and other horizontal projections. The 400 square foot limitation does not apply to:

(a) Motorized recreational vehicles;

(b) Fifth wheel trailers up to 430 square feet in the setup mode;

(c) Any space less than five feet in height which does not increase the size of the recreational vehicle or extend horizontally beyond the recreational vehicle floor line;

(d) Window projections with a floor or platform at least 12 inches above the vehicle floor;

(e) Space occupied by drawbars, couplings, hitches, or lights; or

(f) Retractable awnings.

(2) The gross floor area of a recreational vehicle may not be increased through the use of a manufactured dwelling, another recreational vehicle, or through any other means.

(3) The gross floor area of a combination vehicle may not exceed the maximum allowable gross floor area if there is no permanent separation between the recreational vehicle and the other use (i.e., horse trailer/recre-

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ational vehicle). When a combination vehicle has a permanent wall separating the two uses, only the recreational vehicle portion of the combination vehicle is limited to the maximum gross floor area.

Stat. Auth.: ORS 446.003 & 446.160
Stats. Implemented: ORS 446.003 & 446.160
Hist.: BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 10-2000(Temp), f. 6-21-00, cert. ef. 6-23-00 thru 12-19-00; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 12-2011(Temp), f. 4-29-11, cert. ef. 5-2-11 thru 10-29-11; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0040

Adopted Minimum Safety Standards

(1) The minimum safety standards for recreational vehicles are adopted pursuant to OAR chapter 918, division 8.

(2) Effective January 19, 2017, the following standards are adopted by reference as the standards for the manufacture of recreational vehicles:

(a) The 2015 Edition of NFPA 1192, Standard on Recreational Vehicles, as published by the National Fire Protection Association.

(b) The 2014 Edition of NFPA 70, National Electrical Code, specifically but not limited to, Article 551 pertaining to Recreational Vehicles, as published by the National Fire Protection Association.

(c) The 2014 Edition of ANSI/RVIA Standard for Low Voltage Systems in Conversion and Recreational Vehicles, as published by the Recreational Vehicle Industry Association.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 446.185
Stats. Implemented: ORS 446.185
Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 22-1990(Temp), f. & cert. ef. 9-4-90; BCA 27-1990, f. 11-28-90, cert. ef. 11-30-90; BCA 16-1993, f. 8-12-93, cert. ef. 9-1-93; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 16-1996, f. 8-6-96, cert. ef. 9-1-96; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 11-1997, f. 7-23-97, cert. ef. 1-1-98; BCD 22-1998, f. 11-9-98, cert. ef. 1-1-99; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 10-2000(Temp), f. 6-21-00, cert. ef. 6-23-00 thru 12-19-00; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0042

Amendments to the Adopted Minimum Safety Standards

The minimum safety standards for recreational vehicles are adopted in OAR 918-525-0040 and are amended pursuant to OAR chapter 918, division 8. Amendments adopted to the minimum safety standards for recreational vehicles and any amendments made during the code-cycle are placed in this rule, showing the section reference and code language.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 446.185
Stats. Implemented: ORS 446.185
Hist.: BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 3-2012(Temp), f. 4-6-12, cert. ef. 4-9-12 thru 9-30-12; BCD 6-2012, f. 6-27-12, cert. ef. 7-1-12; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0052

Manufacturer Certification

(1) Each recreational vehicle manufacturer that produces or intends to produce recreational vehicles that are required to bear an Oregon insignia of compliance must be certified by the division. Manufacturing facilities may be certified by the division if the following criteria are met:

(a) The manufacturer has registered with the division;

(b) The manufacturer has submitted and the division has approved the manufacturer's quality assurance manual;

(c) The division has inspected a manufacturer's product and an inspection report has been issued verifying that the manufacturer's product meets the minimum safety standards adopted in OAR 918-525-0040; and

(d) Random units inspected by the division on dealer lots conform to the provisions of OAR 918-525-0065.

(2) The division may inspect a manufacturing facility and verify that facilities ability to follow the procedures outlined in its approved quality assurance manual.

(3) Certification inspections are performed at the division's convenience and at the inspection fee rates provided in OAR 918-525-0510.

(4) The division may rescind a manufacturing facility's certification if the division determines that any of the criteria identified in section (1) of this rule are not satisfied. The division will notify a manufacturer in writing of its intent to decertify a manufacturing facility. The notice will identify the circumstances and reasons for decertification. If the manufacturer fails to bring the facility into conformance with the requirements of these rules within the time specified by the division, the division may decertify the facility.

(5) As an alternative to decertifying the manufacturing facility, the division may increase the frequency of inplant inspections and dealer lot-

monitoring. Violations identified on an inplant inspection report or a dealer lot monitoring report must be corrected prior to the departure of the issuing inspector or a Notice of Violation will be posted on the recreational vehicle. At the discretion of the issuing inspector, violations may be corrected after the departure of the issuing inspector if a summary of the corrective actions taken is submitted to the division within the time frame specified in OAR 918-525-0330.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160
Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 1-2005, f. & cert. ef. 3-1-05; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17, Renumbered from 918-525-0080

918-525-0054

Manufacturer Registration

(1) Each manufacturer seeking certification under these rules must register with the division. A manufacturer registration application must be submitted on a division approved form together with the registration fee.

(2) Registrations expire August 1 of each year. Registrations may be renewed by submitting an application for renewal to the division, together with the renewal fee.

(3) Manufacturers not registered or whose registration has expired will not be issued Oregon insignia of approval or receive division inspections.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160
Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 1-2005, f. & cert. ef. 3-1-05; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17, Renumbered from 918-525-0070

918-525-0056

Manufacturer's Quality Assurance Manual

(1) Each manufacturer of recreational vehicles seeking certification under these rules must submit to the division a manual outlining the quality assurance procedures to be followed at its particular manufacturing facility or facilities. If the quality assurance manual is applicable to more than one manufacturing facility, the manual must adequately define procedures specific to each facility. The quality assurance manual may be submitted electronically or in paper format. Paper submittals must be submitted in duplicate. All submittals must contain the following:

(a) The name and address of the facility in which this quality assurance manual will be used;

(b) An organizational chart showing the accountability, by position, of the manufacturer's quality assurance personnel;

(c) A description of production tests, test procedures, and test equipment required to determine compliance with this division of rules;

(d) A station-by-station description of each manufacturing facility's manufacturing process;

(e) A plant layout showing each stage of the production line;

(f) A list of quality assurance inspections required by the manufacturing facility at each station;

(g) Identification, by title, publisher, edition, date, and publication number, those codes and standards to be enforced by the manufacturer's quality assurance program; and

(h) A description of procedures for the receipt, storage, and handling of materials and components used in the manufacture of recreational vehicles.

(2) Each manufacturer must supplement its quality assurance manual following each code change, change in production process or change to any item described in subsections (1)(a) through (h) of this rule and submit the supplement to the division along with the fees in OAR 918-525-0510 according to section (1) of this rule.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160
Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17, Renumbered from 918-525-0060

918-525-0065

Compliance Monitoring of Manufacturers

(1) To maintain consistent compliance with these rules the division:

(a) May inspect recreational vehicles at each facility selling, offering for sale, or displaying for sale, the manufacturer's products whether for wholesale, retail, or consignment.

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(b) May inspect recreational vehicles at all manufacturing facilities to evaluate the manufacturer's compliance with the rules adopted by the division.

(2) If the division determines that recreational vehicles produced by the manufacturer consistently fail to conform to the requirements of these rules, the manufacturer's quality assurance program, or the pre-established acceptable quality level, the division may:

(a) Post a Notice of Violation on each recreational vehicle which fails to conform in accordance with OAR 918-525-0330;

(b) Remove the Insignia of Compliance from each recreational vehicle which fails to conform in accordance with OAR 918-525-0450(2);

(c) Increase inspections as necessary to assure adequate compliance in accordance with OAR 918-525-0052, 918-525-0310, and 918-525-0320; or

(d) Rescind the manufacturer's certification in accordance with OAR 918-525-0052(4).

(3) Fees for increased inspections are set forth in OAR 918-525-0510 and 918-525-0520.

(4) Dealer lot monitoring inspections are paid through the insignia label fee set forth in OAR 918-525-0510.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 14-1996(Temp), f. & cert. ef. 7-1-96; BCD 24-1996, f. & cert. ef. 11-8-96; BCD 1-2005, f. & cert. ef. 3-1-05; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0090

Change of ownership

(1) If there is a change in the ownership of a recreational vehicle manufacturer, the new owner must register with the division within ten days of the date of change according to OAR 918-525-0054.

(2) If the new owner intends to operate according to the current approved quality assurance manual, the new owner must indicate their intent in the written notice of change of ownership.

(3) If the new owner does not intend to operate under the current approved quality assurance manual, the new owner must submit to the division a new quality assurance manual within 30 days of the change in ownership when required by OAR 918-525-0056.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0100

Change of Name or Address

When a manufacturer changes its name, address, or location, the manufacturer must notify the division in writing within ten days of the date of change. The notice must be accompanied by a registration form according to OAR 918-525-0054.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0310

Required Inspections

(1) Any person selling, renting, leasing, or offering for sale, rent, or lease any recreational vehicle within the State of Oregon must request a division inspection if any of the following conditions exist:

(a) A newly manufactured recreational vehicle manufactured by an Oregon certified manufacturer which does not bear an Oregon insignia of compliance;

(b) The recreational vehicle has left an Oregon certified manufacturer's facility, or a distributor's or dealer's facility with a "Notice of Violation" or "Red Tag"; or

(c) An in-plant inspection or dealer lot report indicates violations have not been corrected through the normal inspection process.

(2) The division is not obligated to provide recreational vehicle inspections when the recreational vehicles are:

(a) Previously lawfully registered and titled by any state department of motor vehicles within the United States;

(b) Manufactured in Oregon, but designated by the manufacturer as an out-of-state delivery, and delivered by the manufacturer or its agent to a purchaser in another state;

(c) Manufactured out-of-state, and not destined for an Oregon purchaser, but may be passing through Oregon to its out-of-state destination; or

(d) Inspected by certified manufacturers at the manufacturing facilities.

(3) Division inspection and insignia fees are as provided in OAR 918-525-0510.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.155 & 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 28-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0320

Inspection and Approval

(1) A request for inspection must:

(a) Be made on forms supplied by the division, and received by the division at least five working days prior to the desired date of inspection; and

(b) Indicate the location, make, model, and serial number of the vehicle.

(2) Fees are as established in OAR 918-525-0510 and 918-525-0520 and are payable upon completion of each inspection.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0330

Notice of Violation

(1) When an inspection reveals that a recreational vehicle, the equipment, or installation violates any provision of the statutes or administrative rules, the division shall serve upon the renter, lessor, seller, distributor, owner, manufacturer, or agent thereof a copy of the inspection report giving details of the violations. The division may also post a Notice of Violation on the recreational vehicle, equipment, or installations.

(2) Violations must be corrected within 20 days from the date of such notice or at a later date if approved by the division.

(3) If the violations are not corrected in the allotted time, the division may withdraw any previously issued insignia of compliance.

(4) The recipient of a Notice of Violation must inform the division in writing within 20 days of the date of the notice of the action taken to correct the violations. A recreational vehicle, equipment, or installation subject to a Notice of Violation may not be moved without division approval.

(5) When a Notice of Violation has been posted on the recreational vehicle, equipment, or installation such notice may not be removed until authorized by the division. A Notice of Violation may only be removed by division representatives or a person specifically authorized by the division. A recreational vehicle or equipment posted with a Notice of Violation may not be displayed or offered for sale, rent, or lease.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0350

Alterations

(1) Alterations performed on a recreational vehicle by the manufacturer or dealer must conform to the division's adopted standards in effect at the time of the alteration.

(2) Insignias on recreational vehicles damaged beyond repair must be returned to or appropriated by the division.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0360

Field Technical Service

The division may provide Field Technical Service when requested in writing and accompanied by the fees set by OAR 918-525-0510.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

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918-525-0410

Procedure for Attaching Insignia of Compliance

(1) An Oregon insignia of compliance must be securely attached to a specific recreational vehicle when a recreational vehicle is manufactured. The division, or a certified manufacturer, must attach the Oregon insignia of compliance to the outside surface of the exterior wall near the main entrance door, and placed 12 to 36 inches above the finished floor line.

(2) Oregon insignias of compliance may only be attached to recreational vehicles by a division inspector, a certified manufacturer at the manufacturing facility, or elsewhere if requested by the manufacturer in writing and approved by the division.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 28-2005, f. 12-30-05, c. cert. ef. 1-1-06; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0420

Enforcement Actions for Non-Compliance

(1) Oregon insignias of compliance are non-transferable.

(2) Oregon insignias of compliance remain the property of the division, and may be withdrawn from a manufacturer, distributor, dealer, or any individual or business for any violation of ORS Chapters 455, 446, and any rules adopted thereunder.

(3) Oregon insignias of compliance are not interchangeable.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 28-2005, f. 12-30-05, c. cert. ef. 1-1-06; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0430

Application for Insignia of Compliance

(1) Following certification, recreational vehicle manufacturers must apply for insignias for each recreational vehicle produced or intended to be produced for sale, rent, or lease in Oregon, except as provided in OAR 918-525-0420. An Insignia Label Request must be submitted to the division together with appropriate insignia fees set by OAR 918-525-0510.

(2) Each certified recreational vehicle manufacturing facility must submit to the division, by the tenth day of each month, a Monthly Insignia Report for the preceding month showing:

- (a) The name of the manufacturer;
- (b) The location of the manufacturer's facility;
- (c) The plant identification number;
- (d) Insignia numbers;
- (e) Serial numbers;
- (f) Makes and models;
- (g) Dates of manufacture; and
- (h) Destinations.

(3) Insignias may be requested in bulk as long as the number of insignias is not more than the manufacturer would reasonably expect to use in one month.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0440

Denial of Insignia of Compliance

(1) Bulk insignia requests may be denied or bulk insignias withdrawn if:

- (a) A recreational vehicle manufacturer is not registered with the division as required in OAR 918-525-0054;
- (b) A recreational vehicle manufacturing facility is not certified according to OAR 918-525-0052;
- (c) A Monthly Insignia Report is delinquent per OAR 918-525-0430(2); or
- (d) Through in-plant or dealer lot monitoring, the division determines a recreational vehicle manufacturer is not manufacturing recreational vehicles according to the approved quality assurance manual or any other provisions of these rules.

(2) Individual insignia requests may be denied if:

- (a) The recreational vehicle does not conform to the requirements of ORS Chapter 446, adopted codes and standards, or these rules; or
- (b) The recreational vehicle manufacturer is not registered and certified with the division as required in OAR 918-525-0054.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0450

Insignia of Compliance Removal

(1) When a certified recreational vehicle manufacturer discontinues operations it must notify the division in writing within ten days of the facility closure and return all unused insignias.

(2) The division may remove an insignia from a recreational vehicle if the vehicle or equipment violates any provision of OAR chapter 918, division 525 or ORS Chapter 446. The division will notify the vehicle owner in writing of the violations. The division may reissue an insignia when the violations are corrected and the vehicle passes an inspection under OAR 918-525-0330.

(3) An insignia of compliance must be removed and returned to the division by the building official when a recreational vehicle is converted to another occupancy or use. This does not waive the owner's responsibility to conform to other state or local requirements for the new occupancy or use.

(4) An insignia of compliance must be removed and returned to the division when a recreational vehicle is attached to a permanent foundation. This does not waive the owner's responsibility to bring the recreational vehicle into conformance with the applicable Oregon Specialty Codes.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 1-2005, f. & cert. ef. 3-1-05; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08 BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

918-525-0510

Fees

The following fees apply to the division only and do not apply to municipalities.

(1) Inspection Fee:

(a) \$45 for an inspection requiring one hour or less;

(b) \$22.50 for every 30 minutes or fraction exceeding one hour, including travel time and mileage; and

(c) Mileage must be paid at the rate established by the Oregon Department of Administrative Services.

(2) Field Technical Service Fee:

(a) \$45 for service requiring one hour or less;

(b) \$22.50 for every 30 minutes or fraction exceeding one hour, including travel time and mileage; and

(c) Mileage must be paid at the rate established by the Oregon Department of Administrative Services.

(3) Out-of-State Inspection or Field Technical Service Fee: In addition to the hourly charges of subsections (a) and (b) of this section, the division must be reimbursed for actual cost based on published air fare or equivalent, plus necessary surface transportation and cost for food and lodging consistent with the allowances established by the Oregon Department of Administrative Services for authorized state employee travel.

(4) Reinspection Fee: Same fee schedule as noted in sections (1), (2), and (3) of this rule.

(5) Quality Assurance Manual Fee: \$30 for initial review of manuals and \$20 for review of manual supplements.

(6) Change of Name, ownership or Address Fee: \$20 for each change.

(7) Insignia Label Fee: \$25 per insignia for manufacturers.

(8) Replacement Insignia Fee: \$25 per insignia for manufacturers.

(9) Registration Fee: \$25 per manufacturer or operation.

(10) Annual Registration Renewal Fee: \$20 per manufacturer or operation.

(11) Recreational Vehicle Visual Inspection Fee: \$30. This fee includes the insignia label, one initial inspection, and one reinspection.

Stat. Auth.: ORS 446.160 & 446.176

Stats. Implemented: ORS 446.160 & 446.176

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 10-1992, f. 6-15-92, cert. ef. 7-1-92; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 14-1996(Temp), f. & cert. ef. 7-1-96; BCD 24-1996, f. & cert. ef. 11-8-96; BCD 12-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 23-1998, f. 11-9-98, cert. ef. 11-15-98; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 1-2005, f. & cert. ef. 3-1-05; BCD 12-2008, f. 6-30-08, cert. ef. 7-1-08; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

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918-525-0520

Additional Fees

(1) When the division determines that a person has failed to comply with these rules, obtain required inspections, insignia, requiring division staff to work outside normal business hours, the person will be charged additional fees as described in sections (3) and (4) of this rule.

(2) Persons who sell or ship vehicles or equipment known to be out of compliance or requiring inspections or reinspections prior to sale or shipment requiring division staff to work outside normal business hours, will be charged additional fees as described in sections (3) and (4) of this rule.

(3) Persons requesting or requiring inspections or field technical service, outside normal business hours of the division, will be charged fees at 1-1/2 times the amounts required by OAR 918-525-0510, except for travel expenses.

(4) Persons requesting or requiring inspections or field technical service on recognized state holidays will be charged double the amounts required by OAR 918-525-0510, except for travel expenses.

Stat. Auth.: ORS 446.176, 455.210 & 455.220

Stat. Implemented: ORS 446.176, 455.210 & 455.220

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 10-1992, f. 6-15-92, cert. ef. 7-1-92; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 31-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2017(Temp), f. & cert. ef. 1-19-17 thru 7-17-17; BCD 6-2017, f. 6-27-17, cert. ef. 7-1-17

Rule Caption: Electric Vehicle Ready Parking Program

Adm. Order No.: BCD 7-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Adopted: 918-020-0380

Subject: This rule implements the Electric Vehicle Ready Parking program. This program sets the standards when a parking facility must provide the supporting infrastructure for the future installation of electric vehicle charging stations. This program only requires the supporting infrastructure, and does not require the charging equipment be installed at the time of initial construction.

This rule automatically includes the cities of Eugene, Gresham, Portland, and Salem in the program. Other jurisdictions will be able to join the program through the local amendment process.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-020-0380

Electric Vehicle Ready Parking

(1) Effective October 1, 2017, there is established in Oregon a program for providing electric vehicle charging station infrastructure to the new construction of a parking facility. This program establishes mandatory code requirements for building owners or contractors as specified in this rule. Municipalities participating in this program must enforce the requirements of this rule.

(2) As used in this rule:

(a) "Parking facility" means a property or part of a property for which the major occupancy or use is parking spaces for motor vehicles.

(b) "Open parking space" means a defined area that has two or more indicated marked edges and is designed for the parking of a single motor vehicle including spaces designated for accessible parking.

(c) "New construction" means the construction of entirely new structures on a site. Additions are not considered new construction.

(3) Nothing in this rule requires the installation of electric vehicle charging stations in a parking facility.

(4) The program is mandatory within the jurisdictional boundaries of:

(a) The cities of Portland, Eugene, Salem and Gresham; and

(b) A municipality that has adopted the program through the local amendment process under OAR 918-020-0370.

(5) The division will maintain and make available a list of all participating jurisdictions.

(6) The program applies to the new construction of parking facilities with 50 or more open parking spaces. Five percent (5%) of the open parking spaces must be available for future installation of electric vehicle charging stations. Fractional numbers derived from this calculation must be rounded up to the nearest whole number.

(7) The program only applies to the following occupancy classifications as specified in the Oregon Structural Specialty Code:

(a) Group B – Businesses;

(b) Group M – Mercantile;

(c) Group R-2 – Residential; and

(d) Group S-2 – Parking garages.

(8) Unless otherwise stated in this rule, electrical installations must be according to the Oregon Electrical Specialty Code.

(a) A parking facility must have a conduit system installed from the building electrical service to the open parking spaces.

(A) The conduit system must be, at a minimum, capable of supporting the installation of electrical wiring for the future installation of electric vehicle charging stations rated "Level 2" (40 amp/3.3 – 6.6 kW) or larger, as specified by the owner.

(B) Any conduit installed for future electric vehicle charging stations must be labeled "For Future EV Charging Stations." Both ends of the conduit must be labeled for the environment it is located in.

(b) A construction project required to install electric vehicle charging station infrastructure may comply with the rule through one of the following options:

(A) Provide a building electrical service sized for the anticipated load of the electric vehicle charging stations. The building electrical service must have the overcurrent devices necessary for the electric vehicle charging stations, or have adequate space within the service to add the necessary overcurrent devices;

(B) Provide adequate space within the building to add a second electrical service for future installation of service capacity for electric vehicle charging stations. The building official must allow a second electrical service of the same phase and voltage according to Article 230.2 of the Oregon Electrical Specialty Code; or

(C) Notwithstanding section (8)(a) of this rule, designate a location on the property to install a remote service. Potential electric vehicle charging stations served from a remote service location located in or adjacent to a landscaping area may not require installation of conduit. The building owner or contractor should coordinate with the electric utility serving the property to plan for a future service. Installation of conduits in these areas is at the discretion of the building owner or contractor.

(9) Fees for plan review, permit, and inspection are as established by the municipality under the authority of ORS 455.020 and 455.210.

(10) Construction documents associated with the construction of a parking facility must show the location of designated parking spaces and any conduits intended for future installation of electric vehicle charging stations.

(11) For the purposes of this rule persons certified to perform electrical plan review or inspection are not required to determine or ensure that the appropriate number parking spaces are designated for future electric vehicle charging stations.

(12) Parking facility requirements do not apply to:

(a) A temporary parking facility that is reasonably expected to be in service for three years or less.

(b) The installation of an electrical supply capacity or conduit system to serve parking spaces that are not open parking spaces. The areas listed below are not considered open parking spaces. Parking spaces:

(A) Reserved for motor vehicles that are inventory.

(B) Reserved for motor vehicles awaiting transport at a port or other transit facility.

(C) Reserved for use by commercial motor vehicles, emergency vehicles, or commercial or farm motorized equipment.

(D) Reserved for use by motorcycles, mopeds, or all-terrain vehicles.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.030, 455.110, 479.730

Stat. Implemented: ORS 455.030, 455.110, 479.730

Hist.: BCD 7-2017, f. 6-28-17, cert. ef. 7-1-17

Department of Consumer and Business Services, Finance and Securities Regulation Chapter 441

Rule Caption: Updates Oregon Intrastate Offering Exemption rules to comply with federal changes to intrastate advertising

Adm. Order No.: FSR 8-2017(Temp)

Filed with Sec. of State: 7-12-2017

Certified to be Effective: 7-12-17 thru 1-7-18

Notice Publication Date:

Rules Amended: 441-035-0080, 441-035-0090, 441-035-0120, 441-035-0130, 441-035-0140, 441-035-0150

Subject: In January of 2015, the division adopted rules allowing Oregon small businesses to raise capital without having to register their securities. Businesses can take advantage of the exemption from registration if the offering is conducted entirely within the borders

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of the state and adheres to specific advertising restrictions based on the Securities and Exchange Commission's (SEC) Rule 147. On April 20, 2017, a new rule, Rule 147A, became effective. Rule 147A allows issuers to advertise offerings to residents of the state in which the issuer has its primary place of business even if that advertisement reaches residents in other states. Incidental advertising is permitted so long as sales are restricted to in-state residents only and particular disclosures are contained in the advertisement. Rule 147A made a number of changes to modernize the rules governing intrastate offerings. The changes to the federal rules leave Oregon with more stringent requirements than those at the federal level. The division is proposing these temporary rules in order to avoid confusion amongst issuers who may believe that changes at the federal level automatically carry down to Oregon's intrastate offering rules. Issuers that do not comply with Oregon's rules risk losing access to the Oregon exemption ultimately resulting in selling unregistered securities. The sale of unregistered securities can result in investor lawsuits and civil penalties. Without this temporary rule Oregon issuers could be prejudiced.

Rules Coordinator: Karen Winkel—(503) 947-7694

441-035-0080

Definitions

For purposes of OAR 441-035-0070 through 441-035-0230, the following definitions apply unless the context requires otherwise:

(1) "Business Technical Service Provider" means a Small Business Development Center as defined in OAR 123-022-0070, an Economic Development District as defined in 13 CFR 304.1, or a not-for-profit incubator, accelerator, or business resource provider approved by the Director.

(2) "Director" means the Director of the Department of Consumer and Business Services.

(3) "Issuer" has the same meaning as that term is defined in ORS 59.015(9). For the purposes of these rules, "issuer" includes persons with direct control over the Oregon business or over the offer or sale of securities exempted under these rules.

(4) "Offering Documents" means the representations and disclosures required under OAR 441-035-0120.

(5) "Oregon business" means a business formed under the laws of Oregon and registered with the Secretary of State of Oregon as a domestic business, with its principal office in Oregon, doing business in the state and having 50 or fewer employees.

(6) "Third Party Platform Provider" means an internet based platform provided by a business technical service provider or other entity authorized by the Director to post, on behalf of issuers, information related to OIOs.

Stat. Auth.: ORS 59.035

Stats. Implemented: ORS 59.035

Hist.: FCS 1-2015, f. & cert. ef. 1-15-15; FSR 8-2017(Temp), f. & cert. ef. 7-12-17 thru 1-7-18

441-035-0090

Requirements for Exemption From Securities Registration

The sale of an OIO by an issuer shall be exempt from the securities registration requirements under ORS 59.055 if it is conducted in accordance with the following:

(1) The issuer must be an existing Oregon business in good standing. The OIO exemption cannot be applied if the issuer, or a person affiliated with the issuer, would be disqualified under OAR 441-035-0210.

(2) The offer and sale must be conducted in accordance with section 3(a)(11) of the Securities Act of 1933 (15 U.S. Code § 77c), as amended or SEC Rule 147A (17 CFR §230.147A). For purposes of complying with section 3(a)(11), it is sufficient that the offer and sale complies with SEC Rule 147

(3)(a) OIO securities may only be sold to natural persons who are residents of the state of Oregon.

(b) Prior to any sale under the OIO exemption, the issuer must have a reasonable documentary basis to believe the prospective purchaser is a resident of Oregon and obtained the signed acknowledgement required under OAR 441-035-0120(4). A reasonable documentary basis includes, but is not limited to:

(A) A current Oregon Driver License or a current personal identification card issued by the State of Oregon; or

(B) A document that indicates the prospective purchaser owns or occupies property in the state as his or her principal residence, such as a

current voter registration, or official business mail from a state or federal agency.

(4) The duration of an OIO will not exceed twelve (12) months, unless the issuer applies to extend the offering for a period not to exceed twelve (12) additional months. An issuer may apply to extend the offering by submitting an amended filing with the Director in conformance with these rules.

(5) All proceeds from the sale of OIO securities must be used in accordance with representations made to investors, including the disclosures required under OAR 441-035-0120.

(6) The aggregate purchase price of all OIO securities cannot exceed two hundred fifty thousand dollars (\$250,000).

(7) An issuer may not accept more than two thousand five hundred dollars (\$2,500) from any individual in reliance on the OIO exemption.

(8) Issuers offering or selling OIO securities must have met in person and reviewed their business plan with a business technical service provider prior to advertising, offering or selling securities.

(9) OIO securities sold pursuant to this exemption are limited to notes, stocks, and debentures.

Stat. Auth.: ORS 59.035

Stats. Implemented: ORS 59.035

Hist.: FCS 1-2015, f. & cert. ef. 1-15-15; FSR 8-2017(Temp), f. & cert. ef. 7-12-17 thru 1-7-18

441-035-0120

Required Disclosures

(1) Prior to any sale of an OIO security, each prospective investor must be given, in a single written document, the disclosures identified in subsection (2). For the purposes of this exemption, "in writing" includes printed, electronic, and internet media. An interested party must be given the option to receive the disclosures and subsequent reports in one or more formats, including printed copies at no charge.

(2) The disclosures required by these rules must include:

(a) The name(s) and physical address(es) of the issuer and of all officers, principals, managing partners and shareholders of the issuer holding a 20% interest or more, or persons holding a substantially similar position;

(b) A description of the experience and qualifications of the issuer officers, principals, managing partners and persons holding substantially similar positions;

(c) A description of the business, including how long it has been in operation and the specific reason for the offering;

(d) A discussion in plain language of the significant factors material to the offering, including those that make the offering speculative or risky;

(e) The total offering amount and how the issuer expects to use the proceeds of the offering, including compensation and expenses related to the offering.

(f) If an issuer needs to raise a minimum amount to achieve the stated funding goal, they must disclose that minimum offering amount and how the issuer intends to use funds raised through the offering if the minimum goal is not met, or if they intend to return the funds if the goal is not met;

(g) The terms and conditions of the securities being offered, the total amount of securities that are outstanding prior to the OIO, and the total amount of securities being offered or sold in reliance on the OIO exemption:

(A) If the issuer is offering stock, the terms and conditions must include either the percentage of ownership represented by a single share, or the total value of the Oregon business implied by the offering price.

(B) If the issuer is offering notes or debentures, the terms and conditions must include the interest rate and specific terms of repayment.

(h) A description of any litigation or legal proceedings within the past five (5) years, if any, involving the issuer or any persons associated with the issuer.

(3) The issuer must inform all investors that the securities exempted by these rules are not registered with the state, that they are subject to a limitation on re-sale and investors may not be able to sell their securities promptly or may only be able to sell them at a substantial discount from the offering price. Disclosures must also contain the following language on the cover page of the offering document:

"THESE SECURITIES ARE BEING OFFERED AND SOLD UNDER AN EXEMPTION FROM REGISTRATION AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THESE SECURITIES CAN ONLY BE SOLD TO RESIDENTS OF OREGON AND ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. IN MAKING AN INVESTMENT DECISION, INVESTORS SHOULD RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS REVEALED IN THESE OFFERING DOCUMENTS, INCLUDING THE MERITS AND RISKS INVOLVED."

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THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE AUTHORITY OR REGULATORY COMMISSION NOR HAVE THEY CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. BUSINESS TECHNICAL SERVICE PROVIDERS HAVE NOT REVIEWED THE OFFERING DOCUMENTS AND CANNOT DETERMINE THE MERITS OF THIS OFFERING"

(4) At the time of sale the issuer must require all purchasers to sign the following acknowledgement. For the purposes of this provision, "signed" includes a scanned, faxed or virtual signature:

"I have been provided and have reviewed the complete offering document, including the disclosures. I acknowledge that I am investing in a high-risk, business venture with no guarantee of success, that I may lose all of my investment, and that I can afford the loss of my investment. I understand this offering is made under an exemption from registration and has not been registered under the Securities Act of 1933, it has not been reviewed by the State, and no authority has expressed an opinion on the merits or accuracy of this offering. I understand that sales will be made only to Oregon residents and by entering into this transaction with the issuer, I am affirmatively representing myself as an Oregon resident."

Stat. Auth.: ORS 59.035

Stats. Implemented: ORS 59.035

Hist.: FCS 1-2015, f. & cert. ef. 1-15-15; FSR 8-2017(Temp), f. & cert. ef. 7-12-17 thru 1-7-18

441-035-0130

Advertising and Solicitation

Issuers and third party platform providers may engage in general advertising or solicitation of OIO securities provided that:

(1) The issuer files a copy of the advertising materials with the Director at least seven (7) days prior to use. The Director may prohibit the use of any advertisement that they consider false or misleading or otherwise not in compliance with these rules.

(2) The advertisement contains no more than the following information:

- (a) The name and contact information of the issuer;
- (b) A brief description of the general type of business of the issuer;
- (c) Whether securities being offered are stocks, notes or debentures or a combination;
- (d) The total offering amount;
- (e) A description of how the issuer will use the funds;
- (f) The duration of the OIO and deadline for raising funds through the offering; and
- (g) The issuer's logo;
- (h) A link to the issuer's website or the third party platform in which the securities are offered or sold.

(3) Any amendments to the advertising materials are filed with the Director.

(4) The advertisement, including any advertisement through a website, clearly states that the advertisement does not constitute an offer to sell a security, that the offering is only available to residents of Oregon, that the offering is made under an exemption from registration under the Securities Act of 1933, and include contact or other relevant information notifying an interested person how they can obtain the required disclosure information, in writing, free of charge.

Stat. Auth.: ORS 59.035

Stats. Implemented: ORS 59.035

Hist.: FCS 1-2015, f. & cert. ef. 1-15-15; FSR 8-2017(Temp), f. & cert. ef. 7-12-17 thru 1-7-18

441-035-0140

Use of Internet General Requirements

(1) Websites that advertise or offer an OIO security must clearly state that the advertisement does not constitute an offer to sell a security, that the offering is only available to residents of Oregon, that the offering is made under an exemption from registration and has not been registered under the Securities Act of 1933, and include contact or other relevant information notifying an interested person how they can obtain the required disclosure information, in writing, free of charge.

(2) Websites that collect personal or financial information must take reasonable steps to ensure the information is properly secured and kept private and must conform to ORS 646A.622.

Stat. Auth.: ORS 59.035

Stats. Implemented: ORS 59.035

Hist.: FCS 1-2015, f. & cert. ef. 1-15-15; FSR 8-2017(Temp), f. & cert. ef. 7-12-17 thru 1-7-18

441-035-0150

Use of the Internet by Issuers

(1) An Oregon business using its existing website to advertise an OIO security must clearly state that the advertisement does not constitute an offer to sell a security, that the offering is only available to residents of Oregon, that the offering is made under an exemption from registration and

has not been registered under the Securities Act of 1933, and include contact or other relevant information notifying an interested person how they can obtain the required disclosure information, in writing, free of charge.

(2) An issuer may use a webpage to sell securities if the issuer obtains reasonable documentary evidence under 441-035-0090(3)(b) that the prospective purchaser is an Oregon resident prior to the sale.

Stat. Auth.: ORS 59.035

Stats. Implemented: ORS 59.035

Hist.: FCS 1-2015, f. & cert. ef. 1-15-15; FSR 8-2017(Temp), f. & cert. ef. 7-12-17 thru 1-7-18

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**Department of Consumer and Business Services,
Health Insurance Marketplace
Chapter 945**

Rule Caption: Marketplace Assessment Credit Calculation and Payment Date

Adm. Order No.: HMP 2-2017(Temp)

Filed with Sec. of State: 6-26-2017

Certified to be Effective: 6-29-17 thru 12-25-17

Notice Publication Date:

Rules Amended: 945-030-0020

Subject: This temporary rule changes the dates for calculation and payment of the State of Oregon Department of Consumer and Business Services Health Insurance Marketplace carrier assessment credit. This change is necessary in order to give effect to the intent of House Bill 2391 (2017).

Rules Coordinator: Victor Garcia—(971) 283-1878

945-030-0020

Establishment of Administrative Charge Paid by Insurers

(1) After consulting with the advisory committee created by Section 13 of 2015 Senate Bill 1, the Marketplace will annually provide a report on administrative charges to the Director of the Department of Consumer and Business Services.

(2) The report will be posted on the Marketplace's website for public review and comment.

(3) At a minimum, the report will include:

(a) A projection of Marketplace operating expenses, including the Marketplace's share of the department's shared services expenses and operating expenses borne by the Marketplace and reimbursed by another agency, based on the department's budgets, assuming for this purpose that the operating expenses in any actual or expected biennial budget are distributed evenly over the biennium;

(b) A projection of Marketplace enrollment for the next calendar year; and

(c) A proposed administrative charge for the next calendar year.

(4) The department will hold a public hearing on a proposed administrative charge.

(5) No later than the end of the first quarter of a calendar year the Director shall amend or approve an administrative charge for the next calendar year.

(6) Any administrative charge adopted by the Director shall be established in rule.

(7) The administrative charge shall be expressed as a per member per month figure.

(8) The annual administrative charge assessed by the Marketplace shall not exceed the limits set forth in ORS 741.105(2) on the premium or other monthly charge based on the number of enrollees receiving coverage in qualified health plans or stand alone dental plans through the Marketplace during the month of December preceding the report.

(9) By the 15th day of December of every odd year, the department shall:

(a) Calculate the maximum amount of funds that the department may hold under ORS 741.105(3)(b) by calculating:

(A) The Marketplace's fund balance no later than the 30th day of the immediately preceding November minus:

(B) One-fourth of the Marketplace's budgeted operating expenses for the two-year period beginning on the first day of the immediately preceding July and ending on the 30th day of June of the following odd year;

(b) Examples:

(A) Example 1: If the Marketplace's fund balance is \$1 million as of June 30, 2017 and its operating budget is \$4 million for July 1, 2017 through June 30, 2019, the department would retain \$1 million and credit

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carriers \$0.00 because there is no excess fund balance - \$1 million minus (\$4 million divided by 4) is zero;

(B) Example 2: If the Marketplace's fund balance is \$1 million as of June 30, 2017 and its operating budget is \$2.4 million for July 1, 2017 through June, 2019, the department would retain an excess fund balance of \$600,000 and credit a total of \$400,000 to carriers - \$1 million minus (\$2.4 million divided by 4) equals \$400,000; and

(c) Credit each individual carrier participating in the Marketplace an amount equal to the pro-rata share of any positive difference obtained from the calculation described in paragraph (9)(b) of this rule based on the total assessments the carrier paid to the department during the two-year period described in paragraph (9)(a)(A) of this rule plus the pro-rata share of the total assessments paid during the two-year period described in paragraph (9)(a)(A) of this rule by carriers no longer selling qualified health plans through the Marketplace.

(A) Example 1: If the difference in the calculation described in paragraph (9)(b) of this rule is less than or equal to zero on June 30, 2017, there is no excess fund balance and the department would not credit any individual carrier because the fund balance is either zero or negative.

(B) Example 2: If, after performing the calculation described in paragraph (9)(b) of this rule, the excess fund balance is \$1.2 million on June 30, 2017, and Carrier A paid 10% of the total assessments the Marketplace received between July 1, 2015 and June 30, 2017, the department must credit Carrier A a total of \$120,000 — \$1.2 million multiplied by .10 equals \$120,000.

(10) Except as provided in paragraph 11 of this rule, the department shall apply the credit described in paragraph (9)(c) of this rule by reducing each monthly charge assessed during the period described in paragraph (9)(a)(B) by one-twenty-fourth of the credit. For example, if, after performing the calculation described in paragraph (9)(b) of this rule, the excess fund balance is \$1.2 million on June 30, 2017, and Carrier A paid 10% of the total assessments received by the Marketplace between July 1, 2015 and June 30, 2017, the department must credit Carrier A \$5,000 per month in each month the carrier participates in the Marketplace between July 2017 through June 2019 — (\$1.2 million multiplied by .10) divided by 24 equals \$5,000.

(11) If the director determines that application of the credit as described in paragraph (10) of this rule would jeopardize a Marketplace carrier's financial solvency, the department may use any reasonable method to credit the carrier the amount due under paragraph (9)(c) of this rule.

Stat. Auth.: ORS 741.002 & 741.005

Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15; OHIE 4-2015, f. & cert. ef. 11-6-15; HMP 1-2016(Temp), f. & cert. ef. 3-25-16 thru 9-19-16; HMP 4-2016, f. & cert. ef. 9-16-16; HMP 2-2017(Temp), f. 6-26-17, cert. ef. 6-29-17 thru 12-25-17

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**Department of Consumer and Business Services,
Oregon Occupational Safety and Health Division
Chapter 437**

Rule Caption: Adopt federal OSHA Amendments: Occupational Exposure to Beryllium in General Industry, Construction, and Maritime.

Adm. Order No.: OSHA 3-2017

Filed with Sec. of State: 7-7-2017

Certified to be Effective: 3-12-18

Notice Publication Date: 6-1-2017

Rules Adopted: 437-002-2024, 437-002-2025, 437-002-2026, 437-002-2028, 437-002-2029, 437-002-2030, 437-002-2032, 437-002-2033, 437-002-2034, 437-002-2035, 437-002-2036, 437-002-2037, 437-002-2038, 437-002-2040, 437-002-2045

Rules Amended: 437-002-0382, 437-003-1000, 437-005-0001

Subject: On January 9, 2017, federal OSHA adopted final rules for beryllium for general industry, construction, and maritime. Before these rules, the only specific rule for beryllium was an airborne permissible exposure limit (PEL) of 2 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$). With the adoption of these rules, federal OSHA lowered the PEL from 2 $\mu\text{g}/\text{m}^3$ to 0.2 $\mu\text{g}/\text{m}^3$, and instituted an action level of 0.1 $\mu\text{g}/\text{m}^3$. These rules require an exposure assessment, with periodic monitoring under certain circumstances, requires engineering and work practice controls to reduce exposure levels, institutes a written exposure control plan, requires provisions for regulating

employee access to certain areas, respiratory protection, medical surveillance, and employee training and information.

Oregon OSHA combined the requirements of the general industry and construction rules into one set of rules applicable to both industries, as new Oregon-initiated rules OAR 437-002-2024 through 437-002-2038.

Oregon OSHA also updated the air contaminants rules for general industry and construction, OAR 437-002-0382 and 437-003-1000, to reflect the new beryllium rules.

Rules Coordinator: Heather Case—(503) 947-7449

437-002-0382

Oregon Rules for Air Contaminants

An employee's exposure to any substance listed in Oregon Tables Z-1, Z-2, or Z-3 of this section shall be limited in accordance with the requirements of the following paragraphs of this section.

(1) Oregon Table Z-1.

(a) Substances with limits preceded by "C" — Ceiling Values. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is preceded by a "C", shall at no time exceed the exposure limit given for that substance. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time during the working day.

(b) Other substances — 8-hour Time Weighted Averages. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is not preceded by a "C", shall not exceed the 8-hour Time Weighted Average given for that substance in any 8-hour work shift of a 40-hour work week.

(c) Other Substances — Excursion Limits. Excursions in worker exposure levels may exceed 3 times the PEL-TWA for no more than a total of 30 minutes during a workday, and under no circumstances should they exceed 5 times the PEL-TWA, provided that the PEL-TWA is not exceeded.

(d) Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Oregon Table Z-1 with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(2) Oregon Table Z-2. An employee's exposure to any substance listed in Oregon Table Z-2 shall not exceed the exposure limits specified as follows:

(a) 8-hour time weighted averages. An employee's exposure to any substance listed in Oregon Table Z-2, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in Oregon Table Z-2.

(b) Acceptable ceiling concentrations. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable ceiling concentration for the given substance in the table at any time during an 8-hour shift except:

(i) Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable maximum peak above the acceptable ceiling concentration, and shall not exceed the maximum duration for the given substance during an 8-hour shift.

(c) Example.

Oregon Table Z-2

During an 8-hour work shift, an employee exposed to benzene may be exposed to an 8 hour time weighted average (TWA) of 10 ppm. Concentrations of benzene during the 8-hour work shift may not exceed 25 ppm, unless that exposure is no more than 50 ppm and does not exceed 10 minutes during an 8-hour work shift. Such exposures must be compensated by exposures to concentrations below 10 ppm so that the 8-hour time-weighted average is less than 10 ppm.

(d) Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Oregon Table Z-2 with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(3) Oregon Table Z-3. An employee's exposure to any substance listed in Oregon Table Z-3, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in the table.

(4) Computation formulae. The computation formula which shall apply to employee exposure to more than one substance for which 8-hour

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time weighted averages are included in OAR 437, Division 2/Z, Toxic and Hazardous Substances, in order to determine whether an employee is exposed over the regulatory limit is as follows:

(a) Cumulative exposures.

(i) The cumulative exposure for an 8-hour work shift shall be computed as follows:

$$E = (CaTa + CbTb + \dots CnTn) \div 8$$

Where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remain constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the 8-hour time weighted average specified in subpart Z of 29 CFR part 1910 for the substance involved.

(ii) To illustrate the formula prescribed in paragraph (4)(a)(i) of this section, assume that Substance A has an 8-hour time weighted average limit of 100 ppm (Oregon Table Z-1). Assume that an employee is subject to the following exposure:

Two hours exposure at 150 ppm

Two hours exposure at 75 ppm

Four hours exposure at 50 ppm

Substituting this information in the formula, we have

$$[(2 \times 150) + (2 \times 75) + (4 \times 50)] \div 8 = 81.25 \text{ ppm}$$

Since 81.25 ppm is less than 100 ppm, the 8-hour time weighted average limit, the exposure is acceptable.

(b) Mixtures.

(i) In case of a mixture of air contaminants an employer shall compute the equivalent exposure as follows:

$$Em = (C1 \div L1) + (C2 \div L2) + \dots (Cn \div Ln)$$

Where:

Em is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that substance specified in Subpart Z of 29 CFR Part 1910.

The value of Em shall not exceed unity (1).

(ii) To illustrate the formula prescribed in paragraph (4)(b)(i) of this section, consider the following exposures:

Oregon Table Z-2.1

Substituting in the formula, we have:

$$Em = (500 \div 1000) + (45 \div 200) + (40 \div 200)$$

$$Em = 0.500 + 0.225 + 0.200$$

$$Em = 0.925$$

Since Em is less than unity (1), the exposure combination is within acceptable limits.

(5) To achieve compliance with paragraphs (1) through (4) of this section, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with 1910.134.

Oregon Table Z-1

Oregon Table Z-2

Oregon Table Z-3

Table Z-1, Notes, Footnotes; Table Z-2, Note, Footnotes; Table Z-3, Notes, Footnotes.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 17-1993, f. & cert. ef. 11-15-93; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 5-1997, f. & cert. ef. 4-22-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 6-2008, f. 5-13-08, cert. ef. 7-1-08; OSHA 5-2016, f. 9-23-16, cert. ef. 7-1-18; OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2024

Scope and Application

This subdivision applies to all occupational exposures to beryllium in all forms, compounds, and mixtures in general industry and construction activities, except for the following:

(1) This subdivision does not apply to articles, as defined in the Hazard Communication standard (HCS) (OAR 437-002-1910.1200(c)), that contain beryllium and that the employer does not process.

(2) This subdivision does not apply to materials containing less than 0.1% beryllium by weight where the employer has objective data demonstrating that employee exposure to beryllium will remain below the action level as an 8-hour TWA under any foreseeable conditions.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2025

Definitions

For the purposes of this subdivision the following definitions apply:

(1) Action level means a concentration of airborne beryllium of 0.1 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$), calculated as an 8-hour TWA.

(2) Airborne exposure and airborne exposure to beryllium mean the exposure to airborne beryllium that would occur if the employee were not using a respirator.

(3) Beryllium lymphocyte proliferation test (BeLPT) means the measurement of blood lymphocyte proliferation in a laboratory test when lymphocytes are challenged with a soluble beryllium salt.

(4) Beryllium work area means any work area containing a process or operation that can release beryllium where employees are, or can reasonably be expected to be, exposed to airborne beryllium at any level or where there is the potential for dermal contact with beryllium.

(5) CBD diagnostic center means a medical diagnostic center that has an on-site pulmonary specialist and on-site facilities to perform a clinical evaluation for the presence of chronic beryllium disease (CBD). This evaluation must include pulmonary function testing (as outlined by the American Thoracic Society criteria), bronchoalveolar lavage (BAL), and transbronchial biopsy. The CBD diagnostic center must also have the capacity to transfer BAL samples to a laboratory for appropriate diagnostic testing within 24 hours. The on-site pulmonary specialist must be able to interpret the biopsy pathology and the BAL diagnostic test results.

(6) Chronic beryllium disease (CBD) means a chronic lung disease associated with airborne exposure to beryllium.

(7) Competent person means an individual who is capable of identifying existing and foreseeable beryllium hazards in the workplace and who has authorization to take prompt corrective measures to eliminate or minimize them. The competent person must have the knowledge and ability necessary to fulfill the responsibilities set forth in this subdivision.

(8) Confirmed positive means the person tested has beryllium sensitization, as indicated by two abnormal BeLPT test results, an abnormal and a borderline test result, or three borderline test results. It also means the result of a more reliable and accurate test indicating a person has been identified as having beryllium sensitization.

(9) Emergency means any uncontrolled release of airborne beryllium.

(10) High-efficiency particulate air [HEPA] filter means a filter that is at least 99.97 percent efficient in removing particles of 0.3 micrometers in diameter.

(11) Objective data means information, such as air monitoring data from industry-wide surveys or calculations based on the composition of a substance, demonstrating employee exposure to beryllium associated with a particular product or material or a specific process, task, or activity. The data must reflect workplace conditions closely resembling or with a higher exposure potential than the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

(12) Permissible exposure limit (PEL) means a concentration of airborne beryllium of 0.1 $\mu\text{g}/\text{m}^3$, calculated as an 8-hour TWA.

(13) Physician or other licensed health care professional [PLHCP] means an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the particular health care services required by 437-002-2034.

(14) Regulated area means an area, including temporary work areas where maintenance or non-routine tasks are performed, where an employee's airborne exposure exceeds, or can reasonably be expected to exceed, either the time-weighted average (TWA) permissible exposure limit (PEL) or short term exposure limit (STEL).

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2026

Permissible Exposure Limit (PEL)

(1) Time-weighted average (TWA) PEL. The employer must ensure that no employee is exposed to an airborne concentration of beryllium in excess of 0.2 $\mu\text{g}/\text{m}^3$ calculated as an 8-hour TWA.

(2) Short-term exposure limit (STEL). The employer must ensure that no employee is exposed to an airborne concentration of beryllium in excess of 2.0 $\mu\text{g}/\text{m}^3$ as determined over a sampling period of 15 minutes.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2028

Regulated and Restricted Access Areas

This rule applies to fixed site beryllium work areas and regulated areas, and restricted access areas for construction activities.

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(1) Fixed sites.

(a) Beryllium work area.

(A) Establish and maintain a beryllium work area in work area containing a process or operation that can release beryllium where employees are, or can reasonably be expected to be, exposed to airborne beryllium at any level or where there is the potential for dermal contact with beryllium.

(B) Identify each beryllium work area through signs or any other methods that adequately establish and inform each employee of the boundaries of each beryllium work area.

(b) Regulated areas.

(A) Establish a regulated area wherever an employee's exposure to airborne concentrations of beryllium is, or can reasonably be expected to be, in excess of the PEL.

(B) Demarcate regulated areas from the rest of the workplace in a manner that minimizes the number of employees exposed to beryllium within the regulated area. Post legible and easily visible signs at all entrances to regulated areas that bear the following legend.

DANGER
REGULATED AREA
BERYLLIUM
MAY CAUSE CANCER
AUTHORIZED PERSONNEL ONLY
WEAR RESPIRATORY PROTECTION AND PERSONAL PROTECTIVE
CLOTHING AND EQUIPMENT IN THIS AREA

(C) Limit access to regulated areas to:

(i) Persons authorized by the employer and required by work duties to be present in the regulated area;

(ii) Any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring procedures under 437-002-2027; and

(iii) Any person authorized by law to be in a regulated area.

(D) Provide and ensure each employee and the employee's designated representative entering a regulated area uses:

(i) Appropriate respiratory protection in accordance with 437-002-2030,

(ii) Appropriate personal protective equipment in accordance with 437-002-2031.

(2) Restricted access for construction activities. For employers engaged in construction activities;

(a) Written procedures. Develop and implement written procedures to restrict access to work areas, airborne exposures are, or can reasonably be expected to be, above the TWA PEL or STEL, to minimize the number of employees exposed to beryllium and their level of exposure, including exposures generated by other employers or sole proprietors. Procedures must be part of the written exposure control plan required by 437-002-2029.

(b) Competent person. Designate a competent person to ensure the procedures are followed.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2029

Methods of Compliance

This rule describes the engineering and work practice controls you must use.

(1) Establish and implement a written exposure control plan that contains at least the following elements:

(a) A list of operations and job titles reasonably expected to involve airborne exposure to or dermal contact with beryllium;

(b) A list of operations and job titles reasonably expected to involve airborne exposure at or above the action level;

(c) A list of operations and job titles reasonably expected to involve airborne exposure above the TWA PEL or STEL;

(d) Procedures for minimizing cross-contamination, including preventing the transfer of beryllium between surfaces, equipment, clothing, materials, and articles within beryllium work areas;

(e) Procedures for minimizing the migration of beryllium from beryllium work areas to other locations within or outside the workplace;

(f) A list of engineering controls, work practices, and respiratory protection required by this subdivision;

(g) A list of personal protective clothing and equipment required by 437-002-2031 of this subdivision; and

(h) Procedures for removing, laundering, storing, cleaning, repairing, and disposing of beryllium-contaminated personal protective clothing and equipment, including respirators.

(2) On fixed sites, the exposure control plan must also include procedures for keeping surfaces as free as practicable of beryllium.

(3) Review and evaluate the effectiveness of each written exposure control plan at least annually and update it, as necessary, when:

(a) Any change in production processes, materials, equipment, personnel, work practices, or control methods results, or can reasonably be expected to result, in new or additional airborne exposure to beryllium;

(b) You are notified that an employee is eligible for medical removal in accordance with OAR 437-002-2035, referred for evaluation at a CBD diagnostic center, or shows signs or symptoms associated with airborne exposure to or dermal contact with beryllium; or

(c) You have any reason to believe that new or additional airborne exposure is occurring or will occur.

(4) Make a copy of the written exposure control plan accessible to each employee who is, or can reasonably be expected to be, exposed to airborne beryllium in accordance with Oregon OSHA's Access to Employee Exposure and Medical Records (Records Access) rule (437-002-1910.1020(e)).

(5) Engineering and work practice controls.

(a) For each operation in a beryllium work area that releases airborne beryllium, and where exposures are, or can reasonably be expected to be, at or above the action level, ensure that at least one of the following is in place to reduce airborne exposure:

(A) Material and/or process substitution;

(B) Isolation, such as ventilated partial or full enclosures;

(C) Local exhaust ventilation, such as at the points of operation, material handling, and transfer; or

(D) Process control, such as wet methods and automation.

(b) You are exempt from using the controls listed above to the extent that:

(A) You can establish that such controls are not feasible; or

(B) You can demonstrate that airborne exposure is below the action level, using no fewer than two representative personal breathing zone samples taken at least 7 days apart, for each affected operation.

(c) If airborne exposure exceeds the PEL or STEL after implementing the control(s) required by paragraph (5)(a) of this rule, implement additional or enhanced engineering and work practice controls to reduce airborne exposure to or below the exposure limit(s) exceeded.

(d) When you demonstrate that it is not feasible to reduce airborne exposure to or below the PELs by the engineering and work practice controls required by this rule, implement and maintain engineering and work practice controls to reduce airborne exposure to the lowest levels feasible and supplement these controls by using respiratory protection in accordance with OAR 437-002-2030.

(6) Prohibition of rotation. Do not rotate employees to different jobs to achieve compliance with the PELs.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2030

Respiratory Protection

This rule applies to all respirator use.

(1) Where respiratory protection is required by this subdivision, provide each employee an appropriate respirator that complies with the requirements of this rule and OAR 437-002-1910.134. Respiratory protection is required:

(a) Where exposures exceed the PEL or STEL during periods necessary to install or implement feasible engineering and work practice controls;

(b) Where exposures exceed the PEL or STEL during tasks, such as certain maintenance and repair tasks, for which engineering and work practice controls are not feasible;

(c) During tasks for which an employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL or STEL;

(d) During emergencies;

(e) When an employee who is eligible for medical removal under OAR 437-002-2035 chooses to remain in a job with airborne exposure at or above the action level, as permitted by that rule.

(2) Where respirator use is required by this rule, institute a respiratory protection program in accordance with OAR 437-002-1910.134.

(3) Provide a powered air-purifying respirator (PAPR) instead of a negative pressure respirator at no cost to the employee when:

(a) Respiratory protection is required by this rule;

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(b) An employee entitled to such respiratory protection requests a PAPR; and

(c) The PAPR provides adequate protection to the employee.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2032

Hygiene Areas and Practices

This rule covers hygiene requirements for all employers covered under the beryllium rule scope, 437-002-2024.

(1) For each employee working in a beryllium work area or required to use personal protective clothing or equipment by this subdivision, you must:

(a) Provide readily accessible washing facilities in accordance with this rule and the Sanitation standards (437-002-1910.141 and 437-003-1926.51) to remove beryllium from the hands, face, and neck; and

(b) Ensure that employees who have dermal contact with beryllium wash any exposed skin at the end of the activity, process, or work shift and prior to eating, drinking, smoking, chewing tobacco or gum, applying cosmetics, or using the toilet.

(c) Provide employees with a designated change room where employees are required to remove their personal clothing.

(2) Wherever the employer allows employees to consume food or beverages at a worksite where beryllium is present, you must ensure that:

(a) Surfaces in eating and drinking areas are as free as practicable of beryllium;

(b) Employees do not enter any eating or drinking area with personal protective clothing or equipment unless, prior to entry, surface beryllium has been removed from the clothing or equipment by methods that do not disperse beryllium into the air or onto an employee's body; and

(c) Eating and drinking facilities provided by the employer are in accordance with the Sanitation standards (§ 1910.141 or 437-003-1926.51).

(3) Ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas or work areas where there is a reasonable expectation of exposure above the TWA PEL or STEL.

(4) On fixed sites, provide showers when:

(a) Airborne exposures exceed or can reasonably be expected to exceed, the PEL or STEL.

(b) Beryllium can reasonably be expected to contaminate employees' hair or body parts other than hands, face, and neck.

(5) When showers are required, ensure that each employee showers at the end of the work shift or work activity if:

(a) The employee reasonably could have had airborne exposure above the TWA PEL or STEL; and

(b) Beryllium could reasonably have contaminated the employee's hair or body parts other than hands, face, and neck.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2033

Housekeeping

This rule covers housekeeping requirements for all employers covered under the beryllium rule scope, 437-002-2024.

(1) Do not allow dry sweeping or dry brushing where such activity could contribute to employee exposure to beryllium unless wet sweeping, HEPA-filtered vacuuming or other methods that minimize the likelihood of exposure are not feasible.

(2) Do not allow compressed air to be used to clean clothing or surfaces where such activity could contribute to employee exposure to beryllium unless:

(a) The compressed air is used in conjunction with a ventilation system that effectively captures the dust cloud created by the compressed air; or

(b) No alternative method is feasible.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2034

Medical Surveillance

This rule describes the medical monitoring requirements of this subdivision.

(1) Make medical surveillance available to each employee:

(a) Who is or can be reasonably expected to be exposed to beryllium at or above the action level for 30 or more days per year;

(b) Who shows signs or symptoms of CBD or other beryllium-related health effects;

(c) Who is exposed to beryllium during an emergency.

(2) You must also make medical surveillance available to each employee whose most recent written medical opinion required by this rule recommends periodic medical surveillance.

NOTE: The medical evaluation requirements of the respiratory protection rule, OAR 437-002-1910.134, still apply for employees wearing respiratory protection.

(3) Medical surveillance must be provided at no cost to the employee and at a reasonable time and place.

(4) Ensure that all medical examinations and procedures required by this rule are performed by a PLHCP as defined in 437-002-2025.

(5) Provide a medical examination:

(a) Initially within 30 days for every employee covered by paragraph (1) of this rule, except for any employee who has received a medical examination, provided in accordance with this rule, within the last two years;

(b) Every two years for each employee covered by paragraphs (1)(a), (1)(b), and (2) of this rule; and

(c) At the termination of employment for each employee who meets any of the criteria of paragraph (1)(a) of this rule at the time the employee's employment terminates, unless an examination has been provided in accordance with this rule during the six months prior to the date of termination.

(6) Ensure that the PLHCP conducting the examination advises the employee of the risks and benefits of participating in the medical surveillance program and the employee's right to opt out of any or all parts of the medical examination.

(7) The examination must include:

(a) A medical and work history, with emphasis on past and present airborne exposure to or dermal contact with beryllium, smoking history, and any history of respiratory system dysfunction;

(b) A physical examination with emphasis on the respiratory system;

(c) A physical examination for skin rashes;

(d) Pulmonary function tests, performed in accordance with the guidelines established by the American Thoracic Society including forced vital capacity (FVC) and forced expiratory volume in one second (FEV1);

(e) A standardized BeLPT or equivalent test, upon the first examination and at least every two years thereafter, unless the employee is confirmed positive. If the results of the BeLPT are other than normal, a follow-up BeLPT must be offered within 30 days, unless the employee has been confirmed positive. Samples must be analyzed in a laboratory certified under the College of American Pathologists/Clinical Laboratory Improvement Amendments (CLIA) guidelines to perform the BeLPT.

(f) A low dose computed tomography (LDCT) scan, when recommended by the PLHCP after considering the employee's history of exposure to beryllium along with other risk factors, such as smoking history, family medical history, sex, age, and presence of existing lung disease; and

(g) Any other test deemed appropriate by the PLHCP.

(8) Ensure that the examining PLHCP (and the agreed-upon CBD diagnostic center, if an evaluation is required under paragraph (15) of this rule) has a copy of this subdivision and provide the following information, if known:

(a) A description of the employee's former and current duties that relate to the employee's airborne exposure to and dermal contact with beryllium;

(b) The employee's former and current levels of airborne exposure;

(c) A description of any personal protective clothing and equipment, including respirators, used by the employee, including when and for how long the employee has used that personal protective clothing and equipment; and

(d) Information from records of employment-related medical examinations previously provided to the employee, currently within the control of the employer, after obtaining written consent from the employee.

(9) Ensure that the employee receives a written medical report from the licensed physician within 45 days of the examination (including any follow-up BeLPT required under paragraph (7)(e) of this rule) and that the PLHCP explains the results of the examination to the employee. Ensure the written report contains:

(a) A statement indicating the results of the medical examination, including the licensed physician's opinion as to whether the employee has:

(A) Any detected medical condition, such as CBD or beryllium sensitization (i.e., the employee is confirmed positive, as defined in OAR 437-002-2025), that may place the employee at increased risk from further airborne exposure, and

(B) Any medical conditions related to airborne exposures that require further evaluation or treatment.

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(b) Any recommendations on:

(A) The employee's use of respirators, protective clothing, or equipment; or

(B) Limitations on the employee's airborne exposure to beryllium.

(c) If the employee is confirmed positive or diagnosed with CBD or if the licensed physician otherwise deems it appropriate, the written report must also contain a referral for an evaluation at a CBD diagnostic center.

(d) If the employee is confirmed positive or diagnosed with CBD the written report must also contain a recommendation for continued periodic medical surveillance.

(e) If the employee is confirmed positive or diagnosed with CBD the written report must also contain a recommendation for medical removal from airborne exposure to beryllium, as described in OAR 437-002-2035.

(10) Obtain a written medical opinion from the licensed physician within 45 days of the medical examination (including any follow-up BeLPT required by this rule). The written opinion must contain only the following:

(a) The date of the examination;

(b) A statement that the examination has met the requirements of this rule; and

(c) Any recommended limitations on the employee's use of respirators, protective clothing, or equipment; and

(d) A statement that the PLHCP has explained the results of the medical examination to the employee, including any tests conducted, any medical conditions related to airborne exposure that require further evaluation or treatment, and any special provisions for use of personal protective clothing or equipment.

(11) If the employee provides written authorization, the written opinion must also contain any recommended limitations on the employee's airborne exposure to beryllium.

(12) If the employee is confirmed positive or diagnosed with CBD or if the licensed physician otherwise deems it appropriate, and the employee provides written authorization, the written opinion must also contain a referral for an evaluation at a CBD diagnostic center.

(13) If the employee is confirmed positive or diagnosed with CBD and the employee provides written authorization, the written opinion must also contain a recommendation for continued periodic medical surveillance.

(14) If the employee is confirmed positive or diagnosed with CBD and the employee provides written authorization, the written opinion must also contain a recommendation for medical removal from airborne exposure to beryllium, as described in 437-002-2035.

(15) When a physician's written medical report indicates that the employee has been confirmed positive or diagnosed with CBD, or recommends referral to a CBD diagnostic center, provide an evaluation to the employee at a CBD diagnostic center that is mutually agreed upon by the employer and the employee. This evaluation must be provided within 30 days of receiving the written opinion, and at no cost to the employee.

(a) Ensure the employee receives a written medical report within 30 days of the medical examination from the CBD diagnostic center that includes:

(A) A statement indicating the results of the medical examination, including the licensed physician's opinion as to whether the employee has:

(i) Any detected medical condition, such as CBD or beryllium sensitization (i.e., the employee is confirmed positive, as defined in OAR 437-002-2025), that may place the employee at increased risk from further airborne exposure, and

(ii) Any medical conditions related to airborne exposure that require further evaluation or treatment.

(B) Any recommendations on:

(i) The employee's use of respirators, protective clothing, or equipment; or

(ii) Limitations on the employee's airborne exposure to beryllium.

(b) If the employee is confirmed positive or diagnosed with CBD the written report must also contain a recommendation for continued periodic medical surveillance.

(c) If the employee is confirmed positive or diagnosed with CBD the written report must also contain a recommendation for medical removal from airborne exposure to beryllium, as described in OAR 437-002-2035.

(16) Obtain a written medical opinion from CBD diagnostic center within 30 days of the medical examination. The written opinion must contain only the following:

(a) The date of the examination;

(b) A statement that the examination has met the requirements of this rule; and

(c) Any recommended limitations on the employee's use of respirators, protective clothing, or equipment; and

(d) A statement that the PLHCP has explained the results of the medical examination to the employee, including any tests conducted, any medical conditions related to airborne exposure that require further evaluation or treatment, and any special provisions for use of personal protective clothing or equipment.

(e) If the employee provides written authorization, the written opinion must also contain:

(A) Any recommended limitations on the employee's airborne exposure to beryllium

(B) A recommendation for continued periodic medical surveillance if the employee is confirmed positive or diagnosed with CBD;

(C) A recommendation for medical removal from airborne exposure to beryllium, as described in 437-002-2035, if the employee is confirmed positive or diagnosed with CBD.

(17) After an employee has received the initial clinical evaluation at a CBD diagnostic center, the employee may choose to have any subsequent medical examinations for which the employee is eligible performed at a CBD diagnostic center mutually agreed upon by the employer and the employee. Provide such examinations at no cost to the employee.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 – 654.295

Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2035

Medical Removal

This rule describes the medical removal requirements of this subdivision.

(1) An employee is eligible for medical removal, if the employee works in a job with airborne exposure at or above the action level and either:

(a) The employee provides the employer with:

(A) A written medical report indicating a confirmed positive finding or CBD diagnosis; or

(B) A written medical report recommending removal from airborne exposure to beryllium in accordance OAR 437-002-2034; or

(b) The employer receives a written medical opinion recommending removal from airborne exposure to beryllium in accordance with 437-002-2034.

(2) If an employee is eligible for medical removal, provide the employee with the employee's choice of:

(a) Removal as described in paragraph (3) of this rule; or

(b) Remaining in a job with airborne exposure at or above the action level, provided that the employer provides, and ensures that the employee uses, respiratory protection that complies with OAR 437-002-2030 whenever airborne exposures are at or above the action level.

(3) If the employee chooses removal:

(a) If a comparable job is available where airborne exposures to beryllium are below the action level, and the employee is qualified for that job or can be trained within one month, the employer must remove the employee to that job. The employer must maintain for six months from the time of removal the employee's base earnings, seniority, and other rights and benefits that existed at the time of removal.

(b) If comparable work is not available, the employer must maintain the employee's base earnings, seniority, and other rights and benefits that existed at the time of removal for six months or until such time that comparable work described in paragraph (3)(a) of this rule becomes available, whichever comes first.

(4) Your obligation to provide medical removal protection benefits to a removed employee must be reduced to the extent that the employee receives compensation for earnings lost during the period of removal from a publicly or employer-funded compensation program, or receives income from another employer made possible by virtue of the employee's removal.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 – 654.295

Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2036

Communication of Beryllium Hazards to Employees

(1) Chemical manufacturers, importers, distributors, and employers must ensure that compliance with the requirements of the hazard communication rule (OAR 437-002-1910.1200) for beryllium. In classifying the hazards of beryllium, the following hazards must be addressed:

(a) Cancer;

(b) Lung effects (CBD and acute beryllium disease);

(c) Beryllium sensitization;

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- (d) Skin sensitization; and
- (e) Skin, eye, and respiratory tract irritation.

(2) Include beryllium in the hazard communication program established to comply with the hazard communication rule. Ensure that each employee has access to labels on containers of beryllium and to safety data sheets, and is trained in accordance with the requirements of the hazard communication standard (OAR 437-002-1910.1200) and paragraph (4) of this rule.

(3) Label each bag and container of clothing, equipment, and materials contaminated with beryllium, and, at a minimum, include the following on the label:

DANGER
CONTAINS BERYLLIUM
MAY CAUSE CANCER
CAUSES DAMAGE TO LUNGS
AVOID CREATING DUST
DO NOT GET ON SKIN

(4) For each employee who has, or can reasonably be expected to have, airborne exposure to or dermal contact with beryllium:

(a) Provide initial training to each employee by the time of initial assignment; and

(b) Repeat the training required under this rule annually for each employee.

(5) Ensure that each employee who is, or can reasonably be expected to be, exposed to airborne beryllium can demonstrate knowledge and understanding of the following:

(a) The health hazards associated with airborne exposure to and contact with beryllium, including the signs and symptoms of CBD;

(b) The written exposure control plan, with emphasis on the location(s) of beryllium work areas, including any regulated areas, and the specific nature of operations that could result in airborne exposure, especially airborne exposure above the TWA PEL or STEL;

(c) The purpose, proper selection, fitting, proper use, and limitations of personal protective clothing and equipment, including respirators;

(d) Applicable emergency procedures;

(e) Measures employees can take to protect themselves from airborne exposure to and contact with beryllium, including personal hygiene practices;

(f) The purpose and a description of the medical surveillance program required by OAR 437-002-2034 including risks and benefits of each test to be offered;

(g) The purpose and a description of the medical removal protection provided under OAR 437-002-2035;

(h) The contents of the standard; and

(i) The employee's right of access to records under the Records Access standard (OAR 437-002-1910.1020).

(6) When a workplace change (such as modification of equipment, tasks, or procedures) results in new or increased airborne exposure that exceeds, or can reasonably be expected to exceed, either the TWA PEL or the STEL, provide additional training to those employees affected by the change in airborne exposure

(7) Make a copy of this subdivision and its appendices readily available at no cost to each employee and designated employee representative(s).

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2037 Recordkeeping

(1) Air monitoring data.

(a) Make and maintain an accurate record of all exposure measurements taken to assess employee exposure to beryllium, as prescribed in 437-002-2027.

(b) This record must include at least the following information:

(A) The date of measurement for each sample taken;

(B) The task monitored;

(C) Sampling and analytical methods used;

(D) Number, duration, and results of samples taken;

(E) Identity of the laboratory that performed the analysis;

(F) Type of personal protective equipment, including respirators, worn by the employees monitored; and

(G) Name, social security number, and job classification of all employees represented by the monitoring, indicating which employees were actually monitored.

(c) Ensure that exposure records are maintained and made available in accordance with OAR 437-002-1910.1020.

(2) Objective data.

(a) Make and maintain an accurate record of all objective data relied upon to comply with the requirements of this subdivision.

(b) This record must include at least the following information:

(A) The beryllium-containing material in question;

(B) The source of the objective data;

(C) The testing protocol and results of testing;

(D) A description of the process, task, or activity on which the objective data were based; and

(E) Other data relevant to the process, task, activity, material, or exposures on which the objective data were based.

(c) Ensure that objective data are maintained and made available in accordance with OAR 4374-002-1910.1020.

(3) Medical surveillance.

(a) Make and maintain an accurate record for each employee covered by medical surveillance under 437-002-2034.

(b) The record must include the following information about the employee:

(A) Name and social security number;

(B) A copy of the PLHCPs' and specialists' written medical opinions;

(C) A copy of the information provided to the PLHCPs and specialists.

(c) Ensure that medical records are maintained and made available in accordance with 437-002-1910.1020.

(4) Training.

(a) At the completion of any training required by this standard, the employer must prepare a record that indicates the name, social security number, and job classification of each employee trained, the date the training was completed, and the topic of the training.

(b) This record must be maintained for three years after the completion of training.

(5) Upon request, you must make all records maintained as a requirement of this subdivision available for examination and copying to the Director of the Oregon Department of Consumer and Business Services, and designee, and the Director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, or designee, each employee, and each employee's designated representative(s) in accordance the Records Access standard 437-002-1910.1020).

(6) Comply with the requirements involving transfer of records set forth in the Records Access standard (437-002-1910.1020).

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2038

Dates

This rule is effective March 12, 2018, except:

(1) Change rooms and showers required by 437-002-2032 must be provided by March 11, 2019; and

(2) Engineering controls required by OAR 437-002-2029 must be implemented by March 10, 2020.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2040

Exposure Assessment

This rule requires an evaluation of employee exposure to beryllium using air monitoring or objective data as described in the performance or scheduled monitoring options.

(1) Assess the exposure of each employee who is or may reasonably be expected to be exposed to beryllium in accordance with either the performance option in paragraph (2) or the scheduled monitoring option in paragraph (3).

(2) Performance option. Assess the 8-hour TWA exposure and 15-minute short-term exposure for each employee on the basis of any combination of air monitoring data or objective data sufficient to accurately characterize employee exposures to beryllium.

(3) Scheduled monitoring option.

(a) Perform initial monitoring to assess the 8-hour TWA exposure for each employee on the basis of one or more personal breathing zone air samples that reflect the exposures of employees on each shift, for each job classification, in each work area.

(b) Perform initial monitoring to assess the short-term exposure from 15-minute personal breathing zone air samples measured in operations that are likely to produce airborne exposure above the STEL for each work shift, for each job classification, and in each work area.

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(c) Where several employees perform the same tasks on the same shift and in the same work area, you may sample a representative fraction of these employees in order to meet this requirement. In representative sampling, sample the employee(s) who are expected to have the highest exposure to beryllium.

(d) If initial monitoring indicates that employee exposures are below the action level and at or below the STEL, you may discontinue monitoring for those employees whose exposures are represented by such monitoring.

(e) Where the most recent exposure monitoring indicates that employee exposures are at or above the action level but at or below the PEL, repeat such monitoring within six months of the most recent monitoring.

(f) Where the most recent exposure monitoring indicates that employee exposures are above the PEL, repeat such monitoring within three months of the most recent monitoring.

(g) Where the most recent (non-initial) exposure monitoring indicates that employee exposures are below the action level, repeat such monitoring within six months of the most recent monitoring until two consecutive measurements, taken 7 or more days apart, are below the action level, at which time you may discontinue monitoring for those employees whose exposures are represented by such monitoring, except as otherwise provided in paragraph (4).

(h) Where the most recent exposure monitoring indicates that airborne exposure is above the STEL, repeat such monitoring within three months of the most recent short-term exposure monitoring until two consecutive measurements, taken 7 or more days apart, are below the STEL, at which time you may discontinue short-term exposure monitoring for those employees whose exposure is represented by such monitoring, except as otherwise provided in paragraph (4).

(4) Reassess exposures whenever a change in the production, process, control equipment, personnel, or work practices may reasonably be expected to result in new or additional exposures at or above the action level or STEL, or when there is any reason to believe that new or additional exposures at or above the action level or STEL have occurred.

(5) Ensure that all air monitoring samples used to satisfy the monitoring requirements of this rule are evaluated by a laboratory that can measure beryllium to an accuracy of plus or minus 25 percent within a statistical confidence level of 95 percent for airborne concentrations at or above the action level.

(6) Employee notification of assessment results.

(a) Within 15 working days after completing an exposure assessment in accordance with this rule, notify each employee whose airborne exposure is represented by the assessment of the results of that assessment individually in writing or post the results in an appropriate location that is accessible to each of these employees.

(b) Whenever an exposure assessment indicates that employee exposure is above the PEL or STEL, describe in the written notification the corrective action being taken to reduce employee exposure to or below the exposure limit(s) exceeded where feasible corrective action exists but had not been implemented when the monitoring was conducted.

(7) Observation of monitoring.

(a) Where air monitoring is performed to comply with the requirements of this rule, provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to beryllium.

(b) When observation of monitoring requires entry into an area where the use of protective clothing or equipment (which may include respirators) is required, provide the observer with protective clothing and equipment at no cost, ensure that the observer uses such clothing and equipment, and ensure that each observer follows all other applicable safety and health procedures.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-002-2045

Personal Protective Clothing and Equipment

This rule applies to all personal protective equipment and clothing.

(1) Provide appropriate personal protective clothing and equipment at no cost to employees in accordance with the written exposure control plan required under OAR 437-002-2029 and 437-002-0134:

(a) Where airborne exposure exceeds, or can reasonably be expected to exceed, the TWA PEL or STEL; or

(b) Where there is a reasonable expectation of dermal contact with beryllium.

(2) Ensure employees use provided protective clothing and equipment.

(3) Removal and storage.

(a) Ensure that each employee removes all beryllium-contaminated personal protective clothing and equipment at the end of the work shift, at the completion of tasks involving beryllium, or when personal protective clothing or equipment becomes visibly contaminated with beryllium, whichever comes first.

(b) Ensure that each employee removes beryllium-contaminated personal protective clothing and equipment as specified in the written exposure control plan required by 437-002-2029.

(c) Ensure that each employee stores and keeps beryllium-contaminated personal protective clothing and equipment separate from street clothing and that storage facilities prevent cross-contamination as specified in the written exposure control plan required by 437-002-2029

(d) Ensure that no employee removes beryllium-contaminated personal protective clothing or equipment from the workplace, except for employees authorized to do so for the purposes of laundering, cleaning, maintaining or disposing of beryllium-contaminated personal protective clothing and equipment at an appropriate location or facility away from the workplace.

(e) When personal protective clothing or equipment required by this rule is removed from the workplace for laundering, cleaning, maintenance or disposal, ensure that personal protective clothing and equipment are stored and transported in sealed bags or other closed containers that are impermeable and are labeled in accordance with 437-002-2036 and the hazard communication standard (HCS) (437-002-1910.1200).

(4) Cleaning and replacement.

(a) Ensure that all reusable personal protective clothing and equipment required by this rule is cleaned, laundered, repaired, and replaced as needed to maintain its effectiveness.

(b) Ensure that beryllium is not removed from personal protective clothing and equipment by blowing, shaking or any other means that disperses beryllium into the air.

(c) Inform in writing the persons or the business entities who launder, clean or repair the personal protective clothing or equipment required by this rule of the potentially harmful effects of airborne exposure to and dermal contact with beryllium and that the personal protective clothing and equipment must be handled in accordance with this rule.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 – 654.295
Hist.: OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-003-1000

Oregon Rules for Air Contaminants

An employee's exposure to any substance listed in Oregon Tables Z-1, Z-2, or Z-3 of this section shall be limited in accordance with the requirements of the following paragraphs of this section.

(1) Oregon Table Z-1.

(a) Substances with limits preceded by "C" — Ceiling Values. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is preceded by a "C", shall at no time exceed the exposure limit given for that substance. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time during the working day.

(b) Other substances — 8-hour Time Weighted Averages. An employee's exposure to any substance in Oregon Table Z-1, the exposure limit of which is not preceded by a "C", shall not exceed the 8-hour Time Weighted Average given for that substance in any 8-hour work shift of a 40-hour work week.

(c) Other Substances — Excursion Limits. Excursions in worker exposure levels may exceed 3 times the PEL-TWA for no more than a total of 30 minutes during a workday, and under no circumstances should they exceed 5 times the PEL-TWA, provided that the PEL-TWA is not exceeded.

(d) Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Oregon Table Z-1 with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(2) Oregon Table Z-2. An employee's exposure to any substance listed in Oregon Table Z-2 shall not exceed the exposure limits specified as follows:

(a) 8-hour time weighted averages. An employee's exposure to any substance listed in Oregon Table Z-2, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in Oregon Table Z-2.

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(b) Acceptable ceiling concentrations. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable ceiling concentration for the given substance in the table at any time during an 8-hour shift except:

(i) Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. An employee's exposure to a substance listed in Oregon Table Z-2 shall not exceed the acceptable maximum peak above the acceptable ceiling concentration, and shall not exceed the maximum duration for the given substance during an 8-hour shift.

(c) Example:

Oregon Table Z-2. During an 8-hour work shift, an employee exposed to benzene may be exposed to an 8-hour time weighted average (TWA) of 10 ppm. Concentrations of benzene during the 8-hour work shift may not exceed 25 ppm, unless that exposure is no more than 50 ppm and does not exceed 10 minutes during an 8-hour work shift. Such exposures must be compensated by exposures to concentrations below 10 ppm so that the 8-hour time-weighted average is less than 10 ppm.

(3) Oregon Table Z-3. An employee's exposure to any substance listed in Oregon Table Z 3, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in the table.

(4) Computation formulae. The computation formula which shall apply to employee exposure to more than one substance for which 8-hour time weighted averages are included in OAR 437, Division 2/Z, Toxic and Hazardous Substances, in order to determine whether an employee is exposed over the regulatory limit is as follows:

(a) Cumulative exposures.

(A) The cumulative exposure for an 8-hour work shift shall be computed as follows:

$$E = (CaTa + CbTb + \dots + CnTn) \div 8$$

Where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remain constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the 8-hour time weighted average specified in subpart Z of 29 CFR part 1910 for the substance involved.

(B) To illustrate the formula prescribed in paragraph (4)(a)(i) of this section, assume that Substance A has an 8-hour time weighted average limit of 100 ppm (Oregon Table Z-1). Assume that an employee is subject to the following exposure:

Two hours exposure at 150 ppm

Two hours exposure at 75 ppm

Four hours exposure at 50 ppm

Substituting this information in the formula, we have

$$[(2 \times 150) + (2 \times 75) + (4 \times 50)] \div 8 = 81.25 \text{ ppm}$$

Since 81.25 ppm is less than 100 ppm, the 8-hour time weighted average limit, the exposure is acceptable.

(b) Mixtures.

(i) In case of a mixture of air contaminants an employer shall compute the equivalent exposure as follows:

$$Em = (C1 \div L1) + (C2 \div L2) + \dots + (Cn \div Ln)$$

Where:

Em is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that substance specified in Subpart Z of 29 CFR Part 1910.

The value of Em shall not exceed unity (1).

(C) To illustrate the formula prescribed in paragraph (4)(b)(i) of this section, consider the following exposures:

Table Z-2.1. Substituting in the formula, we have:

$$Em = (500 \div 1000) + (45 \div 200) + (40 \div 200)$$

$$Em = 0.500 + 0.225 + 0.200$$

$$Em = 0.925$$

Since Em is less than unity (1), the exposure combination is within acceptable limits.

(5) To achieve compliance with paragraphs (1) through (4) of this section, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with 1910.134.

Oregon Table Z-1

Oregon Table Z-2

Oregon Table Z-3

Table Z-1, Notes, Footnotes; Table Z-2, Note, Footnotes; Table Z-3, Notes, Footnotes.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 6-2008, f. 5-13-08, cert. ef. 7-1-08; OSHA 5-2016, f. 9-23-16, cert. ef. 7-1-18; OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

437-005-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1915, in the Federal Register:

(1) Subdivision A

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 3/25/16, Federal Register vol. 81, no. 58, p. 16085.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 7/25/94, FR vol. 59, p. 37856.

(h) 29 CFR 1915.9. Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(2) Subdivision B

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(f) 29 CFR 1915.16. Warning signs and labels, published 7/25/94, FR vol. 59, p. 37861.

Appendix A to Subpart B published 6/8/11, Federal Register, vol. 76, no.

110, p. 33590.

Appendix B to Subpart B published 7/25/94, FR vol. 59, p. 37816.

(3) Subdivision C

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

(4) Subdivision D

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention. REMOVED 9/15/04, FR vol. 69, p. 55667.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.

(f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.

(5) Subdivision E

(a) 29 CFR 1915.71. Scaffolds or staging, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.72. Ladders, published 7/3/02, FR vol. 67, no. 128, p. 44541.

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- (c) 29 CFR 1915.73. Guarding of deck openings and edges, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (d) 29 CFR 1915.74. Access to vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.
- (g) 29 CFR 1915.77. Working surfaces, published amended 7/3/02, FR vol. 67, no. 128, p. 44541.
- (6) Subdivision F
- (a) 29 CFR 1915.80. Scope, application, definitions and effective dates, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (b) 29 CFR 1915.81. Housekeeping, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.82. Lighting, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.83. Utilities, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.84. Working alone, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (f) 29 CFR 1915.85. Vessel radar and communication systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (g) 29 CFR 1915.86. Lifeboats, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (h) 29 CFR 1915.87. Medical services and first aid, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (i) 29 CFR 1915.88. Sanitation, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (j) 29 CFR 1915.89. Control of hazardous energy (lockout/tagout), published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (k) 29 CFR 1915.90. Safety color code for marking physical hazards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (l) 29 CFR 1915.91. Accident prevention signs and tags, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (m) 29 CFR 1915.92. Retention of DOT markings, placards, and labels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (n) 29 CFR 1915.93. Motor vehicle safety equipment, operation, and maintenance, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (o) 29 CFR 1915.94. Servicing of multi-piece and single-piece rim wheels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (7) Subdivision G
- (a) 29 CFR 1915.111. Inspection, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.112. Ropes, chains and slings, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.113. Shackles and hooks, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (d) 29 CFR 1915.114. Chain falls and pull lifts, published 4/20/82, FR vol. 47, p. 16984.
- (e) 29 CFR 1915.115. Hoisting and hauling equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (f) 29 CFR 1915.116. Use of gear, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.
- (h) 29 CFR 1915.118. Tables, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (8) Subdivision H
- (a) 29 CFR 1915.131. General precautions, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.
- (c) 29 CFR 1915.133. Hand tools, published 4/20/ 82, FR vol. 47, p. 16984.
- (d) 29 CFR 1915.134. Abrasive wheels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (e) 29 CFR 1915.135. Powder actuated fastening tools, published 5/24/96, FR vol. 61, no. 102, p. 26351.
- (f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.
- (9) Subdivision I
- (a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.
- (b) 29 CFR 1915.152. General requirements, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.153. Eye and face protection, published 3/25/16, FR vol. 81, no. 58, p. 16085.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.
- (f) 29 CFR 1915.156. Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix A to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix B to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.163. Ship's piping systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/ 82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L
- (a) 29 CFR 1915.181. Electrical circuits and distribution boards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (13) Subdivisions M O (Reserved)
- (14) Subdivision P
- (a) 29 CFR 1915.501. General provisions, published 9/15/04, FR vol. 69, p. 55667.
- (b) 29 CFR 1915.502. Fire safety plan, published 9/15/04, FR vol. 69, p. 55667.
- (c) 29 CFR 1915.503. Precautions for hot work, published 9/15/04, FR vol. 69, p. 55667.
- (d) 29 CFR 1915.504. Fire watches, published 9/15/04, FR vol. 69, p. 55667.
- (e) 29 CFR 1915.505. Fire response, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (f) 29 CFR 1915.506. Hazards of fixed extinguishing systems on board vessels and vessel sections, published 9/15/04, FR vol. 69, p. 55667.
- (g) 29 CFR 1915.507. Land-side fire protection systems, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (h) 29 CFR 1915.508. Training, published 9/15/04, FR vol. 69, p. 55667.
- (i) 29 CFR 1915.509. Definitions applicable to this subpart, published 9/15/04, FR vol. 69, p. 55667.
- Appendix A to Subpart P, published 9/15/04, FR vol. 69, p. 55667.
- (15) Subdivision Q-Y (Reserved)
- (16) Subdivision Z
- (a) 29 CFR 1915.1000. Air Contaminants, published 1/9/17, FR vol. 82, no. 5, p. 2735.
- (b) 29 CFR 1915.1001. Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311.
- Appendix A to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix B to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix C to 1915.1001, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- Appendix D to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix E to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix F to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix G to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix H to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix I to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.

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Appendix K to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.

Appendix L to 1915.1001, published 8/23/96, FR vol. 61, p. 43454.

(c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 6/20/96, FR vol. 61, p. 31427.

(d) 29 CFR 1915.1003. 13 Carcinogens (4 Nitrophenyl, etc.), published 6/20/96, FR vol. 61, p. 31427.

(e) 29 CFR 1915.1004. alpha Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.

(f) 29 CFR 1915.1005. (Reserved)

(g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.

(h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 6/20/96, FR vol. 61, p. 31427.

(i) 29 CFR 1915.1008. bis Chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.

(j) 29 CFR 1915.1009. beta Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1915.1010. Benzidine, published 6/20/96, FR vol. 61, p. 31427.

(l) 29 CFR 1915.1011. 4 Aminodiphenyl, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1915.1012. Ethyleneimine, published 6/20/96, FR vol. 61, p. 31427.

(n) 29 CFR 1915.1013. beta Propiolactone, published 6/20/96, FR vol. 61, p. 31427.

(o) 29 CFR 1915.1014. 2 Acetylaminofluorene, published 6/20/96, FR vol. 61, p. 31427.

(p) 29 CFR 1915.1015. 4 Dimethylaminoazobenzene, published 6/20/96, FR vol. 61, p. 31427.

(q) 29 CFR 1915.1016. N Nitrosodimethylamine, published 6/20/96, FR vol. 61, p. 31427.

(r) 29 CFR 1915.1017. Vinyl chloride, published 6/20/96, FR vol. 61, p. 31427.

(s) 29 CFR 1915.1018. Inorganic arsenic, published 6/20/96, FR vol. 61, p. 31427.

(t) 29 CFR 1915.1020 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, p. 31427.

(u) 29 CFR 1915.1024 Beryllium, published 1/9/17, FR vol. 82, no. 5, p. 2735.

(v) 29 CFR 1915.1025. Lead, published 6/20/96, FR vol. 61, p. 31427.

(w) 29 CFR 1915.1026 Chromium (VI), published 3/26/12, FR vol. 77, no. 58, p. 17574.

(x) 29 CFR 1915.1027. Cadmium, published 6/20/96, FR vol. 61, p. 31427.

(y) 29 CFR 1915.1028. Benzene, published 6/20/96, FR vol. 61, p. 31427.

(z) 29 CFR 1915.1030. Bloodborne pathogens, published 6/20/96, FR vol. 61, p. 31427.

(aa) 29 CFR 1915.1044. 1,2 dibromo 3 chloropropane, published 6/20/96, FR vol. 61, p. 31427.

(bb) 29 CFR 1915.1045. Acrylonitrile, published 6/20/96, FR vol. 61, p. 31427.

(cc) 29 CFR 1915.1047. Ethylene oxide, published 6/20/96, FR vol. 61, p. 31427.

(dd) 29 CFR 1915.1048. Formaldehyde, published 6/20/96, FR vol. 61, p. 31427.

(ee) 29 CFR 1915.1050. Methylenedianiline, published 6/20/96, FR vol. 61, p. 31427.

(ff) 29 CFR 1915.1052 Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.

(gg) 29 CFR 1915.1053 Respirable Crystalline Silica, published 3/25/16, Federal Register, vol. 81, no. 58, p. 16286.

(hh) 29 CFR 1915.1120 Access to employee exposure and medical records has been redesignated to §1915.1020.

Note: 29 CFR 1915.99, Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.

(ii) 29 CFR 1915.1200. Hazard communication, published 6/20/96, FR vol. 61, p. 31427.

(jj) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 6/20/96, FR vol. 61, p. 31427.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 3-1997, f. & cert.

ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03; OSHA 8-2004, f. & cert. ef. 12-30-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 1-2007, f. 1-9-07 cert. ef. 1-16-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 3-2011, f. & cert. ef. 11-1-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 3-2016, f. & cert. ef. 8-19-16; OSHA 4-2016, f. & cert. ef. 9-7-16; OSHA 5-2016, f. 9-23-16, cert. ef. 7-1-18; OSHA 3-2017, f. 7-7-17, cert. ef. 3-12-18

Department of Corrections Chapter 291

Rule Caption: Medical Clearance for Inmate Food Handlers

Adm. Order No.: DOC 11-2017

Filed with Sec. of State: 6-21-2017

Certified to be Effective: 6-21-17

Notice Publication Date: 5-1-2017

Rules Amended: 291-061-0061

Subject: To lower the risk of the transmission of foodborne illnesses through the food supply, the department's rule requires a medical clearance that the department's Health Services certify that an inmate assigned to the Food Services Section is free from communicable disease. This clarifies that the certification requirement concerns communicable diseases that are transmitted through the food supply or the handling of food, rather than any of all communicable diseases.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-061-0061

Medical Clearances

(1) The Health Services Section will document that an inmate is free from communicable disease that may be transmitted through the handling of food and is physically capable of performing the required work in the Food Services Section prior to assignment.

(2) Staff supervisors in each area of the Food Services Section shall:

(a) Inform all inmates who apply for a position in food services that a current medical clearance is a requirement.

(b) Visually inspect all inmates assigned to work units for signs or symptoms which could be a health hazard. Those inmates who exhibit symptoms of colds or flu, have cuts, abrasions, or skin rash will not be permitted to work until they have been seen and released for work by Health Services. Inmates with cuts or abrasions that have been released by Health Services can work as long as they have the wound bandaged and they wear a plastic glove.

(3) Staff supervisors will evaluate and follow up with Health Services any complaints of illness by inmates. Statements about the health of any inmate which could affect the health and well being of staff and inmates will be reported to Health Services and the shift supervisor. The shift supervisor will notify the food services manager if applicable.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 2-1993, f. 1-25-93, cert. ef. 2-1-93; CD 18-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 5-2017(Temp), f. & cert. ef. 3-30-17 thru 9-25-17; DOC 11-2017, f. & cert. ef. 6-21-17

Rule Caption: Use of Chemical Agents in Use of Force Incidents in Correctional Facilities

Adm. Order No.: DOC 12-2017

Filed with Sec. of State: 6-22-2017

Certified to be Effective: 6-22-17

Notice Publication Date: 2-1-2017

Rules Amended: 291-013-0104

Subject: This amendment is necessary to clarify the department's method of allowing inmates to decontaminate after having received a direct application of a chemical agent. The inmate will be offered a shower as soon as time and circumstances allow.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-013-0104

Security Equipment

(1) General Provisions:

(a) The Institutions Administrator will review all security equipment. The Director or designee shall approve all security equipment before it is issued and used as department authorized security equipment.

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(b) Only department authorized and/or issued equipment shall be used to apply physical force to individuals.

(c) Security equipment shall not be issued to or used by an employee who has not been trained in the proper use of such devices.

(d) The above three sections (a)–(c) apply to all use of force incidents except for situations that require reactive use of force where there is a clear and imminent threat of death or great bodily injury, and where there is no other reasonable alternative.

(e) The storage and use of security equipment will be authorized by the Director through the appropriate functional unit manager.

(2) Security Restraints — General Use of Restraints:

(a) Security restraints are authorized to restrict, immobilize, and control the movement of an inmate.

(b) The standard routine use of security restraints for escort or transportation of an inmate is not a use of force within the context of these rules. Situations in which an inmate has refused to be placed in security restraints, or has resisted after being placed in restraints, are considered use of force within the context of these rules.

(3) Restricting Movement:

(a) Security restraints may be used to restrain an inmate with the express approval of the officer-in-charge, upon a demonstration that the inmate is out of control and engaged in behavior which, if unrestrained could:

(A) Result in significant destruction of property;

(B) Constitute a serious health or injury hazard to the inmate or others; or

(C) Escalate into a serious disturbance.

(b) Security restraints used to restrain an out-of-control inmate shall be terminated when the inmate has demonstrated behavior which would not result in the above three sections (A)–(C).

(c) Placing an inmate in security restraints or a restraint chair shall be considered a use of force within the context of these rules, except when placing an inmate in handcuffs/restraints for transportation or escort.

(d) Security restraints will not be placed around the neck or head, nor in any manner that restricts blood circulation or breathing.

(e) The hogtie method will not be used as a security restraint.

(f) Employees in general shall ensure that unnecessary pressure is not placed on the inmate's chest, back or neck while applying restraints. Employees shall maintain close observation of a restrained inmate in order to detect breathing difficulties and/or loss of consciousness.

(g) While using the prone restraint position when the correctional objective is met the inmate should be placed on his/her side or moved into a sitting position as soon as feasible. Employees will assess the inmate's physical condition.

(h) Restrained inmates will never be transported on their stomachs.

(i) An employee shall check at least every 30 minutes and verify security restraints are not causing obvious injury or an obvious medical problem when an inmate has been placed in restraints as a result of a use of force situation. Each check of the restraints will be documented. A copy of the documentation shall accompany the unusual incident report.

(j) The officer-in-charge shall evaluate the need to restrain an out-of-control inmate every two hours with written documentation for the reason(s) to continue or discontinue security restraints or restraint chair. The documentation shall accompany the use of force review documentation.

(k) The officer-in-charge will notify a health care professional immediately upon the application of security restraints or restraint chair.

(l) The health care professional, when notified, will perform the following:

(A) Evaluate the inmate's condition to verify the security restraints are not causing injury or an obvious medical problem;

(B) Evaluate the inmate's mental status and notify a qualified mental health professional, if necessary;

(C) Consider treatment or intervention as an alternative, or in conjunction with security restraints;

(D) Document the results of the evaluation; and

(E) Physically re-evaluate sections (A)–(D) above every two hours.

(m) Use of security restraints or restraint chair to restrain an out-of-control inmate will be documented and reported by the officer-in-charge to the functional unit manager or designee. The documentation shall accompany the use of force review documentation.

(n) Continued use of security restraints applied for a time period longer than eight hours, and every eight hours thereafter, shall require the written approval of the functional unit manager or designee in addition to the requirements of sections (j), (k), and (l) above.

(o) Continued use of the restraint chair for a time period longer than two hours, and every two hours thereafter, shall require the written or verbal approval of the functional unit manager or designee in addition to the requirements of sections (j), (k), and (l) above. The use of the restraint chair shall not exceed ten consecutive hours.

(p) Continued use of the restraint chair for a time period longer than two hours, and every two hours thereafter, during the transporting of an inmate shall require the verbal approval of the functional unit manager or designee. The use of the restraint chair shall not exceed ten consecutive hours during transport.

(A) The officer-in-charge of the transport shall ensure that observation of the inmate is maintained and documented on the Trip Documentation Sheet every 30 minutes. The officer-in-charge shall ensure that the inmate is evaluated by a health care professional once the final destination is reached.

(B) Placing an inmate in the restraint chair shall be considered a use of force within the context of these rules, except when the restraint chair is being utilized as additional seating for inmates during transfers.

(q) Therapeutic Restraints: The documentation, application, and use of therapeutic restraints will not be considered a use of force situation, but shall be in accordance with the department's rule on Therapeutic Restraints (OAR 291-071). Therapeutic restraints will be:

(A) Applied to an inmate only for medical or mental health treatment to limit the inmate's movement; and

(B) Applied to an inmate only upon the documented verbal or written order of a physician, except in the absence of a physician, a registered nurse may authorize the application of therapeutic restraints for a period not to exceed one hour.

(4) Chemical Agents, Electronic Control Devices, Batons, Water Force and Specialty Impact Munitions:

(a) The use of chemical agents other than aerosol spray, electronic control devices, batons, water force, and specialty impact munitions shall be authorized only by the functional unit manager or designee. The decision to use chemical agents, electronic control devices, batons, water force, and specialty impact munitions shall be based on the level of force that, in the judgment of the functional unit manager or designee, is most likely to resolve the situation with the least amount of injury to all parties involved.

(b) The use of chemical agents, electronic control devices, batons, water force, and specialty impact munitions may be used to subdue an inmate when the level of physical hands-on force required to subdue the inmate would potentially subject the employee, inmate or others to greater injury than would be incurred through the use of this security equipment.

(5) Use of Chemical Agents:

(a) The amount and type of chemical agent used and the means of dispersal shall be limited to that necessary to achieve the correctional objective and be used in accordance with the manufacturer's instructions and departmental training.

(b) Prior to the use of any chemical agent, and where time and circumstances permit, the inmate against whom it is directed shall be warned chemical agents will be used.

(c) If possible, a chemical agent shall not be used against an inmate known to suffer cardio-vascular, convulsive or respiratory ailments.

(d) An employee recently assaulted by an inmate shall not approve or apply chemical agents to the particular inmate, unless there is no reasonable alternative.

(e) An inmate shall not be restrained or held for the sole purpose of rendering him/her a more stationary target for a chemical agent. If chemical agents are administered to a handcuffed inmate, staff shall document the reason why the removal of the handcuffs was not feasible.

(f) Those affected by a chemical agent shall be permitted to wash their face, eyes, and other exposed skin areas, as soon as possible after the chemical agent has been used.

(g) Those affected by a chemical agent in a closed area shall be permitted to move to an uncontaminated area as soon as possible after the chemical agent has been used

(h) An inmate receiving a direct application of a chemical agent shall be under continuous staff observation for the first ten minutes.

(i) Clothing exposed to a chemical agent shall be removed as soon as feasible and clean clothing made immediately available.

(j) An inmate receiving a direct application of a chemical agent shall be examined by a health care professional as soon as feasible after the chemical agent has been used.

(A) The inmate shall then be observed approximately every ten minutes for the first 30 minutes after receiving the application of a chemical agent.

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(B) All observations shall be documented with a date and time reference.

(C) The documentation shall accompany the use of force review documentation.

(k) An inmate receiving a direct application of a chemical agent shall be offered a shower as soon as time and circumstance allows.

(A) Staff shall document the date and time the shower was offered to the inmate, and any refusal to shower from the inmate.

(B) The documentation shall accompany the use of force review documentation.

(6) Use of Electronic Control Devices:

(a) Only agency approved electronic control devices shall be used.

(b) Medical Considerations:

(A) As soon as feasible following each use of an electronic control device, the inmate shall be afforded medical examination and treatment.

(B) An electronic control device shall not be deployed if there is knowledge that the inmate is pregnant.

(C) If the electronic control device utilizes probes that penetrate the skin, the probes shall be removed when the inmate is under control. Medical staff, if on duty at the facility, shall remove the probes. Trained security staff may remove the probes if medical staff are not available.

(D) If probes are embedded in soft tissue areas such as the head, neck, face and groin, removal shall be done by medical staff only.

(c) Electronic control devices will not be used in conjunction with aerosol propelled chemical agents.

(d) Prior to the deployment of an electronic control device, the supervisor and person assigned to be the operator shall have attended the approved departmental training on the operation and protocol associated with its use.

(7) Use of Specialty Impact Weapons:

(a) Specialty impact munitions are intended as a less lethal alternative to the use of deadly force. Use of specialty impact munitions shall be authorized by the functional unit manager or designee prior to deployment.

(b) After each use of specialty impact munitions, exposed inmates shall be examined by Health Services personnel.

(8) Firearms:

(a) The functional unit manager or designee will authorize the location and carrying of a department issued firearm on the grounds of a facility.

(b) A Transportation Unit officer or facility correctional officer may carry a firearm in the performance of his/her duties as authorized by the functional unit manager/designee and in accordance with the department policy.

(c) Prior to resorting to the use of firearms against an inmate or other persons, time and circumstances permitting, an employee shall first issue an appropriate warning to the inmate or other person in a readily understandable fashion. An appropriate warning may include, but is not limited to, one or more of the following:

(A) Shouting;

(B) Blowing a whistle;

(C) Hand signals; or

(D) Firing a warning shot.

(d) The discharge of a firearm will be handled in accordance with the departmental policy. The State Police or local law enforcement officials shall be notified to investigate any discharge of a firearm except for training or negligent discharge where injury or significant property damage has not occurred. The external law enforcement investigation shall be separate from the full review.

(e) Any employee involved in the discharge of a firearm in a situation on duty shall immediately report the incident to the officer-in-charge.

(f) A warning shot is the least preferred method of warning. It should be used only in situations where other warning methods are not practical or effective, and when there is a target that is sufficiently large to minimize the risk of harm to others from a missed shot or ricochet.

(g) Time and circumstances permitting, an employee shall attempt to warn an inmate that is observed to be:

(A) Entering or inside a restricted security perimeter zone;

(B) Tampering with or cutting security perimeter equipment or fence/wall;

(C) On or climbing a security fence/wall;

(D) Moving toward any motor vehicle or airborne craft in an obvious attempt to escape;

(E) Engaged in any other behavior that is a clear or obvious attempt to escape; or

(F) Engaged in any behavior that poses serious bodily injury or death to oneself or another person.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 14-1998, f. & cert. ef. 6-18-98; Renumbered from 291-013-0090, DOC 15-2004, f. & cert. ef. 11-2-04; DOC 14-2005, f. 10-14-05, cert. ef. 10-24-05; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16; DOC 17-2015, f. & cert. ef. 10-26-15; DOC 12-2017, f. & cert. ef. 6-22-17

Department of Environmental Quality Chapter 340

Rule Caption: Hazardous Waste Phase II 2017

Adm. Order No.: DEQ 5-2017

Filed with Sec. of State: 7-12-2017

Certified to be Effective: 7-12-17

Notice Publication Date: 12-1-2016

Rules Adopted: 340-102-0200

Rules Amended: 340-100-0002, 340-101-0004

Subject: The primary purpose of the rule revision is to incorporate federal requirements into the state's rules. The U.S. Environmental Protection Agency authorizes DEQ to implement the federal hazardous waste rules in Oregon. To ensure consistency, DEQ must periodically update its rules by adopting new federal requirements. These changes provide consistency with the federal hazardous waste rules.

DEQ is amending Oregon's hazardous waste regulations, Chapter OAR 340, Divisions 100, 101, 102, to incorporate new federal hazardous waste rules to include:

- A new rule simplifying waste management at academic laboratories;

- Conditional exclusions for solvent-contaminated wipes;

- EPA's withdrawal of comparable fuels rule; and

- Incorporating federal corrections to hazardous waste regulations.

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-100-0002

Adoption of United States Environmental Protection Agency Hazardous Waste and Used Oil Management Regulations

(1) Except as otherwise modified or specified by OAR 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142, the Commission adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, as the United States Environmental Protection Agency prescribes in 40 C.F.R. Parts 260 to 268, 270, 273 and Subpart A and Subpart B of Part 124, as enacted through June 30, 2015, except as modified below in sections (2), (3) and (4).

(2) The Commission expressly adopts only 40 C.F.R. § 270.14(a) and § 270.28 as amended in adoption of 63 Federal Register 56710 (c174), October 22, 1998.

(3) The Commission excludes from the rules adopted in Section (1) of this rule, and does not adopt by reference, 40 C.F.R. 260.2 and the amendments to 40 C.F.R. Parts 124, 260 to 268, 270 and 273 as enacted at:

(a) 63 Federal Register 56710-56735 (c174), October 22, 1998 (amendments to 40 C.F.R. § 264-265 and § 270(1)(c));

(b) 69 Federal Register 21737-21754 (c204), April 22, 2004;

(c) 69 Federal Register 62217-62224 (c204.1), October 25, 2004;

(d) 73 Federal Register 57-72 (c216), January 2, 2008;

(e) 73 Federal Register 64668-64788 (c219), October 30, 2008;

(f) 73 Federal Register 77954-78017 (c221), December 19, 2008;

(g) 79 Federal Register 350-364 (c230), January 3, 2014; and

(h) 80 Federal Register 1694-1814 (c233), January 13, 2015.

(4) Except as otherwise modified or specified by OAR 340, division 111, the Commission adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the standards for managing used oil, the United States Environmental Protection Agency prescribes in 40 C.F.R. Part 279, enacted through July 30, 2003.

COMMENT: The Department uses the federal preamble accompanying the federal regulations and federal guidance as a basis for regulatory decision-making.

Stat. Auth.: ORS 465.009, 465.505, & 466.020

Stat. Implemented: ORS 465.003, 465.009, 465.505, 466.005, 466.075 & 466.105

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994(Temp), f. 12-6-94, cert. ef. 12-19-94; DEQ 11-1995, f. & cert. ef. 5-19-95; DEQ 12-

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1996, f. & cert. ef. 7-31-96; DEQ 14-1997, f. & cert. ef. 7-23-97; DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 26-1998(Temp), f. & cert. ef. 11-3-98 thru 3-19-99; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 8-2005, f. & cert. ef. 7-14-05; DEQ 2-2009, f. & cert. ef. 6-25-09; DEQ 5-2015, f. & cert. ef. 4-15-15; DEQ 5-2017, f. & cert. ef. 7-12-17

340-101-0004

Exclusions

(1) Residue described in 40 C.F.R. 261.4(b)(9) is exempted from divisions 100-106 and 109.

(2) Dry cleaning wastewater subject to the requirements in OAR 340 division 124 is not excluded under 40 C.F.R. 261.4(a)(1)(i) and (ii).

(3) The phrase “or labeled with equivalent wording describing the contents of the container and recognizing the exclusion” is added to the end of the first sentence in 40 C.F.R. 261.4(a)(26)(i) and 40 C.F.R. 261.4(b)(18)(i).

(4) The phrase “To a municipal solid waste landfill regulated under 40 C.F.R. part 258, including 40 C.F.R. 258.40, or” is deleted from 40 C.F.R. 261.4(b)(18)(vi)(A).

(5) The phrase “To a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or” in 40 C.F.R. 261.4(b)(18)(vi)(B) is deleted.

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, 466.180, 468.020, & 646

Stats. Implemented: ORS 466.015, 466.075, & 466.195

Hist.: DEQ 7-1984, f. & ef. 4-26-84; Superseded by DEQ 8-1985; DEQ 8-1985, f. & ef. 7-25-85; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 5-2017, f. & cert. ef. 7-12-17

340-102-0200

Academic Laboratories

(1) The reporting provisions of 40 C.F.R. 262.41 are deleted and replaced by OAR 340-102-0041(2).

(2) The phrase “associated with the container” regulated under 40 C.F.R. 262.206(a)(2), § 262.208(d)(1)(i), § 262.208(d)(2)(i), § 262.210(b)(2), § 262.211(e)(2), § 262.212(e)(2), and § 262.214(a)(1)(ii) is deleted.

(3) A Department or EPA Identification Number is required for all academic entities who opt into Subpart K by the provisions of OAR 340-102-0012 replacing the requirements of 40 C.F.R. 262.203(a);

(4) When notifying the Department as 40 C.F.R. 262.203(a) requires, to opt-in to Subpart K, an eligible academic entity is required to submit their completed Laboratory Management Plan as defined in 40 C.F.R. 262.214.

Stat. Auth.: ORS 183, 192, 459, 465.009, 466.015, 466.020, 466.075, 466.090, 466.105, 466.165, 466.195, 468, & 646

Stats. Implemented: ORS 466.075

Hist.: DEQ 5-2017, f. & cert. ef. 7-12-17

Rule Caption: Update Oregon’s air quality rules to address federal regulations

Adm. Order No.: DEQ 6-2017

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 7-13-17

Notice Publication Date: 12-1-2016

Rules Amended: 340-230-0500, 340-238-0040, 340-238-0060, 340-244-0030, 340-244-0220

Subject: DEQ recommended and the Environmental Quality Commission adopted rule amendments as part of Chapter 340 of the Oregon Administrative Rules that include:

- Incorporating new federal standards for crude oil and natural gas facilities; electric generating units; kraft pulp mills; and wool fiberglass manufacturing;

- Incorporating newly amended federal standards; and

- Amendments to the rule and state plan that implement the federal emission guidelines for commercial and industrial solid waste incineration units

Brief history

The federal Clean Air Act requires the U.S. Environmental Protection Agency to establish National Emission Standards for Hazardous Air Pollutants, known as NESHAPs, for both major and area sources of hazardous air pollutants. EPA finished establishing major source standards in 2004. EPA began establishing area source stan-

dards in 2006 and concluded in 2011. EPA may adopt additional NESHAPs in the future for new source categories.

The Clean Air Act also requires EPA to develop New Source Performance Standards for categories of sources that cause, or significantly contribute to, air pollution that may endanger public health or welfare. Such regulations apply to each new source within a category without regard to source location or existing air quality. When EPA establishes New Source Performance Standards for a category of sources, it may also establish emission guidelines for existing sources in the same category. States must develop rules and a state plan to implement Emission Guidelines or request delegation of the federal plan. State plans, called Section 111(d) plans, are subject to EPA review and approval.

EPA performs a residual risk analysis for major source NESHAPs and periodic technology reviews for New Source Performance Standards and NESHAPs. These reviews are ongoing and in some cases result in EPA updating the standards. EPA also revises NESHAPs to address errors, implementation issues and lawsuits.

Regulated parties

This rulemaking affects facilities subject to new and modified NESHAPs, New Source Performance Standards, and Emission Guidelines outlined below.

Outline

The Environmental Quality Commission:

1. Adopted new rules to incorporate by reference the new federal New Source Performance Standards for:

- a. Kraft pulp mills for which construction, reconstruction, or modification commences after May 23, 2013,

- b. Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after Sep. 18, 2015, and

- c. Greenhouse gas emissions for electric generating units.

2. Adopted new rules to incorporate by reference the new federal area source NESHAPs for wool fiberglass manufacturing.

3. Updated existing rules to incorporate the following federal changes by reference. These updates are incorporated into the rules by updating the version of the Code of Federal Regulations in the definitions in OAR Chapter 340 divisions 238 and 244, as described below:

- a. Amended federal area source NESHAPs for:

- Electric arc furnaces steelmaking facilities (residual risk and technology review)

- Polyvinyl chloride and copolymers production

- b. Amended federal major source NESHAPs for:
- Aerospace manufacturing and rework (residual risk and technology review)

- Amino and phenolic resin manufacturing (residual risk and technology review)

- Brick and structural clay products manufacturing

- Clay ceramics manufacturing

- Electric utility steam generating units

- Ferroalloys production: ferromanganese and silicomanganese

- Flexible polyurethane foam production (residual risk and technology review)

- Generic maximum achievable control technology (residual risk and technology review)

- Industrial, commercial, and industrial boilers and process heaters

- Marine tank loading operations

- Mineral wool production

- Offsite waste and recovery (residual risk and technology review)

- Pesticide active ingredient production (residual risk and technology review)

- Petroleum refineries

- Petroleum refineries - catalytic cracking, catalytic reforming and sulfur recovery

- Phosphate fertilizer production (residual risk and technology review)

- Phosphoric acid manufacturing (residual risk and technology review)

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- Polyether polyols production (residual risk and technology review)
- Polymer and resin production (residual risk and technology review)
- Portland cement manufacturing
- Primary aluminum reduction (residual risk and technology review)
- Secondary lead smelting
- c. Amended federal major and area source NESHAPs for:
 - Chromium electroplating and anodizing
 - Secondary aluminum production (residual risk and technology review)
- d. Amended federal New Source Performance Standards for:
 - Commercial and industrial solid waste incineration units
 - Crude oil and natural gas production, transmission and distribution
 - Electric utility steam generating units
 - Nitric acid plants
 - Onshore natural gas processing
 - Petroleum refineries
 - Phosphate fertilizer plants
 - Polymer manufacturing
 - Portland cement plants
 - Rubber tire manufacturing
 - Stationary gas turbines
 - Synthetic organic chemical manufacturing
- 4. Updated an existing rule and the state plan to implement federal changes to the emission guidelines for commercial and industrial solid waste incineration units

Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-230-0500

Municipal Waste Combustors: Emission Standards for Commercial and Industrial Solid Waste Incineration Units

(1) Purpose. This rule implements the emission guidelines and compliance schedules for the control of emissions from commercial and industrial solid waste incineration (CISWI) units.

(2) Definitions. Terms used in this rule are as defined in 40 C.F.R. 60.2875. In 40 C.F.R. 60.2875, substitute “is defined by the EPA administrator” for “is defined by the Administrator” and substitute “established by the EPA Administrator by rule” for “established by the Administrator by rule”.

(3) Compliance schedule.

(a) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before November 30, 1999, must achieve final compliance not later than April 20, 2017.

(b) CISWI units in the incinerator subcategory and air curtain incinerators, that commenced construction after November 30, 1999, but on or before June 4, 2010 or that commenced reconstruction or modification on or after June 1, 2001 but not later than August 7, 2013, and for CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories, that commenced construction before June 4, 2010, must achieve final compliance as quickly as possible but not later than February 7, 2018.

(4) Affected CISWI units.

(a) Incineration units that meet all of the following three criteria are affected CISWI units:

(A) CISWI units that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.

(B) Incineration units that meet the definition of a CISWI unit in 40 C.F.R. 60.2875.

(C) Incineration units not exempt under section (5) of this rule.

(b) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meets the definition of modification or reconstruction on or after August 7, 2013, the CISWI unit becomes subject to 40 C.F.R. Part 60 Subpart CCCC and this rule no longer applies to that unit.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this rule, then 40 C.F.R. Part 60 Subpart CCCC does not apply to that unit. Such changes do not qualify as modifications or reconstructions under 40 C.F.R. Part 60 Subpart CCCC.

(5) Exempt units. The types of units in subsections (5)(a) through (k) of this rule are exempt from this rule, but some units are required to provide notifications. Air curtain incinerators are exempt from the requirements of this rule except for the requirements in sections (7) and (8) of this rule.

(a) Pathological waste incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low level radioactive waste, and/or chemotherapeutic waste as defined in 40 C.F.R. 60.2875 if the owner or operator meets the following two requirements:

(A) Notify DEQ and EPA Administrator that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(b) Municipal waste combustion units that are subject to 40 C.F.R. Part 60 Subpart Cb (Emission Guidelines and Compliance Times for Large Municipal Combustors); Ea (Standards of Performance for Municipal Waste Combustors); Eb (Standards of Performance for Large Municipal Waste Combustors); AAAA (Standards of Performance for Small Municipal Waste Combustion Units); or BBBB (Emission Guidelines for Small Municipal Waste Combustion Units).

(c) Medical waste incineration units regulated under 40 C.F.R. Part 60 Subpart Ca (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators) or Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).

(d) Small power production facilities that meet the following four requirements:

(A) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. § 796(17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) The owner or operator submits documentation to DEQ and the EPA Administrator notifying DEQ and EPA that the qualifying small power production facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 C.F.R. 60.2740(v).

(e) Cogeneration facilities. Units that meet the following three requirements:

(A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. § 796(18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator submits documentation to DEQ and the EPA Administrator notifying DEQ and EPA that the qualifying cogeneration facility is combusting homogenous waste.

(D) The owner or operator maintains the records specified in 40 C.F.R. 60.2740(w).

(f) Hazardous waste combustion units for which the owner or operator is required to get a permit under section 3005 of the Solid Waste Disposal Act.

(g) Materials recovery units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

(h) Air curtain incinerators that burn only the following materials are only required to meet the requirements under section (8) of this rule and under “Air Curtain Incinerators” (section (7) of this rule):

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(i) Sewage treatment plants regulated under 40 C.F.R. Part 60 Subpart O (Standards of Performance for Sewage Treatment Plants).

(j) Sewage sludge incineration units combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter that are subject to 40 C.F.R. Part 60 Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units) or 40 C.F.R. Part 60 Subpart MMMM (Emission Guidelines for Sewage Sludge Incineration Units).

(k) Other solid waste incineration units that are subject to 40 C.F.R. Part 60 Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or after June 16, 2006) or 40 C.F.R. Part 60 Subpart FFFF (Emission

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Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004).

(6) Requirements for CISWI units.

(a) Increments of Progress and Achieving Final Compliance. The owner or operator of an affected CISWI unit must meet the following increments of progress:

(A) Submit a final control plan by August 7, 2017, and

(B) Achieve final compliance by February 7, 2018.

(b) Notifications of achievement of increments of progress.

Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress.

(C) Signature of the owner or operator of the CISWI unit or air curtain incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan that includes the following five items:

(i) A description of the devices for air pollution control and process changes that will be used to comply with the emission limitations and other requirements of this rule.

(ii) The type(s) of waste to be burned.

(iii) The maximum design waste burning capacity.

(iv) The anticipated maximum charge rate.

(v) If applicable, the petition for site-specific operating limits under subsection (6)(k) of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing a CISWI unit.

(A) If closing a CISWI unit but restarting it prior to the final compliance date, the owner or operator must meet the increments of progress.

(B) If closing a CISWI unit but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations and operating limits on the date the unit restarts operation.

(C) If planning to close a CISWI unit rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(g) Waste management plan. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2620 through 60.2630. In 40 C.F.R. 60.2625, substitute "OAR 340-230-0500(6)(a)(A)" for "table 1 of this subpart".

(h) Operator training and qualification. Owners or operators of affected CISWI units must comply with 40 C.F.R. 60.2635 through 60.2665. In 40 C.F.R. 60.2665(b)(1), substitute "DEQ" for "the Administrator". In 40 C.F.R. 60.2665(b)(2) and (b)(2)(ii), substitute "EPA Administrator" for "Administrator".

(i) Emission limitations. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2670 with the following changes:

(A) In 40 C.F.R. 60.2670(a), substitute "in OAR 340-230-0500(3)" for "under the approved state plan, federal plan, or delegation, as applicable".

(B) Table 2 to 40 C.F.R. Part 60 Subpart DDDD applies only to CISWI units that were subject to the Federal plan in 40 C.F.R. Part 62 Subpart III (Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units) prior to June 4, 2010.

(C) In Table 2 to 40 C.F.R. Part 60 Subpart DDDD, substitute "February 7, 2018" for "[DATE TO BE SPECIFIED IN STATE PLAN]".

(D) In Tables 6 through 9 to 40 C.F.R. Part 60 Subpart DDDD, substitute "February 7, 2018" for "[DATE TO BE SPECIFIED IN STATE PLAN]".

(j) Operating limits. Owners and operators of affected CISWI units must comply with 40 C.F.R. 60.2675.

(k) Site-specific operating limit. Owners and operators of affected CISWI units may request a site-specific operating limit in accordance with 40 C.F.R. 60.2680.

(l) Compliance demonstration. Owners and operators of affected CISWI units must demonstrate compliance with this rule in accordance with 40 C.F.R. 60.2690 through 60.2800.

(A) In 40 C.F.R. 60.2720(a)(1), substitute "DEQ or the EPA Administrator may request" for "The Administrator may request".

(B) In 40 C.F.R. 60.2720(a)(3), substitute "request by DEQ or the EPA Administrator" for "request by the Administrator".

(C) In 40 C.F.R. 60.2725(a), substitute "DEQ or the EPA Administrator may request" for "The Administrator may request".

(D) In 40 C.F.R. 60.2730(n)(1) and (n)(2), substitute "Notify DEQ" for "Notify the Administrator".

(E) In 40 C.F.R. 60.2730(n)(4), substitute "notification to DEQ" for "notification to the Administrator".

(F) In 40 C.F.R. 60.2745, substitute "DEQ" for "the Administrator".

(G) In 40 C.F.R. 60.2785(a)(2), (a)(2)(iii), and (b), substitute "DEQ" for "the Administrator".

(H) In 40 C.F.R. 60.2795(a), (b)(1)(ii) and (b)(2)(ii), substitute "DEQ and the EPA Administrator" for "the Administrator".

(I) In 40 C.F.R. 60.2800, substitute "DEQ" for "the Administrator".

(7) Requirements for air curtain incinerators.

(a) An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

(b) Increments of Progress. The owner or operator must meet the following increments of progress:

(A) Submit a final control plan by August 7, 2017, and

(B) Achieve final compliance by February 7, 2018.

(c) Notifications of achievement of increments of progress. Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment. The notification of achievement of increments of progress must include the following three items:

(A) Notification that the increment of progress has been achieved.

(B) Any items required to be submitted with each increment of progress (see subsection (7)(d) of this rule).

(C) Signature of the owner or operator of the incinerator.

(c) Failure to meet an increment of progress. If failing to meet an increment of progress, the owner or operator must submit a notification to DEQ and the EPA Administrator postmarked within 10 business days after the date for that increment of progress. The owner or operator must inform DEQ and the EPA Administrator of the failure to meet the increment, and must continue to submit reports each subsequent calendar month until the increment of progress is met.

(d) Complying with the increment of progress for submittal of a control plan. For the control plan increment of progress, the owner or operator must satisfy the following two requirements:

(A) Submit the final control plan, including a description of any devices for air pollution control and any process changes that will be used to comply with the emission limitations and other requirements of this rule.

(B) Maintain an onsite copy of the final control plan.

(e) Complying with the increment of progress for achieving final compliance. For the final compliance increment of progress, the owner or operator must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

(f) Closing an air curtain incinerator.

(A) If closing an air curtain incinerator but reopening it prior to the final compliance date, the owner or operator must meet the increments of progress in subsection (7)(b) of this rule.

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(B) If closing an air curtain incinerator but restarting it after the final compliance date, the owner or operator must complete emission control retrofits and meet the emission limitations on the date the incinerator restarts operation.

(g) If planning to close an air curtain incinerator rather than comply with this rule, the owner or operator must submit a closure notification, including the date of closure, to DEQ and the EPA Administrator by the date the final control plan is due.

(h) Emission limitations. After the date the initial stack test is required or completed (whichever is earlier, the owner or operator of the affected air curtain incinerator must comply with the following:

(A) Maintain opacity to less than or equal to 10 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values), except as described in paragraph (7)(h)(B) of this rule; and

(B) Maintain opacity to less than or equal to 35 percent opacity (as determined by the average of three 1- hour blocks consisting of ten 6-minute average opacity values) during the startup period that is within the first 30 minutes of operation.

(i) Compliance demonstration. The owners or operator of the affected air curtain incinerator must demonstrate compliance with this rule as follows and in accordance with 40 C.F.R. 60.2870. In 40 C.F.R. 60.2870(a) and (b), substitute "DEQ or the EPA Administrator" for "the Administrator".

(A) Use Method 9 of appendix A of 40 C.F.R. Part 60 to determine compliance with the opacity limitation.

(B) Conduct an initial test for opacity as specified in 40 C.F.R. 60.8 no later than 180 days after the owner or operator's final compliance date.

(C) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of the owner or operator's previous test.

(8) Permitting requirements. CISWI units and air curtain incinerators subject to this rule must operate pursuant to a permit issued under the Oregon Title V Operating Permit program requirements as specified in OAR 340 divisions 218 and 220.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 8-2015, f. & cert. ef. 4-17-15; DEQ 6-2017, f. & cert. ef. 7-13-17

340-238-0040

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

(3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

(4) "C.F.R." means the July 1, 2016 edition Code of Federal Regulations unless otherwise identified.

(5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 C.F.R. 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

(6) "Commenced", with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(7) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste disposition.

(8) "Existing facility", with reference to a stationary source, means any apparatus of the type for which a standard is promulgated in 40 C.F.R. Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus that could be altered in such a way as to be of that type.

(9) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(10) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.

(11) "Modification:"

(a) Except as provided in subsection (b) of this section, means any physical change in, or change in the method of operation of, an existing facility that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;

(b) As used in OAR 340-238-0100 means an action that results in an increase in the design capacity of a landfill.

(12) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).

(13) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.

(14) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(b) It is technologically and economically feasible to meet the applicable standards set forth in 40 C.F.R. Part 60.

(15) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 C.F.R. Part 60.

(16) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

(17) "Standard" means a standard of performance proposed or promulgated under 40 C.F.R. Part 60.

(18) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 C.F.R. Part 60.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15; DEQ 6-2017, f. & cert. ef. 7-13-17

340-238-0060

Federal Regulations Adopted by Reference

(1) Except as provided in section (2) of this rule, 40 C.F.R. Part 60 Subparts A, D through EE, GG, HH, KK through NN, PP, QQ, TT through XX, BBB, DDD, FFF through LLL, NNN through WWW, AAAA, CCCC, EEEE, KKKK, LLLL, OOOO, and TTTT are by this reference adopted and incorporated herein, 40 C.F.R. Part 60 Subpart OOO is by this reference adopted and incorporated herein for major sources only, 40 C.F.R. Part 60 Subpart IIII and JJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit and excluding the requirements for engine manufacturers.

(2) Where "Administrator" or "EPA" appears in 40 C.F.R. Part 60, "DEQ" is substituted, except in any section of 40 C.F.R. Part 60 for which a federal rule or delegation specifically indicates that authority must not be delegated to the state.

ADMINISTRATIVE RULES

(3) 40 C.F.R. Part 60 Subparts adopted by this rule are titled as follows:

- (a) Subpart A — General Provisions;
- (b) Subpart D — Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971;
- (c) Subpart Da — Electric utility steam generating units for which construction is commenced after September 18, 1978;
- (d) Subpart Db — Industrial-commercial-institutional steam generating units;
- (e) Subpart Dc — Small industrial-commercial-institutional steam generating units;
- (f) Subpart E — Incinerators;
- (g) Subpart Ea — Municipal waste combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994;
- (h) Subpart Eb — Municipal waste combustors for which construction is commenced after September 20, 1994;
- (i) Subpart Ec — Hospital/Medical/Infectious waste incinerators that commenced construction after June 20, 1996, or for which modification is commenced after March 16, 1998;
- (j) Subpart F — Portland cement plants;
- (k) Subpart G — Nitric acid plants;
- (l) Subpart Ga — Nitric acid plants for which construction, reconstruction, or modification commenced after October 14, 2011;
- (m) Subpart H — Sulfuric acid plants;
- (n) Subpart I — Hot mix asphalt facilities;
- (o) Subpart J — Petroleum refineries;
- (p) Subpart K — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and before May 19, 1978;
- (q) Subpart Ka — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and before July 23, 1984;
- (r) Subpart Kb — Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984;
- (s) Subpart L — Secondary lead smelters;
- (t) Subpart M — Secondary brass and bronze production plants;
- (u) Subpart N — Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973;
- (v) Subpart Na — Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983;
- (w) Subpart O — Sewage treatment plants;
- (x) Subpart P — Primary copper smelters;
- (y) Subpart Q — Primary Zinc smelters;
- (z) Subpart R — Primary lead smelters;
- (aa) Subpart S — Primary aluminum reduction plants;
- (bb) Subpart T — Phosphate fertilizer industry: wet-process phosphoric acid plants;
- (cc) Subpart U — Phosphate fertilizer industry: superphosphoric acid plants;
- (dd) Subpart V — Phosphate fertilizer industry: diammonium phosphate plants;
- (ee) Subpart W — Phosphate fertilizer industry: triple superphosphate plants;
- (ff) Subpart X — Phosphate fertilizer industry: granular triple superphosphate storage facilities;
- (gg) Subpart Y — Coal preparation plants;
- (hh) Subpart Z — Ferroalloy production facilities;
- (ii) Subpart AA — Steel plants: electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983;
- (jj) Subpart AAa — Steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983;
- (kk) Subpart BB — Kraft pulp mills;
- (ll) Subpart BBa — Kraft pulp mills affected sources for which construction, reconstruction, or modification commences after May 23, 2013
- (mm) Subpart CC — Glass manufacturing plants;
- (nn) Subpart DD — Grain elevators.
- (oo) Subpart EE — Surface coating of metal furniture;
- (pp) Subpart GG — Stationary gas turbines;
- (qq) Subpart HH — Lime manufacturing plants;
- (rr) Subpart KK — Lead-acid battery manufacturing plants;
- (ss) Subpart LL — Metallic mineral processing plants;

- (tt) Subpart MM — Automobile and light-duty truck surface coating operations;
- (uu) Subpart NN — Phosphate rock plants;
- (vv) Subpart PP — Ammonium sulfate manufacture;
- (ww) Subpart QQ — Graphic arts industry: publication rotogravure printing;
- (xx) Subpart RR — pressure sensitive tape and label surface coating operations;
- (yy) Subpart SS — Industrial surface coating: large appliances;
- (zz) Subpart TT — Metal coil surface coating;
- (aaa) Subpart UU — Asphalt processing and asphalt roofing manufacture;
- (bbb) Subpart VV — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (ccc) Subpart VVa — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
- (ddd) Subpart WW — Beverage can surface coating industry;
- (eee) Subpart XX — Bulk gasoline terminals;
- (fff) Subpart BBB — Rubber tire manufacturing industry;
- (ggg) Subpart DDD — Volatile organic compound (VOC) emissions for the polymer manufacture industry;
- (hhh) Subpart FFF — Flexible vinyl and urethane coating and printing;
- (iii) Subpart GGG — Equipment leaks of VOC in petroleum refineries;
- (jjj) Subpart GGGa — Equipment leaks of VOC in petroleum refineries;
- (kkk) Subpart HHH — Synthetic fiber production facilities;
- (lll) Subpart III — Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;
- (mmm) Subpart JJJ — Petroleum dry cleaners;
- (nnn) Subpart KKK — Equipment leaks of VOC from onshore natural gas processing plants;
- (ooo) Subpart LLL — Onshore natural gas processing; SO₂ emissions;
- (ppp) Subpart NNN — Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;
- (qqq) Subpart OOO — Nonmetallic mineral processing plants (adopted by reference for major sources only);
- (rrr) Subpart PPP — Wool fiberglass insulation manufacturing plants;
- (sss) Subpart QQQ — VOC emissions from petroleum refinery wastewater systems;
- (ttt) Subpart RRR — Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;
- (uuu) Subpart SSS — Magnetic tape coating facilities;
- (vvv) Subpart TTT — Industrial surface coating: surface coating of plastic parts for business machines;
- (www) Subpart UUU — Calciners and dryers in mineral industries;
- (xxx) Subpart VVV — Polymeric coating of supporting substrates facilities;
- (yyy) Subpart WWW — Municipal solid waste landfills, as clarified by OAR 340-238-0100;
- (zzz) Subpart AAAA — Small municipal waste combustion units;
- (aaaa) Subpart CCCC — Commercial and industrial solid waste incineration units;
- (bbbb) Subpart EEEE — Other solid waste incineration units;
- (cccc) Subpart IIII — Stationary compression ignition internal combustion engines (adopted only for sources required to have a Title V or ACDP permit), excluding the requirements for engine manufacturers (40 C.F.R. 60.4201 through 60.4203, 60.4210, 60.4215, and 60.4216);
- (dddd) Subpart JJJJ — Stationary spark ignition internal combustion engines (adopted only for sources required to have a Title V or ACDP permit), excluding the requirements for engine manufacturers (40 C.F.R. 60.4231 through 60.4232, 60.4238 through 60.4242, and 60.4247);
- (eeee) Subpart KKKK — Stationary combustion turbines;
- (ffff) Subpart LLLL — Sewage sludge incineration units;
- (gggg) Subpart OOOO — Crude oil and natural gas production, transmission and distribution;
- (hhhh) Subpart OOOOa — Crude oil and natural gas facilities for which construction, modification, or reconstruction commenced after September 18, 2015;

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(iiii) Subpart TTTT — Greenhouse gas emissions for electric generating units.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. & cert. ef. 9-25-75; DEQ 16-1981, f. & cert. ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605; DEQ 22-1982, f. & cert. ef. 10-21-82; DEQ 17-1983, f. & cert. ef. 10-19-83; DEQ 16-1984, f. & cert. ef. 8-21-84; DEQ 15-1985, f. & cert. ef. 10-21-85; DEQ 19-1986, f. & cert. ef. 11-7-86; DEQ 17-1987, f. & cert. ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0535; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15; DEQ 6-2017, f. & cert. ef. 7-13-17

340-244-0030

General Provisions for Stationary Sources: Definitions

The definitions in OAR 340-200-0020, 340-218-0030 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

(1) “Affected source” is as defined in 40 C.F.R. 63.2.

(2) “Annual throughput” means the amount of gasoline transferred into a gasoline dispensing facility during 12 consecutive months.

(3) “Area Source” means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.

(4) “C.F.R.” means the July 1, 2016 edition Code of Federal Regulations unless otherwise identified.

(5) “Construct a major source” means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP; or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (a) through (f) of this definition:

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of 40 C.F.R. Part 63, Subpart B will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b) DEQ has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 C.F.R. Part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or DEQ determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) DEQ determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) DEQ has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, DEQ has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by DEQ are predicated will be construed by DEQ as applicable requirements under section 504(a) and either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

(6) “Dual-point vapor balance system” means a type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

(7) “Emissions Limitation” and “Emissions Standard” mean a requirement adopted by DEQ or Regional Agency, or proposed or promul-

gated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(8) “Equipment leaks” means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.

(9) “Existing Source” means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.

(10) “Facility” means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including, but not limited to, ships.

(11) “Gasoline” means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psi) or greater, which is used as a fuel for internal combustion engines.

(12) “Gasoline cargo tank” means a delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load.

(13) “Gasoline dispensing facility (GDF)” means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment. In Clackamas, Multnomah and Washington Counties, the Medford-Ashland Air Quality Maintenance Area, and the Salem-Keizer Area Transportation Study area, “gasoline dispensing facility” includes any stationary facility which dispenses gasoline into the fuel tank of an airplane.

(14) “Hazardous Air Pollutant” (HAP) means an air pollutant listed by the EPA under section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(15) “Major Source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(16) “Maximum Achievable Control Technology (MACT)” means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.

(17) “Monthly throughput” means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at each GDF during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the current day, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at each GDF during the previous 364 days, and then dividing that sum by 12.

(18) “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(19) “Nonroad engine” means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 of this title or section 7521 of this title.

(20) “Nonroad vehicle” means a vehicle that is powered by a nonroad engine, and that is not a motor vehicle or a vehicle used solely for competition.

(21) “New Source” means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(22) “Potential to Emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is

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enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term “capacity factor” as used in Title IV of the Act or the regulations promulgated under it. Secondary emissions shall not be considered in determining the potential to emit of a source.

(23) “Reconstruct a Major Source” means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under 40 C.F.R. Part 63 Subpart B.

(24) “Regulated Air Pollutant” as used in this Division means:

(a) Any pollutant listed under OAR 340-244-0040; or

(b) Any pollutant that is subject to a standard promulgated under Section 129 of the Act.

(25) “Section 112(n)” means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(26) “Section 112(r)” means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(27) “Solid Waste Incineration Unit” as used in this Division shall have the same meaning as given in Section 129(g) of the FCAA.

(28) “Stationary Source”, as used in OAR 340 division 244, means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

(29) “Submerged filling” means the filling of a gasoline storage tank through a submerged fill pipe whose discharge is no more than the applicable distance specified in OAR 340-244-0240(3) from the bottom of the tank. Bottom filling of gasoline storage tanks is included in this definition.

(30) “Topping off” means, in the absence of equipment malfunction, continuing to fill a gasoline tank after the nozzle has clicked off.

(31) “Vapor balance system” means a combination of pipes and hoses that create a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank such that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

(32) “Vapor-tight” means equipment that allows no loss of vapors. Compliance with vapor-tight requirements can be determined by checking to ensure that the concentration at a potential leak source is not equal to or greater than 100 percent of the Lower Explosive Limit when measured with a combustible gas detector, calibrated with propane, at a distance of 1 inch from the source.

(33) “Vapor-tight gasoline cargo tank” means a gasoline cargo tank which has demonstrated within the 12 preceding months that it meets the annual certification test requirements in 40 C.F.R. 63.11092(f).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020 & 468A.025

Stats. Implemented: ORS 468A.040

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 20-1997, f. & cert. ef. 9-25-97; DEQ 18-1998, f. & cert. ef. 10-5-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 8-2015, f. & cert. ef. 4-17-15; DEQ 6-2017, f. & cert. ef. 7-13-17

340-244-0220

Emission Standards: Federal Regulations Adopted by Reference

(1) Except as provided in sections (2) and (3) of this rule, 40 C.F.R. Part 61, Subparts A, C through F, J, L, N through P, V, Y, BB, and FF and 40 C.F.R. Part 63, Subparts A, F through J, L through O, Q through U, W through Y, AA through EE, GG through YY, CCC through EEE, GGG through JJJ, LLL through RRR, TTT through VVV, XXX, AAAA, CCCC through KKKK, MMMM through YYYYY, AAAAA through NNNN, PPPP through UUUU, WWWW, YYYYY, ZZZZ, BBBB, DDDDD through FFFFF, LLLLLL through TTTTT, VVVVV through EEEEE, and HHHHHH are adopted by reference and incorporated herein, and 40 C.F.R. Part 63, Subparts ZZZZ and JJJJJ are by this reference adopted and incorporated herein only for sources required to have a Title V or ACDP permit.

(2) Where “Administrator” or “EPA” appears in 40 C.F.R. Part 61 or 63, “DEQ” is substituted, except in any section of 40 C.F.R. Part 61 or 63,

for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) 40 C.F.R. Part 63 Subpart M — Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 C.F.R. 63.320(d) and (e) do not apply.

(4) 40 C.F.R. Part 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart C — Beryllium;

(c) Subpart D — Beryllium Rocket Motor Firing;

(d) Subpart E — Mercury;

(e) Subpart F — Vinyl Chloride;

(f) Subpart J — Equipment Leaks (Fugitive Emission Sources) of Benzene;

(g) Subpart L — Benzene Emissions from Coke By-Product Recovery Plants;

(h) Subpart N — Inorganic Arsenic Emissions from Glass Manufacturing Plants;

(i) Subpart O — Inorganic Arsenic Emissions from Primary Copper Smelters;

(j) Subpart P — Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;

(k) Subpart V — Equipment Leaks (Fugitive Emission Sources);

(l) Subpart Y — Benzene Emissions from Benzene Storage Vessels;

(m) Subpart BB — Benzene Emissions from Benzene Transfer Operations; and

(n) Subpart FF — Benzene Waste Operations.

(5) 40 C.F.R. Part 63 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart F — SOCFMI;

(c) Subpart G — SOCFMI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;

(d) Subpart H — SOCFMI — Equipment Leaks;

(e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;

(f) Subpart J — Polyvinyl Chloride and Copolymers Production;

(g) Subpart L — Coke Oven Batteries;

(h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;

(i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;

(j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;

(k) Subpart Q — Industrial Process Cooling Towers;

(l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);

(m) Subpart S — Pulp and Paper Industry;

(n) Subpart T — Halogenated Solvent Cleaning;

(o) Subpart U — Group I Polymers and Resins;

(p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;

(q) Subpart X — Secondary Lead Smelting;

(r) Subpart Y — Marine Tank Vessel Loading Operations;

(s) Subpart AA — Phosphoric Acid Manufacturing Plants;

(t) Subpart BB — Phosphate Fertilizer Production Plants;

(u) Subpart CC — Petroleum Refineries;

(v) Subpart DD — Off-Site Waste and Recovery Operations;

(w) Subpart EE — Magnetic Tape Manufacturing Operations;

(x) Subpart GG — Aerospace Manufacturing and Rework Facilities;

(y) Subpart HH — Oil and Natural Gas Production Facilities;

(z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);

(aa) Subpart JJ — Wood Furniture Manufacturing Operations;

(bb) Subpart KK — Printing and Publishing Industry;

(cc) Subpart LL — Primary Aluminum Reduction Plants;

(dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;

(ee) Subpart NN — Area Sources: Wool Fiberglass Manufacturing;

(ff) Subpart OO — Tanks — Level 1;

(gg) Subpart PP — Containers;

(hh) Subpart QQ — Surface Impoundments;

(ii) Subpart RR — Individual Drain Systems;

(jj) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;

(kk) Subpart TT — Equipment Leaks — Control Level 1;

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- (ll) Subpart UU — Equipment Leaks — Control Level 2;
(mm) Subpart VV — Oil-Water Separators and Organic-Water Separators;
(nn) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
(oo) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
(pp) Subpart YY — Generic Maximum Achievable Control Technology Standards;
(qq) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
(rr) Subpart DDD — Mineral Wool Production;
(ss) Subpart EEE — Hazardous Waste Combustors;
(tt) Subpart GGG — Pharmaceuticals Production;
(uu) Subpart HHH — Natural Gas Transmission and Storage Facilities;
(vv) Subpart III — Flexible Polyurethane Foam Production;
(ww) Subpart JJJ — Group IV Polymers and Resins;
(xx) Subpart LLL — Portland Cement Manufacturing Industry;
(yy) Subpart MMM — Pesticide Active Ingredient Production;
(zz) Subpart NNN — Wool Fiberglass Manufacturing;
(aaa) Subpart OOO — Manufacture of Amino/Phenolic Resins;
(bbb) Subpart PPP — Polyether Polyols Production;
(ccc) Subpart QQQ — Primary Copper Smelting;
(ddd) Subpart RRR — Secondary Aluminum Production;
(eee) Subpart TTT — Primary Lead Smelting;
(fff) Subpart UUU — Petroleum Refineries — Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;
(ggg) Subpart VVV — Publicly Owned Treatment Works;
(hhh) Subpart XXX — Ferroalloys Production: Ferromanganese and Silicomanganese;
(iii) Subpart AAAA — Municipal Solid Waste Landfills;
(jjj) Subpart CCCC — Manufacturing of Nutritional Yeast;
(kkk) Subpart DDDD — Plywood and Composite Wood Products;
(lll) Subpart EEEE — Organic Liquids Distribution (non-gasoline);
(mmm) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;
(nnn) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;
(ooo) Subpart HHHH — Wet Formed Fiberglass Mat Production;
(ppp) Subpart IIII — Surface Coating of Automobiles and Light-Duty Trucks;
(qqq) Subpart JJJJ — Paper and Other Web Coating;
(rrr) Subpart KKKK — Surface Coating of Metal Cans;
(sss) Subpart MMMM — Surface Coating of Miscellaneous Metal Parts and Products;
(ttt) Subpart NNNN — Surface Coating of Large Appliances;
(uuu) Subpart OOOO — Printing, Coating, and Dyeing of Fabrics and Other Textiles;
(vvv) Subpart PPPP — Surface Coating of Plastic Parts and Products;
(www) Subpart QQQQ — Surface Coating of Wood Building Products;
(xxx) Subpart RRRR — Surface Coating of Metal Furniture;
(yyy) Subpart SSSS — Surface Coating of Metal Coil;
(zzz) Subpart TTTT — Leather Finishing Operations;
(aaaa) Subpart UUUU — Cellulose Production Manufacturing;
(bbbb) Subpart VVVV — Boat Manufacturing;
(cccc) Subpart WWWW — Reinforced Plastics Composites Production;
(dddd) Subpart XXXX — Rubber Tire Manufacturing;
(eeee) Subpart YYYYY — Stationary Combustion Turbines;
(ffff) Subpart ZZZZ — Reciprocating Internal Combustion Engines (adopted only for sources required to have a Title V or ACDP permit);
(gggg) Subpart AAAAA — Lime Manufacturing;
(hhhh) Subpart BBBB — Semiconductor Manufacturing;
(iiii) Subpart CCCCC — Coke Ovens: Pushing, Quenching & Battery Stacks;
(jjjj) Subpart DDDDD — Industrial, Commercial, and Institutional Boilers and Process Heaters;
(kkkk) Subpart EEEEE — Iron and Steel Foundries;
(llll) Subpart FFFFF — Integrated Iron and Steel Manufacturing Facilities;
(mmmm) Subpart GGGGG — Site Remediation;
(nnnn) Subpart HHHHH — Misc. Coating Manufacturing;
(oooo) Subpart IIIII — Mercury Cell Chlor-Alkali Plants;
(pppp) Subpart JJJJJ — Brick and Structural Clay Products Manufacturing;
(qqqq) Subpart KKKKK — Clay Ceramics Manufacturing;
(rrrr) Subpart LLLLL — Asphalt Processing & Asphalt Roofing Manufacturing;
(ssss) Subpart MMMMM — Flexible Polyurethane Foam Fabrication Operations;
(tttt) Subpart NNNNN — Hydrochloric Acid Production;
(uuuu) Subpart PPPPP — Engine Tests Cells/Stands;
(vvvv) Subpart QQQQQ — Friction Materials Manufacturing Facilities;
(wwww) Subpart RRRRR — Taconite Iron Ore Processing;
(xxxx) Subpart SSSSS — Refractory Products Manufacturing;
(yyyy) Subpart TTTTT — Primary Magnesium Refining;
(zzzz) Subpart UUUUU — Coal- and Oil-Fired Electric Utility Steam Generating Units;
(aaaaa) Subpart WWWW — Area Sources: Hospital Ethylene Oxide Sterilization;
(bbbbb) Subpart YYYYY — Area Sources: Electric Arc Furnace Steelmaking Facilities;
(ccccc) Subpart ZZZZZ — Area Sources: Iron and Steel Foundries;
(ddddd) Subpart BBBB — Area Sources: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities;
(eeeee) Subpart DDDDD — Area Sources: Polyvinyl Chloride and Copolymers Production;
(ffffff) Subpart EEEEE — Area Sources: Primary Copper Smelting;
(ggggg) Subpart FFFFF — Area Sources: Secondary Copper Smelting;
(hhhhh) Subpart GGGGG — Area Sources: Primary Nonferrous Metals — Zinc, Cadmium, and Beryllium;
(iiiiii) Subpart HHHHH — Area Sources: Paint Stripping and Miscellaneous Surface Coating Operations;
(jjjjj) Subpart JJJJJ — Area Sources: Industrial, Commercial, and Institutional Boilers (adopted only for sources required to have a Title V or ACDP permit);
(kkkkk) Subpart LLLLLL — Area Sources: Acrylic and Modacrylic Fibers Production;
(lllll) Subpart MMMMM — Area Sources: Carbon Black Production;
(mmmmm) Subpart NNNNN — Area Sources: Chemical Manufacturing: Chromium Compounds;
(nnnnn) Subpart OOOOO — Area Sources: Flexible Polyurethane Foam Production;
(ooooo) Subpart PPPPP — Area Sources: Lead Acid Battery Manufacturing;
(ppppp) Subpart QQQQQ — Area Sources: Wood Preserving;
(qqqqq) Subpart RRRRR — Area Sources: Clay Ceramics Manufacturing;
(rrrrr) Subpart SSSSS — Area Sources: Glass Manufacturing;
(sssss) Subpart TTTTT — Area Sources: Secondary Nonferrous Metals Processing;
(ttttt) Subpart VVVVV — Area Sources: Chemical Manufacturing;
(uuuuu) Subpart WWWW — Area Source: Plating and Polishing Operations;
(vvvvv) Subpart XXXXX — Area Source: Nine Metal Fabrication and Finishing Source Categories;
(wwwww) Subpart YYYYY — Area Sources: Ferroalloys Production Facilities;
(xxxxx) Subpart ZZZZZ — Area Sources: Aluminum, Copper, and Other Nonferrous Foundries;
(yyyyy) Subpart AAAAAA — Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing;
(zzzzz) Subpart BBBB — Area Sources: Chemical Preparations Industry;
(aaaaa) Subpart CCCCC — Area Sources: Paints and Allied Products Manufacturing;
(bbbbb) Subpart DDDDD — Area Sources: Prepared Feeds Manufacturing;
(ccccc) Subpart EEEEE — Area Sources: Gold Mine Ore Processing and Production;
(ddddd) Subpart HHHHH — Polyvinyl Chloride and Copolymers Production.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: [DEQ 16-1995, f. & cert. ef. 6-21-95; DEQ 28-1996, f. & cert. ef. 12-19-96; DEQ 18-1998, f. & cert. ef. 10-5-98]; [DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 32-1994, f. & cert. ef. 12-22-94]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-

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(2) PSELs will be set only for individual or combined HAPs and will not list HAPs by name. The PSEL will be set on a rolling 12 month basis and will be either:

(a) The generic PSEL if the permittee proposes a limit less than that level; or

(b) The level the permittee establishes necessary for the source if greater than the generic PSEL.

(3) The alternative emissions controls (bubble) provisions of OAR 340-226-0400 do not apply to emissions of HAPs.

Stat. Auth.: ORS 468.020, 468A.025, 468A.040 & 468A.310

Stats. Implemented: ORS 468A

Hist.: DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1050; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2015, f. & cert. ef. 4-16-15; DEQ 7-2017, f. & cert. ef. 7-13-17

Department of Fish and Wildlife Chapter 635

Rule Caption: Malheur River and McDermitt Creek Sport Fishery Opens June 27, 2017

Adm. Order No.: DFW 77-2017(Temp)

Filed with Sec. of State: 6-20-2017

Certified to be Effective: 6-27-17 thru 12-23-17

Notice Publication Date:

Rules Amended: 635-021-0090

Subject: This amended rule allows the recreational harvest of spring Chinook salmon in the Malheur River from the Bluebucket Creek confluence upstream to the headwaters of McCoy Creek, Lake Creek, Big Creek and tributaries, and Bosonberg Creek from June 27 through August 15, 2017. The daily bag limit is two hatchery spring Chinook salmon, with two daily limits in possession. Burns Paiute Tribal members participating in this experimental spring Chinook fishery are required to have a valid tribal identification card in their possession. This amendment also allows for the McDermitt Creek to open beginning June 27, 2017 until further notice. The use of artificial flies and lures is allowed with an 8-inch minimum length and one trout over 20 inches may be taken per day. No size or amount limits on brook trout.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-021-0090

Inclusions and Modifications

(1) 2017 Oregon Sport Fishing Regulations provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2017 Oregon Sport Fishing Regulations.

(2) The Malheur River is open to angling for spring Chinook salmon on the mainstem river from the Bluebucket Creek confluence upstream to the headwaters of McCoy Creek, Lake Creek, Big Creek and tributaries, and Bosonberg Creek from June 27 through August 15, 2017.

(a) The daily bag limit is two (2) hatchery spring Chinook salmon; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone regulations, as provided in the 2017 Oregon Sport Fishing Regulations, remain in effect.

(3) Burns Paiute Tribal Members participating in this experimental spring Chinook fishery are governed by the conditions and limitations established in the Burns Paiute Tribal Fishing Code.

(a) Burns Paiute Tribal members are not required to have an ODFW angling license or report catch on an ODFW combined angling tag when fishing for spring Chinook in the area described above in section (2).

(b) Burns Paiute Tribal members must have a valid tribal identification card in their possession.

(c) When fishing for any species other than spring Chinook, an ODFW angling license is required and General, Statewide and Southeast Zone regulations, as provided in the 2017 Oregon Sport Fishing Regulations, remain in effect.

(4) Effective June 27, 2017 the McDermitt Creek is open to angling until further notice.

(a) The daily bag limit is two (2) trout per day; two daily limits in possession.

(b) Artificial flies and lures are allowed.

(c) Size limit is eight (8) inch minimum and only one trout over 20 inches in length may be taken per day.

(d) There is no limit on size or number of brook trout that may be taken.

Stat. Auth.: ORS 183.325, 496.138, 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 121-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 37-2016(Temp), f. 4-26-16, cert. ef. 5-1-16 thru 10-27-16; DFW 58-2016(Temp), f. 5-25-16, cert. ef. 6-8-16 thru 9-1-16; DFW 105-2016, f. & cert. ef. 8-10-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 1-2017(Temp), f. & cert. ef. 1-18-17 thru 4-21-17; Administrative correction, 6-5-17; DFW 77-2017(Temp), f. 6-20-17, cert. ef. 6-27-17 thru 12-23-17

Rule Caption: Pacific Halibut Recreational Nearshore Season from Leadbetter Point, WA to Cape Falcon, OR Closed

Adm. Order No.: DFW 78-2017(Temp)

Filed with Sec. of State: 6-21-2017

Certified to be Effective: 6-23-17 thru 9-30-17

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: This amended rule closes the recreational nearshore Pacific halibut season in the area between Leadbetter Point, Washington and Cape Falcon, Oregon beginning at 11:59 p.m. Friday, June 23, 2017. The National Oceanic & Atmospheric Administration (NOAA), International Pacific Halibut Commission (IPHC), Washington Department of Fish and Wildlife (WDFW), and the Department (ODFW) conferred on June 21, 2017 and determined that the entire subarea quota had been taken.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference:

(a) Title 50 of the Code of Federal Regulations, Part 300, Subpart E (October 1, 2016 ed.), as amended;

(b) Federal Register Vol. 82, No. 43, dated March 7, 2017; and

(c) Federal Register Vol. 82, No. 75, dated April 20, 2017.

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 039 to determine applicable halibut fishing seasons.

ADMINISTRATIVE RULES

(3) Effective 11:59 p.m., Thursday, May 25, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is closed to the retention of Pacific halibut.

(4) Beginning 12:01 a.m., Thursday, June 8, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is open to the retention of Pacific halibut seven days per week.

(5) Effective at 11:59 p.m. Friday, June 23, 2017, the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is closed to the retention of Pacific halibut.

[Publications: Publications referenced are available from the agency]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 84-2012(Temp), f. & cert. ef. 7-5-12 thru 8-2-12; DFW 91-2012(Temp), f. 7-19-12, cert. ef. 7-22-12 thru 10-31-12; DFW 111-2012(Temp), f. 8-23-12, cert. ef. 8-24-12 thru 12-31-12; DFW 123-2012(Temp), f. 9-19-12, cert. ef. 9-24-12 thru 10-31-12; Administrative correction 11-23-12; DFW 65-2013(Temp), f. 6-27-13, cert. ef. 6-28-13 thru 8-2-13; DFW 78-2013(Temp), f. & cert. ef. 7-23-13 thru 10-31-13; DFW 86-2013(Temp), f. & cert. ef. 8-8-13 thru 10-31-13; Administrative correction 11-22-13; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 80-2014(Temp), f. 6-26-14, cert. ef. 6-27-14 thru 12-24-14; DFW 123-2014(Temp), f. & cert. ef. 8-21-14 thru 12-31-14; Administrative correction 1-27-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 56-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 9-30-15; DFW 65-2015(Temp), f. 6-10-15, cert. ef. 6-15-15 thru 9-30-15; Administrative correction 10-22-15; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 63-2016(Temp), f. 6-1-16, cert. ef. 6-2-16 thru 9-30-16; DFW 66-2016(Temp), f. 6-6-16, cert. ef. 6-8-16 thru 9-30-16; DFW 46-2017, f. & cert. ef. 4-24-17; DFW 62-2017(Temp), f. 5-24-17, cert. ef. 5-25-17 thru 9-30-17; DFW 67-2017(Temp), f. 6-6-17, cert. ef. 6-8-17 thru 9-30-17; DFW 71-2017(Temp), f. 6-13-17, cert. ef. 6-17-17 thru 6-18-17; DFW 78-2017(Temp), f. 6-21-17, cert. ef. 6-23-17 thru 9-30-17

Rule Caption: Amend Rules for Commercial Coastal Pelagic Species Fisheries

Adm. Order No.: DFW 79-2017

Filed with Sec. of State: 6-26-2017

Certified to be Effective: 6-26-17

Notice Publication Date: 5-1-2017

Rules Amended: 635-042-0100

Subject: Additional state regulations for commercial anchovy fishing in the Columbia River area reduce potential bycatch of non-target species, including ESA-listed salmonids and prevent potentially negative localized impacts on the anchovy stock and dependent predators such as seabirds and marine mammals.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0100

Anchovies and Herring Season

(1) Anchovies and herring may be taken for commercial purposes at any time in the Columbia River seaward of the Megler-Astoria Bridge with purse, lampara, and round haul seines of a mesh size not less than one half inch and not over 1,400 feet in length. All other species taken in operation of such gear must immediately with care be returned to the water.

(2) Columbia River Anchovy Fishery Trip Limits:

(a) Commercial vessels fishing in the Columbia River between the Astoria-Megler Bridge and a north-south line through Buoy 10 at the mouth of the river may land no more than 5 metric tons of anchovy per day and no more than 10 metric tons of anchovy per calendar week.

(b) For the purposes of this fishery, a calendar week shall begin at 12:01 a.m. Sunday and run through 11:59 p.m. the following Saturday.

(c) These limits apply to all catch from any trip on which fishing inside the Buoy 10 line occurs.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 8, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0260; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; DFW 127-2016(Temp), f. 9-27-16, cert. ef. 10-3-16 thru 3-31-17; DFW 34-2017(Temp), f. 3-29-17, cert. ef. 4-1-17 thru 6-16-17; DFW 79-2017, f. & cert. ef. 6-26-17

Rule Caption: One-Day Emergency Closure of Pacific Lamprey Fishery

Adm. Order No.: DFW 80-2017(Temp)

Filed with Sec. of State: 6-27-2017

Certified to be Effective: 6-27-17 thru 12-4-17

Notice Publication Date:

Rules Amended: 635-017-0090

Subject: The Pacific lamprey fishery at Willamette Falls will be closed on Thursday, June 29, 2017 in order to facilitate maintenance operations by Portland General Electric at Willamette Falls. Crews will be removing large debris from in and around the fishing area, creating substantial safety risks. This rule will prohibit fishing during these operations to ensure that fishers are not exposed to potential injury. Harvest of Lamprey's will continue to be prohibited on Wednesday's.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-017-0090

Inclusions and Modifications

(1) The 2017 Oregon Sport Fishing Regulations provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2017 Oregon Sport Fishing Regulations.

(2) Beginning February 1, 2017, the use of barbed hooks is allowed when angling for salmon, steelhead, or trout in Willamette River downstream of Willamette Falls (including Multnomah Channel and Gilbert River) and in lower Clackamas River upstream to Highway 99E Bridge.

(3) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; except harvest is prohibited on Thursday, June 29, and on Wednesdays each week;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(4) In the Gilbert River, from the upstream end of the Gilbert River Fishing Pier located near the confluence with Multnomah Channel, upstream to Sturgeon Lake, the following rules apply:

(a) Closed for sturgeon angling all year, including catch and release.

(b) Effective May 13 through June 15, 2017, angling restricted to artificial flies and lures only, no angling with bait allowed.

(5) Beginning May 1, 2017 spring Chinook salmon in Big Lake are considered trout and are part of the trout daily limit.

(6) Beginning June 8, 2017 retention of spring Chinook and steelhead in the lower Willamette River downstream of Willamette Falls; including Multnomah Channel, the Gilbert River, and the lower Clackamas River up to the Hwy 99E Bridge is open seven days per week. The daily adult bag limit is two hatchery salmonids.

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-

ADMINISTRATIVE RULES

97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp) f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15; DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 152-2015(Temp), f. 11-6-15, cert. ef. 11-17-15 thru 12-31-15; DFW 154-2015(Temp), f. 11-12-15, cert. ef. 11-23-15 thru 12-31-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 24-2016(Temp), f. 3-30-16, cert. ef. 4-1-16 thru 9-27-16; DFW 30-2016(Temp), f. & cert. ef. 4-8-16 thru 9-30-16; DFW 67-2016(Temp), f. & cert. ef. 6-9-16 thru 9-30-16; DFW 76-2016(Temp), f. 6-15-16, cert. ef. 6-16-16 thru 9-30-16; DFW 105-2016, f. & cert. ef. 8-10-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 4-2017, f. & cert. ef. 1-25-17; DFW 44-2017(Temp), f. 4-19-17, cert. ef. 4-24-17 thru 9-30-17; DFW 51-2017(Temp), f. & cert. ef. 4-25-17 thru 9-30-17; DFW 52-2017(Temp), f. 4-27-17, cert. ef. 5-1-17 thru 10-27-17; DFW 55-2017(Temp), f. 5-4-17, cert. ef. 5-8-17 thru 11-3-17; DFW 56-2017(Temp), f. 5-10-17, cert. ef. 5-13-17 thru 6-15-17; DFW 63-2017(Temp), f. 5-26-17, cert. ef. 6-1-17 thru 7-31-17; DFW 68-2017(Temp), f. 6-7-17, cert. ef. 6-8-17 thru 12-4-17; DFW 69-2017(Temp), f. & cert. ef. 6-8-17 thru 12-4-17; DFW 80-2017(Temp), f. & cert. ef. 6-27-17 thru 12-4-17

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Rule Caption: 2017 Columbia River Summer Recreational Fisheries Modified
Adm. Order No.: DFW 81-2017(Temp)
Filed with Sec. of State: 6-29-2017
Certified to be Effective: 7-1-17 thru 7-31-17
Notice Publication Date:
Rules Amended: 635-023-0128

Rules Suspended: 635-023-0128(T)

Subject: This amended rule modifies the 2017 summer recreational salmon fishing season on the Columbia River. Beginning July 1, 2017 retention of adult Chinook from the Astoria-Megler Bridge upstream to Bonneville Dam is prohibited. Retention of jack hatchery Chinook, hatchery steelhead and sockeye remains open under current regulations.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0128

Summer Sport Fishery

(1) The **2017 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2017 Oregon Sport Fishing Regulations**.

(2) Retention of hatchery Chinook, sockeye, and hatchery steelhead is allowed in the mainstem Columbia River from the Astoria-Megler Bridge upstream to the Oregon/Washington border (above McNary Dam) beginning June 16 through July 31 with the following restrictions:

(a) The daily adult bag limit is two salmonids, of which no more than one may be a steelhead.

(b) All sockeye are considered adults in the daily limit and must be recorded as adults on the combined angling tag.

(c) Retention of hatchery adult Chinook in the mainstem Columbia River from Astoria-Megler Bridge to the Bonneville Dam is prohibited effective 12:00 a.m. July 1, 2017.

(d) Night closure in effect except for anglers enrolled in the Pikeminnow Sport-Reward Program.

(e) All other permanent rules for the Columbia River angling zone, as stated in the **2017 Oregon Sport Fishing Regulations**, remain in effect.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 51-2007(Temp), f. 6-29-07, cert. ef. 7-2-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 61-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 69-2009(Temp), f. 6-11-09, cert. ef. 6-16-09 thru 7-31-09; Administrative correction 8-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 65-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; DFW 95-2011(Temp), f. 7-15-11, cert. ef. 7-18-11 thru 7-31-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 64-2012(Temp), f. 6-12-12, cert. ef. 6-16-12 thru 7-31-12; DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; Temporary Suspended by DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 55-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 66-2013(Temp), f. & cert. ef. 6-27-13 thru 7-31-13; DFW 70-2013(Temp), f. 7-11-13, cert. ef. 7-13-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 68-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 85-2014(Temp), f. 7-2-14, cert. ef. 7-3-14 thru 7-31-14; DFW 92-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 61-2015(Temp), f. 6-8-15, cert. ef. 6-16-15 thru 7-31-15; DFW 79-2015(Temp), f. 6-30-15, cert. ef. 7-3-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 77-2016(Temp), f. 6-15-16, cert. ef. 6-16-16 thru 7-31-16; Administrative correction, 8-29-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 74-2017(Temp), f. 6-15-17, cert. ef. 6-16-17 thru 7-31-17; DFW 81-2017(Temp), f. 6-29-17, cert. ef. 7-1-17 thru 7-31-17

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Rule Caption: Treaty Indian Commercial Summer Salmon Fisheries Modified

Adm. Order No.: DFW 82-2017(Temp)

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-3-17 thru 7-31-17

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule extends the sales of fish caught in Treaty Indian commercial summer salmon gillnet fishery in The Dalles, John Day and Bonneville Pools of the Columbia River beginning 6:00 a.m. Monday, July 3, 2017. Modifications are consistent with action taken June 28, 2017 by the Departments of Fish and Wildlife for the States of Oregon and Washington in cooperation with the

ADMINISTRATIVE RULES

Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0076

Summer Salmon Season

(1) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp may be sold or retained for subsistence from the Columbia River Zone 6 Treaty Indian fishery during the following periods:

(a) 6:00 a.m. Monday June 26 through 6:00 p.m. Thursday June 29, 2017, and 6:00 a.m. Monday July 3 through 6:00 p.m. July 6, 2017 with gear restricted to set and drift gill net with a 7-inch minimum mesh size restriction.

(b) 6:00 a.m. Friday June 16 through 11:59 p.m. Monday July 31, 2017 with gear restricted to subsistence fishing gear which includes hoop nets, bag nets, dip nets, and rod and reel with hook-and-line.

(c) Fish caught during any open period may be sold after the period concludes.

(d) White sturgeon between 38-54 inches in fork length caught in the Bonneville Pool and between 43-54 inches in fork length caught in The Dalles Pool and John Day pools may not be sold but may be retained for subsistence use.

(e) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(3) Effective 6:00 a.m. Friday June 16, 2017, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River, Wind River and Drano Lake, are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 38-54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop nets, bag nets, dip nets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

(c) Fish caught during any open period may be sold after the period concludes.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; DFW 87-2015(Temp), f. & cert. ef. 7-15-15 thru 7-31-15; DFW 90-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15; DFW 93-2015(Temp), f. 7-27-15, cert. ef. 7-28-15 thru 7-31-15; Administrative correction, 8-18-

15; DFW 70-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16; DFW 86-2016(Temp), f. 6-30-16, cert. ef. 7-5-16 thru 8-31-16; DFW 88-2016(Temp), f. 7-7-16, cert. ef. 7-11-16 thru 7-31-16; DFW 93-2016(Temp), f. 7-14-16, cert. ef. 7-18-16 thru 7-31-16; Administrative correction, 8-29-16; DFW 75-2017(Temp), f. & cert. ef. 6-15-17 thru 7-31-17; DFW 82-2017(Temp), f. 6-29-17, cert. ef. 7-3-17 thru 7-31-17

Rule Caption: In-season Adjustments to Black Rockfish Trip Limits for the Commercial Nearshore Fishery.

Adm. Order No.: DFW 83-2017(Temp)

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-5-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-004-0355

Subject: This amended rule implements in-season trip limit adjustments for the State Commercial Nearshore fishery. Black rockfish trip limits will be increased from 1,800 to 2,400 pounds in period 4, from 1,500 to 2,100 pounds in period 5, and from 1,200 to 1,800 pounds in period 6.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-004-0355

Trip Limits

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery.

(2) Vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following cumulative trip limits:

(a) Black rockfish:

(A) 1200 pounds in period 1;

(B) 1500 pounds in period 2;

(C) 1800 pounds in period 3;

(D) 2400 in period 4;

(E) 2100 pounds in period 5;

(F) 1800 pounds in period 6; and

(b) 300 pounds of blue rockfish and deacon rockfish combined in each period.

(3) For all other nearshore species, vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following cumulative trip limits in each period:

(a) 450 pounds of other nearshore rockfish combined;

(b) 2000 pounds of cabezon; and

(c) 600 pounds of greenling species.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 79-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 12-27-12; DFW 118-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 12-31-12; DFW 141-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 99-2013(Temp), f. & cert. ef. 9-9-13 thru 12-31-13; Administrative correction, 2-5-14; DFW 101-2014(Temp), f. 7-23-14, cert. ef. 8-1-14 thru 12-31-14; DFW 147-2014(Temp), f. & cert. ef. 10-13-14 thru 12-31-14; DFW 164-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 1-16-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 82-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 12-31-15; DFW 114-2015(Temp), f. 8-27-15, cert. ef. 9-1-15 thru 12-31-15; Administrative correction, 1-22-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 83-2016(Temp), f. 6-29-16, cert. ef. 7-5-16 thru 12-31-16; DFW 114-2016(Temp), f. 9-12-16, cert. ef. 9-15-16 thru 12-31-16; DFW 143-2016(Temp), f. & cert. ef. 11-10-16 thru 12-31-16; DFW 148-2016, f. 12-7-16, cert. ef. 1-1-17; DFW 83-2017(Temp), f. 6-30-17, cert. ef. 7-5-17 thru 12-31-17

Rule Caption: Commercial Sardine Fishery Rules for 2017-2018

Adm. Order No.: DFW 84-2017(Temp)

Filed with Sec. of State: 7-3-2017

Certified to be Effective: 7-3-17 thru 12-29-17

Notice Publication Date:

Rules Amended: 635-004-0375

Subject: Amendment to Oregon's administrative rule for commercial sardine fisheries bringing the State of Oregon concurrent with federally adopted regulations. Modifications establish 2017-18 sardine harvest guidelines, close the commercial directed fishery for the

ADMINISTRATIVE RULES

2017-2018 fishing year, and establish incidental landing allowances for commercial fisheries.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-004-0375

Scope, Inclusion, and Modification of Rules

(1) The commercial coastal pelagic species fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking coastal pelagic species. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subpart I, (October 1, 2016 ed.);

(b) **Federal Register Vol. 82, No. 125, dated June 30, 2017 (82 FR 29776)**

(c) Federal Register Vol. 81, No. 163, dated August 23, 2016 (81 FR 57489); and

(d) Federal Register Vol. 81, No. 207, dated October 26, 2016 (81 FR 74309)

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable coastal pelagic species fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0380 through 635-004-0545 for additions or modifications to federal coastal pelagic species regulations.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 110-2012(Temp), f. 8-21-12, cert. ef. 8-23-12 thru 9-14-12; Administrative correction 9-20-12; DFW 58-2013, f. & cert. ef. 6-19-13; DFW 90-2013(Temp), f. 8-20-13, cert. ef. 8-22-13 thru 9-14-13; DFW 76-2014(Temp), f. 6-24-14, cert. ef. 6-25-14 thru 7-31-14; DFW 99-2014, f. 7-21-14, cert. ef. 7-22-14 thru 9-30-14; DFW 104-2014(Temp), f. 7-29-14, cert. ef. 8-1-14 thru 9-30-14; DFW 114-2014, f. & cert. ef. 8-5-14; Suspended by DFW 129-2014(Temp), f. 9-10-14, cert. ef. 9-15-14 thru 9-30-14; DFW 136-2014(Temp), f. 9-19-14, cert. ef. 9-20-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 30-2015(Temp), f. 4-22-15, cert. ef. 4-25-15 thru 6-30-15; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15; DFW 78-2015(Temp), f. & cert. ef. 6-29-15 thru 12-25-15; Administrative correction, 1-22-16; DFW 84-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 11-30-16; DFW 140-2016, f. & cert. ef. 10-27-16; DFW 84-2017(Temp), f. & cert. ef. 7-3-17 thru 12-29-17

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Rule Caption: 2017 Columbia River Summer Recreational Fisheries Modified

Adm. Order No.: DFW 85-2017(Temp)

Filed with Sec. of State: 7-6-2017

Certified to be Effective: 7-7-17 thru 7-31-17

Notice Publication Date:

Rules Amended: 635-023-0128

Rules Suspended: 635-023-0128(T)

Subject: This amended rule modifies the 2017 summer recreational salmon fishing season on the Columbia River. Beginning July 7, 2017 retention of adult Chinook from the Astoria-Megler Bridge upstream to Bonneville Dam is allowed. Retention of jack hatchery Chinook, hatchery steelhead and sockeye remains open under current regulations.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0128

Summer Sport Fishery

(1) The **2017 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2017 Oregon Sport Fishing Regulations**.

(2) Retention of hatchery Chinook, sockeye, and hatchery steelhead is allowed in the mainstem Columbia River from the Astoria-Megler Bridge upstream to the Oregon/Washington border (above McNary Dam) beginning June 16 through July 31 with the following restrictions:

(a) The daily adult bag limit is two salmonids, of which no more than one may be a steelhead.

(b) All sockeye are considered adults in the daily limit and must be recorded as adults on the combined angling tag.

(c) Retention of hatchery adult Chinook in the mainstem Columbia River from Astoria-Megler Bridge to the Bonneville Dam is prohibited effective July 1 through July 6, 2017.

(d) Night angling closure in effect except for anglers enrolled in the Pikeminnow Sport-Reward Program and targeting pikeminnow.

(e) All other permanent rules for the Columbia River angling zone, as stated in the **2017 Oregon Sport Fishing Regulations**, remain in effect.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 51-2007(Temp), f. 6-29-07, cert. ef. 7-2-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 61-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 69-2009(Temp), f. 6-11-09, cert. ef. 6-16-09 thru 7-31-09; Administrative correction 8-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 65-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; DFW 95-2011(Temp), f. 7-15-11, cert. ef. 7-18-11 thru 7-31-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 64-2012(Temp), f. 6-12-12, cert. ef. 6-16-12 thru 7-31-12; [DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; Temporary Suspended by DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12]; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 55-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 66-2013(Temp), f. & cert. ef. 6-27-13 thru 7-31-13; DFW 70-2013(Temp), f. 7-11-13, cert. ef. 7-13-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 68-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 85-2014(Temp), f. 7-2-14, cert. ef. 7-3-14 thru 7-31-14; DFW 92-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 61-2015(Temp), f. 6-8-15, cert. ef. 6-16-15 thru 7-31-15; DFW 79-2015(Temp), f. 6-30-15, cert. ef. 7-3-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 167-2015, f. 12-29-15, cert. ef. 1-1-16; DFW 77-2016(Temp), f. 6-15-16, cert. ef. 6-16-16 thru 7-31-16; Administrative correction, 8-29-16; DFW 153-2016, f. 12-28-16, cert. ef. 1-1-17; DFW 74-2017(Temp), f. 6-15-17, cert. ef. 6-16-17 thru 7-31-17; DFW 81-2017(Temp), f. 6-29-17, cert. ef. 7-1-17 thru 7-31-17; DFW 85-2017(Temp), f. 7-6-17, cert. ef. 7-7-17 thru 7-31-17

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Rule Caption: Modify 2017 Summer Commercial Seasons in the Select Areas of the Columbia River

Adm. Order No.: DFW 86-2017(Temp)

Filed with Sec. of State: 7-6-2017

Certified to be Effective: 7-13-17 thru 9-15-17

Notice Publication Date:

Rules Amended: 635-042-0160, 635-042-0170

Rules Suspended: 635-042-0160(T), 635-042-0170(T)

Subject: These amended rules modify the 2017 summer commercial salmon seasons for Select Areas fishery in the Columbia River. Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled extension of Select Area fisheries. Failure to adopt this rule would cause serious prejudice to the public interest in that commercial fishers may not be able to access their white sturgeon allocation and returning hatchery salmon.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the summer fishery in subsections (1)(a)(A) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the summer season fishery in Blind Slough and Knappa Slough in subsection (1)(a)(A). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough and Knappa Sloughs:

(i) Monday and Thursday nights beginning Thursday July 13 through Thursday, July 28, 2017 (5 nights).

(b) The fishing areas are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to

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markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 1 through July 28, 2017, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the summer fishery, outlined above in subsection (1)(a), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches.

(B) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(2) A maximum of five white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in subsections (1)(a) the weekly aggregate sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109, 506.119 & 507.030
 Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-

11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 70-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 76-2015(Temp), f. 6-23-15, cert. ef. 6-25-15 thru 7-31-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 8-2016(Temp), f. 2-1-16, cert. ef. 2-8-16 thru 7-31-16; DFW 23-2016(Temp), f. & cert. ef. 3-28-16 thru 7-31-16; DFW 32-2016(Temp), f. 4-20-16, cert. ef. 4-21-16 thru 7-31-16; DFW 71-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16; DFW 78-2016(Temp), f. 6-23-16 thru 7-31-16; DFW 85-2016(Temp), f. & cert. ef. 6-30-16 thru 7-31-16; DFW 87-2016(Temp), f. & cert. ef. 7-7-16 thru 7-31-16; DFW 92-2016(Temp), f. 7-13-16, cert. ef. 7-14-16 thru 7-31-16; DFW 101-2016(Temp), f. 8-2-16, cert. ef. 8-24-16 thru 10-31-16; DFW 129-2016(Temp), f. 9-29-16, cert. ef. 10-1-16 thru 13-31-16; DFW 9-2017(Temp), f. & cert. ef. 2-6-17 thru 3-28-17; DFW 25-2017(Temp), f. & cert. ef. 3-20-17 thru 6-13-17; DFW 32-2017(Temp), f. 3-29-17, cert. ef. 3-30-17 thru 9-15-17; DFW 39-2017(Temp), f. 4-5-17, cert. ef. 4-6-17 thru 9-15-17; DFW 40-2017(Temp), f. 4-12-17, cert. ef. 4-13-17 thru 9-15-17; DFW 61-2017(Temp), f. 5-18-17, cert. ef. 5-22-17 thru 9-15-17; DFW 76-2017(Temp), f. & cert. ef. 6-15-17 thru 9-15-17; DFW 86-2017(Temp), f. 7-6-17, cert. ef. 7-13-17 thru 9-15-17

635-042-0170 Tongue Point Basin and South Channel

(1) The Tongue Point fishing area includes all waters bounded by a line extended from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(2) The South Channel fishing area includes all waters bounded by a line from a marker on John Day Point to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10", northwesterly to a marker on the eastern tip of Burnside Island defining the upstream terminus of South Channel.

(3) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(A) Summer season

(i) Monday and Thursday nights from Thursday July 13 through Thursday July 28, 2017 from 7:00 p.m. to 7:00 a.m. (12 hours) the following morning.

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 250 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches.

(c) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(5) A maximum of five white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(A)(i) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
 Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-9-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-

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2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-15-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. & cert. ef. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. & cert. ef. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. & cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. & cert. ef. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. & cert. ef. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. & cert. ef. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. & cert. ef. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. & cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. & cert. ef. 4-24-12, cert. ef. 4-26-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 104-2012(Temp), f. & cert. ef. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. & cert. ef. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 34-2013(Temp), f. & cert. ef. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. & cert. ef. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. & cert. ef. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. & cert. ef. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. & cert. ef. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. & cert. ef. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. & cert. ef. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 102-2015(Temp), f. & cert. ef. 8-10-15, cert. ef. 8-17-15 thru 10-31-15; Administrative correction, 11-20-15; DFW 8-2016(Temp), f. & cert. ef. 2-8-16 thru 7-31-16; DFW 32-2016(Temp), f. & cert. ef. 4-20-16, cert. ef. 4-21-16 thru 7-31-16; DFW 71-2016(Temp), f. & cert. ef. 6-13-16, cert. ef. 6-16-16 thru 7-31-16; DFW 78-2016(Temp), f. & cert. ef. 6-23-16 thru 7-31-16; DFW 85-2016(Temp), f. & cert. ef. 6-30-16 thru 7-31-16; DFW 87-2016(Temp), f. & cert. ef. 7-7-16 thru 7-31-16; DFW 92-2016(Temp), f. & cert. ef. 7-13-16, cert. ef. 7-14-16 thru 7-31-16; DFW 101-2016(Temp), f. & cert. ef. 8-2-16, cert. ef. 8-24-16 thru 10-31-16; DFW 9-2017(Temp), f. & cert. ef. 2-6-17 thru 3-28-17; DFW 25-2017(Temp), f. & cert. ef. 3-20-17 thru 6-13-17; DFW 32-2017(Temp), f. & cert. ef. 3-29-17, cert. ef. 3-30-17 thru 9-15-17; DFW 61-2017(Temp), f. & cert. ef. 5-18-17, cert. ef. 5-22-17 thru 9-15-17; DFW 76-2017(Temp), f. & cert. ef. 6-15-17 thru 9-15-17; DFW 86-2017(Temp), f. & cert. ef. 7-6-17, cert. ef. 7-13-17 thru 9-15-17

Rule Caption: Pacific Halibut Recreational Spring All-depth Season from Cape Falcon to Humbug Mt. Closed

Adm. Order No.: DFW 87-2017(Temp)

Filed with Sec. of State: 7-7-2017

Certified to be Effective: 7-12-17 thru 10-31-17

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: This amended rule closes the recreational spring all-depth Pacific halibut season in the area between Cape Falcon and Humbug Mt. beginning at 11:59 p.m. Wednesday, July 12, 2017. The National Oceanic & Atmospheric Administration (NOAA), International Pacific Halibut Commission (IPHC), and the Department (ODFW) conferred on July 6, 2017 and determined that the entire subarea quota had been taken.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2016 ed.), as amended;

(b) **Federal Register Vol. 82, No. 43**, dated March 7, 2017; and

(c) **Federal Register Vol. 82, No. 75**, dated April 20, 2017.

(2) Therefore, persons must consult all publications referenced in this rule in addition to division 039 to determine applicable halibut fishing seasons.

(3) Effective 11:59 p.m., Thursday, May 25, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is closed to the retention of Pacific halibut.

(4) Beginning 12:01 a.m., Thursday, June 8, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is open to the retention of Pacific halibut seven days per week.

(5) Effective at 12:01 a.m., Saturday, June 17, 2017 through 11:59 p.m., Saturday, June 17, 2017 the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) all-depth season is open to the retention of Pacific halibut.

(6) Effective at 11:59 p.m. Friday, June 23, 2017, the Columbia River Subarea (Leadbetter Point, WA to Cape Falcon, OR) nearshore season is closed to the retention of Pacific halibut.

(7) Effective at 11:59 p.m. Wednesday, July 12, 2017, the Central Oregon Coast Subarea (Cape Falcon to Humbug Mt) spring all-depth season is closed to the retention of Pacific halibut.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 84-2012(Temp), f. & cert. ef. 7-5-12 thru 8-2-12; DFW 91-2012(Temp), f. 7-19-12, cert. ef. 7-22-12 thru 10-31-12; DFW 111-2012(Temp), f. 8-23-12, cert. ef. 8-24-12 thru 12-31-12; DFW 123-2012(Temp), f. 9-19-12, cert. ef. 9-24-12 thru 10-31-12; Administrative correction 11-23-12; DFW 65-2013(Temp), f. 6-27-13, cert. ef. 6-28-13 thru 8-2-13; DFW 78-2013(Temp), f. & cert. ef. 7-23-13 thru 10-31-13; DFW 86-2013(Temp), f. & cert. ef. 8-8-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 36-2014, f. 4-29-14, cert. ef. 5-1-14; DFW 80-2014(Temp), f. 6-26-14, cert. ef. 6-27-14 thru 12-24-14; DFW 123-2014(Temp), f. & cert. ef. 8-21-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 34-2015, f. & cert. ef. 4-28-15; DFW 56-2015(Temp), f. 6-2-15, cert. ef. 6-3-15 thru 9-30-15; DFW 65-2015(Temp), f. 6-10-15, cert. ef. 6-15-15 thru 9-30-15; Administrative correction, 10-22-15; DFW 35-2016, f. & cert. ef. 4-26-16; DFW 63-2016(Temp), f. 6-1-16, cert. ef. 6-2-16 thru 9-30-16; DFW 66-2016(Temp), f. 6-6-16, cert. ef. 6-8-16 thru 9-30-16; DFW 46-2017, f. & cert. ef. 4-24-17; DFW 62-2017(Temp), f. 5-24-17, cert. ef. 5-25-17 thru 9-30-17; DFW 67-2017(Temp), f. 6-6-17, cert. ef. 6-8-17 thru 9-30-17; DFW 71-2017(Temp), f. 6-13-17, cert. ef. 6-17-17 thru 6-18-17; DFW 78-2017(Temp), f. 6-21-17, cert. ef. 6-23-17 thru 9-30-17; DFW 87-2017(Temp), f. 7-7-17, cert. ef. 7-12-17 thru 10-31-17

Rule Caption: Treaty Indian Commercial Summer Salmon Fisheries Modified

Adm. Order No.: DFW 88-2017(Temp)

Filed with Sec. of State: 7-11-2017

Certified to be Effective: 7-12-17 thru 7-31-17

Notice Publication Date:

Rules Amended: 635-041-0076

Rules Suspended: 635-041-0076(T)

Subject: This amended rule extends the sales of fish caught in the Zone 6 Treaty Indian commercial summer salmon gillnet fishery of the Columbia River beginning 6:00 a.m. Wednesday, July 12, 2017. Fisheries are managed to provide opportunity to meet species or stock-specific allocations for each fishery while remaining within ESA guidelines. There is insufficient time to initiate the permanent rulemaking process prior to the scheduled fishery. Modifications are consistent with action taken July 11, 2017 by the Departments of Fish and Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

Rules Coordinator: Michelle Tate—(503) 947-6044

ADMINISTRATIVE RULES

635-041-0076

Summer Salmon Season

(1) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp may be sold or retained for subsistence from the Columbia River Zone 6 Treaty Indian fishery during the following periods:

(a) 6:00 a.m. Wednesday July 12 through 6:00 p.m. Saturday July 15, 2017, with gear restricted to set and drift gill net with a 7-inch minimum mesh size restriction.

(b) 6:00 a.m. Friday June 16 through 11:59 p.m. Monday July 31, 2017 with gear restricted to subsistence fishing gear which includes hoop nets, bag nets, dip nets, and rod and reel with hook-and-line.

(c) Fish caught during any open period may be sold after the period concludes.

(d) White sturgeon between 38-54 inches in fork length caught in the Bonneville Pool and between 43-54 inches in fork length caught in The Dalles Pool and John Day pools may not be sold but may be retained for subsistence use.

(e) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(3) Effective 6:00 a.m. Friday June 16, 2017, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River, Wind River and Drano Lake, are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 38-54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop nets, bag nets, dip nets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

(c) Fish caught during any open period may be sold after the period concludes.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; DFW 87-2015(Temp), f. & cert. ef. 7-15-15 thru 7-31-15; DFW 90-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15; DFW 93-2015(Temp), f. 7-27-15, cert. ef. 7-28-15 thru 7-31-15; Administrative correction, 8-18-15; DFW 70-2016(Temp), f. 6-13-16, cert. ef. 6-16-16 thru 7-31-16; DFW 86-2016(Temp), f. 6-30-16, cert. ef. 7-5-16 thru 8-31-16; DFW 88-2016(Temp), f. 7-7-16, cert. ef. 7-11-16 thru 7-31-16; DFW 93-2016(Temp), f. 7-14-16, cert. ef. 7-18-16 thru 7-31-16; Administrative correction, 8-29-16; DFW 75-2017(Temp), f. & cert. ef. 6-15-17 thru 7-31-17; DFW 82-2017(Temp), f. 6-29-17, cert. ef. 7-3-17 thru 7-31-17; DFW 88-2017(Temp), f. 7-11-17, cert. ef. 7-12-17 thru 7-31-17

Rule Caption: Federal Actions and Management Measures Implemented for Commercial Groundfish Fisheries.

Adm. Order No.: DFW 89-2017(Temp)

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-14-17 thru 12-31-17

Notice Publication Date:

Rules Amended: 635-004-0275

Subject: This amended rule implements in-season actions previously adopted by the federal government for 2017 Pacific Coast commercial groundfish fisheries, including but not limited to increases to lingcod trip limits for Limited Entry Fixed Gear and Open Access Daily Trip Limit fisheries.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-004-0275

Scope, Inclusion, and Modification of Rules

(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) **Code of Federal Regulations, Part 660, Subparts C, D, E and F** (October 1, 2016 ed.) as amended;

(b) **Federal Register Vol. 81, No. 226 dated November 23, 2016 (81FR84419);**

(c) **Federal Register Vol. 82, No. 24, dated February 7, 2017 (82FR9634);** and

(d) **Federal Register Vol 82, No. 129, dated July 7, 2017 (82FR31495).**

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

[Publications referenced are available from the Department.]

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 78-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 10-27-12; DFW 106-2012(Temp), f. 8-15-12, cert. ef. 9-1-12 thru 12-31-12; DFW 1-2013, f. & cert. ef. 1-3-13; DFW 96-2013(Temp), f. 8-27-13, cert. ef. 9-1-13 thru 12-31-13; DFW 132-2013(Temp), f. & cert. ef. 12-9-13 thru 6-7-14; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 34-2014(Temp), f. & cert. ef. 4-23-14 thru 9-30-14; DFW 109-2014(Temp), f. & cert. ef. 8-4-14 thru 12-31-14; DFW 163-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 6-29-15; DFW 18-2015, f. & cert. ef. 3-10-15; DFW 68-2015(Temp), f. 6-11-15, cert. ef. 6-12-15 thru 12-8-15; DFW 111-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16; DFW 151-2015(Temp), f. & cert. ef. 11-2-15 thru 4-29-16; DFW 159-2015(Temp), f. & cert. ef. 11-25-15 thru 5-22-16; DFW 3-2016, f. & cert. ef. 1-19-16; DFW 83-2016(Temp), f. 6-29-16, cert. ef. 7-5-16 thru 12-31-16; DFW 114-2016(Temp), f. 9-12-16, cert. ef. 9-15-16 thru 12-31-16; DFW 15-2017, f. & cert. ef. 2-15-17; DFW 89-2017, f. & cert. ef. 7-14-17 thru 12-31-17

Rule Caption: Amend rules to incorporate Wildlife Trafficking Prevention Act per Measure 100 and House Bill 2576

Adm. Order No.: DFW 90-2017(Temp)

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-14-17 thru 12-31-17

Notice Publication Date:

Rules Adopted: 635-056-0076, 635-200-0135, 635-200-0140

Rules Amended: 635-056-0010, 635-056-0060, 635-056-0070, 635-056-0075, 635-056-0140, 635-056-0150, 635-200-0010, 635-200-0080

Subject: These rules are to give structure and clarification to meet the intent of Measure 100, the "Wildlife Trafficking Prevention Act" which was passed by the voters of Oregon in November 2016 and amended by 2017 Legislative Assembly in HB 2576. The "Wildlife Trafficking Prevention Act" makes it illegal to purchase, sell or

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exchange or offer to purchase, sell or exchange any parts or products of any "covered animal species". Measure 100 and HB 2576 also give exceptions such as when a species is obtained by an activity expressly authorized by federal law or species that are subject to a federal management plan under Title III of P.L. 94-265 as amended (Magnuson-Steven Act). The "Wildlife Trafficking Prevention Act" took effect on July 1, 2017.

The "Wildlife Trafficking Prevention Act" defines; "Covered animal species" as meaning any species of: elephant, rhinoceros, whale, tiger, lion, leopard, cheetah, jaguar, pangolin, sea turtle, and shark (excluding spiny dogfish as defined in ORS 498.257 (1) or ray

The "Wildlife Trafficking Prevention Act" assigned the State Fish and Wildlife Commission the authority to develop Oregon Administrative Rules (OARs) for this Act and the authority to enforce these rules. Provisions related to live "covered animal species" the species will be incorporated in Division 56, "Importation, Possession, Confinement, Transportation and Sale of Nonnative Wildlife". Provisions related to parts and products of "covered animal species" will be placed in Division 200, "Sale, Purchase or Exchange of Wildlife Parts".

Rules Coordinator: Michelle Tate — (503) 947-6044

635-056-0010

Definitions

For the purposes of these rules, the definitions in ORS 496.004 and OAR 635-045-0002 apply. In addition, the following definitions apply:

(1) "Aquaria" means any tanks, pools, ponds, bowls or other containers intended for and capable of holding or maintaining live fish and from which there is no outfall to any waters of this state.

(2) "Aquaria Fish" means any fish, shellfish or marine invertebrates legally acquired and sold in the pet store trade, except game fish, state or federally protected threatened and endangered species and those species listed as Prohibited or Controlled.

(3) "Commercial Fur Farm" means any operation which raises captive fox (*Vulpes vulpes* or *Urocyon cinereoargenteus*) or mink (*Mustela vison*) for profit and possesses 10 or more animals.

(4) "Controlled Species" means wildlife that the commission has placed on the Controlled list.

(5) "Covered Animal Species" means:

- (a) Elephant — Elephantidae — All species
- (b) Rhinoceros — Rhinocerotidae — All Species
- (c) Whale — Cetacea — All Species
- (d) Tiger — Felidae — *Panthera tigris*
- (e) Lion — Felidae — *Panthera leo* and *Panthera leo persica*
- (f) Leopard — Felidae — *Panthera pardus*, *Neofelis nebulosi*, *Uncia uncia*

- (g) Cheetah — Felidae — *Acinonyx jubatus*
- (h) Jaguar — Felidae — *Panthera onca*
- (i) Pangolin — Manidae — All species
- (j) Marine and Leatherback turtles — Cheloniidae and Dermochelyidae — All Species

(k) Shark — all species — excluding spiny dogfish as defined in ORS 498.257(1), and excluding species obtained by an activity expressly authorized by federal law or by an activity that involves a species that is subject to a federal management plan under Title III of P.L. 94-265 as amended (Magnuson-Steven Act).

(l) Ray — all species — excluding all species of skate (Rajidae), and excluding species obtained by an activity expressly authorized by federal law or by an activity that involves a species that is subject to a federal management plan under Title III of P.L. 94-265 as amended (Magnuson-Stevens Act).

(6) "Domestic" means those animals which are identified in OAR 635-056-0020 (Domestic or Otherwise Exempt Animals).

(7) Except where used in reference to ORS chapter 609, "Exotic" means a wildlife species not native to Oregon; foreign or introduced.

(8) "Hold" means any form of possession or control of an animal, gamete, or hybrid thereof.

(9) "Hybrid" means any animal, gamete or egg that is produced by crossing at least one wild individual of a species with any other species or subspecies.

(10) "Import/importation" means to bring or cause live wildlife to be transported into Oregon by any means.

(11) "Introduced" means a species, subspecies or populations which occur in Oregon because of human action or intervention, rather than natural (nonhuman) colonization or immigration.

(12) "Live Foodfish" means any fish or marine invertebrate legally acquired and held in aquaria or packaged live and sold in the wholesale or retail trade for human consumption, except game fish, state or federally protected threatened and endangered species and those species listed as Prohibited or Controlled

(13) "Marine invertebrate" means any marine invertebrate species commonly sold in the wholesale or retail trade for human consumption, or commonly found in the ornamental aquarium trade.

(14) "Native" means species, subspecies or populations which occur currently or historically in Oregon through natural (i.e. nonhuman) colonization or immigration, rather than by human action or intervention.

(15) "Nonnative" means a wildlife species not native to Oregon; foreign or introduced.

(16) "Noncontrolled Species" means wildlife that the commission has placed on the Noncontrolled list.

(17) "Prohibited Species" means wildlife that the commission has placed on the Prohibited list.

(18) "Sale" or "sell" of Covered Animals Species means an act of selling, trading, or bartering for monetary or non-monetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction, but does not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(19) "Species" means a unit of classification of animals which are capable of interbreeding and producing fertile offspring.

(20) "Subspecies" means a unit of classification of animals within a species which show differences in size, color or form as a result of being partially or completely reproductively isolated from other populations of the species

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 122-2007, f. & cert. ef. 11-19-07; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-056-0060

Noncontrolled Species

Except as otherwise provided in these rules or other rules of the commission, wildlife listed below may be imported, possessed, sold, purchased, exchanged or transported in the state without a Department permit (some species require a permit from the Oregon Department of Agriculture):

(1) Noncontrolled Mammals: Common Name — Family — Genus/species:

(a) Order Artiodactyla

(A) Antelope and buffalo — Bovidae — All species except subfamily Caprinae and Procprina species;

(B) Giraffe and okapi — Giraffidae — All species;

(C) Pygmy hippopotamus — Hippopotamidae — *Hexaprotodon liberiensis*;

(D) Hippopotamus — Hippopotamidae — *Hippopotamus amphibius*;

(E) Peccary — Tayassuidae — All species; (F) Chevrotains — Tragulidae — All species.

(b) Order Carnivora:

(A) Aardwolf — Hyaenidae — *Proteles cristatus*;

(B) Seals and sea lions — Otariidae — All nonnative species.

(C) Red/Lesser Panda — Procyonidae — *Ailurus fulgens*;

(D) Olingos — Procyonidae — *Bassaricyon* All species;

(E) Coatimundis — Procyonidae — *Nasua* All species;

(F) Kinkajou — Procyonidae — *Potos flavus*;

(G) Binturong — Viverridae — *Arctictis binturong*.

(c) Order Chiroptera:

(A) Old World fruit bats — Pteropodidae — All species.

(d) Order Dasyuromorphia:

(A) Numbat — Myrmecobiidae — *Myrmecobius fasciatus*.

(e) Order Dermoptera:

(A) Flying lemurs or colugos — Cynocephalidae — All species.

(f) Order Didelphimorphia:

(A) Short-tailed opossums — Didelphinae — *Monodelphis* All species.

(g) Order Diprotodontia:

(A) Feathertail glider — Acrobatidae — *Acrobates pygmaeus*;

(B) Kangaroos and wallabies — Macropodidae — All species;

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- (C) Striped possums — Petauridae — *Dactylopsila* All species;
(D) Sugar glider — Petauridae — *Petaurus breviceps*;
(E) Cuscuses — Phalangeridae — *Phalanger* All species.
(h) Order Erinaceomorpha:
(A) Four-toed hedgehog — Erinaceidae — *Atelerix albiventris*.
(i) Order Hyracoidea:
(A) Hyraxes — Procaviidae — All species.
(j) Order Monotremata:
(A) Echidnas — Tachyglossidae — All species.
(k) Order Peramelemorphia:
(A) Dry country bandicoots — Peramelidae — All species except *Isoodon obesulus*, *Perameles gunnii*, and *P. nasuta*;
(B) Rainforest bandicoots — Peramelidae — All species.
(l) Order Perissodactyla:
(A) Zebra and Asses — Equidae — *Equus* All species;
(B) Tapirs — Tapiridae — All species.
(m) Order Pilosa:
(A) Three-toed tree sloths — Bradypodidae — All species;
(B) Two-toed tree sloths — Megalonychidae — All species;
(C) Anteaters — Myrmecophagidae — All species
(n) Order Rodentia:
(A) Scaly-tailed squirrels — Anomaluridae — All species;
(B) Hutias — Capromyidae — All species;
(C) Mara (Patagonian hare) — Caviidae — *Dolichotis* All species;
(D) Mountain viscachas — Chinchillidae — *Lagidium* All species;
(E) Dwarf hamsters — Cricetidae — *Phodopus* All species
(F) Paca — Cuniculidae — *Cuniculus paca*;
(G) Agoutis — Dasyproctidae — *Dasyprocta* All species;
(H) Acouchis — Dasyproctidae — *Myoprocta* All species;
(I) Pacarana — Dinomyidae — *Dinomys branickii*;
(J) Prehensile-tailed Porcupines — Erethizontidae — *Coendou* All species;
(K) Kangaroo Rats — Heteromyidae — *Dipodomys deserti* and *D. spectabilis*;
(L) Brush-tailed porcupines — Hystricidae — *Atherurus* All species;
(M) Old world porcupines — Hystricidae — *Hystrix* All species except *H. africae australis*, *H. cristata*, and *H. indica*;
(N) Spiny mice — Muridae — *Acomys* All species;
(O) Crateromys (Bushy tailed cloud rats) — Muridae — *Crateromys* All species;
(P) African giant pouched rats — Muridae — *Cricetomys* All species;
(Q) African White-tailed rat — Muridae — *Mystromys albicaudatus*;
(R) Phloeomys (Slender tailed rats) — Muridae — *Phloeomys* All species;
(S) Degus — Octodontidae — *Octodon* All species;
(T) South African Springhare — Pedetidae — *Pedetes capensis*;
(U) Prevost's squirrel — Sciuridae *Callosciurus prevostii*;
(V) African palm squirrels — Sciuridae — *Epixerus* All species;
(W) Pygmy flying squirrels — Sciuridae — *Petaurillus* All species;
(X) Oil palm squirrels — Sciuridae — *Protoxerus* All species;
(Y) Giant squirrels — Sciuridae — *Ratufa* All species.
(o) Order Sirenia:
(A) Manatees — All families — All species.
(p) Order Tubulidentata:
(A) Aardvark — Orycteropodidae — *Orycteropus afer*.
(2) Noncontrolled Birds: Nothing in this subsection authorizes the importation, possession, sale, confinement or transportation of birds protected by the federal Migratory Bird Treaty Act: Common Name — Family — Genus/species:
(a) Order Charadriiformes:
(A) Senegal thick-knee — Burhinidae — *Burhinus senegalensis*;
(B) Water thick-knee — Burhinidae — *Burhinus vermiculatus*.
(b) Order Coliiformes:
(A) Mousebirds and Collies — Coliidae — All species.
(c) Order Coraciiformes:
(A) Blue-winged kookaburra — Alcedinidae — *Dacelo leachii*;
(B) Woodland kingfisher — Alcedinidae — *Halcyon senegalensis*;
(C) African pygmy kingfisher — Alcedinidae — *Ispidina picta*;
(D) Hornbills — Bucerotidae — All species;
(E) Rollers — Coraciidae — All species;
(F) Bee-eaters — Meropidae — All species except *Merops apiaster*, *M. oreobates*, *M. pusillus*, and *Nyctyornis athertoni*;
(G) Motmots — Momotidae — All species.
(d) Order Cuculiformes:
(A) White browed coucal — Centropodidae — *Centropus superciliosus burchelli*;
(B) Pheasant coucal — Centropodidae — *Centropus phasianinus*;
(C) Senegal coucal — Centropodidae — *Centropus senegalensis*;
(D) Greater coucal — Centropodidae — *Centropus sinensis*.
(E) Turacos, Plaintain eaters and Go-away birds — Musophagidae — All Species
(e) Order Galliformes:
(A) Curassows, guans, and chachalacas — Cracidae — All species except *Chamaepetes goudotii*, *Penelope montagnii*, and *P. superciliaris*;
(B) Megapodes — Megapodiidae — All species.
(f) Order Gruiformes:
(A) Trumpeters — Psophiidae — All species;
(B) Buttonquails and hemipodes — Turnicidae — All species.
(g) Order Passeriformes:
(A) Orange-breasted bunting — Cardinalidae — *Passerina leclancherii*;
(B) Cotingas — Cotingidae — All species;
(C) Red-crested finch — Emberizidae — *Coryphospingus cucullatus*;
(D) Pileated finch — Emberizidae — *Coryphospingus pileatus*;
(E) Yellow-breasted bunting — Emberizidae — *Emberiza aureola*;
(F) Golden-breasted bunting — Emberizidae — *Emberiza flaviventris*;
(G) Cinnamon-breasted bunting — Emberizidae — *Emberiza tahapisi*;
(H) Yellow cardinal — Emberizidae — *Gubernatrix cristata*;
(I) Black-crested finch — Emberizidae — *Lophospingus pusillus*;
(J) Crested bunting — Emberizidae — *Melophus lathamii*;
(K) Yellow-billed cardinal — Emberizidae — *Paroaria capitata*;
(L) Red-crested cardinal — Emberizidae — *Paroaria coronata*;
(M) Black-capped warbling finch — Emberizidae — *Poospiza melanoleuca*;
(N) Saffron finch — Emberizidae — *Sicalis flaveola*;
(O) Double-collared seedeater — Emberizidae — *Sporophila caerulescens*;
(P) Rusty-collared seedeater — Emberizidae — *Sporophila collaris*;
(Q) Parrot-billed seedeater — Emberizidae — *Sporophila peruviana*;
(R) Slate-colored seedeater — Emberizidae — *Sporophila schiastacea*;
(S) Swallow tanager — Emberizidae — *Tersina viridis*;
(T) Cuban grassquit — Emberizidae — *Tiaris canorus*;
(U) Blue-back grassquit — Emberizidae — *Volatinia jacarina*;
(V) Waxbills, mannikins, munias — Estrilididae — All species;
(W) Broadbills — Eurylaimidae — All species;
(X) Black siskin — Fringillidae — *Carduelis atrata*;
(Y) Linnet — Fringillidae — *Carduelis cannabina*;
(Z) European goldfinch — Fringillidae — *Carduelis carduelis*;
(AA) Red siskin — Fringillidae — *Carduelis cucullata*;
(BB) Hooded siskin — Fringillidae — *Carduelis magellanica*;
(CC) Yellow-breasted greenfinch — Fringillidae — *Carduelis spinoides*;
(DD) European siskin — Fringillidae — *Carduelis spinus*;
(EE) Yellow-rumped siskin — Fringillidae — *Carduelis uropygialis*;
(FF) Yellow-bellied siskin — Fringillidae — *Carduelis xanthogastra*;
(GG) Yellow-billed grosbeak — Fringillidae — *Eophona migratoria*;
(HH) Japanese grosbeak — Fringillidae — *Eophona personata*;
(II) Oriole finch — Fringillidae — *Linurgus olivaceus*;
(JJ) Brown bullfinch — Fringillidae — *Pyrrhula nipalensis*;
(KK) Eurasian bullfinch — Fringillidae — *Pyrrhula pyrrhula*;
(LL) Black-throated island canary — Fringillidae — *Serinus atrogularis*;
(MM) Island canary — Fringillidae — *Serinus canaria*;
(NN) Yellow crowned canary — Fringillidae — *Serinus flaviventris*;
(OO) White-rumped seedeater — Fringillidae — *Serinus leucopygius*;
(PP) Yellow-fronted canary — Fringillidae — *Serinus mozambicus*;
(QQ) European serin — Fringillidae — *Serinus serinus*;
(RR) Long-tailed rosefinch — Fringillidae — *Uragus sibiricus*;
(SS) Troupials and Allies — Icteridae — All nonnative species;
(TT) Leafbirds and fairy bluebirds — Irenidae — All species;
(UU) Honeyeaters — Meliphagidae — All species;
(VV) Old World Flycatchers — Muscipidae — *Copyschus* All species;
(WW) Sunbirds — Nectariniidae — All species;
(XX) Sudan sparrow — Passeridae — *Passer luteus*;
(YY) Red-headed weaver — Ploceidae — *Anaplectes rubriceps*;
(ZZ) Yellow-crowned bishop — Ploceidae — *Euplectes afer*;

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- (AAA) Red-collared widowbird — Ploceidae — *Euplectes ardens*;
(BBB) Black-winged bishop — Ploceidae — *Euplectes hordeaceus*;
(CCC) Jackson's widowbird — Ploceidae — *Euplectes jacksoni*;
(DDD) Yellow-shouldered widowbird — Ploceidae — *Euplectes macrourus*;
(EEE) Red bishop — Ploceidae — *Euplectes orix*;
(FFF) Long-tailed widowbird — Ploceidae — *Euplectes progne*;
(GGG) Red fody — Ploceidae — *Foudia madagascariensis*;
(HHH) Orange weaver — Ploceidae — *Ploceus aurantius*;
(III) Village weaver — Ploceidae — *Ploceus cucullatus*;
(JJJ) Lesser masked weaver — Ploceidae — *Ploceus intermedius*;
(KKK) Little weaver — Ploceidae — *Ploceus luteolus*;
(LLL) Baya weaver — Ploceidae — *Ploceus philippinus*;
(MMM) Vitelline-masked weaver — Ploceidae — *Ploceus vitellinus*;
(NNN) Speckle-fronted weaver — Ploceidae — *Sporopipes frontalis*;
(OOO) Scaly weaver — Ploceidae — *Sporopipes squamifrons*;
(PPP) Sugarbirds — Promeropidae — All species;
(QQQ) Golden-crested myna — Sturnidae — *Ampeliceps coronatus*;
(RRR) Violet-backed starling — Sturnidae — *Cinnyricinclus leucogaster*;
(SSS) Emerald starling — Sturnidae — *Lamprotornis iris*;
(TTT) Golden-breasted starling — Sturnidae — *Lamprotornis regius*;
(UUU) Common hill myna — Sturnidae — *Gracula religiosa*;
(VVV) Long-tailed glossy-starling — Sturnidae — *Lamprotornis caudatus*;
(WWW) Bronze-tailed glossy-starling — Sturnidae — *Lamprotornis chalcurus*;
(XXX) Greater blue-eared glossy-starling — Sturnidae — *Lamprotornis chalybaeus*;
(YYY) Lesser blue-eared glossy-starling — Sturnidae — *Lamprotornis chloropterus*;
(ZZZ) Hildebrandt's starling — Sturnidae — *Lamprotornis hildebrandti*;
(AAAA) Chestnut-bellied starling — Sturnidae — *Lamprotornis pulcher*;
(BBBB) Purple-headed glossy-starling — Sturnidae — *Lamprotornis purpureiceps*;
(CCCC) Purple glossy-starling — Sturnidae — *Lamprotornis purpureus*;
(DDDD) Rupepell's glossy-starling — Sturnidae — *Lamprotornis purpuroptera*;
(EEEE) Splendid glossy-starling — Sturnidae — *Lamprotornis splendidus*;
(FFFF) Superb starling — Sturnidae — *Lamprotornis superbus*;
(GGGG) Bali myna — Sturnidae — *Leucopsar rothschildi*;
(HHHH) Golden myna — Sturnidae — *Mino anais*;
(IIII) Yellow-faced myna — Sturnidae — *Mino dumontii*;
(JJJJ) Tanagers and Allies — Thraupidae — All nonnative species;
(KKKK) Babblers — Timalidae — All species;
(LLLL) White-eyes — Zosteropidae — All species.
(h) Order Piciformes:
(A) Barbets — Capitonidae — All species;
(B) Toucans — Ramphastidae — All species.
(i) Order Sphenisciformes:
(A) Penguins — Spheniscidae — All species.
(j) Order Tinamiformes:
(A) Tinamous — Tinamidae — All species.
(k) Order Trogoniformes:
(A) Trogons — Trogonidae — All species.
(3) Noncontrolled Amphibians: Common Name — Family — Genus/species:
(a) Order Anura:
(A) Allophrynid tree frog — Allophrynidae — *Allophryne* All species;
(B) Hairy frogs — Arthroleptidae — *Trichobatrachus* All species;
(C) Cane toad — Bufonidae — *Bufo marinus*;
(D) African tree toads — Bufonidae — *Nectophryne* All species;
(E) Live-bearing toads — Bufonidae — *Nectophrynoidea* All species;
(F) Glass frogs — Centrolenidae — All species;
(G) Poison arrow frogs — Dendrobatidae — All species;
(H) Ghost frogs — Heleophrynidae — *Heleophryne* All species;
(I) Shovel-nosed frogs — Hemisotidae — *Hemisus* All species;
(J) Leaf frogs — Hylidae — *Agalychnis* All species;
(K) Casque-headed frogs — Hylidae — *Aparashpenodon* All species;
(L) Water-holding frogs — Hylidae — *Cyclorana* All species;
(M) Marsupial frogs — Hylidae — *Gastrotheca* All species;
(N) Marbled tree frogs — Hylidae — *Hyla marmorata*;
(O) Australian giant tree frogs — Hylidae — *Litoria chlorus* and *L. infrafrenata*;
(P) Slender-legged tree frogs — Hylidae — *Osteocephalus* All species;
(Q) Cuban tree frogs — Hylidae — *Osteopilus* All species;
(R) White's tree frog — Hylidae — *Pelodryas caerulea*;
(S) Golden-eyed tree frogs — Hylidae — *Phrynohyas* All species;
(T) Monkey frogs — Hylidae — *Phyllomedusa* All species;
(U) Burrowing frogs — Hylidae — *Pternohyla* All species;
(V) Casque-headed tree frogs — Hylidae — *Trachycephalus* All species;
(W) Shovel-headed tree frogs — Hylidae — *Tripidon* All species;
(X) Banana frogs — Hyperoliidae — *Africalas* All species;
(Y) Reed frogs — Hyperoliidae — *Hyperolius* All species;
(Z) Running frogs — Hyperoliidae — *Kassina* All species;
(AA) Forest tree frogs — Hyperoliidae — *Leptopelis* All species;
(BB) New Zealand frogs — Leiopelmatidae — *Leiopelma* All species;
(CC) Common horned frogs — Leptodactylidae — *Ceratophrys* All species;
(DD) Rain or robber frogs — Leptodactylidae — *Eleutherodactylus* All species;
(EE) Paraguay horned toads — Leptodactylidae — *Lepidobatrachus* All species
(FF) Asian horned toad — Megophryidae — *Megophrys montana* (nasuta);
(GG) Tomato frogs — Microhylidae — *Dyscophus* All species;
(HH) Narrow-mouthed frogs — Microhylidae — *Gastrophryne* All species;
(II) Sheep frogs — Microhylidae — *Hypopachus* All species;
(JJ) Malaysian narrowmouth toad — Microhylidae — *Kaloula pulchra*;
(KK) Tusked frog — Myobatrachidae — *Adelotus brevis*;
(LL) Pouched frog — Myobatrachidae — *Assa darlingtoni*;
(MM) Giant burrowing frogs — Myobatrachidae — *Heleioporus* All species;
(NN) Cannibal frogs — Myobatrachidae — *Lechriodus* All species;
(OO) Turtle frog — Myobatrachidae — *Myobatrachus gouldii*;
(PP) Australian spadefoot toads — Myobatrachidae — *Notaden* All species;
(QQ) Crowned toadlets — Myobatrachidae — *Pseudophryne* All species;
(RR) Gastric brooding frog — Myobatrachidae — *Rheobatrachus* All species;
(SS) Torrent frogs — Myobatrachidae — *Taudactylus* All species;
(TT) Australian toadlets — Myobatrachidae — *Uperoleia* All species;
(UU) Parsley frogs — Pelodytidae — *Pelodytes* All species;
(VV) Dwarf clawed frogs — Pipidae — *Hymenochirus* All species;
(WW) Surinam frogs — Pipidae — *Pipa* All species;
(XX) Mantella frogs — Ranidae — *Mantella* All species;
(YY) Foam nest tree frogs — Rhacophoridae — *Chiromantis* All species;
(ZZ) Gliding or flying frogs — Rhacophoridae — *Rhacophorus* All species;
(AAA) Tonkin Bug-eyed frog — Rhacophoridae — *Theloderma corticale*;
(BBB) Mexican burrowing frog — Rhinodermatidae — *Rhinophrynus dorsalis*;
(CCC) Seychelles frogs — Sooglossidae — All species.
(b) Order Caudata:
(A) Axolotl — Ambystomatidae — *Ambystoma mexicanum*;
(B) Gold-striped salamander — Salamandridae — *Chioglossa lusitanica*;
(C) Black-spotted and striped newts — Salamandridae — *Notophthalmus meridionalis* and *N. perstriatus*;
(D) Spectacled salamander — Salamandridae — *Salamandrina terdigitata*.
(c) Order Gymnophiona:
(A) Caecilians — All species.
(4) Noncontrolled Reptiles: Common Name — Family — Genus/species:
(a) Order Squamata (Suborder Amphisbaenia): Worm lizards — All species.

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- (b) Order Squamata (Suborder Lacertilia):
- (A) Pricklenapes — Agamidae — Acanthosaura All species;
- (B) Common or rainbow agama — Agamidae — Agama agama;
- (C) Frilled dragon — Agamidae — Chlamydosaurus kingii;
- (D) Humphead forest dragons — Agamidae — Gonocephalus All species;
- (E) Sailfin lizards — Agamidae — Hydrosaurus All species;
- (F) Anglehead forest dragons — Agamidae — Hypsilurus All species;
- (G) Splendid Japalure — Agamidae — Japalura splendida;
- (H) Water dragons — Agamidae — Lophognathus All species;
- (I) Water dragons — Agamidae — Physignathus All species;
- (J) Bearded dragons — Agamidae — Pogona All species;
- (K) Mastigures — Agamidae — Uromastix All species;
- (L) Strange Agamas — Agamidae — Xenagama All species;
- (M) Chameleons — Chamaeleonidae — All species;
- (N) Plated lizards — Cordylidae — Gerrhosaurus All species;
- (O) Flat lizards — Cordylidae — Platysaurus All species;
- (P) Geckos — Gekkonidae — All species;
- (Q) Gila monster, beaded lizard — Helodermatidae — All species;
- (R) Iguanid lizards — Iguanidae — All nonnative species except: Crotaphytus spp., Gambelia spp., Sceloporus spp., Uta spp., Phrynosoma spp.:
- (S) Asian Grass Lizard — Lacertidae — Takydromus sexlineatus;
- (T) Skinks — Scincidae — All nonnative species except Eumeces spp.:
- (U) Ameivas — Teiidae — Ameiva All species;
- (V) Tegu — Teiidae — Tupinambis All species;
- (W) Monitor lizards — Varanidae — All species except Varanus griseus;
- (X) Night lizards — Xantusiidae — All species;
- (Y) American knob-scaled lizards — Xenosauridae — Xenosaurus All species.
- (c) Order Squamata (Suborder Serpentes):
- (A) File snakes — Acrochordidae — All species;
- (B) Pythons and Boas — Boidae — All nonnative species;
- (C) Milk, Pine, Corn, Rat, Garter snakes — Colubridae — All nonnative species except Boiga irregularis, Lampropeltis getula, L.zonata, and Pituophis catenifer;
- (D) Kingsnakes and gopher (bull) snakes — Colubridae — Individuals of Lampropeltis getula, L. zonata and Pituophis catenifer that are morphologically distinct from native species.
- (E) Egyptian cobra — Elapidae — Naja haje;
- (F) Black & white cobra — Elapidae — Naja melanoleuca;
- (G) Indian cobra — Elapidae — Naja naja;
- (H) Red spitting cobra — Elapidae — Naja pallida;
- (I) King cobra — Elapidae — Ophiophagus hannah;
- (J) Bush vipers — Viperidae — Atheris All species;
- (K) Gaboon viper — Viperidae — Bitis gabonica;
- (L) Rhinoceros viper — Viperidae — Bitis nasicornis;
- (M) Horned vipers — Viperidae — Cerastes All species;
- (N) Rattlesnakes — Viperidae — Crotalus aquilus, C. basiliscus, C. durissus, C. intermedius, C. polystictus, C. pusillus, C. tortugensis, C. triseriatus, C. unicolor, and C. vegrandis;
- (O) Saw-scaled vipers — Viperidae — Echis All species;
- (P) Bushmaster — Viperidae — Lachesis muta;
- (Q) False horned vipers — Viperidae — Pseudocerastes All species;
- (R) Pygmy rattlesnakes — Viperidae — Sistrurus miliarius and S. ravus.
- (d) Order Testudines:
- (A) Pignose turtles — Carettochelyidae — All species;
- (B) Austro--American side-necked turtles — Chelidae — All species;
- (C) River turtles — Dermatemydidae — All species;
- (D) Pond and box turtles — Emydidae — All nonnative species except Pseudemys spp., Trachemys spp., Chinemys spp., Clemmys spp., Chrysemys spp., Graptemys spp., Emys orbicularis, Emydoidea blandingii and Mauremys spp.
- (E) American mud and musk turtles — Kinosternidae — All species except Kinosternon subrubrum and K. odoratum;
- (F) Afro-American side-necked turtles — Pelomedusidae — All species
- (G) Bighead turtles — Platysternidae — All species;
- (H) Tortoises — Testudinidae — All species;
- (I) Softshell turtles — Trionychidae — All species except Apolone spp. and Trionyx triunguis.

(5) Noncontrolled Fish: Common Name — Family — Genus/species: Aquaria fish and Live Foodfish -All species.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; Administrative correction 10-27-97; FWC 72-1997, f. & cert. ef. 12-29-97; DFW 21-1998, f. & cert. ef. 3-13-98; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 69-2011, f. 6-15-11, cert. ef. 7-1-11; DFW 20-2014, f. & cert. ef. 3-11-14; DFW 30-2014(Temp), f. 4-15-14, cert. ef. 4-16-14 thru 10-10-14; DFW 131-2014, f. & cert. ef. 9-11-14; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-056-0070

Controlled Wildlife Species

At the time the commission categorizes a species, subspecies or hybrid as Controlled, it shall also establish the controls necessary to protect native wildlife.

(1) Controlled Mammals: Except as otherwise provided in ORS 498.022, these rules or other rules of the commission, no person may import, possess, sell, purchase, exchange or transport, or offer to import, possess, sell, purchase, exchange or transport, any, or any part of, the following species of wildlife.

Common Name — Family — Genus/species:

(a) Elephant — Elephantidae — All species

(b) Rhinoceros — Rhinocerotidae — All Species

(c) Whale — Cetacea — All Species

(d) Tiger — Felidae — Panthera tigris

(e) Lion — Felidae — Panthera leo and Panthera leo persica

(f) Leopard — Felidae — Panthera pardus, Neofelis nebulosi, Uncia uncia

(g) Cheetah — Felidae — Acinonyx jubatus

(h) Jaguar — Felidae — Panthera onca

(i) Pangolin — Manidae — All species

(2) Controlled Birds:

(a) Mute swans (Cygnus olor): The possession, transport, sale, purchase, exchange and offer to sell, purchase or exchange is allowed provided that all males are neutered and all individuals are surgically pinioned. Importation of any mute swan is prohibited.

(b) Hawks and falcons (families Falconidae and Accipitridae): The capture, possession, propagation, transportation, release, sale, purchase, exchange and disposition of falcons is allowed only as per the requirements of OAR 635 division 44 (Holding, Propagating Protected Wildlife) and OAR 635 division 55 (Falconry Licenses, Permits and Requirements).

(c) Game birds: (Anatidae, Columbidae, Tetranidae, Phasianidae, Meleagrididae, Scolopacidae, Gruidae, Rallidae). The possession, propagation, sale, purchase and exchange of game birds is allowed only as per the requirements of OAR 635 division 44 (Holding, Propagating Protected Wildlife).

(d) Unless authorized by the Department, European starling (Sturnus vulgaris), or House sparrows (Passer domesticus), or Eurasian Collared Dove (Streptopelia decaocto) may not be imported into Oregon or released into the wild. However, viable eggs, nestlings, fledglings, or adults may be captured from the wild, possessed, bought or sold for any other purpose (including damage control research). No permit is required for such capture and possession.

(3) Controlled Amphibians:

(a) Bullfrog (Rana catesbeiana) including viable eggs, hatchlings, tadpoles, juveniles and adults: No person may import, purchase, sell, barter or exchange, or offer to import, purchase, sell, barter or exchange live bullfrogs. Individual bullfrogs may be collected from the wild and held indoors in an escape proof aquarium as per OAR 635-044-0035. Release is prohibited unless the person first obtains a permit from the Director.

(4) Controlled Reptiles:

(a) Order Crocodylia (Crocodyles, Alligators and Gavials) are considered exotic animals pursuant to ORS 609.305. Therefore, the keeping, breeding and sale of such animals is regulated by ORS 609.205 through 609.355 and OAR 603-011-0705 and 603-011-0706. Those statutes and rules govern the authority of local governments and the Department of Agriculture over those activities concerning these animals. However, the Fish and Wildlife Commission retains authority to regulate release and transport of these animals, and their management if they are released or escape into the wild. It is unlawful to release any member of the order Crocodylia.

(b) Except as otherwise provided in ORS 498.022, these rules or other rules of the commission, no person may import, possess, sell, purchase,

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exchange or transport, or offer to import, possess, sell, purchase, exchange or transport, any, or any part of, the following species of wildlife:

(A) Marine and Leatherback turtles — Cheloniidae and Dermochelyidae — All Species

Stat. Auth.: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 69-2011, f. 6-15-11, cert. ef. 7-1-11; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-056-0075

Controlled Fish Species

(1) Controlled Fish

(a) Grass carp (*Ctenopharyngodon idella*): Grass carp may be released into water bodies within Oregon only pursuant to the issuance of a permit from the Department. Complete permit applications shall be submitted to Department headquarters at least 60 days before proposed stocking. A fee of \$250.00 (plus a \$2.00 license agent fee) shall be charged for each Grass carp permit issued. The following restrictions and standards will govern the issuance of grass carp permits

(A) Stocking will occur only in water bodies which are:

(i) Completely within private land; or

(ii) On land owned or controlled by irrigation districts or drainage districts.

(B) Stocking will occur only in the following types of water bodies:

(i) Lakes, ponds, or reservoirs less than 10 acres; or (ii) Ditches and canals.

(C) Public use of the water body must be restricted to prevent removal of grass carp (by angling otherwise) by unauthorized persons. At a minimum, the water body must be closed to angling and other use by the general public.

(D) Stocking shall not detrimentally affect any population of species listed as threatened or endangered by the federal or state government.

(E) Stocking shall occur only in water bodies with fish screens approved by the Department. Such screens shall have screen openings 1 inch or less for fish 12–19 inches total length and screen openings 2 inches or less for fish over 19 inches total length. Screens shall be inspected and approved by the Department before a permit will be issued. The applicant must comply with fish passage requirements (OAR 635, division 412); given grass carp screening requirements, this entails applying for and receiving a waiver or exemption from passage requirements if grass carp will be stocked into waters where native migratory fish are or were historically present.

(F) Stocking will not be allowed in water bodies within 100-year floodplains (as delineated by the Federal Emergency Management Agency on federal Flood Insurance Rate Maps) during times of potential flood. Times of potential flood are January 1 through July 31 in watersheds east of the Cascades and October 15 through May 31 in watersheds west of the Cascades. Grass carp will be removed from water bodies in a 100-year floodplain and held or disposed of during times of potential flood. If grass carp will be held and not disposed of, they shall be held at a permitted site outside the 100-year floodplain. Applications for sites within a 100-year floodplain shall contain a detailed removal plan which shall receive Department approval.

(G) Grass carp may only be purchased and imported from approved suppliers outside Oregon. Grass carp may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on ability to provide grass carp free of Asian tapeworms and meet health and disease requirements according to OAR 635-007-0555 through 635-007-0585.

(H) Grass carp imported into Oregon shall be:

(i) Sterile triploids. Documentation from the U.S. Fish and Wildlife Service that each fish is triploid must be submitted to the Department prior to release;

(ii) At least 12 inches long;

(iii) Tagged with a Passive Integrated Transponder (PIT) tag of frequency 134.2-kilohertz. Each tag shall be programmed with a unique identification number. A list of unique tag numbers shall be submitted to the Department prior to release; and

(iv) Stocked at a rate not exceeding 22 per affected acre.

(I) In addition to documentation relating to the restrictions above, each permit application shall include:

(i) Applicant's name, address and daytime telephone number. All property owners of the water body to which grass carp will have unrestricted access must be party to the application and permit;

(ii) Location of the water body, including township, range, section and quarter section, with map including written directions for access;

(iii) Map of the water body including, vegetation present in the water body, all inlets and outlets, and screen locations;

(iv) Description of emergency procedures for responding to fish escapes from approved sites;

(v) Description of how fish will be removed and disposed of at the end of the proposed project.

(J) An application becomes the management plan upon approval. Permits and management plans shall be specific to particular sites and particular stocking projects. Permittees shall not deviate from permit conditions and management plans without prior written approval from the Department. No person may remove grass carp from one site (as identified in a management plan) and transport them to any other site without prior written approval from the Department.

(K) An Oregon Department of Fish and Wildlife fish transport permit shall accompany grass carp imported into and transported within Oregon. If transport is required within the management plan and occurs entirely on the permittee's property, a transport permit is not needed. Any other permit or documentation required for fish import, transport, or stocking shall also be obtained prior to importation and stocking.

(L) Permittees shall, as a condition of the permit, allow employees of the Department or the Oregon State Police to inspect at reasonable times the permitted water body, permit, and associated records. Inspection may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of property other than the water bodies or fish holding facilities on the permittee's property.

(M) Permits are revocable at any time for violation of any wildlife statute or rule of the Department. Upon revocation, if stocking has already occurred, the permittee shall remove all grass carp within two weeks at her/his own cost.

(N) Grass carp which escape a permitted water body are subject to seizure or destruction by the Department at the expense of the permit holder. The permit holder shall be held liable for incidental kill of any other species due to or during destruction of escaped grass carp.

(O) The Commission may grant an exception to OAR 635-056-0075(1)(a)(A) or (1)(a)(B). Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements:

(i) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(ii) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be overtopped by a 100-year flood. The Department reserves the right to have a licensed engineer retained by the agency review and approve or deny the plan or drawing submitted by the applicant.

(b) Tilapia (Mozambique tilapia *Oreochromis mossambicus*, Nile tilapia *O. niloticus*, Wami tilapia *O. urolepsis*, Blackchin tilapia *Sarotherodon melanotheron*, and hybrids thereof): The possession, propagation, transportation, sale, purchase, exchange and disposition of these tilapia is controlled according to the following restrictions and standards:

(A) A person intending to sell, barter or exchange must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production. A person may raise tilapia in-doors (a house, greenhouse, or other enclosed structure capable of excluding predators) for personal consumption without an Oregon Department of Fish and Wildlife-Fish Propagation license;

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(B) Propagation outdoors must occur in ponds or tanks covered with nets or screens adequate to prevent the capture or transport of cultured fish by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live tilapia or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live tilapia imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Tiger muskellunge (*Esox lucius* X *Esox masquinongy*): tiger muskellunge are classified as a controlled species for the specific purpose of stocking into Phillips Reservoir (Baker County) for fish management purposes according to the following restrictions and standards:

(A) Stocking will occur only in Phillips Reservoir located in Baker County. No other public or private water bodies will be stocked with tiger muskellunge unless approved by the Commission. Tiger muskellunge will be stocked into Phillips Reservoir at a rate not to exceed the adult density required to achieve the objectives of the introduction; control abundance of yellow perch to restore the rainbow trout fishery.

(B) Tiger muskellunge may only be obtained and imported from approved suppliers outside of Oregon. Tiger muskellunge may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on the ability to provide tiger muskellunge which meet health and disease requirements according to OAR 635-007-0960 through 635007-0995.

(C) Allowable catch and release only based on management objectives.

(D) Department will establish a monitoring plan and program prior to release which shall include:

(i) Creel monitoring.

(ii) Population monitoring.

(iii) Plans to eradicate or suppress any illegal introductions of pike or muskellunge introductions to Phillips Reservoir.

(iv) Education and outreach.

(E) In conjunction with fish monitoring activities all live tiger muskellunge handled of suitable marking size shall be tagged with a Passive Integrated Transponder (PIT) tag. Each tag shall be programmed with identification number. A list of the PIT tag identification numbers shall be maintained by the District Fish Biologist and submitted to the Invasive Species Wildlife Integrity Coordinator.

(F) Any permit(s) or documentation(s) required for fish import, transport, or stocking shall be obtained prior to and accompany importation and stocking.

(G) Department will develop an environmental monitoring plan for Phillips Reservoir which should include:

(i) Basic limnological characterization of the reservoir (nutrient concentrations, light penetration, vertical profiles of physical and chemical characteristics of reservoir water, zooplankton, and phytoplankton composition and densities).

(d) Barramundi (*Lates calcarifer*) the possession, propagation, transportation, sale, purchase, exchange and disposition of Barramundi are controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live Barramundi imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed;

(C) Fish health certification must be reviewed and found acceptable by ODFW Fish Health personnel or veterinary staffs before fish are purchased or transported;

(D) Possession of live Barramundi outside of an approved facility or without a transport permit is prohibited;

(E) No live Barramundi or their gametes, fertilized eggs, or larvae may be released into water of the State, as defined in ORS 506.006;

(F) Propagation must occur indoors (enclosed structure capable of excluding predators) and only in closed recirculating systems;

(G) Access to production facilities must be through secure locked gates;

(H) Permittee must provide adequate veterinary care as directed by a veterinarian and adhere to Fish Health Management Policy OAR 635-007-0960 through 635-007-0995 to identify and minimize the spread of disease originating from the animals being held;

(I) Effluent water may not be discharged directly into any waters of the state.

(e) Shark: Except as otherwise provided in ORS 498.022, these rules, or other rules of the commission, no person may import, possess, sell, purchase, exchange or transport, or offer to import, possess, sell, purchase, exchange or transport, sharks.

(f) Ray: Except as otherwise provided in ORS 498.022, these rules, or other rules of the commission, no person may import, possess, sell, purchase, exchange or transport, or offer to import, possess, sell, purchase, exchange or transport, rays.

(2) Controlled Mollusks:

(a) Suminoe oysters (*Crassostrea ariakensis*), Pacific oysters (*C. gigas*), Kumamoto oysters (*C. sikamea*), Eastern oysters (*C. virginica*), and European flat oysters (*Ostrea edulis*) may be purchased and imported from outside Oregon (or from other estuaries within Oregon) for release into estuaries in Oregon pursuant to the terms of a permit issued by the department. Complete permit applications must be submitted to the department's Marine Resources Program Headquarters (2040 SE Marine Science Drive, Newport, Oregon 97365) at least 15 days before proposed stocking. Oysters may be commercially harvested and sold pursuant to OAR 635-005.

(b) Softshell clam (*Mya arenaria*), Japanese varnish clam (*Nuttallia obscurata*), and Japanese littleneck clam (*Venerupis philippinarum*) may be harvested, possessed and sold commercially pursuant to OAR 635-005 or harvested and possessed recreationally pursuant to OAR 635-039.

(3) Controlled Crustaceans:

(a) Green crabs (*Carcinus maenas*) may be harvested recreationally pursuant to OAR 635-039. Once harvested, it is unlawful to return green crab to state waters. It is unlawful to take green crab for commercial purposes.

(b) Whiteleg shrimp (*Litopenaeus vannamei*): The possession, propagation, transportation, sale, purchase, exchange and disposition of whiteleg shrimp is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured shrimp by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live whiteleg shrimp or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live whiteleg shrimp imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Giant river prawns (*Macrobrachium rosenbergii*): The possession, propagation, transportation, sale, purchase, exchange and disposition of giant river prawns is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured prawns by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

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(F) No giant river prawns or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live giant river prawns imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(d) Crayfish – Cambaridae and Parastacidae – All species: The importation, possession, propagation, transportation, sale, purchase, exchange and disposition of non-native crayfish is controlled according to the following restrictions and standards.

(A) Non-native crayfish may be harvested, possessed and sold commercially pursuant to OAR 635-005-0855 through 635-005-0885 or harvest recreationally pursuant to ORS 496.162 from waters of the State as defined in ORS 503.006;

(B) Live non-native crayfish may not be used as bait except in the waterbody in which they were taken;

(C) Non-native crayfish or their gametes, fertilized eggs, or larvae may not be released into waters of the State, as defined in ORS 503.006;

(D) Propagation is not allowed;

(E) Non-native crayfish may not be imported except by recognized educational institutions or for immediate consumption (Immediate consumption means within one week from date of delivery):

(i) Prior to purchase and importation; must apply for and receive authorization from Oregon Department of Fish and Wildlife;

(ii) Crayfish must be euthanized after educational section is completed.

(iii) Non-native crayfish must remain in an indoor secure facility and can only be removed when transporting for immediate preparation for consumption;

(iv) An Oregon Department of Fish and Wildlife fish transport permit shall accompany non-native crayfish imported into Oregon.

(F) Fish health certification must be reviewed, found acceptable and be on file by ODFW Fish Health personnel or veterinary staffs before crayfish are imported into the State.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Other Auth.: SB 247 (2015)

Stats. Implemented: ORS 497.308, 497.318, 498.022, 498.052 & 498.222

Hist.: DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 64-2003, f. & cert. ef. 7-17-03; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 131-2012, f. & cert. ef. 10-11-12; DFW 148-2012, f. & cert. ef. 12-18-12; DFW 26-2014(Temp), f. 3-21-14, cert. ef. 4-1-14 thru 8-31-14; DFW 131-2014, f. & cert. ef. 9-11-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-056-0076

Requirements for holding "Covered Animal Species"

(1) Facilities must be accredited by the American Zoo and Aquarium Association (AZA) or Zoological Association of America (ZAA), or be a bona fide scientific or educational institution as defined in ORS 498.022. To obtain a permit for the possession of live covered animal(s) the applicant shall submit:

(a) A completed Application to Hold a Covered Animal Species;

(b) A written description of escape avoidance procedures and facilities;

(c) Documentation that wildlife was legally acquired; and

(d) Oregon Department of Agriculture import permit.

(2) For species, subspecies or hybrids of Covered Animal Species, a permit will not be issued to an individual allowing the importation and possession of live covered animal(s) except for grandfathered animals as found in OAR 635-056-0150(3), and those facilities or institution listed in subsection (1) of this rule.

(3) Covered Animal Species of the family Felidae, authorized by Oregon Department of Agriculture prior to July 1, 2017, may continue to be held for the life of the animal.

(4) Covered Animal Species being used for entertainment purposes (e.g., circus, fairs, movies, TV), accompanied by an import permit from the Oregon Department of Agriculture if required, and proof of legal possession, if in the state for less than 14 days are exempt from the possession and transport provisions of these rules. In the event additional time is required for the animal(s) to be in the state, the person in possession of the animal(s) must notify the Department's Salem headquarters office to receive authorization for additional time.

(5) Any type of United States Department of Agriculture animal permit or license does not exempt anyone from these rules.

Statutory Auth.: ORS 496.012, 496.138, 496.146, 498.022 & 498.026

Stats Implemented: ORS 496.012, 496.138, 496.146, 498.022, 498.026 & 506.025

Hist.: DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-056-0140

Noncontrolled Classification

(1) Upon a request pursuant to OAR 635-056-0130(3)(b), the director may classify a species as Noncontrolled if the director determines, based upon scientific information, that the species presents a low risk of harm to native wildlife. In evaluating the risk, the director shall determine the relative risk (high, medium, low, unknown) for each of the following criteria:

(a) Whether the species' natural range and habitat is similar to Oregon's climate and habitat;

(b) Whether the species has an invasive history;

(c) Whether the species can survive in Oregon;

(d) Whether the species has the potential to prey upon native wildlife;

(e) Whether the species can potentially degrade the habitat of native wildlife;

(f) Whether the species has the potential to pass disease or parasites to native wildlife;

(g) What types of disease or parasites could be passed on to native wildlife;

(h) Whether the species has the potential to compete for food, water, shelter, or space with native wildlife;

(i) Whether the species has the potential to hybridize with native wildlife; and

(j) Whether the species can be readily distinguished from a native species, or a prohibited or controlled species.

(k) How is the species categorized in "The IUCN Red List of Threatened Species?"

(1) Is the species commercially propagated? Unknown, rarely, moderate, common

(2) If the director determines that the risk for all of the above criteria is low, or that the risk for one of the criterion is medium and the risk for the remaining criteria is low, then the director may classify the species as Noncontrolled. If the director determines that the risk for any of the criteria is high or unknown, or that the risk for two or more of the criteria is medium, the director shall refer the petition to the commission for a decision.

(3) The director shall notify the petitioner in writing of any decision and the rationale for that decision. If the petitioner or an affected person disagrees with the director's decision to list a species as Noncontrolled, the person may request the commission to review the director's decision.

(4) The director shall maintain a list of those species classified as Noncontrolled, and shall make the list available to the public.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 20-2014, f. & cert. ef. 3-11-14; DFW 131-2014, f. & cert. ef. 9-11-14; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-056-0150

Grandfathering

(1) A person who possessed a Prohibited wildlife species prior to the time the commission places the species on the Prohibited list, or an unclassified species if legally obtained prior to January 1, 2000, may continue to hold the animal(s) for the life of such animal(s), provided:

(a) The person has proof of legal possession prior to the listing (e.g., sales receipt, import permit from Oregon Department of Agriculture.)

(b) The animal(s) and any offspring are not released, transported, imported, sold, purchased, exchanged, offered for sale, purchase or exchange, or otherwise transferred within the state; and

(c) The person abides by all regulations outlined in OAR 635-056-0110.

(2) A Prohibited wildlife species legally held in compliance with the requirements of subsection (1) of this rule may be sold or exchanged provided that the animal is directly and permanently transported out of Oregon.

(3) A person who possessed an individual(s) of a Covered Animal Species prior to July 1, 2017 may continue to hold the individual(s) for the life of the animal(s) provided:

(a) The person submitted a completed Application to Hold a Covered Animal Species;

(b) The person has proof of legal possession prior to July 1, 2017 (e.g., sales receipt, import permit from Oregon Department of Agriculture);

(c) The person submits photographs of the animal(s) showing side, head and extended ears, or a description of the tattoo or microchip identification of the animal;

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(d) The animal(s) and any offspring cannot be released, transported, imported, sold, purchased, exchanged, offered for sale, or otherwise transferred within the state;

(e) The animal(s) are not allowed to breed or be bred after July 1, 2017; and

(f) The person abides by all regulation outlined in OAR 635-056-0076.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 20-2014, f. & cert. ef. 3-11-14; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-200-0010

Definitions

(1) Unless specifically stated otherwise in this rule, terms used in this division retain the meaning accorded them under other divisions of OAR chapter 635 and the governing statutes.

(2) “Bona fide scientific or educational institution means”:

(a) A career school granted authority to operate under ORS 345.010 to 345.450;

(b) A community college established under ORS chapter 345.010 to 345.450;

(c) An education service district as defined in ORS 334.003;

(d) The Oregon Health and Science University;

(e) A public high school;

(f) A public university listed in ORS 352.002

(g) Any institution not otherwise listed in the subparagraph that is exempt from ORS 348.594 to 348.615 under 348.597(2); or a zoo or aquarium that is accredited under standards the equal or exceed the accreditation standards of the Association of Zoos and Aquariums or Zoological Association of America in effect on the effective date of this 2017 Act.

(3) “Cervid” is defined in OAR 635-045-0002.

(4) “Covered Animal Species” means:

(a) Elephant — Elephantidae — All species

(b) Rhinoceros — Rhinocerotidae — All Species

(c) Whale — Cetacea — All Species

(d) Tiger — Felidae — *Panthera tigris*

(e) Lion — Felidae — *Panthera leo* and *Panthera leo persica*

(f) Leopard — Felidae — *Panthera pardus*, *Neofelis nebulosi*, *Uncia uncia*

(g) Cheetah — Felidae — *Acinonyx jubatus*

(h) Jaguar — Felidae — *Panthera onca*

(i) Pangolin — Manidae — All species

(j) Marine and Leatherback turtles — Cheloniidae and Dermochelyidae — All Species

(k) Shark — all species — excluding spiny dogfish as defined in ORS 498.257(1), and excluding species obtained by an activity expressly authorized by federal law or an activity that involves a species that is subject to a federal management plan under Title III of P.L. 94-265 as amended (Magnuson-Steven Act).

(l) Ray — all species — excluding species obtained by an activity expressly authorized by federal law or an activity that involves a species that is subject to a federal management plan under Title III of P.L. 94-265 as amended (Magnuson-Stevens Act), and all species of skate (Rajidae).

(5) “Covered Animal Species part or product” means any item that contains, or is wholly or partially made, from any Covered Animal Species.

(6) “Furtaker” means a holder of a furtaker’s license or a hunting license for furbearers.

(7) “Furbearer” and “furbearing mammals” are defined in OAR 635-050-0050.

(8) “Processed” means a hide, pelt, or cape that has been:

(a) Permanently preserved through a process such as tanning, freeze-drying or converting to rawhide (but not including salting, drying or freezing); or

(b) Converted into a handcrafted item.

(9) “Raw pelt” is defined in OAR 635-049-0005.

(10) “Road-killed” means struck and killed by a motor vehicle.

(11) “Sale” or “sell” of Covered Animals Species means an act of selling, trading, or bartering for monetary or non-monetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction, but does not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(12) “Unprocessed” means not processed, as defined in this rule.

(13) “Unprotected Mammals” is defined in OAR 635-050-0050.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-200-0080

Wildlife Not Native to Oregon

(1) Except as provided in ORS 498.022 and this rule, any person may sell, purchase or exchange the parts of any species other than those species listed in Appendix 5 (“Extant, Self-Sustaining Oregon Vertebrates by Physiographic Provinces, Selected Community Types and Selected Habitat Components”) of the Oregon Wildlife Diversity Plan 1993–1998 (November 1993).

(2) Any person may sell, purchase, or exchange the inedible parts of bullfrogs (*Rana catesbeiana*).

(3) The sale, purchase, or exchange of nonnative cervid parts is governed by section 60 of this rule.

(4) Except as provided in ORS 498.022, this rule, or other rules of the commission, no person may purchase, sell, offer for sale, or possess with the intent to sell any “Covered Animal Species”.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042

Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-200-0135

Sale of Covered Animal Species

(1) Except as otherwise provided in ORS 498.022, these rules or other rules of the commission, a person may not purchase, sell, or exchange, or offer to purchase, sell or exchange any item that the person knows or should know is a Covered Animal Species part or product.

(2) Subsection (1) of this rule does not apply to:

(a) Employees or agents of federal or state government undertaking any law enforcement activities or any mandatory duties required by federal or state law;

(b) When the activity is expressly authorized by federal law;

(c) When the activity involves a species that is subject to a federal management plan under Title III of P.L. 94-265 (16 U.S.C. 1851-1869), as amended; or

(d) When the activity is exempt under ORS 498.257(3) or 509.160(3);

(e) When the Covered Animal Species part or product is a fixed component of an antique that is not made wholly or primarily of the covered animal species; and

(A) At least 100 years old as of July 1, 2017;

(B) Total weight of part or product is less than 200 grams.

(f) When the Covered Animal Species part or product is a fixed component of a musical instrument, including, but not limited to, string instruments and bows, wind and percussion instruments, and pianos;

(A) Instrument was legally acquired;

(B) Total weight of Covered Animal Species part or product is less than 200 grams.

(g) To the noncommercial transfer of ownership of a Covered Animal Species part or product to a legal beneficiary of estate, trust or other inheritance;

(h) To the possession of a covered animal species part or product by any enrolled member of a federally recognized Indian tribe; or

(i) To the sale of a covered animal species part or product by or to a bona fide scientific or educational institution when the sale is made pursuant to a written gift agreement or similar instrument entered into before July 1, 2017.

(3) The Department may permit the purchase, sale or donation of parts or products of Covered Animal Species to facilities accredited by the American Zoo and Aquarium Association (AZA) or Zoological Association of America (ZAA), or by a bona fide scientific or educational institution as defined in statute 498.022(A); if

(a) The product or part was legally acquired;

(b) The sale was made pursuant to a written gift agreement or similar instrument entered into prior to July 1, 2017;

(c) Not prohibited by federal law;

(d) The requestor submits documentation to the Department detailing the proposed transaction including the type of part or product to be acquired/transferred and the source of the part or product; and

(e) The bona fide scientific or educational institution keeps, and provides to the Department, documentation from the transaction detailing the type of part or product acquired and the source of the part or product.

(4) A person who sells, offers to sell, or possess with the intent to sell parts or products that closely resembles material from a Covered Animal

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Species must immediately provide proof that the material used for the part or product is not from a Covered Animal Species, if requested by Department.

Stat. Auth.: 496.012, 496.138, 496.146 & 496.665, 496.675, 497.238, 497.308, 497.318, 498.022 & 498.026
Stats Implemented: 496.012, 496.138, 496.146 & 496.665, 496.675, 497.238, 497.308, 497.318, 498.022 & 498.026
Hist.: DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

635-200-0140

Confiscation, Disposal, or Cancellation or Non-Renewal of Authorization to Possess Parts or Products from Covered Animal Species

(1) Failure to comply with any requirements or authorizations to possess parts or products from the “Covered Animal Species” rules may result in confiscation or required disposal of any part(s) or product as directed by the Department. A person may appeal the confiscation or disposal through a contested case hearing. The request for a contested case hearing on a proposed confiscation or disposal must be received by the Department within 21 days after service of notice (or 90 days for emergency). The request for hearing on a proposed confiscation or disposal must be received by the Department within 60 days of notice. Final Orders in contested case hearing will be issued by the Director.

(2) Each violation of these rules may be punishable by a civil penalty not to exceed \$6,500 or an amount equal to two times the total value of the covered animal species part or product that is the subject of the violation, whichever is higher.

Stat. Auth.: 496.012, 496.138, 496.146 & 496.665, 496.675, 497.238, 497.308, 497.318, 498.022 & 498.026
Stats Implemented: 496.012, 496.138, 496.146 & 496.665, 496.675, 497.238, 497.308, 497.318, 498.022 & 498.026
Hist.: DFW 90-2017(Temp), f. & cert. ef. 7-14-17 thru 12-31-17

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**Department of Human Services,
Administrative Services Division and Director’s Office
Chapter 407**

Rule Caption: Amendments to Federal Child Care and Development Block Grant, Mandatory Exclusions, Expedited Hearing Rights

Adm. Order No.: DHSD 6-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 407-007-0210, 407-007-0250, 407-007-0279, 407-007-0320, 407-007-0330, 407-007-0335

Rules Repealed: 407-007-0210(T), 407-007-0250(T), 407-007-0279(T), 407-007-0320(T), 407-007-0330(T), 407-007-0335(T)

Subject: In January 2017, the Department of Human Services began implementing the Child Care and Development Block Grant’s reauthorization and regulatory changes issued 9/23/2016 by filing temporary rules needed to meet requirements under federal regulations. The Department is now making the temporary rule changes permanent. Rule updates include:

- Clarification of who is considered a childcare provider subject individual (OAR 407-007-0210)

- New requirement for all childcare provider subject individual to have a national fingerprint based criminal records check (OAR 407-007-0250)

- Guidelines for convictions leading to mandatory exclusion of childcare provider subject individuals and the available appeal rights (OAR 407-007-0279, 407-007-0330)

In OAR 407-007-0279, additional language is added to clarify the different mandatory exclusions in place.

The Department is correcting an error that occurred in rule filings from 12-1-2016. Updates to the Criminal Records Checks and Abuse Checks on Providers (OAR 407-007-0200 to 407-007-0370) on 12-1-2016 inadvertently changed the hearing rights of subject individuals who have only potentially disqualifying abuse involving adult victims. Under guidance from the Department’s original Abuse Steering Committee, if a weighing test leads to a negative fitness determination, the subject individual shall be notified of an Intent to Deny and granted expedited hearing rights. OAR 407-007-0335 was corrected in a temporary rule filing in January 2016; this permanent

rulemaking restores the correct notice and expedited hearing rights to these subject individuals.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0210

Definitions

In addition to the definitions in OAR 125-007-0210 and 407-007-0010, the following definitions apply to OAR 407-007-0200 to 407-007-0370:

(1) “Appointing authority” means an individual designated by the qualified entity (QE) who is responsible for appointing QE designees (QEDs). Examples include but are not limited to human resources staff with the authority to offer and terminate employment, a business owner, a member of the board of directors, a director, or a program administrator.

(2) “Ineligible due to ORS 443.004” means BCU has determined that an SI, subject to ORS 443.004 and either OAR 407-007-0275 or 407-007-0277, has one or more convictions that prohibit the SI from holding the position listed in the background check request.

(3) “Mandatory exclusion” means BCU has determined that an SI, subject to federal law or regulation, has one or more convictions or conditions that prohibit the SI from holding the position listed in the background check request.

(4) “Proctor foster parent” means an individual who is an applicant for certification or recertification of a proctor foster home by a child-caring agency pursuant to OAR 413-215-0301 to 413-215-0396.

(5) “Qualified entity (QE)” means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181A.200).

(6) “QE designee (QED)” means an approved SI appointed by the QE’s appointing authority to handle background checks on behalf of the QE.

(7) “QE Initiator (QEI)” means an approved SI to whom BCU has granted access to the Criminal Information Management System (CRIMS) for one QE for the purpose of entering background check request data.

(8) “Subject individual (SI)” means an individual on whom BCU conducts a criminal records check and an abuse check, and from whom BCU may require fingerprints for the purpose of conducting a national criminal records check.

(a) An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department or Authority and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care or has access to clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority.

(C) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(i) Services within an adult foster home (defined in ORS 443.705); or
(ii) Services within a residential facility (defined in ORS 443.400).

(D) Any individual who works in a facility and provides care or has access to clients, client information, or client funds secured by any residential care or assisted living facility through the services of a personnel services or staffing agency.

(E) Any individual who works in a facility and provides care, or has access to clients, client information, or client funds secured by any nursing facility through the services of a personnel services or staffing agency.

(F) Except as excluded in section (8)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, or boarder.

(G) For child foster homes licensed by the Department’s DD programs, or child foster or adoptive homes governed by OAR chapter 413 division 215:

(i) A foster parent or proctor foster parent;
(ii) An adoptive parent applicant or an approved adoptive parent;
(iii) A household member in an adoptive or foster home 18 years of age and over;
(iv) A household member in an adoptive or foster home under 18 years of age if there is reason to believe that the household member may pose a risk to children placed in the home; and
(v) A respite care provider.

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(H) An individual with contact with clients, client information, or client funds, who is an employee, contractor, or volunteer for a child-caring agency governed by OAR chapter 413 division 215; an In-Home Safety and Reunification Services (ISRS) program; a Strengthening, Preserving and Reunifying Families (SPRF) provider; or a system of care contractor providing child welfare services pursuant to ORS Chapter 418.

(I) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department or Authority client who provides care to the client if the Department or Authority helps pay for the services.

(J) Pursuant to OAR 461-165-0180, a child care provider and their employees reimbursed through the Department's child care program, associated individuals, and other individuals in child care facilities that are exempt from certification or registration by the Office of Child Care of the Oregon Department of Education. This includes all individuals listed in OAR 461-165-0180. Childcare provider SIs include:

- (i) The childcare provider;
- (ii) Employees of the childcare provider;
- (iii) Any individual the childcare provider uses to supervise a child in the absence of the childcare provider;

(iv) Each individual 16 years of age or older who lives in the provider's home if child care is provided in the home;

(v) Each individual who visits the provider's home during the hours care is provided and may have unsupervised access to a child in care.

(K) An appointing authority, QED, or QEI associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(L) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(M) A student enrolled in a Board of Nursing approved nursing assistant training program in which the instruction and training occurs solely in a nursing facility.

(N) Except for those excluded under section (8)(b)(B), a student or intern who provides care or has access to clients, client information, or client funds within or on behalf of a QE.

(O) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(P) An employee providing care to clients of the Department's Aging and People with Disabilities (APD) programs who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department's APD programs.

(Q) Any individual who is required to complete a background check pursuant to Department or Authority program rules or a contract with the Department or Authority, if the requirement is within the Department or Authority's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a background check must be specified in the contract. The exceptions in section (8)(b) do not apply to these SIs.

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) A student or intern in a clinical placement at a clinical training setting subject to administrative rules implemented under ORS 413.435 and OAR 409-030-0100 to 409-030-0250.

(C) Department, Authority, or QE clients. The only circumstance in which BCU shall allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (8)(a)(A)-(E) and (8)(a)(G)-(Q) of this rule, or if the facility is dually licensed for different populations of vulnerable individuals.

(D) Individuals working in child care facilities certified or registered by OED.

(E) Volunteers providing any care or services for a QE's special event lasting no more than 2 weeks whose access to clients is no more than three days within the two-week period. These volunteers must always be actively supervised in accordance with OAR 407-007-0315 and have no unsupervised contact with clients.

(F) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department or Authority.

(G) Individuals employed by a business that provides appliance or structural repair for clients and the general public and who are temporarily providing these services in a licensed or certified QE. The QE shall ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or residents. This

exclusion does not apply to a business that receives funds from the Department or Authority for care provided by an employee of the business.

(H) Individuals employed by a private business in which a client of the Department or Authority is working as part of a Department- or Authority-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department or Authority for care provided by the employee.

(I) Employees, contractors, students, and volunteers working in hospitals, ambulatory surgical centers, outpatient renal dialysis facilities, and freestanding birthing centers, as defined in ORS 442.015, and special inpatient care facilities as defined by the Authority in administrative rule.

(J) Employees, contractors, students, interns, and volunteers working in home health agencies, in-home care agencies, or hospice programs as defined by the Authority in administrative rule.

(K) Volunteers, who are not under the direction and control of a licensed, certified, registered, or otherwise regulated QE.

(L) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(M) Individuals working in restaurants or at public swimming pools.

(N) Hemodialysis technicians.

(O) Employees, contractors, temporary workers, or volunteers who provide care, or have access to clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Authority's Health Systems Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Authority program rules to conduct criminal records checks in accordance with these rules.

(P) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(Q) Emergency medical technicians and first responders certified by the Authority's Emergency Medical Services and Trauma Systems program.

(R) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 67.

(S) Individuals hired by or on behalf of a resident in a QE to provide care privately to the resident.

(T) An employee, contractor, temporary worker, or volunteer who provides care or has access to specific clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority, where the clients served permanently reside in another state.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027, 443.004, & OL 2016, chapter 106, section 6

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17

407-007-0250

Background Check Process

(1) A QE and SI shall use CRIMS to request a background check. In addition to information required in OAR 125-007-0220, the background check request shall include the following information regarding an SI:

(a) Position title and description of duties to be considered;

(b) Indication of the SI's direct contact with any of the following:

(A) Children (for a child-caring agency governed by OAR chapter 413 division 215, children includes an individual who is under 21 years of age who is residing in or receiving care or services);

(B) Adults;

(C) Seniors (65 years and older);

(D) Confidential information;

(E) Secure Facilities;

(F) Finances or financial records; or

(G) Information Technology Systems.

(c) Worksite location or locations where the SI will be working;

(d) Disclosure of all criminal history;

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(A) The SI must disclose all arrests, charges, and convictions regardless of outcome or when the arrests, charges, or convictions occurred. Disclosure includes any juvenile record of arrests, charges, or the outcome of arrests or charges against a juvenile.

(B) The disclosed crimes and the dates must reasonably match the SI's criminal offender information and other criminal records information, as determined by BCU.

(e) Disclosure of other information to be considered in the event of a weighing test.

(A) The SI may provide mitigating information for BCU to review in a weighing test.

(B) BCU may require the SI to provide other information as needed to conduct the weighing test.

(f) For an SI who is a proctor foster parent:

(A) The SI must provide a release of information allowing the Department to provide the QE with information regarding the open or pending abuse investigations or founded or substantiated allegations of abuse against the SI.

(B) The SI must also disclose:

(i) Any currently open or pending child or adult abuse investigations in which the SI is reported or alleged to be responsible for the abuse;

(ii) Any substantiations of child or adult abuse investigations with an outcome of founded or substantiated in which the SI is determined to have been responsible for the abuse allegations; and

(iii) Any restraining order or protective orders against the SI.

(C) If the SI has any of the following, the Department shall provide the QE notification:

(i) Information regarding the open or pending abuse investigations in which the SI is a reported or alleged perpetrator.

(ii) Information regarding substantiated allegations of abuse against the SI.

(iii) Confirmation of the SI being certified or licensed by the Department as a child foster home parent.

(g) For childcare provider SIs listed in OAR 407-007-0210(8)(a)(J), the SI must disclose any involvement in protective services or abuse investigations regarding children or vulnerable adults.

(2) The background check request shall include the following notices to the SI:

(a) A notice regarding disclosure of Social Security number indicating that:

(A) The SI's disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal records check process.

(b) A notice that the SI may be subject to fingerprinting as part of a criminal records check.

(c) A notice that BCU shall conduct an abuse check on the SI. Unless required by program rule, an SI is not required to disclose any history of potentially disqualifying abuse, but may provide BCU with mitigating or other information.

(3) Using identifying information submitted in a background check request, BCU shall conduct an abuse check to determine if the subject individual SI has potentially disqualifying abuse.

(4) BCU shall conduct an Oregon criminal records check. Using information submitted on the background check request, BCU may obtain criminal offender information from LEDS and may request other criminal records information as needed.

(5) BCU shall handle criminal offender information in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 125, division 007 and chapter 257, division 15).

(6) BCU may conduct a fingerprint-based national criminal records check.

(a) A fingerprint-based national criminal records check may be completed under any of the following circumstances:

(A) The SI has been outside Oregon:

(i) For 60 or more consecutive days during the previous 18 months and the SI is a child care provider or other individual included in OAR 461-165-0180.

(ii) For 60 or more consecutive days during the previous five years for all other SIs.

(B) The LEDS check, SI disclosures, or any other criminal records information obtained by BCU indicate there may be criminal records outside of Oregon.

(C) The SI has an out-of-state driver license or out-of-state identification card.

(D) BCU or the QE has reason to question the identity of the SI or the information on the criminal record found in LEDS.

(E) A fingerprint-based criminal records check is required by federal or state laws or regulations, other Department or Authority rules, or by contract with the Department or Authority.

(F) The SI is an employee of an agency which the Centers for Medicare and Medicaid Services has designated high risk pursuant to 42 CFR 424.518.

(G) Any SI applying to be or renewing the position with regard to child adoption or children in foster care licensed by the Department or child-caring agencies. Renewing SIs do not need a fingerprint-based criminal records check if BCU has a record of a previous fingerprint-based criminal records checks that is within three years from the date of the current background check request. Applicable SI positions include:

(i) A relative caregiver, foster parent, proctor foster parent, or adoptive parent in Oregon;

(ii) An adult household member in an adoptive or child foster home 18 years of age and over;

(iii) A household member in an adoptive or child foster home under 18 years of age if there is reason to believe that the household member may pose a risk to children placed in the home; or

(iv) A respite care provider in an adoptive or child foster home.

(H) BCU has reason to believe that fingerprints are needed to make a final fitness determination.

(b) BCU shall request a fingerprint capture for an SI under the age of 18 in accordance with OAR 125-007-0220(3).

(c) The SI shall complete and submit a fingerprint capture when requested by BCU within the time frame indicated in a written notice. BCU shall send the request to the QE and the QED shall notify the SI.

(A) BCU shall give the SI notice regarding the Social Security number as set forth in section (2)(a) of this rule.

(B) BCU may require new fingerprint capture and its submission if previous fingerprint captures result in a rejection by OSP or the FBI.

(7) For childcare provider SIs listed in OAR 407-007-0210(8)(a)(J), a background check shall include:

(a) A fingerprint-based national criminal records check;

(b) A search of the National Crime Information Center's National Sex Offender Registry and the Oregon state sex offender registry (these checks are included in the Oregon and fingerprint based national criminal records check); and

(c) In any state where the SI has resided for 60 or more consecutive days during the previous five years:

(A) A criminal records check;

(B) An abuse check;

(C) A state sex offender registry check.

(78) BCU may also conduct a state-specific criminal records check instead of or in addition to a national criminal records check. Reasons for a state-specific criminal records check include but are not limited to:

(a) When BCU has reason to believe that out-of-state criminal records may exist and a national criminal records check cannot be accomplished.

(b) When BCU has been unable to complete a national criminal records check due to illegible fingerprints.

(c) When the national criminal records check results show incomplete information about charges or criminal records without final disposition.

(d) When there is indication of residency or criminal records in a state that does not submit all criminal records to the FBI.

(e) When, based on available information, BCU has reason to believe that a state-specific criminal records check is necessary.

(8) In order to complete a background check and fitness determination, BCU may require additional information from the SI including but not limited to additional criminal, judicial, other background information, or proof of identity.

(9) If BCU determines that an SI has additional potentially disqualifying convictions or conditions which have occurred after receiving the background check request, BCU shall provide the SI, if available, the opportunity to disclose criminal records, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0300 before completion of the final fitness determination.

(10) BCU may conduct a background check in situations of imminent danger.

(a) If the Department or Authority determines there is indication of criminal or abusive behavior that could more likely than not pose an immediate risk to vulnerable individuals, BCU shall conduct a new criminal

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records check on an SI without the completion of a new background check request.

(b) If BCU determines that a fitness determination based on the new background check would be adverse to the SI, BCU shall provide the SI, if available, the opportunity to disclose criminal records, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0300 before completion of the final fitness determination.

(11) All criminal records checks conducted under this rule shall be documented.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 409.010, & OL 2016, chapter 106, section 6
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHSD 2-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17

407-007-0279

Federal Mandatory Exclusions

(1) Convictions and conditions under 42 USC 1320a-7(a) (Exclusion of certain individuals and entities from participation in Medicare and State health programs) result in mandatory exclusion for SIs if they occurred within five years from the date the final fitness determination. If the convictions and conditions under 42 USC 1320a-7(a) occurred after five years from the date the final fitness determination, the individual is subject to a fitness determination under OAR 125-007-0260 and 407-007-0320.

(a) Section (1) of this rule applies to an SI who is:

(A) A home care worker or personal support worker as defined in ORS 410.600; or

(B) Employed by:

(i) A residential facility as defined in ORS 443.400 that receives Medicare or state health care funds;

(ii) An in-home care agency as defined in ORS 443.005 that receives Medicare or state health care funds;

(iii) A home health agency as defined in ORS 443.005 that receives Medicare or state health care funds;

(b) If BCU determines that an individual is subject to this rule and has an exclusion listed in 42 USC 1320a-7, BCU shall make the determination of mandatory exclusion. Convictions or conditions requiring mandatory exclusion include:

(A) Convictions related to the delivery of Medicare or State health care program services.

(B) Convictions related to the abuse of a client or patient.

(C) Felony convictions related to health care fraud.

(D) Felony convictions related to the manufacture, delivery, prescription or dispensing of a controlled substance.

(c) Under OAR 125-007-0260, the determination of mandatory exclusion is considered an incomplete fitness determination. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has.

(d) A determination of mandatory exclusion is subject to appeal rights only if allowed under 42 USC 1320a-7(c) or 42 USC 1320a-7(d). If allowed, appeals shall comply with OAR 125-007-0300, 943-007-0335 and 943-007-0501.

(2) Convictions and conditions under 42 USC 12645g (Criminal history checks under the National and Community Service State Grant Program) result in Mandatory exclusion for SIs.

(a) Section (2) of this rule applies to an SI who is working or volunteering under the National and Community Service Act of 1990 as amended by the Serve America Act, including participants and employees in:

(A) Americorps;

(B) Foster Grandparents;

(C) Senior Companions; or

(D) Any other programs funded under national service laws.

(b) If BCU determines that an individual is subject to this rule and has an exclusion listed in 42 USC 12645g, BCU shall make the determination of mandatory exclusion. Exclusions include:

(A) Listing on, or requirement to be listed on a sex offender registry;

(B) Conviction for murder.

(C) Refusal to complete the background check.

(D) False statement by the SI in connection with criminal history disclosure.

(c) Under OAR 125-007-0260(2)(d), the determination of “mandatory exclusion” is considered an incomplete fitness determination. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has.

(d) A determination of “mandatory exclusion” due to 42 USC 12645g is not subject to appeal rights under OAR 125-007-0300, 407-007-0330, 407-007-0335, 943-007-0335, or 943-007-0501.

(3) Prohibitions under 45 USC 9858f (Criminal background checks) under the Child Care and Development Block Grant result in mandatory exclusion for SIs.

(a) Section (3) of this rule applies to childcare provider SIs under OAR 407-007-0210(8)(a)(J).

(b) If BCU determines that an individual is subject to this rule and has an exclusion listed in 45 USC 9858f, BCU shall make the determination of mandatory exclusion. Exclusions include:

(A) Refusal to complete the background check;

(B) Knowingly making a materially false statement in connection with the SI’s criminal records check;

(C) Felony conviction consisting of:

(i) Murder;

(ii) Child abuse or neglect;

(iii) A crime against children, including child pornography;

(iv) Spousal abuse;

(v) Rape or sexual assault;

(vi) Kidnapping;

(vii) Arson

(viii) Physical assault or battery; or

(ix) A drug-related offense, if it occurred within five years from the date the final decision; and

(D) Conviction of a violent misdemeanor as an adult against a child including but not limited to:

(i) Child abuse;

(ii) Child endangerment;

(iii) Sexual assault; or

(iv) Child pornography.

(c) A fitness determination with a weighing test is not required if the SI has an exclusion listed in this section (with the exception of a drug-related offense within five years from the date the final decision), regardless of any other potentially disqualifying convictions and conditions the SI has. BCU shall make the determination of mandatory exclusion.

(d) If the SI has only the exclusion of a drug-related offense within five years from the date of the final decision, and no other exclusions listed in this section, BCU shall conduct a weighing test pursuant to OAR 407-007-0300 in making a final decision. If the weighing test determines that the SI is a risk to the well-being of vulnerable individuals, BCU shall make the determination of mandatory exclusion.

(e) Pursuant to OAR 125-007-0260(2)(d), the determination of mandatory exclusion is considered an incomplete fitness determination.

(f) A determination of mandatory exclusion due to 45 USC 9858f is not subject to appeal rights under OAR 125-007-0300, 407-007-0335, 943-007-0335, or 943-007-0501. The SI may appeal only to challenge the accuracy or completeness of the criminal records check.

(A) The SI may not hold the position during an appeal.

(B) If the mandatory exclusion is changed at any time during the appeal process, the change does not guarantee placement of the SI, or the SI childcare provider.

(C) An SI may represent himself or herself or have legal representation during the appeal process. For the purpose of this rule, the term “SI” shall be considered to include the SI’s legal representative.

(D) To request an appeal, the SI shall complete and sign the Child Care Provider Hearing Request form, and submit it to BCU via mail or fax within 45 calendar days after the effective date of the mandatory exclusion. In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(E) BCU may conduct additional criminal records checks during the appeal process to update or verify the SI’s potentially disqualifying convictions or conditions. If BCU finds new potentially disqualifying convictions and conditions during the appeal resulting in mandatory exclusion, BCU shall amend the notice of fitness determination while still maintaining the original hearing rights and deadlines.

(F) BCU shall provide notice to the SI, indicating its efforts to verify the completeness of the criminal records check and the accuracy of the information challenged by the SI. If BCU determines that the criminal

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records check was incomplete or inaccurate, BCU shall rectify these issues during the appeal or explain to the SI the issues preventing BCU from making the criminal records check complete or accurate. If the mandatory exclusion is maintained, the SI has no other appeal rights through BCU.

(G) BCU shall ensure the appeal is completed in a timely manner.
Stat. Auth.: ORS 181A.195 & 409.050
Stats. Implemented: ORS 181A.195
Hist.: DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17

407-007-0320

Final Fitness Determinations

(1) A final fitness determination pursuant to OAR 125-007-0260 and these rules will be made after all necessary background checks have been received and a weighing test, if necessary, has been completed. For the purpose of a final fitness determination as defined in OAR 407-007-0010(18), an authorized designee includes:

(a) A BCU staff trained to make a final fitness determination;

(b) A BCU hearing representative if a fitness determination is contested under OAR 407-007-0330, 407-007-0335, or 943-007-0501; or

(c) An administrative law judge if a contested fitness determination results under a contested case hearing through the Office of Administrative Hearings.

(2) The final fitness determination results in one of the following outcomes:

(a) The authorized designee may approve an SI if:

(A) The SI has no potentially disqualifying convictions or potentially disqualifying conditions; or

(B) The SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the authorized designee determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals.

(b) The authorized designee may approve an SI with restrictions if the SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the authorized designee determines that more likely than not the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals if certain restrictions are placed on the SI. Restrictions may include but are not limited to restrictions to one or more specific clients, job duties, or environments. A new background check and fitness determination shall be completed on the SI before removing a restriction.

(c) The authorized designee shall deny an SI if the SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the authorized designee determines more likely than not the SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(d) In the following situations the SI shall have no hearing rights and BCU the authorized designee shall consider a background check to have an outcome of incomplete fitness determination:

(A) The QE or SI discontinues the application or fails to cooperate with the background check or fitness determination process, including but not limited to failure to disclose all requested criminal, abuse or other information, refusal to be fingerprinted or failing to respond in a timely manner to written correspondence from BCU. The background check request is considered closed.

(B) BCU determines that the SI is ineligible due to ORS 443.004 in accordance with OAR 407-007-0275 or 407-007-0277. The background check request is considered completed.

(C) BCU or the QE withdraws or closes the background check request before a final fitness determination for any reason. The background check request is considered closed.

(D) The SI withdraws the application, leaves the position prior to completion of the background check, or the Department cannot locate or contact the SI. The background check request is considered closed.

(E) The QE determines that the SI is determined to be ineligible for the position by the QE for reasons other than the background check. The background check request is considered closed.

(F) The SI who is a proctor foster parent and fails to provide a release of information, the background check request is considered closed.

(G) BCU The authorized designee determines that the final fitness determination is a mandatory exclusion due to the SI being subject to OAR 407-007-0279 and having a conviction or condition listed in OAR 407-007-0279. The background check request is considered completed. The SI has hearing rights only if granted under federal law the determination of mandatory exclusion is made pursuant to OAR 407-007-0279(3)(c) or 407-007-0279(3)(d).

(H) The SI is a childcare provider and BCU makes a finding of failed in accordance with OAR 461-165-0180. The background check request is considered closed.

(e) BCU shall issue an intent to deny if the final fitness determination meets the criteria in OAR 407-007-0335(1). The SI has expedited hearings rights under OAR 407-007-0335.

(3) Upon completion of a final fitness determination, BCU or the QE shall provide notice to the SI.

(a) If approved, BCU shall provide notice to the QE through CRIMS. The QE shall provide the SI a copy of the notice or CRIMS documentation.

(b) If the final fitness determination is a denial based on potentially disqualifying abuse under OAR 407-007-0290(11)(d) and there are no other potentially disqualifying convictions or conditions, BCU shall issue a Notice of Intent to Deny and provide the SI hearing rights under OAR 407-007-0335.

(c) Except as required by section (3)(a) of this rule, if denied or approved with restrictions, BCU shall issue a notice of fitness determination to the SI which includes the potentially disqualifying convictions or conditions that the outcome was based upon, information regarding appeal rights, and the notice becoming a final order in the event of a withdrawal or failure to appear at the hearing.

(d) The effective date of action shall be recorded on the notice or CRIMS documentation.

(4) BCU shall provide the QE notification of the final fitness determination when the SI is being denied or approved with restrictions.

(5) BCU shall provide the childcare provider notification of the final fitness determination when an SI associated with the childcare provider is being denied. If the childcare provider has denied associated SIs and has not also been denied or mandatorily excluded, BCU shall fail the childcare provider in accordance with OAR 461-165-0180.

(6) BCU shall provide the childcare provider notification of the final decision when an SI associated with the childcare provider has a determination of mandatory exclusion. If the childcare provider has mandatorily excluded associated SIs and has not also been denied or mandatorily excluded, BCU shall fail the childcare provider in accordance with OAR 461-165-0180.

(7) When an SI is denied or the background check results in an incomplete fitness determination, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request. A denial applies only to the position and application in question. A denial or incomplete fitness determination shall result in immediate termination, dismissal, or removal of the SI.

(8) When an SI is approved with restrictions, the SI shall only be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request and only under the stated restrictions. A restricted approval applies only to the position and application in question. A restricted approval shall result in immediate implementation of the restrictions.

(9) BCU shall maintain any documents obtained or created during the background check process.

(10) BCU shall make new fitness determinations for each background check request. The outcome of previous fitness determinations does not set a precedent for subsequent fitness determinations.

Stat. Auth.: ORS 181A.200, 409.027 & 409.050
Stats. Implemented: ORS 181A.195, 181A.200, 409.010, 409.027, 443.004, & OL 2016, chapter 106, section 6
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0320, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 3-2013, f. & cert. ef. 8-1-13; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 6-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17

407-007-0330

Contesting a Fitness Determination

(1) An SI may contest a final fitness determination of denied or approved with restrictions pursuant to OAR 125-007-0300 unless already granted contested case hearing rights under 407-007-0335.

(2) If an SI is determined to have a mandatory exclusion pursuant to federal law and OAR 407-007-0279, the SI may have hearing rights only if allowed by federal law. For the purpose of this rule the term "adverse fitness determination" includes a mandatory exclusion pursuant to OAR 407-007-0279(1) if hearing rights are allowed by federal law.

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(3) If an SI is denied or mandatorily excluded, the SI may not hold the position, provide services or be employed, licensed, certified, or registered, or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(4) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(5) An SI may represent himself or herself or have legal representation during the appeal process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI who is appealing an adverse outcome regarding the position of homecare worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted in accordance with OAR 125-007-0300, ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing, the SI shall complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Department within 45 calendar days after the effective date of action.

(c) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(d) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(e) BCU may refer an untimely request to the OAH for a hearing on the issue of timeliness.

(7) BCU may conduct an administrative review before referring the appeal to the OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(8) BCU may conduct additional criminal records checks or abuse checks during the contested case hearing process to update or verify the SI's potentially disqualifying convictions or conditions and factors to consider in the weighing test. If BCU finds new potentially disqualifying convictions and conditions during the administrative review, BCU shall make a new final fitness determination and amend the notice of fitness determination while still maintaining the original hearing rights and deadlines.

(9) The Department shall be represented by a hearing representative in contested case hearings. The Department may also be represented by the Office of the Attorney General.

(a) The administrative law judge shall make a new final fitness determination based on evidence and the contested case hearing record.

(b) The only remedy an administrative law judge may grant is a final fitness determination that the SI is approved, approved with restrictions, or denied, or mandatorily excluded pursuant to OAR 407-007-0279(1). Under no circumstances shall the Department or the QE be required to place an SI in any position, nor shall the Department or the QE be required to accept services or enter into a contractual agreement with an SI.

(10) The notice of final fitness determination issued is final as if the SI never requested a hearing in the following situations:

(a) The SI failed to request a hearing in the time allotted in this rule. No other document will be issued after the notice of final fitness determination.

(b) The SI withdraws the request for hearing at any time during the appeal process.

(11) BCU may make an informal disposition based on the administrative review. The Department shall issue a final order and new notice of final fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to a contested case hearing.

(12) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days.

(c) BCU shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days of the order.

(13) After a hearing, the administrative law judge shall issue a proposed and final order.

(a) If no written exceptions are received by BCU within 14 calendar days after the service of the proposed and final order, the proposed and final order becomes the final order.

(b) If timely written exceptions to the proposed and final order are received by BCU, the Department's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(14) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

(15) BCU may provide the QED with the results of the appeal.

Stat. Auth.: ORS 181A.200, 183.459, 409.027 & 409.050

Stats. Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0330, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2016(Temp), f. & cert. ef. 1-14-16 thru 7-11-16; DHSD 5-2016, f. 6-10-16, cert. ef. 6-15-16; DHSD 9-2016, f. & cert. ef. 12-1-16; DHSD 3-2017(Temp), f. & cert. ef. 3-15-17 thru 9-10-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17

407-007-0335

Decision and Hearing Rights for Potentially Disqualifying Abuse

(1) This rule applies only to:

(a) Background checks in which an SI has potentially disqualifying abuse against an adult under OAR 407-007-0290(11)(a)(C), 407-007-0290(11)(b)(B), 407-007-0290(c)(B), or 407-007-0290(11)(d) with no other potentially disqualifying convictions or conditions; and

(b) After a weighing test under OAR 407-007-0300, BCU determines that more likely than not, the SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) BCU shall provide the SI a Notice of Intent to Deny in writing.

(a) BCU shall indicate on the Notice of Intent to Deny the date the final fitness determination was made and the date of the intended action if the SI fails to request an expedited hearing.

(b) BCU shall mail the Notice of Intent to Deny to the SI using the mailing address provided by the SI by the next business day after the date of the final fitness determination.

(c) BCU shall include an Expedited Hearing Request form with the Notice of Intent to Deny.

(3) An SI may contest a Notice of Intent to Deny by requesting an expedited hearing. The expedited hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(4) To request an expedited hearing, the SI must submit a completed and signed Expedited Hearing Request form. The request for an expedited hearing must be received by the Department within 10 calendar days after the date of the Notice of Intent to Deny.

(a) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(b) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(5) An SI has the right to represent him or herself or have legal representation during the expedited hearing process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative if the SI has provided BCU with such information.

ADMINISTRATIVE RULES

(a) An SI who is appealing a Notice of Intent to Deny regarding the position of homemaker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) If the SI fails to request an expedited hearing under this rule within the allowed time, BCU shall issue a Notice of Denial to the SI and to the QE. The SI shall have no further hearing rights under OAR 407-007-0330.

(7) If the SI requests an expedited hearing in a timely manner, the SI shall remain in the same status made in a preliminary fitness determination under OAR 407-007-0315 until the date of a final order or the Notice of Denial.

(8) BCU may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(c) BCU may make an informal disposition based on the administrative review. BCU shall issue a final order and a notice of fitness determination.

(9) The Department shall be represented by a hearing representative in expedited hearings. The Department may also be represented by the Office of the Attorney General.

(a) BCU shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The claimant is entitled to reasonable notice of all hearing documents either through personal service, electronically, regular mail, or certified mail.

(b) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information.

(10) The expedited hearing shall be conducted by the OAH by telephone within 10 business days from the receipt of the completed and signed Expedited Hearing Request form.

(a) The expedited hearing is not open to the public.

(b) The administrative law judge shall make a new fitness determination based on evidence and the record.

(c) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall the Department or the QE be required to place an SI in any position, nor shall the Department or the QE be required to accept services or enter into a contractual agreement with an SI.

(11) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw an expedited hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within four calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review.

(c) If the QE terminates employment or position of the SI for reasons unrelated to the potentially disqualifying abuse, BCU may close the application.

(d) BCU shall dismiss a hearing request when the SI fails to appear at the time specified for the expedited hearing. The order is effective on the date scheduled for the hearing.

(12) After an expedited hearing, the administrative law judge shall issue a final order within three business days.

(a) If the final order maintains BCU's intent to deny, BCU shall issue a Notice of Denial by the next business day after the date of the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(b) If the final order reverses BCU's intent to deny to an approval or a restricted approval, BCU shall issue a Notice of fitness determination by the next business day after the date of the final order unless BCU formally stays the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(13) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

Stat. Auth.: ORS 181.537, 183.459, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.027 & 443.004

Hist.: DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 2-2017(Temp), f. & cert. ef. 1-24-17 thru 7-22-17; DHSD 6-2017, f. 6-30-17, cert. ef. 7-1-17

Rule Caption: Investigation of Reported Abuse in Certain Child-Caring Agencies to Allow Reconsideration of Substantiated Abuse Findings

Adm. Order No.: DHSD 7-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 407-045-0940

Rules Repealed: 407-045-0940(T)

Subject: The Department of Human Services (Department) is permanently adopting temporary rules that went into effect on January 13, 2017 that provides the Director or Director's designee the opportunity for good cause, to reconsider a substantiated abuse finding regarding a

person or child-caring agency (CCA) investigated by the Office of Adult Abuse Prevention and Investigations (OAAPI) under these rules. The amended rule outlines the director/designee ability to initiate action that may affirm, modify, reverse or remand the substantiated abuse finding. The amended rule does not affect current rule provisions that affords a person or CCA with a substantiated abuse finding the right to request an administrative review of the OAAPI determination by the Substantiation Review Committee, as stated in these rules.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-045-0940

Review of Substantiated Abuse Finding

(1) When OAAPI has determined abuse has occurred, the person with substantiated abuse or a CCA against whom the finding has been made, has the right to request an administrative review of the OAAPI decision by the OSRC. The OSRC must consist of Department employees who are knowledgeable about the dynamics of child abuse and neglect, including the assessment or investigation of child abuse, and Department employees with knowledge of abuse investigations, especially where abuse is alleged to have occurred in out-of-home settings.

(2) A person with substantiated abuse or CCA requesting a review must use information contained in the notice of OAAPI substantiation to either meet with the OSRC or prepare a written request for review. The written request for review must be received by OAAPI within 30 calendar days of the receipt of the notice of OAAPI substantiation. If the request is submitted by mail, it must be postmarked within 30 calendar days. The request must include the following:

(a) Date the request for review is written;

(b) Case number found on the notice of OAAPI substantiation;

(c) Full name of the person with substantiated abuse or CCA;

(d) The person with substantiated abuse or CCA's current name (if it has changed from the name noted in section (c) of this rule);

(e) A full explanation, responsive to the information provided in the Department's notice, explaining why the person with substantiated abuse or CCA believes the OAAPI substantiation is wrong and any additional information and documents the person with substantiated abuse or CCA wants considered during the review;

(f) The person with substantiated abuse or CCA's current street address and telephone number; and

(g) The person with substantiated abuse signature or the signature of a CCA employee authorized to sign on behalf of the organization.

(3) Except as provided in OAR 407-045-0950, within 60 calendar days of OAAPI's receipt of a completed request for review, the OSRC must conduct a review and issue a notice of OSRC decision that includes the following:

(a) Whether there is reasonable cause to believe that abuse occurred;

(b) Whether there is reasonable cause to believe that the person with substantiated abuse or CCA was responsible for the abuse;

(c) Whether the OSRC is changing the OAAPI substantiation;

(d) If the OAAPI substantiation is changed, whether the changed conclusion is being changed to "unsubstantiated" or "inconclusive;" and

(e) A summary of the information used by the OSRC and its reasoning in reaching its decision.

(4) The OSRC must operate as follows:

ADMINISTRATIVE RULES

(a) The OSRC must consider relevant documentary information contained in the OAAPI investigation file, investigative report and exhibits, and information provided by the person with substantiated abuse.

(b) The OSRC may not re-interview the victim; interview or meet with others associated with the person with substantiated abuse or CCA, or with others mentioned in the report; or conduct a field assessment or investigation of the allegation of abuse.

(c) All OSRC decisions must be decided by majority vote of the three participating committee members, all of whom must be present.

(d) The OSRC must make a determination as to:

(A) Whether there is reasonable cause to believe that abuse occurred; and

(B) Whether there is reasonable cause to believe that the person with substantiated abuse or CCA is responsible for the abuse.

(e) The OSRC must decide to either uphold the OAAPI substantiation, or change that conclusion to unsubstantiated or inconclusive.

(5) OSRC must send the notice of OSRC decision to the person with substantiated abuse or CCA, the OAAPI investigator who conducted the investigation, applicable public agencies, other entities or individuals who received notice of the original substantiation, and the OAAPI Director.

(6) The Department must provide the person with substantiated abuse a notice of rights to appeal the OSRC determination.

(7) Notwithstanding the other provisions of this rule, the Director or Director's designee on his or her own initiative and for good cause, within 60 days of a finding of substantiated abuse, may affirm, modify, reverse or remand a substantiated finding of abuse regarding a person or CCA.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 418.005 & OL 2016, Ch. 106

Hist.: DHSD 12-2007(Temp), f. & cert. ef. 12-3-07 thru 5-30-08; DHSD 4-2008, f. & cert. ef. 5-30-08; DHSD 5-2010, f. 6-30-10, cert. ef. 7-1-10; DHSD 7-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DHSD 8-2016, f. & cert. ef. 12-1-16; DHSD 1-2017(Temp), f. & cert. ef. 1-13-17 thru 7-11-17; DHSD 7-2017, f. 6-30-17, cert. ef. 7-1-17

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**Department of Human Services,
Aging and People with Disabilities and
Developmental Disabilities
Chapter 411**

Rule Caption: DHS - Individually-Based Limitations for Restraints in Home and Community-Based (HCB) Services and Settings

Adm. Order No.: APD 15-2017

Filed with Sec. of State: 6-26-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 5-1-2017

Rules Amended: 411-004-0000, 411-004-0010, 411-004-0020, 411-004-0030, 411-004-0040

Subject: 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 004, to ensure individuals who receive Home and Community-Based Services are free from restraint. The updated rules provide a definition of restraint, and a process that must be followed in order to propose the need for and possible use of a restraint. The rules also update 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.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-004-0000

Statement of Purpose

The rules in OAR chapter 411, division 4 provide a foundation of standards to support the network of Medicaid-funded and private pay residential and non-residential Home and Community-Based Services (HCBS), Home and Community-Based (HCB) settings, and person-centered service planning for individuals receiving HCBS in Oregon. Additional standards are set forth in OAR chapters 309 and 411.

(1) These rules are consistent with the missions and goals of the Department of Human Services (DHS) and the Oregon Health Authority (OHA) to help people achieve optimum physical, mental, and social well-being and independence.

(2) These rules ensure that individuals receive HCBS in settings that are integrated in and support the same degree of access to the greater com-

munity as people not receiving HCBS, including opportunities for individuals enrolled in or utilizing HCBS to:

(a) Seek employment and work in competitive integrated employment settings;

(b) Engage in greater community life;

(c) Control personal resources; and

(d) Receive services in the greater community.

(3) These rules implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) in the following areas:

(a) HCBS and HCB settings authorized under the following Medicaid authorities:

(A) 1915(c) — HCBS Waivers;

(B) 1915(i) — State Plan HCBS; or

(C) 1915(k) — Community First Choice (K State Plan Option).

(b) HCBS and HCB settings delivered through the following program areas:

(A) DHS, Aging and People with Disabilities;

(B) DHS, Office of Developmental Disabilities Services; and

(C) OHA.

(c) Programs, services, or settings designated as HCB and licensed, certified or endorsed by, and receiving oversight from, DHS, or OHA.

(d) Alternative resources specifically authorized as HCB by DHS or OHA.

(e) Person-centered service plans for individuals receiving HCBS. Person-centered service plans provide the written details of the supports, desired outcomes, activities, and resources required for individuals to achieve and maintain personal goals and health and safety.

Stat. Auth.: ORS 409.050, 413.042, 413.085

Stats. Implemented: ORS 409.050, 413.042, 413.085

Hist.: APD 23-2015, f. 12-15-15, cert. ef. 1-1-16; APD 15-2017, f. 6-26-17, cert. ef. 7-1-17

411-004-0010

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 4:

(1) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(2) "Competitive Integrated Employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.

(B) Is eligible for the level of benefits provided to other employees.

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons.

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(3) "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 of the individual;

(B) Not a paid provider for the individual; and

(C) Authorized by the individual or, as applicable, the legal representative of the individual 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.

ADMINISTRATIVE RULES

(b) An individual or the legal representative of the individual is not required to appoint a designated representative.

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

(5) "HCB" means "Home and Community-Based."

(6) "HCBS" means "Home and Community-Based Services." HCBS are services provided in the home or community of an individual.

(a) HCBS are authorized under the following Medicaid authorities:

(A) 1915(c) — HCBS Waivers;

(B) 1915(i) — State Plan HCBS; or

(C) 1915(k) — Community First Choice (K State Plan Option).

(b) HCBS are delivered through the following program areas:

(A) DHS, Aging and People with Disabilities;

(B) DHS, Office of Developmental Disabilities Services; and

(C) OHA.

(c) DHS or OHA may designate other services, delivered under (6)(b) above, as HCBS.

(7) "HCB Setting" means a physical location meeting the qualities of OAR 411-004-0020 where an individual receives HCBS.

(8) "Heightened Scrutiny" means the process set out in OAR 411-004-0020(7)(c) that DHS or OHA uses when determining if a setting meets the criteria to be considered a HCB setting.

(9) "Individual" means a person enrolled in or utilizing HCBS.

(10) "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 of the individual, as described in OAR 411-004-0040.

(11) "Informed Consent" means:

(a) 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; and

(b) The individual and, as applicable, the legal representative of the individual, consents to a person-centered service plan of action, including any individually-based limitations to the rules, prior to implementation of the initial or updated person-centered service plan or any individually-based limitation.

(12) "Legal Representative" means a person who has the legal authority to act for an individual. 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.

(a) For an individual under the age of 18, the parent, unless a court appoints another person or agency to act as the guardian.

(b) For an individual 18 years of age or 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.

(13) "OHA" means the Oregon Health Authority.

(14) "Person-Centered Service Plan" means, for Medicaid eligible individuals, the written 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 as documented by the person-centered service plan coordinator.

(15) "Person-Centered Service Plan Coordinator" means case managers, service coordinators, personal agents, and other people designated by DHS or OHA to provide case management services or person-centered service planning for and with individuals.

(16) "Provider" means any person or entity providing HCBS.

(17) "Provider Owned, Controlled, or Operated Residential Setting" means:

(a) The residential provider is responsible for delivering HCBS to individuals in the setting and the provider:

(A) Owns the setting;

(B) Leases or co-leases the residential setting; or

(C) If the provider has a direct or indirect financial relationship with the property owner, the setting is presumed to be provider controlled or operated.

(b) A setting is not provider-owned, controlled, or operated if the individual leases directly from a third party that has no direct or indirect financial relationship with the provider.

(c) When an individual receives services in the home of a family member, the home is not considered provider-owned, controlled, or operated.

(18) "Residency Agreement" means the written, legally enforceable agreement between a residential provider and an individual or the legal or designated representative of the individual, when the individual is receiving HCBS in a provider owned, controlled, or operated residential setting. The Residency Agreement identifies the rights and responsibilities of the individual and the residential provider. The Residency Agreement provides the individual protection from eviction substantially equivalent to landlord-tenant laws.

(19) "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.

(20) "Room and Board" means compensation for the provision of meals and a place to sleep.

(21) "These Rules" mean the rules in OAR chapter 411, division 4.

(22) "Unit" means the personal space and bedroom of an individual receiving HCBS in a provider owned, controlled, or operated residential setting, as agreed to in the Residency Agreement.

Stat. Auth.: ORS 409.050, 413.042, 413.085, 443.738

Stats. Implemented: ORS 409.050, 413.042, 413.085, 443.738

Hist.: APD 23-2015, f. 12-15-15, cert. ef. 1-1-16; APD 15-2017, f. 6-26-17, cert. ef. 7-1-17

411-004-0020

Home and Community-Based Services and Settings

(1) Residential and non-residential HCB settings must have all of the following qualities:

(a) The setting is integrated in and supports the same degree of access to the greater community as people not receiving HCBS, including opportunities for individuals enrolled in or utilizing HCBS to:

(A) Seek employment and work in competitive integrated employment settings;

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The residential or non-residential setting is selected by an individual or, as applicable, the legal or designated representative of the individual, from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options must be:

(A) Identified and documented in the person-centered service plan for the individual.

(B) Based on the needs and preferences of the individual.

(C) For residential settings, based on the available resources of the individual for room and board.

(D) For employment and non-residential day services, a non-disability specific setting option must be presented and documented in the person-centered service plan.

(c) The setting ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint.

(d) The setting ensures the individual the right to freedom from restraints, except in accordance with the standards set forth in ORS 443.739, OAR chapters 309 and 411, 1915(c) HCBS Waivers, 1915(i) State Plan HCBS, or 1915(k) Community First Choice (K State Plan Option). When the right to freedom from restraints must be limited due to a threat to the health and safety of an individual or others, an individually-based limitation as described in OAR 411-004-0040 must apply in any residential or non-residential setting.

(e) The setting optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including, but not limited to: daily activities, physical environment, and with whom the individual chooses to interact.

(f) The setting facilitates individual choice regarding services and supports, and who provides the services and supports.

(2) Provider owned, controlled, or operated residential settings must have all of the following qualities:

(a) The setting meets all the qualities in section (1) of this rule.

ADMINISTRATIVE RULES

(b) The setting is physically accessible to an individual.

(c) The unit is a specific physical place that may be owned, rented, or occupied by an individual under a legally enforceable Residency Agreement. The individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord tenant law of the state, county, city, or other designated entity. For a setting in which landlord tenant laws do not apply, the Residency Agreement must provide protections for the individual and address eviction and appeal processes. The eviction and appeal processes must be substantially equivalent to the processes provided under landlord tenant laws.

(d) Each individual has privacy in his or her own unit.

(e) Units must have entrance doors lockable by the individual, with the individual and only appropriate staff having a key to access the unit.

(f) Individuals sharing units must have a choice of roommates.

(g) Individuals must have the freedom to decorate and furnish his or her own unit as agreed to within the Residency Agreement.

(h) Each individual may have visitors of his or her choosing at any time.

(i) Each individual has the freedom and support to control his or her own schedule and activities.

(j) Each individual has the freedom and support to have access to food at any time.

(3) The qualities of an HCB setting described in sections (1)(d) and (2)(d) to (2)(j) of this rule apply to children under the age of 18, enrolled in or utilizing HCBS, and residing in provider owned, controlled, or operated residential settings, in the context of addressing any limitations beyond what are typical health and safety precautions or discretions utilized for children of the same age without disabilities. Health and safety precautions or discretions utilized for children under the age of 18, enrolled in or utilizing HCBS, and residing in provider owned, controlled, or operated residential settings, shall be addressed through a person-centered service planning process and documented in the person-centered service plan for the child. Limitations which deviate from and are more restrictive than what is typical for children of the same age without disabilities, must comply with OAR 411-004-0040.

(4) When conditions under sections (1)(d) and (2)(d) to (2)(j) of this rule may not be met due to threats to the health and safety of the individual or others, the person-centered service plan may apply an individually-based limitation with the consent of the individual or, as applicable, the legal representative of the individual, as described in OAR 411-004-0040.

(5) Providers initially licensed, certified, or endorsed by DHS or OHA on or after January 1, 2016 must meet the requirements in this rule prior to being licensed, certified, or endorsed.

(6) Providers licensed, certified, or endorsed prior to January 1, 2016 must make measurable progress toward compliance with these rules and be in full compliance with these rules by September 1, 2018. The Department will not issue sanctions and penalties on the rules in OAR chapter 411, division 004 until September 1, 2018 if a provider is making measureable progress towards compliance.

(7) HCB settings do not include the following:

(a) A nursing facility.

(b) An institution as outlined in ORS 426.010.

(c) An intermediate care facility for individuals with intellectual disabilities.

(d) A hospital providing long-term care services.

(e) Any other setting that has the qualities of an institution.

(A) The following settings are presumed to have the qualities of an institution:

(i) A setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment.

(ii) A setting that is located in a building on the grounds of, or immediately adjacent to, a public institution.

(iii) A setting that has the effect of isolating individuals receiving HCBS from the greater community.

(B) In addition to the qualities under subsection (A) above, non-residential settings that isolate individuals receiving HCBS from the greater community and are presumed to have the qualities of an institution also include:

(i) Facility-based prevocational settings that do not, at minimum, provide interaction with the general public.

(ii) Facility or site-based non-residential day service settings that do not, at minimum, facilitate going out into the greater community.

(C) A setting that is presumed to have the qualities of an institution, as described in this section, will be subject to a heightened scrutiny process. If a setting has indicators that lead the State to question their HCBS status,

the setting will be given the opportunity to rebut that presumption by submitting evidence of their compliance with these regulations. Based on the evidence, the State may determine that a setting has not overcome the presumption and HCBS funding will not be utilized. If the State determines that a setting has provided adequate evidence to rebut the presumption that it has the qualities of an institution, the State will submit the evidence to CMS after a public comment period. CMS determines, based on information presented by DHS, OHA, or other parties, whether the setting is home and community-based or is institutional in nature. If CMS determines that a setting has not overcome the presumption and is institutional in nature, HCBS funding will not be utilized.

Stat. Auth.: ORS 409.050, 413.042, 413.085, 443.738

Stats. Implemented: ORS 409.050, 413.042, 413.085, 443.738

Hist.: APD 23-2015, f. 12-15-15, cert. ef. 1-1-16; APD 25-2015, f. 12-28-15, cert. ef. 1-1-16; APD 15-2017, f. 6-26-17, cert. ef. 7-1-17

411-004-0030

Person-Centered Service Plans

(1) PERSON-CENTERED SERVICE PLANNING PROCESS. A person-centered service plan must be developed through a person-centered service planning process. The person-centered service planning process:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the legal or designated representative of the individual;

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives, and from whom, and records the alternative HCB settings that were considered by the individual;

(i) Provides a method for the individual or, as applicable, the legal or designated representative of the individual, to request updates to the person-centered service plan for the individual, as needed;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

(l) Includes any services that are self-directed, if applicable;

(m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;

(n) Includes risk factors and plans to minimize any identified risk factors; and

(o) Results in a person-centered service plan documented by the person-centered services plan coordinator, signed by the individual or, as applicable, the legal or designated representative of the individual, participants in the person-centered service planning process, and all people and providers responsible for the implementation of the person-centered service plan as described below in section (2)(d) of this rule. The person-centered service plan is distributed to the individual, and, as applicable, the legal or designated representative of the individual, and other people involved in the person-centered service plan as described below in section (2)(d) of this rule.

(2) PERSON-CENTERED SERVICE PLANS.

(a) For individuals receiving Medicaid:

ADMINISTRATIVE RULES

(A) The person-centered service plan coordinator documents the person-centered service plan on behalf of the individual and provides the necessary information and supports to ensure the individual directs the person-centered service planning process to the maximum extent possible.

(B) The person-centered service plan must be developed by the individual and, as applicable, the legal or designated representative of the individual, and the person-centered service plan coordinator. Others may be included only at the invitation of the individual and, as applicable, the legal or designated representative.

(C) To avoid conflict of interest, the person-centered service plan may not be developed by the provider of HCBS for individuals receiving Medicaid. Exceptions may be granted when DHS or OHA has determined that the only willing and qualified entity to provide case management and develop the person-centered service plan in a specific geographic area also provides HCBS.

(b) For private pay individuals, a person-centered service plan will be developed by the individual, or, as applicable, the legal or designated representative of the individual, and others chosen by the individual. Providers may assist private pay individuals in developing person-centered service plans when no alternative resources are available. Private pay individuals are not required to have a written person-centered service plan.

(c) For individuals receiving Medicaid services the written person-centered service plan reflects:

(A) HCBS and setting options based on the needs and preferences of the individual, and for residential settings, the available resources of the individual for room and board.

(B) The HCBS and settings are chosen by the individual and are integrated in, and support full access to, the greater community.

(C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual wishes to pursue employment, a non-disability specific setting option must be presented and documented in the person-centered service plan.

(D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS.

(E) The strengths and preferences of the individual.

(F) The service and support needs of the individual.

(G) The goals and desired outcomes of the individual.

(H) The providers of services and supports, including unpaid supports provided voluntarily.

(I) Risk factors and measures in place to minimize risk.

(J) Individualized backup plans and strategies, when needed.

(K) People who are important in supporting the individual.

(L) The person responsible for monitoring the person-centered service plan.

(M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services and, as applicable, the legal or designated representative of the individual.

(N) The written informed consent of the individual or, as applicable, the legal or designated representative of the individual.

(O) Signatures of the individual or, as applicable, the legal or designated representative of the individual, participants in the person-centered service planning process, and all people and providers responsible for the implementation of the person-centered service plan as described below in subsection (d) of this section.

(P) Self-directed supports.

(Q) Provisions to prevent unnecessary or inappropriate services and supports.

(d) The individual or, as applicable, the legal or designated representative of the individual, decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers must have access to the portion of the person-centered service plan that the provider is responsible for implementing.

(e) The person-centered service plan is distributed to the individual and, as applicable, the legal or designated representative of the individual, and other people involved in the person-centered service plan as described above in subsection (d) of this section.

(f) The person-centered service plan must justify and document an individually-based limitation as described in OAR 411-004-0040 when conditions under OAR 411-004-0020(1)(d) and (2)(d) to (2)(j) may not be met due to threats to the health and safety of the individual or others.

(g) The person-centered service plan must be reviewed and revised:

(A) At the request of the individual or, as applicable, the legal or designated representative of the individual;

(B) When the circumstances or needs of the individual change; or

(C) Upon reassessment of functional needs as required every 12 months.

Stat. Auth.: ORS 409.050, 413.042, 413.085, 443.738

Stats. Implemented: ORS 409.050, 413.042, 413.085, 443.738

Hist.: APD 23-2015, f. 12-15-15, cert. ef. 1-1-16; APD 15-2017, f. 6-26-17, cert. ef. 7-1-17

411-004-0040

Individually-Based Limitations

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 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) For restraints, there is a physician or other qualified practitioner order for the use of restraint. Individual licensing authorities may adopt stricter criteria regarding the use of restraints.

(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.

(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.

Stat. Auth.: ORS 409.050, 413.042, 413.085, 443.738

Stats. Implemented: ORS 409.050, 413.042, 413.085, 443.738

Hist.: APD 23-2015, f. 12-15-15, cert. ef. 1-1-16; APD 11-2016(Temp), f. 6-27-16, cert. ef. 7-1-16 thru 12-27-16; APD 45-2016, f. 12-22-16, cert. ef. 12-28-16; APD 15-2017, f. 6-26-17, cert. ef. 7-1-17

Rule Caption: Oregon Project Independence Pilot for Adults with Disabilities

Adm. Order No.: APD 16-2017(Temp)

Filed with Sec. of State: 6-27-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 411-032-0050

Subject: The Department is immediately amending 411-032-0050 to continue providing services to adults with physical disabilities that are currently receiving such services in regionally diverse pilot locations under the Oregon Project Independence Pilot. This rulemaking expands the date of the pilot program to allow the Department to continue providing services, as the pilot currently expires on June 30,

ADMINISTRATIVE RULES

2017. Minor housekeeping to update a statutory reference was done to the rule as well.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-032-0050

Pilot for Adults with Disabilities

This rule applies only until December 31, 2017.

(1) The purpose of this rule is to set out the policies that apply to the expansion of Oregon Project Independence services to adults with physical disabilities. The pilot allows the Department to study the potential to transition Oregon Project Independence to a statewide, age neutral, program that assesses and serves seniors and persons with physical disabilities based on their functional needs.

(2) "Disability" means, for the purposes of this rule, a physical, cognitive, or emotional impairment which, for an individual, constitutes or results in a functional limitation in one or more of the activities of daily living defined in OAR 411-015-0006, or in one or more of the instrumental activities of daily living defined in OAR 411-015-0007.

(3) "Adult" means, for purposes of this rule, any person 19 to 59 years of age.

(4) OAR 411-032-0000 to 411-032-0044 apply to this pilot program, except as noted below:

(a) Authorized Services and Allowable Costs. Authorized services may not be available in all service areas. Authorized services for the pilot funds include home care supportive services, service coordination, and other services, including the following:

- (A) Home care.
- (B) Chore services.
- (C) Assistive Technology.
- (D) Personal care services.
- (E) Adult day services.
- (F) Registered nurse services.
- (G) Home delivered meals.

(H) Services to support community caregivers and strengthen the natural support system of individuals.

(I) Evidence-based health promotion services.

(J) Options counseling.

(K) Assisted transportation options that allow individuals to live at home and access the full range of community resources.

(b) Eligibility.

(A) In order to qualify for authorized services under this pilot, an individual must:

- (i) Be an adult with a disability;
- (ii) Be a resident of a designated pilot area and seek services at that location;
- (iii) Not be receiving Medicaid; and
- (iv) Meet the requirements of the long-term care services priority rules in OAR chapter 411, division 015.

(B) The Area Agencies on Aging must determine eligibility prior to an individual receiving authorized services.

Stat. Auth.: ORS 409.050, 410.070, 410.435

Stats. Implemented: ORS 409.010, 410.410 - 410.480

Hist.: APD 19-2014(Temp), f. 6-26-14, cert. ef. 7-1-14 thru 12-28-14; APD 38-2014, f. 12-16-14, cert. ef. 12-28-14; APD 11-2015(Temp), f. 6-24-15, cert. ef. 7-1-15 thru 12-27-15; APD 21-2015, f. 12-1-15, cert. ef. 12-27-15; APD 16-2017(Temp), f. 6-27-17, cert. ef. 7-1-17 thru 12-27-17

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Department Review of Foster Care Payment Rates

Adm. Order No.: CWP 6-2017

Filed with Sec. of State: 7-5-2017

Certified to be Effective: 7-5-17

Notice Publication Date: 6-1-2017

Rules Adopted: 413-090-0051

Subject: The Department of Human Services, Office of Child Welfare Programs, is adopting a new rule, OAR 413-090-0051, as the result of an agreement with the Oregon Secretary of State. The rule directs the Department to review the foster care payment rates every two years in conjunction with the preparation of the Agency Request Budget to the governor. The Department already engages in this practice, but now it will be memorialized in administrative rule.

Rules Coordinator: Amie Fender—(503) 945-8986

413-090-0051

Department Review of Foster Care Payment Rates

The Department shall review the established foster care payment rates every two years in conjunction with the Department budget preparation processes for submission of the Agency Request Budget to the Governor. The purpose of this review is to consider the rates the state is providing in comparison to the USDA Cost of Raising a Child or similar reports.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.647

Hist.: CWP 6-2017, f. & cert. ef. 7-5-17

Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Amending Rule about TANF Time Limits

Adm. Order No.: SSP 15-2017(Temp)

Filed with Sec. of State: 6-19-2017

Certified to be Effective: 7-1-17 thru 9-30-17

Notice Publication Date:

Rules Amended: 461-135-0075

Subject: OAR 461-135-0075 about exemptions to the 60-month limit on TANF benefits is being amended to provide specific direction about when the Indian Country exemption applies to improve the accuracy of benefit decisions and clarity for clients, consistent with federal guidance.

The rule text showing changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-135-0075

TANF Time Limit; Exemptions

(1) The following months do not count toward the accrual of the time limit in OAR 461-135-0071:

(a) Months prior to July 1, 2003 in which a minor parent (see OAR 461-001-0000) head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent (see OAR 461-001-0000) programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment.

(d) Months beginning October 1, 2007 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Degree Completion Initiative (DCI) activity (see OAR 461-001-0025) enrolled in an educational institution.

(e) Months beginning October 1, 2008 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Parents as Scholars (PAS) activity (see OAR 461-001-0025) enrolled in an educational institution consistent with OAR 461-190-0199.

(f) Months between October 1, 2007 and March 31, 2016 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) because the individual:

(A) Was a victim of domestic violence (see OAR 461-001-0000);

(B) Had a certified learning disability;

(C) Had a verified alcohol and drug or mental health condition;

(D) Had a child (see OAR 461-001-0000) with a disability (see OAR 461-001-0000), which prevented the parent (see OAR 461-001-0000) from obtaining or keeping employment;

(E) Was an individual with a disability;

(F) Was providing care for a family member who lived in the home and was an individual with a disability;

(G) Was deprived of needed medical care; or

(H) Was subjected to battery or extreme cruelty. For purposes of this rule, an individual was subjected to battery or extreme cruelty if the individual was subjected to one or more of the following:

ADMINISTRATIVE RULES

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative (see OAR 461-001-0000) of a dependent child (see OAR 461-001-0000) to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(g) Months beginning July 1, 2003 in which the parent or needy caretaker relative resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed. The Department considers an individual to meet the requirements of this subsection if:

(A) The individual resides on an Indian reservation, tribal allotment, or Dependent Indian Community as defined by the Bureau of Indian Affairs; or

(B) The individual is a member of one of the nine federally-recognized tribes in Oregon and resides in a county listed in subparagraph (ii) of this paragraph.

(i) The nine federally-recognized tribes in Oregon are Burns Paiute Tribe; Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Indians; Confederated Tribes of Warm Springs; Coquille Indian Tribe; Cow Creek Band of the Umpqua Tribe of Indians; and Klamath Tribes.

(ii) The following Oregon counties are covered under paragraph (B) of this subsection for October 1, 2016 to September 30, 2017: Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Josephine, Klamath, Lake, Lincoln, and Malheur.

(h) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS program.

(i) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(j) Months beginning October 1, 2011 in which the minor parent head of household or adult is a participant in the JPI program.

(k) Months in which the minor parent head of household or adult is a recipient of Employment Payments (see OAR 461-001-0025 and 461-135-1270) unless a TANF payment was issued in the same month.

(l) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination:

(A) Through December 31, 2011 is calculated based on a six-month period as follows:

(i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.

(ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

(I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.

(II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.

(B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.

(2) Months that did not count toward the time limit based on a condition described in paragraphs (1)(f)(B) to (1)(f)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.049, 412.079

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 15-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 15-2017(Temp), f. 6-19-17, cert. ef. 7-1-17 thru 9-30-17

Rule Caption: Amending Rule about TANF Time Limits

Adm. Order No.: SSP 16-2017(Temp)

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 7-1-17 thru 9-30-17

Notice Publication Date:

Rules Amended: 461-135-0075

Rules Suspended: 461-135-0075(T)

Subject: OAR 461-135-0075 about exemptions to the 60-month limit on TANF benefits is being amended to provide specific direction about when the Indian Country exemption applies to improve the accuracy of benefit decisions and clarity for clients, consistent with federal guidance. This amendment corrects and replaces the temporary rule filed on June 19, 2017 so the nine federally-recognized tribes in Oregon are listed correctly.

The rule text showing changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-135-0075

TANF Time Limit; Exemptions

(1) The following months do not count toward the accrual of the time limit in OAR 461-135-0071:

(a) Months prior to July 1, 2003 in which a minor parent (see OAR 461-001-0000) head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent (see OAR 461-001-0000) programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment.

(d) Months beginning October 1, 2007 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Degree Completion Initiative (DCI) activity (see OAR 461-001-0025) enrolled in an educational institution.

(e) Months beginning October 1, 2008 in which a minor parent head of household or adult received aid in Oregon and is a participant in the Parents as Scholars (PAS) activity (see OAR 461-001-0025) enrolled in an educational institution consistent with OAR 461-190-0199.

(f) Months between October 1, 2007 and March 31, 2016 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) because the individual:

(A) Was a victim of domestic violence (see OAR 461-001-0000);

(B) Had a certified learning disability;

(C) Had a verified alcohol and drug or mental health condition;

(D) Had a child (see OAR 461-001-0000) with a disability (see OAR 461-001-0000), which prevented the parent (see OAR 461-001-0000) from obtaining or keeping employment;

(E) Was an individual with a disability;

(F) Was providing care for a family member who lived in the home and was an individual with a disability;

(G) Was deprived of needed medical care; or

(H) Was subjected to battery or extreme cruelty. For purposes of this rule, an individual was subjected to battery or extreme cruelty if the individual was subjected to one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

ADMINISTRATIVE RULES

(iii) Sexual activity involving a dependent child.
(iv) Being forced as the caretaker relative (see OAR 461-001-0000) of a dependent child (see OAR 461-001-0000) to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(g) Months beginning July 1, 2003 in which the parent or needy caretaker relative resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed. The Department considers an individual to meet the requirements of this subsection if:

(A) The individual resides on an Indian reservation, tribal allotment, or Dependent Indian Community as defined by the Bureau of Indian Affairs; or

(B) The individual is a member of one of the nine federally-recognized tribes in Oregon and resides in a county listed in subparagraph (ii) of this paragraph.

(i) The nine federally-recognized tribes in Oregon are Burns Paiute Tribe; Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Siletz Indians; Confederated Tribes of the Umatilla Reservation; Confederated Tribes of Warm Springs; Coquille Indian Tribe; Cow Creek Band of the Umpqua Tribe of Indians; and Klamath Tribes.

(ii) The following Oregon counties are covered under paragraph (B) of this subsection for October 1, 2016 to September 30, 2017: Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Josephine, Klamath, Lake, Lincoln, and Malheur.

(h) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS program.

(i) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(j) Months beginning October 1, 2011 in which the minor parent head of household or adult is a participant in the JPI program.

(k) Months in which the minor parent head of household or adult is a recipient of Employment Payments (see OAR 461-001-0025 and 461-135-1270) unless a TANF payment was issued in the same month.

(l) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination:

(A) Through December 31, 2011 is calculated based on a six-month period as follows:

(i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.

(ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

(I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.

(II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.

(B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.

(2) Months that did not count toward the time limit based on a condition described in paragraphs (1)(f)(B) to (1)(f)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.079
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 412.049, 412.079
Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008,

f. 2-29-08, cert. ef. 3-1-08; SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 15-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 15-2016, f. & cert. ef. 4-1-16; SSP 15-2017(Temp), f. 6-19-17, cert. ef. 7-1-17 thru 9-30-17; SSP 16-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 9-30-17

Rule Caption: Changing Rules about APD Medical Eligibility Upon Hospitalization or Release from Public Institution

Adm. Order No.: SSP 17-2017(Temp)

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 461-115-0090, 461-135-0950, 461-180-0090

Subject: OAR 461-115-0090 about authorized representatives, OAR 461-135-0950 about eligibility for inmates and residents of state hospitals, and OAR 461-180-0090 about the effective date for starting medical benefits are being amended to follow state statutes and state that incarcerated individuals and individuals in a state hospital may receive benefits under OSIPM and QMB when temporarily released for hospital procedures; remove a provision in the definition of serious mental illness regarding the substance abuse and the likelihood that a person will no longer meet an applicable diagnosis if the substance abuse discontinues or declines; substitute the term "state hospital" to clarify OAR 461-135-0950; remove the 12-month limit on suspension of benefits for individuals entering public institutions or the state hospital; replace the name of the specific former contractor for certification services with a general statement of certification; allow eligibility to certain state hospital residents who entered the state hospital before reaching age 22 (instead of age 21); authorize a designee of a correctional facility to apply for OSIPM and QMB on behalf of a person residing in that correctional facility; specify legitimate uses of confidential information for an applicant who is a resident of a correctional facility and when that information may be disclosed; and specify that the effective date for starting medical benefits under the OSIPM program for a person released from a correctional institution is the release date or the date the person begins hospitalization outside of the correctional facility.

The rule text showing changes is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_temporary.htm.

Rules Coordinator: Robert Trachtenberg—(503) 947-5290

461-115-0090

Authorized Representatives; General

(1) The head of household, spouse (see OAR 461-001-0000), or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the program, in reporting changes, in obtaining benefits, or in using benefits.

(2) In all programs except the SNAP program, the Department must allow a person or persons of the applicant's choice to act as the authorized representative unless the person may cause harm to the client or may be considered as having a conflict of interest.

(3) In all programs except the SNAP program, if an authorized representative is needed but has not been designated by the client, the Department will appoint one.

(4) In the SNAP program:

(a) Except as limited by sections (5) and (6) this rule, the selection of an authorized representative must be made in writing by an adult member of the household.

(b) The selection and authority of an authorized representative is further limited by OAR 461-115-0140.

(5) A client who resides in a drug addiction or alcoholic treatment center identified in OAR 461-135-0550(2) may apply for SNAP program benefits only through an authorized representative. The authorized representative must be an employee of and designated by the center.

(6) A client with a disability (see OAR 461-001-0015) who participates in the SNAP program while residing in a group living facility (see OAR 461-001-0015) may participate through an authorized representative or on his or her own behalf, at the option of the group living facility (see OAR 461-135-0510(2)(e)).

ADMINISTRATIVE RULES

(7) In the TANF program, a person not related to the dependent child may serve as authorized representative or alternate payee for not more than 60 days.

(8) A designee of a correctional facility may apply for OSIPM and QMB on behalf of an individual, while the individual is residing in a correctional facility, for the purpose of establishing eligibility for medical assistance until the release of the individual from the correctional facility or during a period of hospitalization that occurs outside of the correctional facility.

(a) The designee may obtain information necessary to determine eligibility for medical assistance, including the person's Social Security number or information that is not otherwise subject to disclosure under ORS 411.320 or 413.175.

(b) The information obtained under subsection (a) of this section may be used only for the purpose of assisting the person in applying for medical assistance and may not be re-disclosed without the authorization of the individual.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.447, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90;
AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 12-27-17

461-135-0950

Eligibility for Inmates and Residents of State Hospitals

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) Definition of an "inmate".

(a) An inmate is an individual living in a public institution (see section (3) of this rule) who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control;

(D) Receiving care as an outpatient while residing involuntarily in a public institution; or

(E) In the OSIPM and QMB programs, released from the public institution during a temporary period of hospitalization in a medical institution outside of the correctional facility.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(3) A "public institution" is any of the following:

(a) A state hospital (see ORS 162.135).

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(d) A youth correction facility (see ORS 162.135):

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a

licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is caused primarily by substance abuse.

(5) An individual who resides in a state hospital (see subsection (3)(a) of this rule), meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the state hospital may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.

(6) In the OSIPM and QMB programs, a client who becomes a resident of a state hospital has medical benefits suspended if the client is at least 21 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, or when the individual is admitted to a medical institution outside of the state hospital for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.

(7) An individual residing in a state hospital may be eligible for OSIPM benefits if the individual:

(a) Receives services on a certified ward;

(b) Receives a Certificate of Need for Services from the State-authorized agency; and

(c) Meets one of the following:

(A) Is 65 years of age or older;

(B) Is under 21 years of age; or

(C) Is 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 22 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) Except as provided otherwise in this rule, an inmate of a public institution is not eligible for benefits.

(b) If a pregnant woman receiving medical assistance through the OSIPM program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated, effective on the first day she is no longer an inmate, if she is still in her protected period of eligibility under OAR 461-135-0010.

(c) If an individual receiving medical assistance through the OSIPM or QMB program becomes an inmate of a correctional facility, medical benefits are suspended during the incarceration period. In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released or has been admitted to a hospital outside of the public institution for a period of hospitalization, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.447, 411.816, 412.014, 412.049, 414.426

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 17-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 17-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 12-27-17

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) In the OSIPM and QMB-DW programs:

(a) Except as provided for in subsections (b) to (h) of this section:

ADMINISTRATIVE RULES

(A) If the client meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the first day of the month that includes the date of request. An OSIPM program client who is assumed eligible under OAR 461-135-0010(5) meets “all eligibility requirements” for the purposes of this section as follows:

(i) Effective the first day of the month of the initial SSI payment if the client is age 21 or older.

(ii) Effective the first day of the month prior to the month of the initial SSI payment if the client is under the age of 21.

(B) If the client does not meet all eligibility requirements on the date of request, but meets all requirements after the date of request, within the application processing time frames of OAR 461-115-0190, it is the first day of the month that includes the date that all eligibility requirements are met.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(c) Except as provided for in subsections (d) and (e) of this section, for a new applicant who is an inmate (see OAR 461-135-0950) on any day of the month during the month that the applicant is determined to meet all eligibility requirements, the effective date is determined in accordance with subsections (a) and (b) of this section, except that coverage is not in effect for any day during the month that the applicant is an inmate other than the date of incarceration and the date of release.

(d) The effective date for an individual residing in a public institution (see OAR 461-135-0950) meeting the requirements of OAR 461-135-0950 regarding applications received by individuals with a serious mental illness is determined in accordance with OAR 461-135-0950.

(e) The effective date for an individual meeting the eligibility requirements of OAR 461-135-0950 regarding residents of a state psychiatric institution is the date that all eligibility requirements are met, including other chapter 461 eligibility requirements, if those requirements are met within the application processing time frames of OAR 461-115-0190. Otherwise the requirements of subsection (b) of this section apply.

(f) The effective date for an inmate or a resident of state hospital with suspended benefits that will be reinstated is determined in accordance with OAR 461-135-0950. If benefits will not be reinstated the inmate is considered a new applicant and the effective date is determined in accordance with subsection (c) of this section.

(g) The effective date for a new applicant who is receiving Medicaid in another state on the date of request, but meets the requirements of OAR 461-165-0030 regarding receipt of medical benefits in another state is:

(A) The date of request if all eligibility requirements are met on the date of request or after the date of request, but during the month that includes the date of request.

(B) If all eligibility requirements are not met during the month that includes the date of request the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(h) The effective date for an applicant receiving Medicaid in another state prior to the date of request, but during the month that includes the date of request, is the day following the day that Medicaid benefits end in the other state if all eligibility requirements are met during the month that includes the date of request. If all requirements are not met in the month that includes the date of request the effective date is determined in accordance with paragraph (1)(a)(B) and subsection (b) of this section.

(2) In the OSIPM program, if an individual has been released from a correctional institution and is determined eligible for OSIPM, the effective date of beginning the individual’s medical assistance is the date the individual is released from the correctional facility or the date the individual begins the period of hospitalization outside of the correctional facility.

(3) In the QMB-BAS program, it is the first of the month after the benefit group (see OAR 461-110-0750) has been determined to meet all QMB-BAS program eligibility criteria and the Department receives the required verification.

(4) In the QMB-SMB and QMB-SMF programs, it is:

(a) The first of the month in which the benefit group meets all program eligibility criteria and the Department receives the required verification; or

(b) The first of the month in which the Low Income Subsidy (LIS) information is received by the Social Security Administration (SSA), if the SMB or SMF program application was generated by the electronic transmission of LIS data from the SSA and the benefit group meets all program eligibility criteria.

(5) In the REFM program:

(a) Except as provided in subsection (b) of this section:

(A) If the individual meets all eligibility requirements on the date of request (see OAR 461-115-0030), it is the date of request.

(B) If the individual does not meet all eligibility requirements on the date of request, it is the first day following the date of request that all eligibility requirements are met.

(b) If the individual does not complete the application within the time period described in OAR 461-115-0190 (including the authorized extension), the determination of an effective date requires a new date of request.

(6) Retroactive eligibility is authorized under certain circumstances in some medical programs (see paragraph (1)(a)(A) of this rule, OAR 461-135-0875, and 461-180-0140).

Stat. Auth.: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 413.085, 414.685, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.439, 411.447, 411.704, 411.706, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 1-2010(Temp), f. & cert. ef. 1-26-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 32-2015(Temp), f. & cert. ef. 12-15-15 thru 6-11-16; SSP 4-2016(Temp), f. & cert. ef. 1-22-16 thru 6-11-16; SSP 13-2016, f. 3-21-16, cert. ef. 4-1-16; SSP 25-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; SSP 31-2016, f. & cert. ef. 9-1-16; SSP 17-2017(Temp), f. 6-28-17, cert. ef. 7-1-17 thru 12-27-17

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Establishes Emotional Standards for Armed Private Security Professionals and Private Security Firearms Instructors.

Adm. Order No.: DPSST 10-2017(Temp)

Filed with Sec. of State: 6-23-2017

Certified to be Effective: 6-23-17 thru 12-19-17

Notice Publication Date:

Rules Amended: 259-060-0300

Subject: This rule change establishes an emotional standard, pursuant to ORS 181A.870, for the certification of armed private security professionals and private security firearms instructors.

While OAR 259-060-0020 defines the minimum standards for applicants for certification as an armed private security professional or a private security firearms instructor and expressly states that these two categories of private security providers must not have been committed to the Mental Health and Development Disability Services Division, found mentally ill in a court of law, or be otherwise prohibited by law from purchasing, owning or possessing a firearm, the rule changes for OAR 259-060-0300 will allow the Department to take action to deny or revoke a private security provider’s certifications when the Department receives information from another public agency that the individual applying for or certified as an armed private security professional or a private security firearms instructor has demonstrated a lack of emotional fitness.

This rule change allows the Department to request, upon receipt of information from another public agency, that the certified individual or applicant submit to further medical evaluation at the expense of the Department. Upon receipt of additional information or refusal by the affected individual to submit to further evaluation, the Department will evaluate all available information and make a determination whether or not the individual poses a serious risk to public health and safety and whether the individual’s private security certification as an armed professional, a firearms instructor or both should be denied or revoked as a result.

The Department will begin the permanent rulemaking process immediately.

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-060-0300

Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the

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Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) Mandatory Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure. The Department must deny or revoke a certification or license of any applicant or private security provider after written notice and hearing, if requested, upon a finding that the applicant or private security provider:

(a) Has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on February 3, 2014 or any crime with similar elements in any other jurisdiction;

(b) Is required to register as a sex offender under ORS 163A.010, 163A.015, 163A.020 or 163A.025; or

(c) Has, within a period of ten years prior to application or during certification or licensure, been convicted of the following:

(A) Any felony other than those described in subsection (a) above or any crime with similar elements in any other jurisdiction;

(B) A person class A misdemeanor as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on February 3, 2014 or any crime with similar elements in any other jurisdiction;

(C) Any crime involving any act of domestic violence as defined in ORS 135.230 or any crime with similar elements in any other jurisdiction;

(D) Any misdemeanor or felony conviction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic, or dangerous drug in this or any other jurisdiction;

(E) Any misdemeanor arising from conduct while on duty as a private security provider; or

(F) Any of the following misdemeanors:

161.405(2)(d) (Attempt to Commit a Class C Felony or Unclassified Felony);

161.435(2)(d) (Solicitation of a Class C Felony);

161.450(2)(d) (Conspiracy to Commit a Class A misdemeanor);

162.075 (False Swearing);

162.085 (Unsworn Falsification);

162.145 (Escape III);

162.235 (Obstructing Governmental or Judicial Administration);

162.247 (Interfering with a Peace Officer);

162.295 (Tampering with Physical Evidence);

162.335 (Compounding a Felony);

162.365 (Criminal Impersonation);

162.369 (Possession of a False Law Enforcement Identification Card);

162.375 (Initiating a False Report);

162.385 (Giving False Information to Police Officer for a Citation or Arrest on a Warrant);

162.415 (Official Misconduct I);

163.435 (Contributing to the Sexual Delinquency of a Minor);

164.043 (Theft III);

164.045 (Theft II);

164.125 (Theft of Services);

164.140 (Criminal Possession of Rented or Leased Personal Property);

164.235 (Possession of Burglar's Tools);

164.255 (Criminal Trespass I);

164.265 (Criminal Trespass while in Possession of a Firearm);

164.335 (Reckless Burning);

164.354 (Criminal Mischief II);

164.369 (Interfering with Police Animal);

164.377(4) (Computer Crime);

165.007 (Forgery II);

165.055(4)(a) (Fraudulent Use of a Credit Card);

165.065 (Negotiating a Bad Check);

165.570 (Improper Use of Emergency Reporting System);

166.116 (Interfering with Public Transportation);

166.240 (Carrying of Concealed Weapons);

166.250 (Unlawful Possession of Firearms);

166.350 (Unlawful Possession of Armor Piercing Ammunition);

166.425 (Unlawful Purchase of Firearm);

167.007 (Prostitution);

167.008 (Patronizing a Prostitute);

167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show);

167.075 (Exhibiting an Obscene Performance to a Minor);

167.080 (Displaying Obscene Material to Minors);

167.262 (Adult Using Minor in Commission of Controlled Substance Offense);

167.320 (Animal Abuse I);

167.330 (Animal Neglect I);

471.410 (Providing Liquor to a Person Under 21 or Intoxicated Person);

807.620 (Giving False Information to a Police Officer/Traffic);

811.540(3)(b) (Fleeing or Attempting to Elude Police Officer);

(G) Any crime with similar elements in any other jurisdiction.

(3) The Department may require a certified armed private security professional or private security firearms instructor or applicant for either profession to submit to a medical examination to determine the emotional fitness of the applicant or certified private security provider if the Department receives information from another public agency that the applicant or certified private security provider poses a serious risk to public health and safety. The Department will review the evaluation and make a determination based on the evaluation and all other information obtained or

received by the Department whether the applicant or certified private security provider poses a serious risk to public health and safety. If the Department determines that the emotional state of the applicant or certified private security provider poses a serious risk to public health and safety based on existing information, the Department shall deny the application or revoke the certification.

(4) Emergency Suspension Order: The Department may issue an emergency suspension order pursuant to OAR 137-003-0560 immediately suspending a private security provider's certification or licensure upon finding that a person has been charged with any of the mandatory disqualifying crimes listed in section (2) of this rule. The report may be in any form and from any source.

(a) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(b) The sole purpose of the emergency suspension hearing will be to determine whether the individual was charged with a mandatory disqualifying crime. Upon showing that an individual was not charged with a mandatory disqualifying crime, the suspension of the individual's certification or licensure will be rescinded, otherwise the suspension will remain in effect until final disposition of the charges.

(5) Discretionary Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure. The Department may deny or revoke the certification or licensure of any applicant or private security provider after written notice and hearing, if requested, upon finding that an applicant or private security provider:

(a) Fails to meet the minimum standards for certification or licensure as a private security provider as defined in OAR 259-060-0020;

(b) Has falsified any information submitted on the application for certification or licensure or any documents submitted to the Department pertaining to private security certification or licensure;

(c) Has violated any of the temporary assignment provisions of OAR 259-060-0030;

(d) Has failed to submit properly completed forms or documentation in a time frame as designated by the Department;

(e) Has failed to pay a civil penalty or fee imposed by the Department when due;

(f) Has failed to comply with any provisions found in the Act or these rules; or

(g) Lacks moral fitness. For the purposes of this standard, the Department, through the Policy Committee and Board, has defined lack of moral fitness as:

(A) Dishonesty. Lack of honesty includes, but is not limited to, untruthfulness, dishonesty by admission or omission, deception, misrepresentation or falsification;

(B) Lack of Good Character. Lack of good character includes, but is not limited to, failure to be faithful and loyal to the employer's charge and failure to use discretion and compassion;

(C) Mistreatment of Others. Mistreatment of others includes, but is not limited to, violating another person's rights and failure to respect others;

(D) Lack of Public Trust. Failure to maintain public trust and confidence includes, but is not limited to, acting in an unlawful manner or not adhering to recognized industry standards; or

(E) Lack of Respect for the Laws of this State or Nation. Lack of respect for the laws of this state and nation includes a pattern of behavior which leads to three or more arrests or convictions within a ten-year period prior to application or during certification or licensure.

(6) Scope of Revocation. Whenever the Department revokes the certification or licensure of a private security provider under the provisions of this rule, the revocation will encompass all private security certificates and licenses the Department has issued to that person.

(7) Denial and Revocation Procedure.

(a) Employer Request: When the employer of the private security provider requests that certification or licensure be denied or revoked, the employer must submit in writing to the Department the reason for the requested action and include all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual written information from any source other than an employer, and pursuant to ORS 181A.870, the Department may request that the Board deny, revoke or suspend the private security provider's certification or licensure.

(c) Department Staff Review: When the Department receives information from any source that a private security provider may not meet the established standards for Oregon private security providers, the Department will review the request and the supporting factual information to determine

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if a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private security license or certification under the Act or these administrative rules. If the Department determines that a private security provider may have engaged in discretionary disqualifying misconduct;

(A) The Department will seek input from the affected private security provider by allowing the individual to provide, in writing, information for review.

(B) The Department may take action upon discovery of discretionary disqualifying misconduct when consensus is reached that the nature of the discretionary disqualifying misconduct is appropriate for summary staff disposition or administrative closure.

(C) If Department staff believes that a private security provider may have engaged in discretionary disqualifying misconduct, Department staff will review the conduct, including aggravating and mitigating circumstances. If Department staff is unable to reach a consensus to summarily dispose of or administratively close the case, the case will be presented to the Board, through the Policy Committee.

(d) In making a decision to authorize initiation of proceedings under subsection (e) of this rule based on discretionary disqualifying misconduct, Department staff, the Policy Committee and Board will consider mitigating and aggravating circumstances.

(e) Initiation of Proceedings: Upon determination that a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private security license or certification under the Act or these administrative rules, the Department will prepare and serve a contested case notice on the private security provider.

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the private security provider prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the contested case notice.

(C) Applicants who choose to withdraw their application forfeit their application fees.

(f) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Certification or Licensure has 60 days from the date of mailing or personal service of the notice in which to file a written request for hearing or a written request withdrawing their application from consideration with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Certification or Licensure has 20 days from the date of the mailing or personal service of the notice in which to file a written request for hearing with the Department.

(g) Default Orders:

(A) If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672.

(B) If a timely request for a hearing is not received in cases heard by a policy committee, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672, pending Board affirmation.

(h) Final Order:

(A) A final order will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015 if a private security provider fails to file exceptions and arguments within 20 days of issuance of the proposed order.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(i) Stipulated Order Revoking Certification or Licensure: The Department may enter a stipulated order revoking certification or licensure of a private security provider upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification or license, or to surrender a certification or license, under the terms and conditions provided in the stipulated order.

(8) Appeal Procedure. Private security applicants and providers aggrieved by the findings and Order of the Department may file an appeal

with the Court of Appeals from the Final Order of the Department, as provided in ORS 183.480.

(9) Notwithstanding section (10) of this rule, any private security applicant or provider whose certification or licensure is denied or revoked will be ineligible to hold any private security certification or licensure for a period of ten years from the date of the final order issued by the Department.

(10) Reconsideration Process. Any individual whose certification or license has been denied or revoked for discretionary grounds may apply for reconsideration of the denial or revocation after a minimum four-year ineligibility period from the date of the final order.

(a) All applicants for reconsideration are required to submit a new application packet along with a Form PS- 30 Application for Reconsideration. The applicant may provide any mitigating information for the consideration of DPSST, Policy Committee, and Board.

(b) In reconsidering the application of an applicant whose certification or licensure was previously denied or revoked for discretionary grounds, DPSST, the Policy Committee and the Board may consider mitigating and aggravating circumstances.

(c) The Board's decision to deny an application for reconsideration will be subject to the contested case procedure described under subsection (7) of this rule.

(d) If an application for reconsideration is denied, the original ineligibility date remains in effect as described in subsection (9) of this rule.

Stat. Auth.: ORS 181A.870

Stats. Implemented: ORS 181A.850, 181A.855, 181A.870, 181A.880 & 181A.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 5-2005(Temp), f. & cert. ef. 8-3-05 thru 1-1-06; DPSST 10-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 3-2014, f. & cert. ef. 1-2-14; DPSST 4-2014, f. & cert. ef. 1-28-14; DPSST 8-2014(Temp), f. & cert. ef. 3-6-14 thru 8-1-14; DPSST 15-2014, f. & cert. ef. 6-24-14; DPSST 20-2014, f. & cert. ef. 7-30-14; DPSST 5-2015, f. & cert. ef. 3-24-15; DPSST 10-2017(Temp), f. & cert. ef. 6-23-17 thru 12-19-17

Rule Caption: Adds Firearms/Use of Force training requirement when officer has been separated longer than 1 year.

Adm. Order No.: DPSST 11-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 259-008-0025

Subject: This rule change applies to a law enforcement officer who has previously completed the basic course and has been separated from their certifiable position for longer than 1 year but less than 5 years and requires the law enforcement officer to complete 8 hours of Firearms or Use of Force related training within 30 days of re-employment.

The employing agency maintains the discretion on what training satisfies the requirement to complete 8 hours of Firearms or Use of Force related training.

Law enforcement officers and their employing agencies will have the opportunity to request a time extension.

The 8 hours of Firearms or Use of Force related training must be completed prior to the award of a certification or reissuance of any lapsed certifications. Applications for certification received with no record of completion of the 8 hours of Firearms/Use of Force training would be considered incomplete and would not be granted until documentation of the completion of the 8 hours of Firearms/Use of Force training requirement was submitted.

The same 8 hours of Firearms/Use of Force training completed as required within 30 days of reemployment may also be used to meet the maintenance training requirement to complete 8 hours of Firearms/Use of Force training annually if the law enforcement officer's certifications are granted and the assigned maintenance training cycle includes the dates that the law enforcement officer completed the Firearms/Use of Force training.

Rules Coordinator: Jennifer Howald—(503) 378-2432

ADMINISTRATIVE RULES

259-008-0025

Minimum Standards for Training

(1) Basic Training.

(a) The prescribed basic training course and field training manual must be completed by all corrections officers no later than 12 months from the date of employment in a certifiable position.

(b) The prescribed basic training course and field training manual must be completed by all police officers, parole and probation officers, telecommunicators, emergency medical dispatchers and regulatory specialists no later than 18 months from the date of employment in a certifiable position.

(c) Corrections and police officers who have not completed the prescribed basic course must begin training within 90 days of their initial date of employment as a law enforcement officer.

(d) All prescribed field training will be conducted under the supervision of the employing agency. The employing agency must provide proof of completion prior to the award of basic certification.

(e) Regulatory specialists employed by OLCC prior to July 1, 2015 who have previously completed OLCC basic training may be exempted from completion of the basic regulatory specialist course.

(f) Law enforcement officers employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempted from these minimum training requirements.

(2) Additional Training Requirements.

(a) Law enforcement officers who have previously completed the prescribed basic course but have not been employed full-time as a law enforcement officer for over one year but less than five years must complete a minimum of eight hours of Firearms or Use of Force training within 30 days of the law enforcement officer's return to work and prior to reactivation of certification.

(b) Law enforcement officers who have previously completed the prescribed basic course but have not been employed full-time as a law enforcement officer within the past five years will be required to satisfactorily complete the prescribed basic course and field training manual in its entirety prior to reactivation of certification.

(c) Law enforcement officers who have previously completed the prescribed basic course but have not been employed full-time as a law enforcement officer for over two and one-half years but less than five years must complete the prescribed career officer development course and field training manual prior to reactivation of certification.

(d) Telecommunicators and emergency medical dispatchers (EMD) who have previously completed the prescribed basic course but have not been employed as a telecommunicator or EMD within the past two and one-half years will be required to satisfactorily complete the prescribed basic course and field training manual in its entirety prior to reactivation of certification.

(e) Training timelines for career officer development courses will be established by the Department.

(3) Waivers of the Minimum Training Standards for Law Enforcement Officers.

(a) The Department may waive any portion of the minimum training standards upon finding that a law enforcement officer has the current knowledge, skills and abilities to perform as a law enforcement officer in Oregon. For the purposes of this standard, demonstration of current knowledge, skills and abilities as an Oregon law enforcement officer must include full-time employment within the past five years which demonstrates the individual has maintained a level of knowledge, skills and abilities comparable to those of an active law enforcement officer in Oregon, including the authorization to provide law enforcement services or the responsibility of enforcing criminal law.

(b) Reciprocity. Law enforcement officers who have been employed by a public or private safety agency in another state and have previously completed a basic training course deemed by the Department to meet or exceed Oregon's minimum training standards may be granted a waiver of the basic training course. These officers will be required to complete the prescribed career officer development course and field training manual.

(c) Waiver requests must be made in writing by the employing agency and must include any supporting documentation, to include a written request for a waiver from the officer's employing agency, a copy of any previously completed course including documentation of course content with hour and subject breakdown of the training, and the officer's employment history.

(d) The Department may request additional information. Any expenses associated with providing waiver documentation will be the responsibility of the requesting agency.

(e) Notwithstanding section (4), waivers are not available for the basic telecommunications course or basic emergency medical dispatcher course.

(4) Challenge of the Minimum Training Standards for Telecommunicators. Telecommunicators who have been employed by a public or private safety agency and have previously completed a basic training course deemed by the Department to meet or exceed Oregon's minimum training standards may challenge the basic telecommunications course.

(a) Challenge requests must be made in writing by the department head of the telecommunicator's employing agency. Requests must include proof of successful completion of prior equivalent training including documentation of the course content with hour and subject breakdown of the training and the telecommunicator's employment history.

(b) The telecommunicator must obtain a minimum passing score on all written examinations for the basic course and demonstrate an acceptable performance level.

(c) Telecommunicators who fail the written examination or fail to demonstrate an acceptable performance level will be required to complete the basic telecommunications course and field training manual in its entirety.

(d) Telecommunicators will be given one opportunity to challenge the basic telecommunications course.

(5) Supervision Course. Public safety officers who are promoted, appointed or transferred to a first-level supervisory position must satisfactorily complete the Supervision course or equivalent training that complies with the requirements outlined in the DPSST Form F-21.

(a) The required training must be completed no later than 12 months after the promotion, appointment or transfer.

(b) Applicable training that occurred within five years prior to the promotion, appointment or transfer may be accepted by the Department as satisfying the Supervision training requirement.

(6) Middle Management Course. Public safety officers who are promoted, appointed or transferred to a middle management position must satisfactorily complete the Middle Management course or equivalent training that complies with the requirements outlined in the DPSST Form F-22.

(a) The required training must be completed no later than 12 months after the promotion, appointment or transfer.

(b) Applicable training that occurred within five years prior to the promotion, appointment or transfer may be accepted by the Department as satisfying the Middle Management training requirement.

(7) Time Extensions. The Department may grant a time extension upon presentation of evidence by a public or private safety agency that a public safety officer is unable to meet the timelines prescribed in sections (1), (2)(a), (5) and (6) due to an authorized leave of absence or any other reasonable cause as determined by the Department.

(a) Time extensions of the requirements found in sections (1)(a), (1)(b), (5) and (6) will not exceed one year.

(b) Time extensions of the requirements found in subsection (1)(c) will not exceed 30 days.

(c) Time extensions of the requirements found in subsection (2)(a) will not exceed 90 days.

(d) Any delays caused by the inability of the Department to provide basic training for any reason will not be counted towards the time requirements found in subsections (1)(a), (b) or (c).

(8) Notwithstanding this rule, the Department may prescribe additional training for Basic certification, up to and including completion of the full Basic course, in situations in which previous periods of employment have been limited.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181A.410

Stats. Implemented: 181A.410

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08; DPSST 3-2009, f. & cert. ef. 4-8-09; DPSST 8-2009(Temp), f. & cert. ef. 9-15-09 thru 3-1-10; DPSST 15-2009, f. & cert. ef. 12-15-09; DPSST 3-2010, f. 4-12-10, cert. ef. 5-1-10; DPSST 2-2011, f. 3-23-11, cert. ef. 5-1-11; DPSST 13-2012(Temp), f. & cert. ef. 5-8-12 thru 10-1-12; DPSST 17-2012, f. & cert. ef. 8-24-12; DPSST 6-2013, f. & cert. ef. 3-8-13; DPSST 15-2013, f. & cert. ef. 6-25-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 2-2014, f. & cert. ef. 1-2-14; DPSST 10-2014, f. & cert. ef. 4-10-14; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15; DPSST 18-2015, f. 12-22-15, cert.

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ef. 1-1-16; DPSST 5-2016, f. & cert. ef. 3-22-16; DPSST 19-2016, f. & cert. ef. 12-22-16; DPSST 11-2017, f. 6-29-17, cert. ef. 7-1-17

Rule Caption: Updates the Oregon fire service professional certifications for Urban Search and Rescue (US&R).

Adm. Order No.: DPSST 12-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 259-009-0005, 259-009-0062

Subject: On April 27, 2017 the Board on Public Safety Standards and Training approved changes to the Oregon Urban Search and Rescue (US&R) fire service professional certification requirements. The Oregon fire service professional certifications in US&R are Oregon specific standards.

OAR 259-009-0005 adds definitions for US&R, US&R Rescue Technician, US&R Medical Technician, US&R Rigging Technician, US&R Search Technician and Archived Certification.

OAR 259-009-0062 amends the US&R certification requirements to specify the individual certification requirements for US&R Rescue Technician, US&R Medical Technician, US&R Rigging Technician, and US&R Search Technician. Changes to this rule also specify that the US&R certifications for Logistics Manager, Rescue Company Officer, Rescue Team Manager, Safety Officer, Search Company Officer, Search Team Manager and Task Force Leader become inactive and archived certifications effective July 1, 2017.

Fire service professionals who are currently certified in any of the seven archived US&R certifications will be allowed to maintain their certifications until the conclusion of the maintenance re-certification on December 31, 2018.

Archiving the certifications instead of permanently removing the certifications will allow for future evaluation based on the needs or the request of the Oregon fire service.

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-009-0005

Definitions

(1) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(2) "Archived Certification" means an Oregon fire service professional certification that has been made inactive by the Board for a period of time in which no new certifications will be issued by the Department and any current certifications will lapse after the conclusion of the maintenance period that follows the effective date in which the certification became archived.

(3) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(4) "Board" means the Board on Public Safety Standards and Training.

(5) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(6) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(7) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(8) "Content Expert" means a person who documents their experience, knowledge, training and education for the purposes of course instruction.

(9) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(10) "Department" means the Department of Public Safety Standards and Training.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Field Training Officer" means an individual who is authorized by a fire service agency or by the Department to sign as verifying completion of tasks required by task books.

(13) "Fire and Life Safety Educator I" means a person who has demonstrated the ability to coordinate and deliver existing education programs and information.

(14) "Fire and Life Safety Educator II" means a person who has demonstrated the ability to prepare educational programs and information to meet identified needs.

(15) "Fire and Life Safety Educator III" means a person who has demonstrated the ability to create, administer, and evaluate educational programs and information.

(16) "Fire Company" means a group of fire fighters, usually three or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(17) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(18) "Fire Fighter I" means a person at the first level of progression who has demonstrated the knowledge and skills to function as an integral member of a fire-fighting team under direct supervision in hazardous conditions.

(19) "Fire Fighter II" means a person at the second level of progression who has demonstrated the skills and depth of knowledge to function under general supervision.

(20) "Fire Ground Leader" means a Fire Service Professional who is qualified to lead emergency scene operations."

(21) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(22) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(23) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(24) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing or supervising a fire service agency training program.

(25) "First Responder" means an "NFPA Operations Level Responder."

(26) "Juvenile Firesetter Intervention Specialist I" means a person who has demonstrated the ability to conduct an intake/interview with a fire-setter and his or her family using prepared forms and guidelines and who, based on program policies and procedures, determines the need for referral for counseling and/or implements educational intervention strategies to mitigate effects of fire setting behavior.

(27) "Juvenile Firesetter Intervention Specialist II" means a person who has demonstrated the ability to manage juvenile firesetting intervention program activities and the activities of Juvenile Firesetter Intervention Specialist I.

(28) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(29) "NFPA Aircraft Rescue and Fire-Fighting Apparatus" means a Fire Service Professional who has met the requirements of Fire Fighter II as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, NFPA Airport Fire Fighter as specified in NFPA 1003 and the job performance requirements defined in NFPA 1002 Sections 9.1 and 9.2.

(30) "NFPA Airport Firefighter" means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(31) "NFPA Apparatus Equipped with an Aerial Device" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 6.1 and 6.2.

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(32) “NFPA Apparatus Equipped with a Tiller” means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, Apparatus Equipped with an Aerial Device as specified in NFPA 1002 Chapter 6 and the job performance requirements defined in NFPA 1002 Sections 7.2.

(33) “NFPA Apparatus Equipped with Fire Pump” means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 5.1 and 5.2.

(34) “NFPA Cargo Tank Specialty” means a person who provides technical support pertaining to cargo tank cars, provides oversight for product removal and movement of damaged cargo tanks, and acts as liaison between technicians and outside resources.

(35) “NFPA Confined Space Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 7, sections 7.1.1 through 7.1.5 and 7.2.1 through 7.2.3.

(36) “NFPA Dive Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, 11, 13, sections 13.1.1 through 13.1.8.

(37) “NFPA Fire Apparatus Driver/Operator” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1002, Chapter 4 sections 4.2 and 4.3.

(38) “NFPA Fire Fighter I” means a member of a fire service agency who has met the Level I job performance requirements of NFPA standard 1001 (sometimes referred to as a journeyman fire fighter).

(39) “NFPA Fire Fighter II” means a member of a fire service agency who met the more stringent Level II job performance requirements of NFPA Standard 1001 (sometimes referred to as a senior fire fighter).

(40) “NFPA Fire Inspector I” means an individual who conducts basic fire code inspections and has met the Level I job performance requirements of NFPA Standard 1031.

(41) “NFPA Fire Inspector II” means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes and standards. This individual has met the Level II job performance requirements of NFPA standard 1031.

(42) “NFPA Fire Inspector III” means an individual at the third and most advanced level of progression who has met the job performance requirements specified in this standard for Level III. The Fire Inspector III performs all types of fire inspections, plans review duties, and resolves complex code-related issues.

(43) “NFPA Fire Instructor I” means a fire service instructor who has demonstrated the knowledge and ability to deliver instruction effectively from a prepared lesson plan, including instructional aids and evaluation instruments; adapts lesson plans to the unique requirements of the students and the authority having jurisdiction; organizes the learning environment so that learning is maximized; and meets the record-keeping requirements of the authority having jurisdiction.

(44) “NFPA Fire Instructor II” means a fire service instructor who, in addition to meeting NFPA Fire Instructor I qualifications, has demonstrated the knowledge and ability to develop individual lesson plans for specific topics, including learning objectives, instructional aids, and evaluation instruments; schedules training sessions based on an overall training plan for the authority having jurisdiction; and supervises and coordinates the activities of other instructors.

(45) “NFPA Fire Instructor III” means a fire service instructor who, in addition to meeting NFPA Fire Instructor II qualifications, has demonstrated the knowledge and ability to develop comprehensive training curricula and programs for use by single or multiple organizations; conducts organization needs analysis; and develops training goals and implementation strategies.

(46) “NFPA Fire Investigator” means an individual who conducts post fire investigations to determine the cause and the point of origin of a fire. This individual has met the job performance requirements of NFPA Standard 1033.

(47) “NFPA Fire Officer I” means a fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications (company officer rank).

(48) “NFPA Fire Officer II” means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021 (station officer, battalion chief rank).

(49) “NFPA Fire Officer III” means a fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021 (district chief, assistant chief, division chief, deputy chief rank).

(50) “NFPA Fire Officer IV” means a fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021 (fire chief).

(51) “NFPA Incident Commander” (IC) means a person who is responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources.

(52) “NFPA Intermodal Tank Specialty” means a person who provides technical support pertaining to intermodal tanks, provides oversight for product removal and movement of damaged intermodal tanks, and acts as a liaison between technicians and outside resources.

(53) “NFPA Hazardous Materials Safety Officer” means a person who works within an incident management system (IMS), specifically, the hazardous materials branch/group, to ensure that recognized hazardous materials or weapons of mass destruction (WMD) safe practices are followed at hazardous materials or WMD incidents.

(54) “NFPA Hazardous Materials Technician” means a person who responds to hazardous materials or WMD incidents using a risk-based response process where they analyze a problem involving hazardous materials or WMD, select applicable decontamination procedures, and control a release using specialized protective and control equipment.

(55) “NFPA Machinery Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006 Chapters 4, 5, and 19, sections 19.1.1 through 19.1.10 and 19.2.1 through 19.2.5.

(56) “NFPA Marine Land-Based Fire Fighter” means a member of a fire service agency who meets the job performance requirements of NFPA 1005.

(57) “NFPA Marine Tank Vessel Specialty” means a person who provides technical support pertaining to marine tank vessels, provides oversight for product removal and movement of damaged marine tank vessels, and acts as a liaison between technicians and outside resources.

(58) “NFPA Mobile Water Supply Apparatus” means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 10.1 and 10.2.

(59) “NFPA Operations Level Responder” means a person who responds to hazardous materials or WMD incidents for the purpose of implementing or supporting actions to protect nearby persons, the environment, or property from the effects of the release.

(60) “NFPA Rope Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 6, sections 6.1.3 through 6.1.8 and 6.2.1 through 6.2.8.

(61) “NFPA Structural Collapse Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 9, sections 9.1.1 through 9.1.13 and 9.2.1 through 9.2.16.

(62) “NFPA Surf Rescue” means a Fire Service Professional who had met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 11, section 11.1 and Chapter 15, sections 15.1.1 through 15.1.4 and 15.2.1 through 15.2.3.

(63) “NFPA Surface Water Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 11, section 11.1.1 through 11.1.15 and 11.2.1 through 11.2.4.

(64) “NFPA Swiftwater Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, 6, 11, and 12, sections, 11.1, 11.2, 12.1.1 through 12.1.4 and 12.2.1 through 12.2.2.

(65) “NFPA Tank Car Specialty” means a person who provides technical support pertaining to tank cars, provides oversight for product removal and movement of damaged tank cars, and acts as a liaison between technicians and outside resources.

(66) “NFPA Technical Rescuer” means a Fire Service Professional who is trained to perform or direct the technical rescue.

(67) “NFPA Trench Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 8, sections 8.1.1 through 8.1.7 and 8.2.1 through 8.2.6.

(68) “NFPA Vehicle Rescue” means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapters 4, 5, and 10, sections 10.1.1 through 10.1.10 and 10.2.1 through 10.2.5.

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(69) “NFPA Wildland Fire Apparatus” means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 8.1 and 8.2.

(70) “NWCG Firefighter Type 2 (FFT2)” means a person who is the basic resource used in the control and extinguishment of wildland fires and works either as an individual or as a member of a crew under the supervision of a higher qualified individual.

(71) “NWCG Firefighter Type 1 (FFT1)” means a person who is a working leader of a small group (usually not more than seven members) and is responsible for keeping assigned personnel fully employed on assigned jobs. Normally this position is supervised by a Single Resource Crew Boss but may be assigned independently on occasion.

(72) “NWCG Single Resource Boss (CRWB, ENGB, FELB, FIRB, HEQB or HMGB)” means a person who is responsible for supervising and directing a fire suppression module, such as a hand crew, engines, one or more fallers, a firing team, heavy equipment or helicopters.

(73) “NWCG Task Force Leader (TFLD) / NWCG Strike Team Leader Engine (STEN)” means a person who is the ICS position responsible for supervising a task force of resources. The NWCG Strike Team Leader Engine (STEN) is the ICS position responsible for the direct supervision of a strike team of engines. Both positions report to a Division/Group Supervisor or Operations Section Chief.

(74) “NWCG Division/Group Supervisor (DIVS)” means a person who is the ICS position responsible for supervising equipment and personnel assigned to a division or group. Reports to a Branch Director or Operations Section Chief.

(75) “Public Information Officer” means a person who has demonstrated the ability to conduct media interviews and prepare news releases and media advisories.

(76) “Service Delivery” means to be able to adequately demonstrate, through job performance, the knowledge, skills, and abilities of a certification level.

(77) “Staff” means employees occupying full-time, part-time, or temporary positions with the Department.

(78) “Task Performance” means to demonstrate the ability to perform tasks of a certification level, in a controlled environment, while being evaluated.

(79) “The Act” refers to the Public Safety Standards and Training Act (ORS 181A.355 to 181A.670).

(80) “Topical Level Course” is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(81) “Track” means a field of study required for certification.

(82) “US&R” means Urban Search and Rescue.

(83) “US&R Medical Technician” means a Fire Service Professional who is responsible for performing basic and advanced life support medical care for task force members and rescue victims during a US&R incident operation.

(84) “US&R Rescue Technician” means a Fire Service Professional who is responsible for performing the rescue function of a US&R incident operation.

(85) “US&R Rigging Technician” means a Fire Service Professional who is responsible for performing various assessments and construction-related liaison for the task force during a US&R incident operation.

(86) “US&R Search Technician” means a Fire Service Professional who is responsible for performing the search function of a US&R incident operation.

(87) “Waiver” means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006, f. & cert. ef. 7-7-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 3-28-11, cert. ef. 5-1-11; DPSST 12-2011, f. & cert. ef. 8-1-11; DPSST 21-2012, f. & cert. ef. 10-1-12; DPSST 8-2013, f. & cert. ef. 3-26-13; DPSST 22-2013, f. & cert. ef. 10-3-13; DPSST 6-2014, f. & cert. ef. 2-6-14; DPSST 9-2014, f. & cert. ef. 4-3-14; DPSST 36-2014, f. & cert. ef. 12-31-14; DPSST 17-2015, f. & cert. ef. 10-22-15; DPSST 12-2017, f. 6-29-17, cert. ef. 7-1-17

259-009-0062

Fire Service Professional Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by:

(a) Satisfactorily completing the requirements specified in section (2) of this rule;

(b) Through participation in a fire service agency training program accredited by the Department;

(c) Through a course certified by the Department; or

(d) By evaluation of experience as specified in OAR 259-009-0063.

(e) The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service professionals are adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2013 Edition, entitled “Fire Fighter Professional Qualifications”;

(A) Delete section 1.3.1.

NOTE: This references NFPA 1500.

(B) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

(C) For certification as Fire Fighter II, the applicant must be certified at NFPA 1001 Fire Fighter I as defined by the Department and meet the job performance requirements defined in Sections 6.1 through 6.5.5 of this Standard.

(D) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Fighter I and NFPA Fire Fighter II. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(b) The provisions of the NFPA Standard 1002, 2014 Edition, entitled “Standard for Fire Apparatus Driver/Operator Professional Qualifications,” are adopted subject to the following definitions and modifications:

(A) 4.1 General. The requirements and job performance requirements defined in Sections 4.2 and 4.3 must be met prior to certification as a Fire Service Agency Driver Operator.

(B) 5.1 General. The job performance requirements defined in Sections 5.1 and 5.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(C) 6.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 6.1 and 6.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aerial.

(D) 7.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 7.1 and 7.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Tiller.

(E) 8.1 General. The requirements of NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 8.1 and 8.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Wildland Fire Apparatus.

(F) 9.1 General. The requirements of NFPA 1001 Fire Fighter II, NFPA 1003 Airport Fire Fighter and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 9.1 and 9.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aircraft Rescue and Fire Fighting Apparatus (ARFF).

(G) 10.1 General. The requirements of NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

(H) Delete “the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program”.

(I) All applicants for certification must complete a task performance evaluation or a Department-approved task book for: NFPA Fire Apparatus Driver/Operator, NFPA Apparatus Equipped with Fire Pump, NFPA Apparatus Equipped with an Aerial Device, NFPA Apparatus Equipped with a Tiller, NFPA Wildland Fire Apparatus, NFPA Aircraft Rescue and Firefighting Apparatus or NFPA Mobile Water Supply Apparatus. The task books must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(c) The provisions of the NFPA Standards 1003, 2015 Edition, entitled “Standard for Airport Fire Fighter Professional Qualifications”.

(A) 4.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department, and the job performance requirements defined in sections 4.1 through 4.4, must be met.

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(B) All applicants for certification must complete a Department-approved task book for Airport Fire Fighter. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled "Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) Delete section 2.2.

NOTE: This references NFPA 1500.

(B) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

(C) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(D) All applicants for certification must complete a Department approved task book for Marine Fire Fighting for Land Based Fire Fighters. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(E) Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June 30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009 will need to show completion of the approved task book.

(e) The provisions of the NFPA Standard No. 1031, Edition of (2009), entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted.

(A) All applicants for certification as an NFPA Fire Inspector I must:

(i) Successfully complete a Department-approved task book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(B) All applicants for certification as an NFPA Fire Inspector II must:

(i) Hold a certification as a NFPA Fire Inspector I; and

(ii) Successfully complete a Department-approved task book.

(C) All applicants for certification as an NFPA Fire Inspector III must:

(i) Hold a certification as a NFPA Fire Inspector II; and

(ii) Successfully complete a Department-approved task book.

(D) Task books must be monitored by a Field Training Officer approved by the Department. The Field Training Officer must be certified at or above the level being monitored and have at least five years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department staff.

(f) The provisions of the NFPA Standard No. 1033, Edition of (2009), entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and requirements:

(A) An individual must successfully complete a Department-approved task book before the Department will administer a written examination for the Fire Investigator certification level. Exception: Anyone holding a valid IAAI Fire Investigator Certification, National Association of Fire Investigators (NAFI) certification, or Certified Fire Explosion Investigators (CFEI) certification is exempt from taking the Department's Fire Investigator written exam.

(B) A Department approved Field Training Officer must monitor the completion of a task book. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years fire investigation experience. Exception: The Department may approve Field Training Officers with equivalent training, education and experience.

(g) The provisions of the NFPA Standard No. 1035, Edition of 2010, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) A task book will be completed prior to certification as a NFPA Public Fire and Life Safety Educator I, II or III. The Task Book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) A task book will be completed prior to certification as a NFPA Public Information Officer. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(C) A task book will be completed prior to certification as a NFPA Juvenile Firesetter Intervention Specialist I and II. The task book must be

approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(h) The provisions of the NFPA Standard No. 1041, Edition of 2012, entitled "Standard for Fire Service Instructor Professional Qualifications," are adopted subject to the successful completion of an approved task book for NFPA Fire Instructor I, II and III.

(i) The provisions of the NFPA Standard 1021, 2014 Edition, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as NFPA Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.1 through 4.7 of the Standard.

(i) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer I.

(ii) The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.1 through 5.7 of the Standard.

(i) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer II.

(ii) The evaluation or task book must be approved off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II and meet the job performance requirements defined in Sections 6.1 through 6.8 of the Standard.

(i) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer III.

(ii) The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.1 through 7.7 of the Standard.

(i) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer IV.

(ii) The evaluation or task book must be approved by the Agency Head or Training Officer, before an applicant can qualify for certification.

(j) Hazardous Materials Responder (DPSST-P-12/196).

(k) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader must first be certified as an NFPA Fire Fighter II.

(C) An applicant applying for Fire Ground Leader must document training in all of the following areas:

(i) Building Construction: Non-Combustible and Combustible;

(ii) Emergency Service Delivery;

(iii) Fire Behavior;

(iv) Fire Ground Safety; and

(v) Water Supply Operations.

(D) All applicants for certification must complete a task performance evaluation or a Department-approved task book for Fire Ground Leader. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(l) NWCG Firefighter Type 2 (FFT2).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Firefighter (FFT2) must document training in all of the following areas at the time of application:

(i) S-130 Firefighter Training;

(ii) S-190 Wildland Fire Behavior;

(iii) L-180 Human Factors on the Fireline;

(iv) I-100 Introduction to ICS.

(v) NIMS, Introduction IS700; and

(vi) I-100 Introduction to ICS or IS100.

(m) NWCG Firefighter Type 1 (FFT1).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Firefighter Type 1 (FFT1) must be certified as a NWCG Firefighter Type 2 (FFT2) prior to applying for NWCG Firefighter Type 1 (FFT1) and must document training in all of the following areas at the time of application:

(i) S-131 Firefighter Type I;

(ii) S-133 Look Up, Look Down, Look Around;

(iii) Annual Fireline Safety Refresher (RT-130); and

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(iv) Completion of the NWCG Firefighter Type 1 (FFT1)/Incident Commander Type 5 (ICT5) Task Book.

(n) NWCG Single Resource, Engine Boss (ENGB).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Single Resource, Engine Boss must be certified as a NWCG Firefighter Type 1 (FFT1) prior to applying for NWCG Single Resource, Engine Boss and must document training in all of the following areas at the time of application:

(i) I-200 Basic Incident Command;

(ii) S-230 or Crew Boss (Single Resource);

(iii) S-290 Intermediate Wildland Fire Behavior;

(iv) NIMS I-200 or IS200;

(v) Annual Fireline Safety Refresher (RT-130); and

(vi) Completion of the task book for NWCG Single Resource Engine

Boss

(o) NWCG Single Resource, Crew Boss (CRWB).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Single Resource Crew Boss must be certified as a NWCG Firefighter Type 1 (FFT1) prior to applying for NWCG Single Resource Crew Boss and must document training in all of the following areas at the time of application:

(i) S-230 Crew Boss (Single Resource);

(ii) S-290 Intermediate Wildland Fire Behavior;

(iii) NIMS I-200 or IS200;

(iv) Annual Fireline Safety Refresher (RT-130); and

(v) Completion of the task book for NWCG Single Resource Crew

Boss.

(p) NWCG Single Resource, Heavy Equipment Boss (HEBQ).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Single Resource, Heavy Equipment Boss must be certified as a NWCG Firefighter Type 1 (FFT1) prior to applying for NWCG Single Resource, Heavy Equipment Boss and must document training in all of the following areas at the time of application:

(i) I -200 Basic Incident Command or IS200;

(ii) S-230 Crew Boss (Single Resource);

(iii) S-290 Intermediate Wildland Fire Behavior;

(iv) Annual Fireline Safety Refresher (RT-130); and

(v) Completion of the task book for NWCG Single Resource, Heavy

Equipment Boss.

(q) NWCG Single Resource, Felling Boss (FELB).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Single Resource, Felling Boss must be certified as a NWCG Firefighter Type 1 (FFT1) prior to applying for NWCG Single Resource, Felling Boss and must document training in all of the following areas at the time of application:

(i) I -200 Basic Incident Command or IS200;

(ii) S-230 Crew Boss (Single Resource);

(iii) S-290 Intermediate Wildland Fire Behavior;

(iv) Annual Fireline Safety Refresher (RT-130); and

(v) Completion of the task book for NWCG Single Resource, Felling

Boss.

(r) NWCG Single Resource, Firing Boss (FIRB)

(A) This is a NWCG standard.

(B) An individual applying for NWCG Single Resource, Firing Boss must be certified as NWCG Firefighter Type 1 (FFT1) prior to applying for NWCG Single Resource, Firing Boss and must document training in all of the following areas at the time of application:

(i) I -200 Basic Incident Command or IS200;

(ii) S-230 Crew Boss (Single Resource);

(iii) S-290 Intermediate Wildland Fire Behavior;

(iv) Annual Fireline Safety Refresher (RT-130); and

(v) Completion of the task book for NWCG Single Resource, Firing

Boss

(s) NWCG Strike Team Leader Engine (STEN.)

(A) This is a NWCG standard.

(B) An individual applying for NWCG Strike Team Leader Engine (STEN) must be certified as NWCG Single Resource, Engine Boss prior to applying for NWCG Strike Team Leader Engine and must document training in all of the following areas at the time of application:

(i) S-215 Fire Operations in the Wildland Urban Interface WUI;

(ii) S-330 Task Force Strike Team Leader;

(iii) I-300 Incident Command Systems for Expanding Incidents;

(iv) NRF: Introduction IS800B;

(v) Annual Fireline Safety Refresher (RT-130); and

(vi) Completion of the task book for NWCG Strike Team Leader Engine.

(t) NWCG Task Force Leader (TFLD).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Task Force Leader (TFLD) must complete "Required Experience" as defined in PMS 310-1 and must document training in all of the following areas at the time of application:

(i) S-215 Fire Operation in the Wildland Urban Interface (WUI);

(ii) S-330 Task Force/Strike Team Leader;

(iii) I-300 Incident Command Systems for Expanding Incidents;

(iv) NRF: Introduction IS800B;

(v) Annual Fireline Safety Refresher (RT-130); and

(vi) Completion of the task book for NWCG Task Force Leader.

(u) NWCG Division/Group Supervisor (DIVS).

(A) This is a NWCG standard.

(B) An individual applying for NWCG Division/Group Supervisor must complete "Required Experience" as defined in PMS 310-1 and must document training in all of the following areas at the time of application:

(i) S-390 Introduction to Wildland Fire Behavior Calculations;

(ii) S-339 Division/Group Supervisor;

(iii) Annual Fireline Safety Refresher (RT-130); and

(iv) Completion of the task book for NWCG Division/Group Supervisor.

(v) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book. Historical Recognition:

(A) The application must be submitted with the fire chief or designee's signature attesting to the skill level and training of the applicant.

(B) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

(C) All applications received after October 1, 2004, will need to show completion of the approved task book.

(w) Certification guide for Wildland Fire Investigator (August, 2005).

(x) The provisions of the 2013 Edition of NFPA 1006 entitled, "Standards for Technical Rescuer Professional Qualifications" are adopted subject to the following modifications:

(A) Historical Recognition:

(i) Applicants who currently hold active Department NFPA Rope Rescue I and II certifications will be recognized as a NFPA Rope Rescue Technician.

(ii) An individual who holds an active NFPA Rope Rescue I certification and has been working toward an NFPA Rope Rescue II certification may complete certification based on NFPA 1006 until January 1, 2016. No new NFPA Rope Rescue II certifications will be issued after January 1, 2016.

(iii) Applicants who currently hold active Department NFPA Surface Water I and II certifications will be recognized as a NFPA Surface Water Rescue Technician.

(iv) An individual who holds an active NFPA Surface Water I certification and has been working toward an NFPA Surface Water II certification may complete certification based on NFPA 1006 until January 1, 2016. No new NFPA Surface Water II certifications will be issued after January 1, 2016.

(v) Applicants who currently hold an active Department NFPA Vehicle and Machinery Rescue certification will be recognized as NFPA Vehicle Rescue and NFPA Machinery Rescue.

(vi) An individual who has fulfilled training competencies in NFPA Vehicle and Machinery Rescue may complete certification based on NFPA 1006 until January 1, 2016. No new NFPA Vehicle and Machinery Rescue certifications will be issued after January 1, 2016.

(B) Instructors:

(i) Curriculum must be certified by the Department to meet NFPA 1006 standards.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(C) Task Books:

(i) A task book must be completed for each of the eleven specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can approve the task book.

(iii) The requirements in Chapters 4 and 5 only need to be met once for all eleven specialty rescue areas.

(y) US&R Rescue Technician.

(A) This is a standard that is Oregon-specific.

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(B) An individual applying for US&R Rescue Technician must be certified as NFPA Structural Collapse Rescue, NFPA Confined Space Rescue, NFPA Vehicle Rescue, NFPA Trench Rescue, NFPA Rope Rescue, and NFPA Machinery Rescue prior to applying for US&R Rescue Technician and must document training in I-200 Basic ICS at the time of application.

(z) US&R Medical Technician.

(A) This is a standard that is Oregon-specific.

(B) An individual applying for US&R Medical Technician must be certified as US&R Rescue Technician prior to applying for US&R Medical Technician, must document training in the FEMA Medical Specialist Course at the time of application, and must be a licensed active Oregon Health Authority Paramedic or equivalent at the time of application.

(aa) US&R Rigging Technician.

(A) This is a standard that is Oregon-specific.

(B) An individual applying for US&R Rigging Technician must be certified as US&R Rescue Technician prior to applying for US&R Rigging Technician, must document training in the FEMA Rigging Specialist Course at the time of application, and must be qualified at the time of application, by showing safety and use competency, on specific pieces of heavy equipment as determined by local jurisdiction.

(bb) US&R Search Technician

(A) This is a standard that is Oregon-specific.

(B) An individual applying for US&R Search Technician must be certified as US&R Rescue Technician prior to applying for US&R Search Technician and must document training in the FEMA Technical Search Specialist Course at the time of application.

(cc) US&R Historical Recognition. Effective July 1, 2017, the following seven US&R certifications are archived certifications:

(A) US&R Logistics Manager;

(B) US&R Rescue Company Officer;

(C) US&R Rescue Team Manager;

(D) US&R Safety Officer;

(E) US&R Search Company Officer;

(F) US&R Search Team Manager; and

(G) US&R Task Force Leader.

(dd) The provisions of the NFPA Standard 472, 2008 Edition, entitled "Standard for Hazardous Materials and Weapons of Mass Destruction" are adopted subject to the following definitions and modifications:

(A) NFPA Hazardous Materials Technician: All applicants for certification must first certify as an NFPA Operations Level Responder and complete a Department-approved task book. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) NFPA Hazardous Materials Safety Officer: All applicants for certification must first certify as a NFPA Hazardous Materials Technician and complete a Department-approved task book. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification. This certification level includes, but is not limited to, the following course work:

(i) Analyzing the Incident;

(ii) Planning the Response;

(iii) Implementing the Planned Response;

(iv) Evaluating the Progress.

(C) Incident Commander: The level of certification formerly known as "On-Scene Incident Commander" is now known as "NFPA Hazardous Materials Incident Commander." The Incident Commander correlates directly with NFPA 472. All applicants for certification must first certify as an NFPA Operations Level Responder.

(D) Operations Level Responder: The level of certification formerly known as "First Responder" is now known as "NFPA Operations Level Responder." The NFPA Operations Level Responder correlates directly with NFPA 472. Successful completion of skills sheets or task performance evaluations (TPE) must be met prior to certification as an NFPA Operations Level Responder.

(ee) Specialty Levels of Certification. All applicants for specialty levels of certification must first certify as a NFPA Hazardous Materials Technician.

(A) The following four (4) specialty certifications are adopted:

(i) NFPA Cargo Tank Specialty;

(ii) NFPA Intermodal Tank Specialty;

(iii) NFPA Marine Tank Vessel Specialty;

(iv) NFPA Tank Car Specialty;

(B) Successful completion of task performance evaluations (TPE) must be met prior to obtaining a specialty level of certification.

(3) Task performance evaluations, where prescribed, will be required prior to certification. Such examinations will be conducted in the following manner:

(a) Task performance competency will be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures must be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, will be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a task performance evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for fire service professionals from a fire service agency whose training program is not accredited.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003, f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006, f. & cert. ef. 7-7-06; DPSST 14-2006, f. & cert. ef. 10-13-06; DPSST 16-2006, f. & cert. ef. 11-20-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 3-28-11, cert. ef. 5-1-11; DPSST 7-2012, f. & cert. ef. 3-28-12; DPSST 21-2012, f. & cert. ef. 10-1-12; DPSST 8-2013, f. & cert. ef. 3-26-13; DPSST 16-2013, f. & cert. ef. 6-25-13; DPSST 22-2013, f. & cert. ef. 10-3-13; DPSST 6-2014, f. & cert. ef. 2-6-14; DPSST 9-2014, f. & cert. ef. 4-3-14; DPSST 36-2014, f. & cert. ef. 12-31-14; DPSST 17-2015, f. & cert. ef. 10-22-15; DPSST 22-2015, f. & cert. ef. 12-22-15; DPSST 15-2016, f. & cert. ef. 9-22-16; DPSST 18-2016, f. & cert. ef. 12-22-16; DPSST 12-2017, f. 6-29-17, cert. ef. 7-1-17

Rule Caption: Amends basic certification maintenance requirements for Telecommunicators/Emergency Medical Dispatchers (EMD); adds maintenance for supervisory certification.

Adm. Order No.: DPSST 13-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 259-008-0064

Subject: The changes to OAR 259-008-0064 provide additional clarity for the requirements to maintain basic certification as a telecommunicator or emergency medical dispatcher (EMD); change the requirements for individuals who are only certified as EMD from 4 hours of annual training to 8 hours of annual training; change the maintenance training reporting period to a calendar year cycle; and add maintenance training requirements for telecommunicators who hold supervisory certification.

The period of July 1, 2017 through December 31, 2017 has been added to the first January through December maintenance training year creating a one-time 18 month maintenance cycle that runs July 1, 2017 through December 31, 2018.

Rules Coordinator: Jennifer Howald—(503) 378-2432

259-008-0064

Maintenance of Certification for Telecommunicators and Emergency Medical Dispatchers

(1) It is the responsibility of the Board to set the minimum standards for the maintenance of certification for currently employed and certified telecommunicators and emergency medical dispatchers (EMD).

(a) While it is the responsibility of the Department to uphold those standards, each agency may determine what training will be provided to meet the standards.

(b) The Board recommends that agencies provide training time and training opportunities to enable telecommunicators and EMD to meet the required maintenance training hours.

(2) The requirements established by the Board for the completion of training to maintain certification apply to telecommunicators and EMD who are currently employed and are currently certified.

(3) The Department will establish a maintenance training cycle for each telecommunicator and EMD upon issuance of a basic certification.

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(a) The cycle will begin on January 1st and end on December 31st of the calendar year, except the Department will extend the maintenance cycle for the 2018 calendar year to include the period of July 1, 2017 through December 31, 2017.

(b) Basic certifications granted between January 1st and June 30th of the current year will have maintenance cycles that are effective January 1st of the current year.

(c) Basic certifications granted between July 1st and December 31st of the current year will have maintenance cycles that are effective January 1st of the following year.

(d) If a telecommunicator's or an EMD's certifications lapse pursuant to OAR 259-008-0067, a new maintenance training cycle will be established upon reissuance of a basic certification.

(4) In order to maintain basic certification:

(a) A telecommunicator must complete a minimum of 12 hours of maintenance training specific to the telecommunicator discipline.

(b) Notwithstanding (4)(c), an EMD must complete a minimum of eight hours of maintenance training specific to the EMD discipline.

(c) A telecommunicator who is also multi-discipline certified as both a telecommunicator and an EMD must complete a minimum of 12 hours of maintenance training specific to the telecommunicator discipline and a minimum of four hours of maintenance training specific to the EMD discipline.

(d) The Board recommends that telecommunicators and EMD complete a minimum of one hour of Ethics training annually. Effective January 1, 2020, a minimum of one hour of Ethics training will be an annual training requirement to maintain certification. Ethics training hours will be applied toward the minimum maintenance training requirements.

(5) Recommended Leadership Training for Telecommunicators with Supervisory, Management or Executive Certifications.

(a) The Board recommends that telecommunicators who hold supervisory, management or executive certifications complete two hours of Leadership training annually.

(b) The two hours of annual Leadership training are in addition to the annual training requirements to maintain basic telecommunications certification.

(c) Effective January 1, 2020, two hours of annual Leadership training will be required to maintain supervisory, management or executive certification.

(6) Instructors may apply hours spent instructing a class one time annually toward maintenance training.

(a) Instructed hours reported for a class may not exceed the lesser of:

(A) The actual class hours; or

(B) The actual number of hours the instructor spent instructing the class.

(b) The total number of instructed hours applied towards the annual maintenance training requirement may not exceed:

(A) Six hours for the telecommunications discipline;

(B) Notwithstanding (5)(b)(C), four hours for the EMD discipline; or

(C) When multi-discipline certified as a telecommunicator and an EMD, a combination of six hours for the telecommunications discipline and two hours for the EMD discipline.

(7) Documentation of Maintenance Training.

(a) The employing agency must maintain documentation of required maintenance training for each telecommunicator and EMD.

(b) Training hours used to complete the requirements for maintenance of certification must be reported to the Department by December 31st of each calendar year through a Department approved submission process using either of the following:

(A) A Course Attendance Roster. When an agency submits a course attendance roster to the Department pursuant to OAR 259-008-0090, the training will be entered into each telecommunicator's or EMD's DPSST training record and the training hours will be credited to the maintenance training category identified on the course attendance roster; or

(B) A Maintenance Training Log. When an agency submits a maintenance training log to document the completion of maintenance training hours, the maintenance training log will be used solely to verify completion of maintenance training requirements and training hours will not be added to the telecommunicator's or EMD's DPSST training record.

(c) The Department will update the telecommunicator's or EMD's DPSST training record to reflect the telecommunicator's or EMD's completion of the maintenance training requirements for certification.

(8) Maintenance Training Requirements for Telecommunicators and Emergency Medical Dispatchers on Leave.

(a) The employing agency must notify the Department whenever a telecommunicator or EMD is on leave for 91 days or more pursuant to OAR 259-008-0020.

(b) When a telecommunicator or EMD is on leave, their certifications will not lapse pursuant to 259-008-0067.

(c) A telecommunicator or EMD who is on leave for any period up to 180 days will have the same maintenance training cycle.

(d) A telecommunicator or EMD who is on leave for more than 180 days will receive a one year extension of the maintenance training cycle.

(9) Suspension for failure to meet maintenance training requirements for certification.

(a) When a telecommunicator or EMD is identified as deficient for maintenance training hour requirements, a deficiency notice will be sent to the telecommunicator or EMD and a copy of the deficiency notice will be sent to the telecommunicator's or EMD's employing agency.

(b) A telecommunicator or EMD has 30 days from the date of the deficiency notice to complete the maintenance requirements identified as deficient or to request a time extension.

(c) When a telecommunicator or EMD fails to complete the deficient maintenance requirements or fails to request a time extension within 30 days of the date of the deficiency notice, a Contested Case Notice of Intent to Suspend will be prepared by the Department and served on the telecommunicator or EMD pursuant to ORS 181A.640(c) and these rules. A copy of the Notice of Intent will be sent to the telecommunicator's or EMD's employing agency.

(d) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(e) A telecommunicator or EMD who has been served with a Contested Case Notice of Intent to Suspend has 30 days from the date of mailing or personal service of the notice to provide documentation to the Department showing the completion of the maintenance requirements identified as deficient during the reporting period or to file a written request for hearing with the Department.

(f) Default Order. If the required training is not reported to the Department or a request for hearing received by the Department within 30 days from the date of the mailing or personal service of the Notice, the Contested Case Notice will become a final order suspending certification pursuant to OAR 137-003-0672.

(10) Time Extensions.

(a) The Department may grant a time extension for a telecommunicator or EMD to complete the deficient maintenance training requirements upon receipt of a written request from the telecommunicator or EMD or their employing agency's department head. The written request must include an action plan for completing the training requirements that were identified as deficient.

(b) No time extension will be granted beyond December 31st of the year following the expiration date of the required maintenance training.

(c) Training used to complete the deficiencies for a maintenance cycle that has been granted a time extension cannot be applied toward the next maintenance training cycle.

(d) A time extension for deficient maintenance training does not change the period for the following maintenance training cycle.

(e) If a telecommunicator or EMD fails to complete the deficient maintenance training requirements before the expiration of the time extension, a Notice of Intent to Suspend will be served on the telecommunicator or EMD by the Department.

(11) A telecommunicator or EMD whose basic certification has been suspended is prohibited from performing the duties of a telecommunicator or EMD.

(12) Recertification following a suspension:

(a) Recertification following a suspension may be obtained by submitting documentation to the Department showing completion of the maintenance training requirements.

(b) Prior to reinstatement of certifications from a suspension for failure to meet certification maintenance training requirements, a telecommunicator or EMD must meet the minimum employment, training and certification requirements outlined in OAR chapter 259 division 008.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181A.410

Stats. Implemented: ORS 181A.410

Hist.: PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 5-2001, f. & cert. ef. 8-22-01; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 15-2008, f. & cert. ef. 10-15-08; DPSST 1-2010, f. & cert. ef. 1-11-10; DPSST 2-2010, f. & cert. ef. 3-15-10; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 31-2012, f. & cert. ef. 12-27-12; DPSST 11-2016, f. 7-25-16, cert. ef. 7-29-16; DPSST 13-2017, f. 6-29-17, cert. ef. 7-1-17

ADMINISTRATIVE RULES

Department of Revenue Chapter 150

Hist.: RD 12-1987, f. 12-18-87, cert. ef. 12-31-87; 6-1988(Temp), f. & cert. ef. 9-2-88 thru 12-31-88; RD 9-1988, f. 12-19-88, cert. ef. 12-31-88; RD 3-1991, f. 12-30-91, cert. ef. 12-31-91; Renumbered from 150-310.090, REV 24-2016, f. 8-11-16, cert. ef. 9-1-16; REV 19-2017, f. & cert. ef. 6-28-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 19-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17

Notice Publication Date:

Rules Amended: 150-310-0050

Subject: 150-310-0050 Tax Rate Computation: This rule was last adopted 08/11/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-310-0050

Tax Rate Computation

(1) The county assessor shall compute the tax rate for each district that levies an ad valorem tax by dividing the district's levy after offsets by the assessed value used to compute the tax rate. The computed tax rate shall be carried to seven decimal places and truncated. A separate tax rate shall be calculated for each category of levy of a taxing district.

(2) In the event that total taxes extended against a property exceed the limitation imposed on a category of taxes defined by Subsection (1) of Section 11b, Article XI of the Oregon Constitution, the taxes imposed upon such property in that category shall be reduced evenly by the percentage necessary to meet the limitation for that category as defined in this rule.

(3) For each property in the county, those taxes to be imposed for the purpose of funding the public school system, but not to pay principal and interest on exempt bonded indebtedness, shall be limited to the amount provided in the following schedule for each \$1,000 of real market value of the property: [Schedule not included. See ED. NOTE.]

(4) For each property in the county, those taxes to be imposed for the purpose of funding other government operations, but not to pay principal and interest on exempt bonded indebtedness, shall be limited to \$10 for each \$1,000 of real market value of the property.

(5) If the taxes in either category to be imposed on any property exceed the limit established for that category in Subsection (3) and (4) of this section, the assessor shall reduce the taxes by applying a reduction percentage. The reduction percentage shall be calculated by subtracting the limit for the category from the total taxes to be imposed in that category and dividing the difference by the amount of the combined tax in the category. The assessor shall then subtract from the taxes that would otherwise be imposed, that proportion of the taxes in the category obtained by multiplying the reduction percentage times the taxing unit's total tax within the category.

(6) After application of the reduction percentage to the taxes within each category, the total amount of taxes to be imposed on the property in either category may be different from the maximum amount that may be imposed due to rounding. In such a case, the tax amount for the district that has the greatest amount of taxes in that category shall be adjusted so that the amount of taxes to be imposed is equal to the maximum that may be imposed.

(7) The reduction percentage shall be carried to at least seven (7) digits.

(8) Alternately, the county may use the reciprocal of the reduction percentage to determine the amount of taxes that may be imposed on a property. When using the reciprocal, the amount of taxes imposed is calculated by multiplying the taxes extended by the reciprocal percentage. The result is the amount of taxes imposed.

(9) The difference between the taxes imposed and the taxes extended is the amount of loss reported by the assessor under ORS 311.105(A).

(10) When computing additional taxes for specially assessed properties that were disqualified prior to June 30, 1991, no compression of taxes is required. If specially assessed property is disqualified for tax year beginning on or after July 1, 1991, the provisions of ORS 310.165(4) apply for computing the additional taxes. (The maximum tax will be based on the real market value of the property for each year of special assessment). [Example not included. See ED. NOTE.]

[ED. NOTE: Schedules and examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.090

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 20-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17

Notice Publication Date:

Rules Amended: 150-312-0040

Subject: 150-312-0040 Five Percent Foreclosure Penalty: This rule was last adopted 08/11/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-312-0040

Five Percent Foreclosure Penalty

The 5 percent penalty is charged at the time the foreclosure list is submitted to the designated newspaper for publication. The penalty is not included in the published foreclosure list. The 5 percent penalty is computed on the total tax and interest owed. Add the tax and interest for each year shown on the foreclosure list, plus any additional interest that may have accrued since the publication, and multiply that total by 5 percent (.05) to determine the penalty amount. Once judgment and decree is granted, the penalty becomes a fixed amount calculated by multiplying the total amount shown in the judgment and decree by 5 percent (.05). Examples 1 & 2: [Examples not included. See ED. NOTE.] The statutes direct that foreclosure proceedings begin three months after the day of delinquency of taxes of the latest year (ORS 312.050(1)). Publication requirements may cause the date of publication to vary. This example is not meant to encourage deviation from compliance with the statutes.

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 312.110

Hist.: RD 11-1990, f. 12-20-90, cert. ef. 12-31-90; Renumbered from 150-312.110, REV 23-2016, f. 8-11-16, cert. ef. 9-1-16; REV 20-2017, f. & cert. ef. 6-28-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 21-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17

Notice Publication Date:

Rules Amended: 150-314-0082

Subject: 150-314-0082 Modified Factors for Companies Engaged in Sea Transportation Service: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0082

Modified Factors for Companies Engaged in Sea Transportation Service

(1) Sea transportation services within this rule include the activities of steamship companies substantially engaged in interstate or international commerce which derive income within and partly from sources without the state. They do not include the activities of water transportation carriers operating mainly on the Columbia and Willamette Rivers or water transportation carriers operating primarily within Oregon waters.

(2) The Oregon income of a taxpayer carrying on the business of sea transportation services must be determined pursuant to ORS 314.610 to 314.665 except as modified by this rule. Business income is apportioned to this state by use of the formula provided in ORS 314.650 as it applies to the tax year involved. For tax years beginning on or after July 1, 2005, ORS 314.650 provides for apportionment using only the sales factor.

(a) Property factor. The property factor is a fraction, the denominator of which includes the value of all real and tangible personal property,

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including ships, owned, rented or leased by the taxpayer and used in the business. The numerator of this factor includes all real and personal property owned, rented or leased by the taxpayer and used in the business, except ships, to the extent such assets are located in the state, and so much of the value of ships used in the business as is determined by applying the ratio that the voyage time which the ship was within this state during the tax period bears to the total voyage time of the ship during the tax period.

(A) The value of ships used in the business but not owned by the user, such as bareboat chartered vessels, is the same as their value for insurance purposes. There are generally three types of charters.

(i) "Bareboat" charters. The owner-charterer places the tanker at the complete use and control of the user. All operating costs are borne by the user, and the charter fee is purely for the use of the vessel. Bareboat charters are included in the property factor.

(ii) "Time and Demise" (long-term) charters. The owner-charterer provides, in addition to the vessel, all operational costs at the instruction of the user. Time and demise charter fees include a component for operating costs borne by the owner-charterer, such as insurance, port and docking fees, crew and master wages, fuel and repairs. Time and demise charters are considered the purchase of transportation and are not included in the property factor.

(iii) "Single Voyage" charters. These are actually purchased transportation services that take the form of a charter. The owner-charterer has complete use and control of the vessel and merely contracts to deliver product between one or more ports of loading and discharge. Single voyages may be arranged on a consecutive voyage basis. Single voyage charters are not included in the property factor.

(B) Other rented or leased property is valued in the manner set out in ORS 314.655 and OAR 150-314-0400.

(C) The term "voyage time" means the time that a ship is in operation for the purpose of transporting cargo, freight, mail, passengers, etc. The time that a ship is in operation includes all sailing time, even though a ship is returning empty or is en route to a port of call to load passengers or cargo, all time in port while loading and unloading, all time awaiting cargo, and all time that the ship is laid up for ordinary repairs, refueling, or provisioning. A ship is not in operation when out of service or during the time that it is laid up for extensive repairs, overhaul, modification or is in dry dock.

(D) The voyage time spent traveling on the Columbia River below mile post 309 is divided equally between Oregon and Washington. For purposes of this rule a vessel is not considered traveling on the Columbia River while remaining at a port even though the vessel moves from one terminal or dock to another within that port. [Example not included. See ED. NOTE.]

(b) Payroll factor. The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the tax period for the production of business income. (ORS 314.660 and OAR 150-314-0415) The numerator of the payroll factor is the total amount paid in this state during the tax period by the taxpayer for compensation. With respect to all personnel except ocean going personnel, compensation paid to such employees is included in the numerator as provided in ORS 314.660 and OAR 150-314-0417. The numerator contains so much of the compensation of ocean-going personnel as is determined by applying a fraction, the numerator being the voyage time the ship spent within this state during the tax period and the denominator being the total voyage time of the ship during the tax period.

(c) Sales factor. The sales factor is a fraction, the denominator of which includes all sales derived from carrying cargo, i.e., passengers, freight, mail, etc., and the sales incidental thereto. In calculating the numerator of the factor, such sales are assigned to this state in the proportion that the voyage time the ship spent within this state during the tax period bears to the total voyage time of the ship during the tax period. Sales from activities incidental to the transportation service, such as income from restaurants, locker rentals, etc., are assigned to the state or country in which the activity is carried on.

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 314.280

Stats. Implemented: ORS 314.280

Hist.: 1-65; 12-70; 12-31-84, Renumbered from 150-314.280(H); 12-31-87; RD 3-1992, f. 5-28-92, cert. ef. 6-1-92; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; REV 10-2007, f. 12-28-07, cert. ef. 1-1-08; Renumbered from 150-314.280(K), REV 33-2016, f. 8-12-16, cert. ef. 9-1-16; REV 21-2017, f. & cert. ef. 6-28-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 22-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17

Notice Publication Date:

Rules Amended: 150-314-0084

Subject: 150-314-0084 Modified Factors for Companies Involved in Interstate River Transportation Service: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0084

Modified Factors for Companies Involved in Interstate River Transportation Service

A taxpayer involved in interstate river transportation shall calculate its Oregon income under the provisions of ORS 314.610 to 314.665 except as modified by this rule. Business income is apportioned to this state by the formula provided in ORS 314.650 as it applies to the tax year involved. For tax years beginning on or after July 1, 2005, ORS 614.650 provides for apportionment using only the sales factor.

(2) Sales factor. The denominator of this factor include all sales. The numerator of this factor includes all sales not derived from interstate river transportation, assigned to this state in accordance with ORS 314.665. The numerator also includes all sales derived from vessels engaged in river transportation between Oregon and other states as is determined by applying the Oregon Interstate Mobile Allocation Formula (IMAF).

(3) Payroll factor. The payroll factor is a fraction. The denominator is the amount of all compensation paid to officers and employees, including personnel engaged in river transportation. The numerator of this factor includes all compensation paid to officers and employees not engaged in interstate river transportation, assigned to this state in accordance with ORS 314.660. The numerator also includes so much of the compensation to personnel engaged in river transportation between Oregon and other states as is determined by applying the Oregon IMAF.

(4) Property factor. The property factor is a fraction. The denominator includes the value of all real and tangible personal property, including vessels, owned, rented or leased by the taxpayer and used in the business. The numerator of this factor includes all real and personal property owned, rented or leased by the taxpayer and used in the business to the extent such assets are located in the state. The numerator also includes so much of the value of vessels engaged in river transportation between Oregon and other states and used in the business as is determined by applying the Oregon IMAF. The value of vessels used in the business but not owned by the user is the same as their value for insurance purposes. Property rented by the taxpayer is valued at eight times its net annual rental rate as set out in ORS 314.655 and OAR 150-314-0400.

(5) For purposes of this rule, the Oregon IMAF is the average of two factors. The two factors are the originating and terminating tons factor and the ton-miles factor. For purposes of computing both factors, only mileage and tonnage from those vessels that operate on some portion of a river that constitutes the border between Oregon and other states is included in the computation. For example: The ton-miles generated by vessels operating on the Mississippi River or exclusively on the Willamette River would not be included in the computation.

(a) The originating and terminating tons factor is a fraction. The denominator is the total number of tons handled by the vessels engaged in river transportation between Oregon and other states. The numerator is the number of tons assigned to Oregon. The tons attributed to a voyage from one Oregon port to another Oregon port are credited wholly to Oregon. The tons attributed to a voyage between ports in different states are credited equally to the two states. For this purpose each trip between two ports of call is treated as a separate voyage even though the cargo may be scheduled for later movement to one or more ports.

(b) The ton-miles factor is a fraction. The denominator is the total number of ton-miles generated by the vessels engaged in river transportation between Oregon and other states. The numerator of the fraction consists of those ton-miles assignable to Oregon. Ton-miles generated on the Willamette are credited wholly to Oregon. Ton-miles generated on that part of the Columbia above mile 309 are credited wholly to Washington. One-half of those ton-miles generated on the portion of a river that forms the boundary between Oregon and another state are credited to Oregon. Ton-miles are figured by multiplying tons carried for each movement by miles traveled. Example: [Example not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 314.280

ADMINISTRATIVE RULES

Stats. Implemented: ORS 314.280
Hist.: 10-5-84, 12-31-84, Renumbered from 150-314.280-(J); 12-31-87; RD 3-1992, f. 5-28-92, cert. ef. 6-1-92; REV 10-2007, f. 12-28-07, cert. ef. 1-1-08; Renumbered from 150-314.280-(L), REV 33-2016, f. 8-12-16, cert. ef. 9-1-16; REV 22-2017, f. & cert. ef. 6-28-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 23-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17

Notice Publication Date:

Rules Amended: 150-314-0246

Subject: 150-314-0246 Interest Computation - Offset: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0246

Interest Computation — Offset

(1) An overpayment of any tax imposed and interest on the overpayment, if any, shall be offset against any tax, penalty, or interest then due from the taxpayer. "Tax, penalty or interest then due from the taxpayer" means any amount of tax that has been assessed before the date the refund is applied or proposed to be applied and any penalty or interest incurred in connection with the tax.

(2) If a Notice of Assessment is issued, the department shall make the offset on the date the refund is issued.

(3) If a Notice of Deficiency is issued, the department may offset upon receiving written authorization from the taxpayer. If the taxpayer submits a written authorization to offset, the authorization shall include the taxpayer's name, social security number or other identifying number, current address, accounts (if known), and the signature of the taxpayer. The date on which the offset shall be made is the date that either a net billing or a refund is issued, or the date a payment is received, whichever is earlier.

Example 1: On February 15, 1985 it was determined that a taxpayer had overpaid the 1982 tax by \$500 and underpaid the 1983 tax by \$800. Assume the underpaid account had not yet been assessed and on March 15, 1985 the department received a written authorization allowing the department to offset the refund to the nonassessed account. The net amount due from the taxpayer on April 15, 1985, the date the net billing is issued, is calculated as follows: [Figures not included. See ED. NOTE.]

Example 2: On February 1, 1985, it was determined that a taxpayer underpaid the 1983 tax by \$800. On May 15, 1985, the account was assessed and a 5 percent failure-to-pay penalty was imposed. On June 15, 1985, it was determined that the taxpayer overpaid the 1982 tax by \$500. Since the 1983 account is an assessed account, the department may offset the total refund (including interest) to the assessed account on June 15, 1985. The net amount due from the taxpayer on June 15, 1985, the date the refund is offset to the assessed account, is calculated as follows: [Figures not included. See ED. NOTE.]

Example 3: On February 15, 1986 it was determined by a field audit that a taxpayer underpaid the 1984 tax by \$1,000 and overpaid the 1983 tax by \$500. On that date, the taxpayer signed an authorization to offset and paid \$515. In this example, the offset is made at the date of payment, which is earlier than the date the net billing is issued. The amount due on February 15, 1986 is calculated as follows: [Figures not included. See ED. NOTE.]

Note: Interest is calculated through the date of payment. If a balance of tax remains after the offset, interest will accrue on such balance until paid.

(4) For deficiencies on refunds issued under ORS 310.630 to 310.690, the department shall refund any penalty and interest, due to an offset of a refund, when it has been determined that the deficiency was not legally due. Interest shall be computed on the amount that was offset. This includes penalty and interest not legally due. The interest starting date is the date the offset was made.

Example 4: An individual files a Homeowner and Renter Refund claim and a check is issued. Six months later, the department audits the refund claim and issues a Notice of Deficiency. The individual files an income tax return for which a refund is issued. The individual requests the department to offset the income tax refund to pay the deficiency plus interest. The deficiency is later determined to be erroneous. The amount of total offset shall be refunded. Interest is computed on the entire amount beginning on the date the deficiency was offset.

Example 5: Assume the same facts in Example 1 except that the Notice of Deficiency is assessed and a 5 percent penalty is imposed. The amount of the refund, penalty and interest offset shall be refunded and interest is computed on the entire amount beginning on the date the assessed account was offset.

(5) Special Cases. Offsets applied to deficiencies issued for tax years beginning after December 31, 1984, and prior to January 1, 1986 for which the taxpayer has made the election as prescribed under OAR 150-316-0020 shall be applied in the following order:

(a) First, to penalty and interest due on such return;

(b) Second, the amount of tax due as prescribed under OAR 150-316-0020.

(c) Third, to the balance of tax due for the tax year. When the combined report method is required, penalty and interest under ORS 314.395 to 314.415 will be computed on the separate tax liability, or overpayment of each taxpayer included in the unitary group. There shall be no offsets of overpayments and deficiencies between taxpayers in the group prior to computing penalty and interest. After computation of penalty and interest, an offset may be made by the department upon receiving written authorization from the taxpayers, given the statute of limitations has not expired.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.415

Hist.: 10-5-83, 12-31-83; 12-31-85; 12-31-87, Renumbered from 150-314.415(1)(d)-(A); RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; Renumbered from 150-314.415(1)(e)-(A), REV 4-2005, f. 12-30-05, cert. ef. 1-1-06; Renumbered from 150-314.415(2)(f)-(A), REV 31-2016, f. 8-12-16, cert. ef. 9-1-16; REV 23-2017, f. & cert. ef. 6-28-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 24-2017

Filed with Sec. of State: 6-28-2017

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Notice Publication Date:

Rules Amended: 150-314-0327

Subject: 150-314-0327 Underpayment of Estimated Tax; First and Second Installment for Large Corporations: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

150-314-0327

Underpayment of Estimated Tax; First and Second Installment for Large Corporations

(1) The first required installment is the lowest payment computed under ORS 314.525(2)(a) through (2)(d).

(2) If a large corporation qualifies for the exception to paying interest on underpayment of estimated tax for the first installment under ORS 314.525(2)(b), the second required installment is calculated by adding:

(a) The reduction to the first installment from using the amount determined under ORS 314.525(2)(b), and

(b) The required second installment determined without regard to ORS 314.525(2)(b).

(3) The reduction to the first installment from using the amount determined under ORS 314.525(2)(b) is:

(a) The lowest first installment determined under ORS 314.525(2) without regard to 314.525(2)(b), less

(b) The first installment determined under ORS 314.525(2)(b).

Example: Big, Inc. (Big) qualifies as a "large corporation" under ORS 314.525(5) and had tax, payments, and required payments under ORS 314.525(2) as follows: [Table not included. See ED. NOTE.]

[ED. NOTE: Table referenced is available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.525

Hist.: REV 2-2003, f. & cert. ef. 7-31-03; Renumbered from 150-314.525(5), REV 30-2016, f. 8-12-16, cert. ef. 9-1-16; REV 24-2017, f. & cert. ef. 6-28-17

Rule Caption: Re-publishing full version of rule (no changes) through Archives' database, including tables within the examples.

Adm. Order No.: REV 25-2017

Filed with Sec. of State: 6-28-2017

Certified to be Effective: 6-28-17

Notice Publication Date:

Rules Amended: 150-314-0380

Subject: 150-314-0380 Allocation of Interest and Dividends: This rule was last adopted 08/12/2016 (effective 09/01/2016). Department of Revenue is filing this notice to have the full version of the rule, including tables previously available from the agency, re-published by the Secretary of State. There are no changes to the rule content itself at this time.

Rules Coordinator: Shannon Ball—(503) 945-7938

ADMINISTRATIVE RULES

150-314-0380

Allocation of Interest and Dividends

(1) Where it appears to the Department that a corporation using the apportionment method is improperly using interest deductions to avoid Oregon tax, the corporation will be required to include in apportionable income interest received to the extent of the deduction claimed for interest paid. See U.P.R.R. Co. et al v. Oregon State Tax Comm., 240 Or 628, 402 P2d 519 (June 3, 1965).

(2) Nonbusiness dividends are subtracted from modified federal income to compute apportionable business income. The subtraction shall be net of the Oregon dividend deduction claimed for such dividends under ORS 317.267. Nonbusiness dividends allocated to Oregon, net of the Oregon dividend deduction, shall be added to business income apportioned to Oregon.

Example: In 1991, Corporation D received \$30,000 in dividends, \$10,000 of which were nonbusiness dividends allocable to Oregon. Corporation D owned less than 20 percent of the stock in the corporations paying the dividends, so a 70 percent dividend received deduction is allowed on the Oregon return. In the computation of Oregon taxable income, \$3,000 of nonbusiness dividends (net of the dividend deduction) are subtracted from net income before apportionment and then added to income apportioned to Oregon. The \$3,000 is computed as follows: [ED. NOTE: Tables referenced are available from the agency.]

[Publications and Tables referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.640

Hist.: 1-65; 6-68; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-314.640, REV 35-2016, f. 8-12-16, cert. ef. 9-1-16; REV 25-2017, f. & cert. ef. 6-28-17

Department of State Police, Office of State Fire Marshal Chapter 837

Rule Caption: Clarifies Exempt Jurisdiction Program requirements and addresses housekeeping items

Adm. Order No.: OSFM 2-2017

Filed with Sec. of State: 6-26-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Adopted: 837-039-0035, 837-039-0045, 837-039-0056

Rules Amended: 837-039-0003

Rules Ren. & Amend: 837-039-0015 to 837-039-0006, 837-039-0110 to 837-039-0011, 837-039-0120 to 837-039-0016, 837-039-0010 to 837-039-0031, 837-039-0055 to 837-039-0041

Subject: These rule amendments clarify requirements for the application, review, decision-making, and monitoring of local jurisdictions who request exempt authority to implement and enforce the Oregon adopted fire code and related statutes, rules and programs in their jurisdiction. Some amendments were housekeeping in nature. Reorganized rules numbering to provide better readability. Reorganization led to the adoption and renumbering of some rules.

Rules Coordinator: Valerie Abrahamson—(503) 934-8211

837-039-0003

Definitions

(1) “Administration” (or “administrative”) means the inspection, enforcement and record-keeping systems used in the management of a fire prevention/investigation program.

(2) “Appeal” means the delegated appeals process as stated in section 12 of this rule which is offered to an aggrieved party by the authority having jurisdiction which:

- (a) Assures the aggrieved party is given the due process of law;
- (b) Is in response to the aggrieved party having received an order from the authority having jurisdiction;
- (c) Is requested by the aggrieved party; and
- (d) Is consistent with the lawful authority of the authority having jurisdiction.

(3) “Assistant” means an Assistant to the State Fire Marshal under ORS 476.060, including, but not limited to, “all fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established.”

(4) “Authority Having Jurisdiction” means a local governmental subdivision recognized by the State Fire Marshal under this Division including, but not limited to:

- (a) Municipal fire departments operated under home rule charter;
- (b) Rural fire protection districts operating under ORS 478;
- (c) Water supply districts operating under ORS 264; or

(d) Public fire protection agencies not described above, and which are subject to the laws of the State of Oregon.

(5) “Classroom” means an instructional environment the instructor believes is most conducive for the student to learn the material in a specific unit.

(6) “Company Inspector” means an individual who has met the job performance requirements to conduct basic fire code enforcement in one- and two-story Business Group B occupancies and Mercantile Group M occupancies with no high-piled or rack storage.

(7) “DPSST” means the Department of Public Safety Standards and Training.

(8) “DPSST’s NFPA Fire Inspector I” means an individual who has been certified by DPSST for meeting the requisite knowledge and skills identified in the DPSST NFPA Fire Inspector I task book to conduct basic fire code enforcement and apply codes and standards.

(9) “DPSST’s NFPA Fire Inspector II” means an individual who has been certified by DPSST for meeting the requisite knowledge and requisite skills identified in the DPSST NFPA Fire Inspector I and II task books to conduct moderately technically challenging fire code enforcement and interpret codes and standards.

(10) “DPSST’s NFPA Fire Inspector III” means an individual who has been certified by DPSST for meeting the requisite knowledge and requisite skills identified in the DPSST NFPA Fire Inspector I, II, and III task books to conduct advanced technically challenging fire code enforcement and resolve complex code-related issues.

(11) “DPSST’s NFPA Fire Investigator” means an individual who has been certified by DPSST for meeting the requisite knowledge and skills identified in the DPSST NFPA Fire Investigator task book to conduct an investigation of a fire for its origin and cause.

(12) “Delegated Appeals Process” means an administrative procedure established by an exempt authority which the State Fire Marshal has found to be the equivalent of a contested case proceeding established under ORS Chapter 183.417 and the appeals process established under 479.180.

(13) “Deputy State Fire Marshal” means an employee of the Office of State Fire Marshal as authorized in ORS 476.040.

(14) “Enforcement” means the investigation, inspection, citation, and/or prosecution of alleged violations of state and local fire protection laws, rules and regulations.

(15) “Exempt Jurisdiction” means any local governmental subdivision which through application has been granted partial exemption by the State Fire Marshal from statutes, rules and regulations administered by the State Fire Marshal as authorized in ORS 476.030(3) and as defined in this Division.

(16) “Exempt Jurisdiction Committee” means the Fire Marshal, or their designee, from each Exempt Jurisdiction.

(17) “Fire Code” means the Oregon Fire Code and local government regulations which are adopted in conformance with this Division.

(18) “Fire Code Official” means the fire chief or other designated authority charged with the administration and enforcement of the fire code, or duly authorized representative.

(19) “Fire Official” means any individual authorized to enforce the state or local fire code.

(20) “Local Appeals Process” means the administrative procedure adopted and operated by a local government subdivision under local ordinance or resolution.

(21) “Local Governmental Subdivision” means a city, county or rural fire protection district whose function includes regulation of building use and occupancy and the administration of fire safety laws, ordinances and regulations.

(22) “NFPA” means National Fire Protection Association.

(23) “Nonexempt Jurisdiction” means a local governmental subdivision which has not applied for and been granted exempt status by the State Fire Marshal under this Division.

(24) “Oregon Fire Code” means all Oregon fire protection statutes and the administrative rules of the State Fire Marshal adopted in accordance with ORS 476.030(1).

(25) “Partially Exempt Jurisdiction” means a local governmental subdivision which has received authorization from the State Fire Marshal under this Division to administer specified fire prevention programs within its legally established political boundary.

(26) “Promulgate” means to lawfully develop and adopt an administrative rule, local ordinance, code or regulation authorized by law.

(27) “Requisite Knowledge” means the fundamental knowledge one must have in order to perform a specific task.

ADMINISTRATIVE RULES

(28) "Requisite Skills" means the essential skills one must have in order to perform a specific task.

(29) "Scope of Practice" means an established list of competencies that are required to administer the Oregon fire code in an elected range of complexity.

(30) "Service Area" means the geographic area contained within the municipal city limits, corporate boundaries of the fire district or areas to which the Exempt Jurisdiction provides fire protection and prevention services under contract.

(31) "State Appeals Process" means an administrative contested case proceeding under ORS Chapter 183 and, if applicable, the accelerated appeals process established under ORS 479.180.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476

Hist.: FM 5-1992, f. 6-15-92, cert. ef. 7-15-92; OSFM 9-2000, f. & cert. ef. 8-22-00; OSFM 4-2008, f. & cert. ef. 7-2-08; OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17

837-039-0006

Minimum Fire Code Requirements

(1) Under ORS 476.030 and 476.120, the State Fire Marshal is responsible for promulgating rules and regulations which establish minimum standards for the protection of life and property from the dangers of fire.

(2) To meet this responsibility and to promote uniformity, the State Fire Marshal must assure that locally adopted fire codes in both exempt and non-exempt jurisdictions are consistent with minimum state fire code standards. Therefore, in adopting a fire code, local governmental subdivisions must:

(a) Adopt by reference the fire code promulgated by the State Fire Marshal; or

(b) Adopt a code that is consistent with state fire protection statutes and, is equal to or more stringent than, the fire code promulgated by the State Fire Marshal.

(3) Nothing in this Division requires a local governmental subdivision to adopt a fire code.

(4) Nothing in this Division may prevent a local governmental subdivision from adopting a fire code which is more stringent than the State Fire Code, if such local fire code is otherwise lawful.

(5) When an authority having jurisdiction proposes a new local fire code, or proposes to amend an existing fire code, they must provide a draft copy of the proposed fire code or amendment to the State Fire Marshal for a pre-adoption evaluation at the earliest date possible prior to final adoption and a final copy within 30 days after adoption.

(6) The State Fire Marshal must evaluate the fire codes or amendments submitted under section (5) to assure conformity with state fire protection statutes and the minimum standards established by the State Fire Marshal.

(7) When the State Fire Marshal determines that a fire code submitted under section (5) of this rule conforms to minimum state standards, the State Fire Marshal must issue a consistency finding at the earliest date possible.

(8) When the State Fire Marshal determines that a fire code or amendment submitted under section (5) of this rule does not meet minimum state standards, the State Fire Marshal must:

(a) Notify the authority having jurisdiction of the proposed finding; and

(b) Give the authority having jurisdiction a reasonable time to amend or delete such inconsistencies.

(9) When the State Fire Marshal issues a proposed inconsistency finding under section (8) of this rule, and the authority having jurisdiction disagrees with the proposed finding, the aggrieved party may within 20 days of receiving the inconsistency finding appeal and request a contested case hearing under ORS Chapter 183 and OAR 837-039-0055. Thereafter, the State Fire Marshal must process the appeal within a reasonable time.

(10) When an appeal is not filed within 20 days of notification, and the authority having jurisdiction has failed to delete or amend the inconsistent fire code provision identified by the State Fire Marshal, a final inconsistency finding must be issued.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030(3) & 476.120

Hist.: FM 3-1978, f. & ef. 6-16-78; FM 2-1988, f. & cert. ef. 2-17-88; FM 5-1992, f. 6-15-92, cert. ef. 7-15-92; OSFM 9-2000, f. & cert. ef. 8-22-00; OSFM 8-2006 f. & cert. ef. 5-22-06; OSFM 4-2008, f. & cert. ef. 7-2-08; OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17, Renumbered from 837-039-0015

837-039-0011

Certification and Training Requirements for Plan Review

(1) These rules establish standards for certification of fire officials who review plans for input to a building official for new construction, alterations, and specifications from a Fire Code approved by the State Fire Marshal.

(2) All fire officials who review plans for new construction, alterations, and specifications must obtain an ICC Fire Inspector II and ICC Fire Plans Examiner certification or equivalent certification approved by the State Fire Marshal.

(3) Fire Officials who review plans only for fire department access and fire protection water supplies must successfully complete the State Fire Marshal's Fire and Life Safety Awareness courses on fire department access, water supply, and fire flow.

(4) All fire chiefs and every assistant to the state fire marshal meeting the definition under ORS 476.060 must complete the state fire marshal's Fire and Life Safety Awareness course module 1, Scope of Authority and Assembly Group A Occupancies.

(5) The State Fire Marshal must maintain a roster of ICC Fire Inspector II and ICC Fire Plans Examiner certified fire officials. A current list of ICC Fire Inspector II and ICC Fire Plans Examiners certified fire officials are provided to each building jurisdiction annually. Certifications must be maintained to continue participation in the plan review process.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 479.165

Stats. Implemented: ORS 479.165

Hist.: FM 3-1994, f. & cert. ef. 3-1-94; OSFM 9-2000, f. & cert. ef. 8-22-00; OSFM 8-2006 f. & cert. ef. 5-22-06; OSFM 4-2008, f. & cert. ef. 7-2-08; OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17, Renumbered from 837-039-0110

837-039-0016

Certification and Training Requirements for Conducting Fire Code Enforcement

(1) These rules establish statewide standards for certification and training requirements of fire officials responsible for administration of a Fire Code approved by the State Fire Marshal.

(a) Every person who performs fire code enforcement must possess an Oregon Fire and Life Safety Competency Recognition certificate for the scope of work being performed.

(A) Company Inspector certificate for fire officials performing fire code enforcement at this scope of practice. Fire officials have until January 1, 2009 to comply with the Oregon Fire and Life Safety Competency certificate provisions;

(B) Fire and Life Safety Specialist I certificate for fire officials whose scope of practice is equivalent to DPSST's NFPA Fire Inspector I. Fire officials have until July 1, 2010 to comply with the Oregon Fire and Life Safety Competency certificate provisions;

(C) Fire and Life Safety Specialist II certificate for fire officials whose scope of practice is equivalent to DPSST's NFPA Fire Inspector II. Fire officials have until January 1, 2011 to comply with the Oregon Fire and Life Safety Competency certificate provisions;

(D) Fire Marshal certificate for fire officials whose scope of practice is equivalent to DPSST's, NFPA Fire Inspector III. Fire officials have until July 1, 2011 to comply with the Oregon Fire and Life Safety Competency certificate provisions.

(b) Every person who is transitioning between recognition levels or newly hired must receive the necessary on-the-job training experience and related technical instruction under the direct supervision of an appropriately recognized fire official.

(A) When the fire code official determines that a newly promoted or hired fire official responsible for fire code enforcement are fully qualified to perform the duties of a Fire and Life Safety Specialist I, Fire and Life Safety Specialist II, or Fire Marshal, the newly hired fire official may work independently without direct supervision.

(B) The newly promoted or hired fire official responsible for fire code enforcement must meet the requirements of OAR 837-039-0120 (1)(a) within 12 months from date of hire.

(2) All persons who seek to perform the scope of practice of a Company Inspector must successfully complete the State Fire Marshal's course Company Inspection.

(3) All persons who seek to perform the scope of practice of a Fire and Life Safety Specialist I, Fire and Life Safety Specialist II, or Fire Marshal must apply for the Oregon Fire and Life Safety Competency Recognition certificate as follows: Submit a Fire and Life Safety Competency Recognition application to the Office of State Fire Marshal. Include proof of certifications held and training completed.

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(4)(a) Fire and Life Safety Specialist I, Fire and Life Safety Specialist II, and Fire Marshal certificates expire three years from the issue date, unless renewed.

(b) The issue date is printed on all certificates.

(5)(a) Fire officials who fail to renew their Fire and Life Safety Specialist I, Fire and Life Safety Specialist II, or Fire Marshal certificates must not perform work within the respective scope of practice.

(b) A fire official who fails to renew a competency recognition certificate may reapply for certification. Include with application proof of certifications held and trainings completed. Stat. Auth.: ORS 476.030(1)

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030

Hist.: OSFM 4-2008, f. & cert. ef. 7-2-08; OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17, Renumbered from 837-039-0120

837-039-0031

Applications for Exempt Status

(1) Local governmental subdivisions seeking exempt status must submit a written request to the State Fire Marshal that describes in detail the scope of the proposed exemption.

(2) The request must include a detailed explanation of the fire prevention and investigation programs to be provided by the requesting jurisdiction and the jurisdiction's qualifications to provide them. Such programs must include but are not limited to:

(a) A plan to enforce a fire code that includes a statement that a local Delegated Appeals process exists and how that appeals process generally conforms to ORS 476.113(2) and 115.

(b) A plan to provide fire origin and cause determination.

(3) Such programs shall provide an assessment of the local need for, and a plan to address if need is identified:

(a) Youth firesetter intervention services to include:

(A) Use of a Youth with Fire Screening Tool; and

(B) DPSST certified JFS (Youth) Fire Prevention Interventionists;

and

(C) Youth fire safety education for ages 3 through 18 to the general youth population.

(b) Fire and life safety education to include:

(A) Programs based on data and metrics to support what impacts your community most; and

(B) Direct contact with the target audience; and

(C) Program evaluations are considered, and completed; and

(D) Planning efforts based on evaluation results; and

(E) Outreach and education to targeted audiences within the community.

(4) The request must include such documentation and supportive materials as may be necessary to support the exemption request, including a copy of any locally adopted fire code and intergovernmental agreements.

(5) The State Fire Marshal must distribute copies of the request(s) to each of the Exempt Jurisdiction Committee members, requesting them to conduct an advisory review within 60 days of receiving the material as to the sufficiency of the application. Such advisories, both individually and collectively, shall not be binding on the State Fire Marshal but may be considered by the State Fire Marshal in deciding whether to grant the exemption.

(6) The State Fire Marshal must determine whether to grant the exemption and notify the applicant accordingly within 30 days of receipt of the committee's written advisory.

NOTE: Submitting a business plan demonstrating measurable goals and objectives in each of the categories is the method of explaining the proposed programs preferred by the State Fire Marshal. However, other formats may be used if they adequately demonstrate what must be done and how it is accomplished

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030(3)

Hist.: FM 3-1978, f. & ef. 6-16-78; FM 5-1978, f. & ef. 9-29-78; FM 2-1988, f. & cert. ef. 2-17-88; FM 5-1992, f. 6-15-92, cert. ef. 7-15-92; OSFM 9-2000, f. & cert. ef. 8-22-00; OSFM 8-2006 f. & cert. ef. 5-22-06; OSFM 12-2006, f. & cert. ef. 6-29-06; OSFM 4-2008, f. & cert. ef. 7-2-08; OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17, Renumbered from 837-039-0010

837-039-0035

Exempt Status Renewal and Termination

(1) Once granted, exempt status may remain in effect:

(a) Unless terminated by the State Fire Marshal for cause pursuant to ORS 476.030(3) and OAR 837-039-0055; or

(b) Upon 90 days written termination notice by the exempt jurisdiction to the State Fire Marshal; or

(c) Unless there is an unsatisfactory biennial review by the State Fire Marshal of the exempt authority's program and administration.

(2) The Exempt Jurisdiction shall re-affirm their intention to extend their exemption at least 30 days prior to the termination of their current two-year period pursuant to ORS 476.030(3) and OAR 837-039-0055.

(3) Application for renewal of exemption shall be made on a form approved by the State Fire Marshal.

(4) An application for renewal shall attest that the last OSFM-approved plan for the Exempt Jurisdiction fire prevention and investigation program is being maintained as required in OAR 837-039-00100.

(5) Office of State Fire Marshal shall review the application and reply to the applicant in writing within 30 days with acceptance, denial or request for additional information.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030(3)

Hist.: OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17

837-039-0041

Appeals of Termination of Exempt Status

(1) When a termination is proposed under section (1) of this rule, the State Fire Marshal must give the affected jurisdiction written notice at least 30 days before a proposed termination becomes effective.

(2) An affected jurisdiction may appeal in writing any refusal of the State Fire Marshal to grant an approval or a proposed termination.

(3) Upon receipt of an appeal under section (3) of this rule, the State Fire Marshal must initiate an administrative appeals process. The process must conform to the contested case provisions of ORS Chapter 183.

(4) The results of the appeals process conducted under section (4) of this rule must be final and thereafter not appealable.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030(3)

Hist.: FM 5-1992, f. 6-15-92, cert. ef. 7-15-92; OSFM 9-2000, f. & cert. ef. 8-22-00, Renumbered from 837-039-0100; OSFM 4-2008, f. & cert. ef. 7-2-08; OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17, Renumbered from 837-039-0055

837-039-0045

Exemption Criteria

(1) In order to qualify for partially exempt status, an Exempt Jurisdiction must provide evidence that they effectively administer and enforce the fire code sections specified in their application.

(2) The ability to effectively administer a fire code is demonstrated by meeting or exceeding the qualifications described in this section.

(3) Exempt Jurisdiction shall employ a sufficient number of competent fire code administration and inspection staff as outlined in OAR 837-039-0015 adequate to:

(a) Inspect regulated buildings on a frequency they deem necessary to provide a reasonable level of fire and life safety in the applicant's service area.

(b) Conduct inspections in their service area of:

(A) Adult Foster Homes shall be inspected upon request per ORS 476.030(5) and (6); and

(B) Institutional facilities per ORS 479.210 such as residential child caring facilities, inpatient care facilities, and residential facilities shall be inspected annually per ORS 479.215. The OSFM will provide annually a list of all facilities to be inspected; and

(C) Institutional facilities per ORS 479.220 shall be inspected within 30 days from the date of the request; and

(D) Educational facilities grades K-12 shall be inspected every two years as permitted by ORS 476.070 and 476.150.

(E) Nonresidential licensed daycare facilities— shall be inspected upon request per ORS 329A.260(2) and OAR 414-300-0010(13).

(c) Issue temporary permits in lieu of inspections of institutional occupancies per ORS 479.217; and

(d) Make necessary re inspections at appropriate intervals to assure compliance with correction orders issued in response to noted deficiencies in the applicant's service area; and

(e) Make necessary special inspections as warranted for unusual conditions, including but not limited to, response to complaints of special hazards and special events requiring supervision in the applicant's service area.

(4) Applicants must provide a copy of written agreement required by ORS 455.148(8) with all authorities responsible for structural fire safety and fire protection within an exempt jurisdiction service area.

(5) Applicants must:

(a) Provide the services specified in this rule to all service areas.

(b) Have the ability to provide a delegated appeals process upon the request of any party who may receive a fire code compliance order issued by the applicant. Such appeal process must generally conform to a contested case proceedings described under ORS Chapter 183.417 unless otherwise provided for by state law; or

ADMINISTRATIVE RULES

(c) Establish or maintain a fire code appeals board generally performing the functions outlined in ORS 476.115. If such appeals board meets the criteria established in subsection (5)(c) of this rule, the board may hear local and delegated appeals and rule on fire code or other issues such as alleged unnecessary hardship, inconsistent regulations, requests for alternate materials or methods, etc.

(6) The fire code delegated appeals process or board established under section (5)(b) of this rule must:

(a) Coordinate the interpretation of state fire laws with the State Fire Marshal to assure uniformity; and

(b) Submit a written summary of the results of any fire code appeal to the State Fire Marshal within 30 days of issuance of a final order.

(7) Exempt Jurisdictions shall employ an adequate number of fire investigation personnel to investigate the origin, cause, and circumstances of those fires, where the investigation is not completed at the company level, within the applicant's jurisdiction. Applicants must substantiate that their investigators are reasonably qualified through:

(a) Being DPSST certified as a NFPA Fire Investigator; or

(b) Possess the nationally recognized certification of Certified Fire Investigator (CFI) issued by the International Association of Arson Investigators (IAAI) or Certified Fire and Explosion Investigator (CFEI) issued by the National Association of Fire Investigators (NAFI); or

(c) Possess a state or federal certification that fully meets the requirements set forth in the National Fire Protection Association 1033 Professional Qualifications for Fire Investigator.

(8) To the extent of the proposed exemption identified per OAR 837-039-0030(3), exempt jurisdictions must employ an adequate number of trained personnel, as determined by the jurisdiction to provide an effective:

(a) Youth fire setter intervention services for the identified need in the jurisdiction's service area.

(b) Fire prevention education for the identified need in the jurisdiction's service area.

(9) To the extent of the proposed exemption, applicants must maintain records of their fire code administration and delegated appeal activities or other related functions as follows:

(a) Fire prevention inspection records must be maintained in accordance with the requirements of the Records Retention Schedule of the Secretary of State Archives Division.

(b) Records of fire code appeals must be maintained in accordance with the requirements of the Records Retention Schedule of the Secretary of State Archives Division.

(c) Fire investigation records which document a loss of life must be maintained for a period of 75 years. Other investigation records must be maintained in accordance with the requirements of the Records Retention Schedule of the Secretary of State Archives Division.

(d) Records of any public fire education efforts must be maintained in accordance with the requirements of the Records Retention Schedule of the Secretary of State Archives Division.

(e) Records not otherwise described in this section must be maintained in accordance with the requirements of the Records Retention Schedule of the Secretary of State Archives Division.

(10) In the event an exempt jurisdiction ceases for any reason to be exempt, all records described in this section must be maintained by the jurisdiction as per the Records Retention Schedule of the Secretary of State Archives Division.

(11) Applicants must forward to the State Fire Marshal a written annual report which:

(a) Clearly describes the fire prevention and investigation activities of the applicant;

(b) Is on a calendar year basis; and

(c) Is forwarded to the State Fire Marshal no later than July 1st of the following year.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030(3)

Hist.: OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17

837-039-0056

Exempt Jurisdiction Committee

(1) An Exempt Jurisdiction Committee should meet bi-annually to make recommendations to the State Fire Marshal on rules, policies and the program relating to their exempt status.

(2) Committee members shall also review new Exempt Jurisdictions application when requested by the State Fire Marshal.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030, 837-039-0060

Hist.: OSFM 2-2017, f. 6-26-17, cert. ef. 7-1-17

Mortuary and Cemetery Board Chapter 830

Rule Caption: Relating to the handling of persons who have died of or with communicable diseases.

Adm. Order No.: MCB 2-2017

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 830-030-0070

Subject: Allows Oregon Health Authority to provide requirements for handling human remains afflicted with communicable diseases.

Rules Coordinator: Chad Dresselhaus—(971) 673-1503

830-030-0070

Transportation and Care of Persons Who Have Died of or With Communicable Diseases

(1) Except for transportation of human remains from place of death to a licensed facility or other holding facility, transportation of persons who have died of or with communicable diseases specified by the Oregon Health Authority shall be permitted only under the following conditions: the human remains shall be thoroughly embalmed with approved disinfectant solution; all orifices shall be closed with absorbent cotton; and the body shall be washed.

(2) Communicable diseases which apply to this section are as follows:

(a) Acquired immunodeficiency syndrome;

(b) Diphtheria;

(c) Hepatitis B;

(d) Hepatitis C;

(e) Hepatitis, delta;

(f) Human immunodeficiency virus;

(g) Plague;

(h) Rabies;

(i) Tularemia; and

(j) Tuberculosis.

(3) If religious custom or the conditions of the remains prohibit embalming, human remains shall be received for transportation by a common carrier if the human remains are placed in a sealed impervious container enclosed in a strong transportation case or in a sound container designed for that that purpose enclosed in a sealed impervious transportation case.

(4) Notwithstanding (1), (2) and (3), the Oregon Health Authority (OHA) may provide additional or different requirements for the handling of human remains to the Board in response to a public health or emergency event. Any such additional or overriding requirements will be sent immediately to all effective licensees electronically, and will be posted to the Board's website. The new requirements are in effect upon issuance by OHA, and are considered ongoing requirements unless otherwise specified, or until repealed or revoked in writing by OHA.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.025

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2013, f. 3-25-13, cert. ef. 3-29-13; MCB 2-2017, f. 7-13-17, cert. ef. 8-1-17

Rule Caption: Relating to the holding of funerals for individuals afflicted with communicable diseases.

Adm. Order No.: MCB 3-2017

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 830-030-0080

Subject: Allows Oregon Health Authority to identify communicable diseases in cases of epidemics.

Rules Coordinator: Chad Dresselhaus—(971) 673-1503

830-030-0080

Requirements for the Holding of Funerals

(1) If a public or private funeral service and/or public viewing is desired over an unembalmed refrigerated human remains, the unembalmed human remains shall not be removed from refrigeration for longer than a total of six hours. No public or private funeral service or public viewing shall be held over the remains of an unwashed, human remains.

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(2) No public viewing shall be held over the unembalmed remains of persons who have died of or with any communicable diseases referred to in OAR 830-030-0070 and/or cited by Oregon Health Authority, Public Health Division in cases of emerging/changing public health concerns.

(3) Nothing in this section is meant to limit or discourage identification or private viewing of an unwashed, unembalmed human remains by family members or hinder religious customs.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320

Stats. Implemented: ORS 692.025

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; FDB 1-1979, f. & ef. 2-21-79; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0165; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 3-2017, f. 7-13-17, cert. ef. 8-1-17

Rule Caption: Relating to Temporary Operating Permit for a Cemetery that does not hold a valid license

Adm. Order No.: MCB 4-2017

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 830-011-0065

Subject: Permits State Mortuary and Cemetery Board to issue temporary permit to carry out existing prearrangement sales contracts to which cemetery is party and to effect rights of plot owners

Rules Coordinator: Chad Dresselhaus—(971) 673-1503

830-011-0065

Temporary Burial Permit

(1) The Oregon Mortuary and Cemetery Board (Board) may grant a temporary burial permit authorizing interment in a cemetery that does not hold a current, valid license or registration for the sole purpose of facilitating an at-need burial in accordance with ORS 692.025, Sec. 1, and only when the normal procedures for licensing or registration of a cemetery authority cannot be completed before burial must take place.

(2) The burial permit request must be made on the most current application form provided by the Board and must include copies of all pre-qualifying pre-arrangement documents as well as evidence of the verification of plot location to be considered. A permit will not be granted when pre-arrangements or plot location cannot be produced or verified or when such documents are disputed.

(a) Applicants must be directly associated with the cemetery authority, with a licensed party to the pre-arrangements, or with another qualifying person in accordance with ORS 692.025, Sec. 1, and

(b) Must be working on behalf of person(s) requesting burial.

(c) The application must also include the specific details of the planned burial and evidence that it will be performed by persons qualified to do so, and

(d) All paperwork will be kept with the permit that was issued for the burial and filed at the OMCB with the copy of the permit until a permanent place can be decided upon. If the cemetery authority is not a party to the interment, the Board will maintain the records and provide to the appropriate party identified by the Board on the permit.

(3) Permit holder shall only be responsible for any issues related to the permitted interment and not for any pre-existing conditions, contract terms or document errors made by the Cemetery Authority, nor for the condition of and continuing maintenance of the plot after closing.

(4) Sections (1) and (2) shall be repealed on January 1, 2018.

Stat. Auth.: ORS 692.025

Stats. Implemented: ORS 692.025

Hist.: MCB 2-2015, f. 12-31-15, cert. ef. 1-1-16; MCB 1-2016(Temp), f. & cert. ef. 7-6-16 thru 1-1-17; MCB 1-2017, f. & cert. ef. 1-12-17; MCB 4-2017, f. 7-13-17, cert. ef. 8-1-17

Rule Caption: Relating to the Indigent Disposition Program

Adm. Order No.: MCB 5-2017

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 8-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 830-040-0090

Subject: Establishes a time limit when IDF reimbursements must be submitted.

Rules Coordinator: Chad Dresselhaus—(971) 673-1503

830-040-0090

Reimbursement for Cost of Services Performed and Supplies Provided for Disposition of Unclaimed Indigent Bodies

(1) A licensed funeral establishment, hereafter referred to as claimant, shall submit to the Oregon Mortuary & Cemetery Board (OMCB) an itemized statement of expenses for services performed and supplies provided for disposition of unclaimed indigent bodies. For the purpose of this section, "funeral establishment" also includes immediate disposition companies and persons acting as funeral service practitioners as defined in ORS 432.

(a) Claims must be submitted to the OMCB within 90 days of final disposition of the decedent, except in cases where application to other state or federal agencies has been made and decision is pending;

(b) In cases where application for reimbursement for cost of services performed and supplies provided has been denied by other state or federal agency, claimant may submit application for reimbursement to OMCB within 30 days of denial by other state or federal agency.

(2) Each itemized statement shall be accompanied by the claimant's certification that services for which reimbursement is claimed were in accordance with stipulations in ORS 97.170.

(3) The OMCB shall make the Form FS 23-154 or similar document containing all pertinent information available at its office and on its website.

(4) The OMCB shall disburse funds to eligible claimants upon receipt and verification of a claim.

(a) In accordance with ORS 413.825, the maximum reimbursement will equal the invoice amount or the currently published annual reimbursement rate, whichever is less; and

(b) The claimant must be current on all invoiced filing fees.

(c) If the fund amount at the close of the accounting period is insufficient to pay the eligible claims for the month, the OMCB pay the claims using the collected funds referenced in ORS 413.825(1).

(d) If the fund amount at the close of the accounting period exceeds the total amount of claimants' itemized statements or the maximum per claim, the remaining funds will carry forward to the next accounting period and be made available to pay future claims up to the allowable maximum reimbursement or to repay the funds borrowed from the OMCB.

(5) Fraudulent submission of Form 23-154 or similar document will result in penalties set forth in ORS 692.180.

(6) An eligible reimbursement claim must include all expenses related to the case, and must include documentation of any reimbursement, in all or part, by any entity or person already made at time of filing. If a claimant receives payment from any other entity or person after a claim is filed, the claimant must:

(a) Amend the claim, if not yet paid;

(b) If already paid, the claimant must submit a reimbursement form and accompanying payment to the fund within 90 days of receiving any amount from any other entity or person.

(7) In accordance with ORS 413.825(2), the OMCB shall set the annual reimbursement rate at the beginning of each biennium with an annual adjustment based on historical data and mortality projections. The reimbursement rate must be published by the OMCB on or before June 30, which becomes effective July 1 of each year.

Stat. Auth.: ORS 97.170

Stats. Implemented: ORS 97.170

HD 14-1993(Temp), f. 10-14-93, cert. ef. 10-15-93; HD 2-1994, f. & cert. ef. 1-12-94; PH 7-2009(Temp), f. & cert. ef. 7-20-09 thru 1-15-10; Administrative correction 1-25-10; PH 1-2010, f. & cert. ef. 1-14-10; Renumbered from 333-012-0500 by MCB 3-2015, f. 12-31-15, cert. ef. 1-1-16; MCB 5-2017, f. 7-13-17, cert. ef. 8-1-17

Oregon Department of Aviation Chapter 738

Rule Caption: Amends Divisions 124 and 125 ensuring compliance and fiscal responsibility of grant applicants

Adm. Order No.: AVIA 3-2017

Filed with Sec. of State: 7-12-2017

Certified to be Effective: 7-12-17

Notice Publication Date: 5-1-2017

Rules Amended: 738-124-0020, 738-125-0020

Rules Repealed: 738-124-0020(T), 738-125-0020(T)

Subject: These amendments allow the ASAP program to be inclusive of the entire FAM program as it applies to the grant process found in OAR 738-124-0020(2) and ensure that financial obligations are met at the state and local level as found in OAR 738-0125-

ADMINISTRATIVE RULES

0020(5). These are important considerations that must be addressed before grants are awarded and grant agreements are executed.

Rules Coordinator: Lauri Kunze—(503) 986-3171

738-124-0020

Application Submission Periods

(1) The Department will announce periods for submitting applications for funding from the Aviation System Action Program Fund.

(2) Project applications will be reviewed for compliance with the requirements as prescribed in Chapter 738, division 124 and 125 rules.

(3) Applications not funded may be resubmitted during subsequent application submission periods announced by the Department.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7
Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020
Hist.: AVIA 1-2016(Temp), f. & cert. ef. 5-11-16 thru 11-4-16; AVIA 4-2016, f. & cert. ef. 10-31-16; AVIA 1-2017(Temp), f. & cert. ef. 3-8-17 thru 9-1-17; AVIA 3-2017, f. & cert. ef. 7-12-17

738-125-0020

Applicant Eligibility

(1) Public Use Airport Owners and Airport Sponsors, both private and public, including Oregon municipalities, as defined by ORS 836.005, may apply for FAM Grant Program assistance. In these rules a municipality is called "applicant" or "airport sponsor."

(2) To qualify to apply for a FAM grant, an applicant must:

(a) Own or operate a public-use airport included in the current Oregon Aviation Plan (OAP), or be building or purchasing a public-use airport;

(b) Unless the application is for developing airport zoning, have enacted, or begun the process of enacting, airport zoning for the airport in accordance with OAR 660-013; and

(c) Unless the application is for developing an Airport Layout Plan (ALP), a non-NPIAS (National Plan of Integrated Airport System), the applicant must have a current ALP for the airport, consistent with Federal Aviation Administration (FAA) requirements, that meets these criteria:

(A) The ALP was completed within the last 10 years;

(B) The ALP has been accepted by the FAA or the Department; and

(C) The ALP has been adopted or is pending adoption by the municipality's governing body. Adoption shall be by ordinance or by inclusion in the municipality's comprehensive plan. More specifically:

(i) Adoption may occur after notification that the municipality has received a tentative award of FAM grant funds; however,

(ii) Adoption must occur before detailed project planning and engineering; and

(iii) Adoption must occur prior to disbursement of FAM grant funding to the municipality.

(3) Applicant must warrant that any grant award will be spent or obligated within the fiscal year for which the grant is made, or have an approved schedule showing completion of the project within 2 years.

(4) Applicant must warrant availability of required dollar match for any potential grant, as described in OAR 738-125-0030.

(5) Applicants that are delinquent on any financial obligation to federal, state or local governments may not receive a grant or grants from ODA. Any exceptions to this requirement must be approved by the State Aviation Board.

Stat. Auth.: ORS 835.035, 835.040 & 835.112
Stats. Implemented: ORS 835.015, 835.025, 836.015 & 836.070
Hist.: AVIA 2-2004, f. & cert. ef. 5-24-04; AVIA 2-2016, f. & cert. ef. 5-26-16; AVIA 1-2017(Temp), f. & cert. ef. 3-8-17 thru 9-1-17; AVIA 3-2017, f. & cert. ef. 7-12-17

Rule Caption: K-12 exemption from registration of Unmanned Aircraft System

Adm. Order No.: AVIA 4-2017

Filed with Sec. of State: 7-12-2017

Certified to be Effective: 7-12-17

Notice Publication Date: 6-1-2017

Rules Amended: 738-080-0045

Subject: Previously all public entities in the state of Oregon were required to register each Unmanned Aircraft System (UAS) with the Federal Aviation Administration prior to registration with Oregon Department of Aviation (ODA). The fee to register each UAS weighing less than 55 lbs is \$25 and the fee to register a UAS weighing 55 lbs or more is \$50, which could be cost-prohibitive to a high school program with 10 UAS and an annual budget of \$2000. With this amendment ODA will exempt K-12 public schools, and programs

that support them, from the registration requirement, thereby eliminating the registration fee in its entirety.

Rules Coordinator: Lauri Kunze—(503) 986-3171

738-080-0045

Public Agency Registration of Unmanned Aircraft System (UAS)

(1) All public departments, public agencies, and other public entities in the State of Oregon must register each UAS with the Federal Aviation Administration prior to registration with ODA. Registration with ODA must be completed prior to UAS flight. Fees to register each UAS weighing less than 55lbs shall be \$25. Fees to register each UAS weighing 55lbs or more shall be \$50. To register public UAS please visit <http://www.oregon.gov/aviation> or call (503) 378-4880.

(2) Exemptions. The following entity types are exempt from the requirement to register each UAS with ODA, but must adhere to Federal Aviation Administration UAS guidelines prior to UAS flight: publicly supported kindergarten through 12th grade school programs (K-12) and publicly-supported entities that support K-12 schools or after school K-12 programs.

Stat. Auth.: ORS 835.035, 835.112, 837.360
Stats. Implemented: ORS 835.035, 835.112, 837.360
Hist.: AVIA 4-2015, f. & cert. ef. 12-15-15; AVIA 4-2017, f. & cert. ef. 7-12-17

Rule Caption: Amendment of Exhibit 2 in OAR 738-090-0030 to include the Sisters Eagle Air Airport

Adm. Order No.: AVIA 5-2017

Filed with Sec. of State: 7-12-2017

Certified to be Effective: 7-12-17

Notice Publication Date: 6-1-2017

Rules Amended: 738-090-0030

Subject: Following a public hearing and other procedures set out in OAR 738-090-0040 and 738-090-0050, the Department has amended 738-090-0030 to add Sisters Eagle Air Airport to its airport listings under section (2), privately-owned public-use airports.

Rules Coordinator: Lauri Kunze—(503) 986-3171

738-090-0030

Airport Listings

(1) The list of airports required by ORS 836.610(1) is as follows:

(a) Publicly owned airports registered, licensed or otherwise recognized by the Department on or before December 31, 1994, that in 1994 were the base for three or more aircraft, are as follows: [Exhibit 1. See ED. NOTE.]

(b) Privately owned, public use airports that provide important links in air traffic in this state; provide essential safety or emergency services; or are of economic importance to the county where the airport is located, are as follows: [Exhibit 2. See ED. NOTE.]

(2) Information to be considered in determining whether the criteria listed in subsection (1)(b) of this rule have been met are in OAR 738-090-0050.

(3) The Department will, at least every five years, review and update the listings of airports in this rule to add or remove airports from the listings as required by ORS 836.610(3). The Board will consider applications by airport sponsors for inclusion on the list, outside of the five-year review and update, as provided in OAR 738-090-0040.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 835.035, 835.112, 836.610
Stats. Implemented: ORS 836.610
Hist.: AERO 1-1999, f. & cert. ef. 3-25-99; AVIA 4-2002, f. 11-27-02, cert. ef. 12-1-02; AVIA 1-2004, f. & cert. ef. 2-17-04; AVIA 5-2017, f. & cert. ef. 7-12-17

Oregon Department of Education Chapter 581

Rule Caption: Complaint Procedures

Adm. Order No.: ODE 9-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Ren. & Amend: 581-022-1941 to 581-022-2370

Subject: Revisions update the complaint and appeal process for complaints involving Division 22 Standards, Restraint and Seclusion, Discrimination, and Retaliation. The proposed revisions are not required by legislation. The revisions are suggestions by ODE staff

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for making the complaint and appeal system more consistent, streamlined and user friendly.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-2370

Complaint Procedures

(1) Each school district must establish a process for the prompt resolution of a complaint by a person who resides in the district or by any parent or guardian of a student who attends school in the school district.

(2) A school district's complaint procedure must:

(a) Be in writing available at the main administrative office and, if the school district has a website, in a form available on the home page of the school district's website;

(b) Include the name of the person, position, or office within the school district with the responsibility for responding to the complaint; and

(c) Specify the time period during which the complaint will be addressed and a final decision issued. If the complaint procedure has multiple steps, the procedure must establish the time period for each step as well as the overall time period for completing the complaint procedure.

(3) A school district's complaint procedure may:

(a) Distinguish between those complaints that may be appealed under OAR 581-002-0040 and other complaints;

(b) Offer mediation or other alternative dispute resolution processes as an option available if all parties to the complaint agree in writing to participate;

(c) Impose a time limitation for filing a complaint that is the later of either:

(A) Two years after the alleged violation or unlawful incident occurred or the complainant discovered the alleged violation or unlawful incident. For incidents that are continuing in nature, the time limitation must run from the date of the most recent incident; or

(B) One year after the affected student has graduated from, moved away from, or otherwise left the school district.

(d) Include more than one but no more than four steps for addressing the complaint.

(4) The procedure for hearing and acting on complaints alleging violation of the Oregon Administrative Rules, chapter 581, division 22 (division 22 Standards), ORS 339.285 to 330.303 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion), ORS 659.850 (Discrimination); or ORS 659.852 (Retaliation) must include the following:

(a) The point at which the district's decision is final; and

(b) A final decision in written or electronic form that addresses each allegation in the complaint and contains reasons for the district's decision and notifies the complainant that the district's decision may be appealed to the Deputy Superintendent of Public Instruction under OAR 581-002-0040.

(5) This rule applies to appeals filed with a school district on or after January 1, 2018.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103 & 326.051

Hist.: ODE 31-2007, f. & cert. ef. 12-12-07; Renumbered from 581-022-1941, ODE 9-2017, f. 6-29-17, cert. ef. 7-1-17

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Rule Caption: Administration of Meds to Students

Adm. Order No.: ODE 10-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 6-29-17

Notice Publication Date: 5-1-2017

Rules Amended: 581-021-0037

Subject: Addresses internal inconsistencies, makes the rule more user friendly and clarifies requirements to address common questions and concerns from the field.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0037

Administration of Medication to Students

(1) As used in this rule, definitions of terms shall be as follows:

(a) "Adrenal crisis" means adrenal crisis as defined in ORS 433.800.

(b) "Adrenal insufficiency" means adrenal insufficiency as defined in ORS 433.800.

(c) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention.

(d) "Designated personnel" means the school personnel designated to administer medication pursuant to district policy and procedure.

(e) "Medication" means any drug, chemical compound, suspension or preparation in suitable form for use as a curative or remedial substance

taken either internally or externally but not injected except for premeasured doses of epinephrine, medication to treat adrenal insufficiency, and glucagon to treat severe hypoglycemia.

(f) "Nonprescription medication" means medication that under federal law does not require a prescription from a prescriber. (g) "Notice of a diagnosis of adrenal insufficiency" means written notice to the school district from student or the parent or guardian of a student who has been diagnosed as adrenal insufficient with a copy of an order from the student's primary care provider that includes the student's diagnosis, description of symptoms indicating the student is in crisis, prescription for medication to treat adrenal insufficiency crisis, and instructions for follow-up care after medication to treat adrenal insufficiency crisis has been administered.

(h) "Prescriber" means:

(A) A doctor of medicine or osteopathy or a physician assistant licensed to practice by the Board of Medical Examiners for the State of Oregon except as allowed under subsection (5) of this rule;

(B) An Oregon-licensed advance practice registered nurse with prescriptive authority;

(C) A dentist licensed by the Board of Dentistry for the State of Oregon;

(D) An optometrist licensed by the Board of Optometry for the State of Oregon;

(E) A naturopathic physician licensed by the Board of Naturopathy for the State of Oregon; or

(F) A pharmacist licensed by the Board of Pharmacy for the State of Oregon.

(i) "Prescription medication" means any medication that under federal law requires a prescription by a prescriber.

(j) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen, dust, or insect sting.

(2) Each school district shall adopt policies and procedures that provide for:

(a) The administration of medication to students by designated personnel; and

(b) The administration of medication by a student to himself without assistance from designated personnel.

(3) Policies and procedures for the administration of medication to students by designated personnel shall:

(a) Include a process to designate and supervise appropriate school personnel that takes into account when a student is in school, at a school-sponsored activity, under the supervision of school personnel, and in transit to or from school or school-sponsored activities;

(b) Require designated personnel to successfully complete annual training on the administration of medication.

(A) Training for designated personnel must be provided by a person who is familiar with the delivery of health services in a school setting and who is:

(i) A Registered Nurse licensed by the Oregon State Board of Nursing;

(ii) A doctor of medicine or osteopathy or a physician assistant licensed to practice by the Board of Medical Examiners for the State of Oregon; or

(iii) A pharmacist licensed by the Board of Pharmacy for the State of Oregon.

(B) The training for designated personnel must be based on requirements set out in guidelines that are approved by the Oregon Department of Education and include a discussion of applicable district policies, procedures and materials;

(C) The first training for a designated personnel and every third training thereafter must be provided in-person. During the intervening years, designated personnel may complete an online training that has been approved by the Oregon Department of Education so long as a trainer is available within a reasonable time following the training to answer questions and provide clarification.

(c) Permit designated personnel to administer prescription medication where:

(A) Because of its prescribed frequency or schedule, the medication must be given while in school, at a school-sponsored activity, while under the supervision of school personnel, and in transit to or from school or school-sponsored activities;

(B) The student's parent or guardian has provided written permission or the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.675 and 109.640; and

(C) The student or the student's parent or guardian has provided the school district with written instruction for the administration of the med-

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ication from the prescriber that includes the name of the student, name of the medication, dosage, method of administration, frequency of administration, any other special instructions, and the signature of the prescriber. A prescription medication label prepared by a pharmacist at the direction of a prescriber shall be sufficient if all of the information required by this definition except for the prescriber's signature is included.

(d) Permit designated personnel to administer nonprescription medication where:

(A) The nonprescription medication is necessary for the student to remain in school;

(B) The nonprescription medication is provided in the original manufacturer's container by the parent or guardian of the student;

(C) The student or the student's parent or guardian has provided written instruction for the administration of the nonprescription medication that includes the name of the student, name of the medication, dosage, method of administration, frequency of administration, any other special instructions, and signature of the student's parent or guardian. If the written instruction is not consistent with the manufacturer's guidelines for the nonprescription medication, the written instruction must also include a written order allowing the inconsistent administration signed by a prescriber; and

(D) For nonprescription medication that is not approved by the Federal Drug Administration, a written order from the student's prescriber that includes the name of the student, name of the medication, dosage, method of administration, frequency of administration, a statement that the medication must be administered while the student is in school, any other special instructions, and the signature of the prescriber.

(e) Include procedures for the administration of premeasured doses of epinephrine by school personnel trained as provided by ORS 433.815 to any student or other individual on school premises who the personnel believe in good faith is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine;

(f) Include procedures for the administration of medication by school personnel to treat a student who the personnel believe in good faith is experiencing symptoms of adrenal crisis. The procedures must provide that:

(A) Only upon notice of a diagnosis of adrenal insufficiency as defined in this rule, the building administrator of the school the student attends will designate one or more school personnel to be responsible for administering medication to treat adrenal insufficiency in the event the student exhibits symptoms that school personnel believe in good faith indicate the student is experiencing symptoms of adrenal crisis;

(B) The designated personnel will successfully complete training to administer medication to treat a student who has adrenal insufficiency and is experiencing symptoms of adrenal crisis in accordance with rules adopted by the Oregon Health Authority;

(C) The student or parent or guardian of the student must provide adequate supply of the student's prescribed medication to the school district; and

(D) In the event that a student experiences symptoms of adrenal crisis and the designated personnel determines the medication to treat adrenal insufficiency should be administered, any available school personnel will immediately call 911 and the student's parent or guardian.

(g) Provide guidelines for the management of students with life-threatening food allergies and adrenal insufficiency while the student is in school, at a school-sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities. The guidelines must include:

(A) Standards for the education and training of school personnel to manage students with life threatening allergies or adrenal insufficiency;

(B) Procedures for responding to life-threatening allergic reactions or adrenal crisis;

(C) A process for the development of an individualized health care and allergy plan for every student with a known life-threatening allergy and an individualized health care plan for every student for whom the school district has been given proper notice of a diagnosis of adrenal insufficiency as defined in this rule;

(D) Protocols for preventing exposures to allergens;

(E) A process for determining if or when a student may self-carry prescription medication when the student has not been approved to self-administer medication;

(h) Address the following:

(A) Safe storage, methods for administration, handling, monitoring supply and disposing of medications;

(B) Transcribing, record keeping and reporting of medication administration, including errors in administration;

(C) The role of designated personnel to monitor student responses to medication;

(D) Emergency medical response for life threatening side effects and allergic reactions, including the administration of premeasured doses of epinephrine to students and other individuals; and

(E) Confidentiality of student health information contained within the education record.

(4) Policies and procedures for the administration of medication by a student to himself without assistance from designated personnel shall:

(a) Permit a student to administer prescription medication to himself where the student is able to demonstrate the ability, developmentally and behaviorally, to self-administer medication and has permission to self-administer medication from a school building administrator, and a prescriber or registered nurse practicing in a school setting.

(b) Permit a student to administer non-prescription medication to himself where the student is able to demonstrate the ability, developmentally and behaviorally, to self-administer medication and the student has permission to self-administer medication from a building administrator;

(c) Require parental consent except where a student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.675, and 109.640;

(d) For nonprescription medication that is not approved by the Federal Drug Administration, require a written order from the student's prescriber that includes the name of the student, name of the medication, dosage, method of administration, frequency of administration, a statement that the medication must be administered while the student is in school, any other special instructions, and the signature of the prescriber.

(e) Include policies and procedures for the self-administration of medication by kindergarten through grade 12 students with asthma or severe allergies that comply with ORS 339.866;

(f) Address the following:

(A) Safe storage, methods for administration, handling, and disposing of medications;

(B) Record keeping;

(C) Whether student response to medication should be monitored by designated personnel and the role of designated personnel in such monitoring;

(D) Emergency medical response for life threatening side effects and allergic reactions, including the administration of premeasured doses of epinephrine; and

(E) Confidentiality of student health information contained within the education record.

(5) A registered nurse who is employed by a public or private school or by an education service district or a local public health authority as defined in ORS 431.003 to provide nursing services at a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the United States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.866, 339.867, 339.869, 339.870, 678.038

Hist.: ODE 3-1998(Temp), f. & cert. ef. 2-27-98 thru 8-25-98; ODE 6-1998, f. & cert. ef. 4-23-98; ODE 10-1999, f. & cert. ef. 2-12-99; ODE 8-2005, f. & cert. ef. 3-23-05; ODE 17-2009, f. & cert. ef. 12-10-09; ODE 4-2010, f. & cert. ef. 3-18-10; ODE 21-2014, f. & cert. ef. 6-3-14; ODE 19-2016, f. & cert. ef. 3-22-16; ODE 10-2017, f. & cert. ef. 6-29-17

Rule Caption: Complaints and Appeals (Appeal Procedure)

Adm. Order No.: ODE 11-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Ren. & Amend: 581-022-1940 to 581-002-0040

Subject: Revisions update the complaint and appeal process for complaints involving Division 22 Standards, Restraint and Seclusion, Discrimination, and Retaliation. The proposed revisions are not required by legislation. The revisions are suggestions by ODE staff for making the complaint and appeal system more consistent, streamlined and user friendly.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-002-0040

Appeal Procedure

(1) A complainant may appeal a final decision by a school district to the Deputy Superintendent of Public Instruction if the complaint alleges:

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(a) A violation of standards of the Oregon Administrative Rules, chapter 581, division 022 (Division 22 Standards);

(b) A violation of ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion); or

(c) A violation of ORS 659.852 (Retaliation).

(2) The appeal must meet the following criteria:

(a) The appeal must be from a final decision by a school district. A decision is final if:

(A) The complainant has exhausted the school district's complaint process except as otherwise allowed by statute;

(B) In a multi-step district complaint process, the district fails to render a written decision within 30 days of the submission of the complaint at each step; or

(C) The district fails to resolve a complaint within 90 days of the initial filing of a complaint, regardless of the number of steps in the district complaint process, unless the district and complainant have agreed in writing to a longer time period.

(b) The appeal must be received by the Department no later than one year after the date of the final decision by the district or, if the district fails to issue a final decision, no later than two years after the date the complainant first filed the underlying complaint with the district.

(c) The complaint upon which the appeal is based must have been filed with the school district by the later of either:

(A) Two years after the alleged violation or unlawful incident occurred or after the complainant discovered the alleged violation or unlawful incident. If the alleged violation or unlawful incident is of a continuing nature, the right to file an appeal exists so long as the complaint was filed within two years of the most recent incident; or

(B) One year after the affected student has graduated from, moved away from, or otherwise left the school district.

(d) The appeal must be in writing, submitted by mail, in person, or electronically, and contain the name and address of the person bringing the appeal, the name of the district which is alleged to have violated the statute or administrative rule, and a statement of the facts on which the appeal is based.

(3) Upon receipt of the appeal the Deputy Superintendent will determine whether the appeal alleges a violation of a statute or administrative rule for which the Deputy Superintendent has jurisdiction and whether the requirements of section (2) of this rule have been satisfied.

(a) If the Deputy Superintendent determines that the facts alleged in the complaint, if true, would be a violation of a statute or administrative rule for which the Deputy Superintendent has jurisdiction and the requirements of section (2) of this rule have been satisfied, the Deputy Superintendent will give written notice to the complainant and the school district that the appeal is accepted and the procedures in sections (4) through (11) of this rule will be applied.

(b) If the Deputy Superintendent determines that the complaint, even if true, would not be a violation of a statute or administrative rule for which the Deputy Superintendent has jurisdiction or the requirements of section (2) of this rule have not been satisfied, the appeal will not be accepted and the Deputy Superintendent will give written notice of the determination to the complainant and the school district.

(4) Within 30 days of receipt of notice of the Deputy Superintendent's acceptance of the appeal, the district shall submit to the Deputy Superintendent a written report which shall include:

(a) A statement of facts;

(b) A statement of district action, if any, taken in response to the complaint, or if none was taken, the reason(s) therefore;

(c) A stipulation, if one was reached, of the settlement of the complaint; and

(d) A list of any complaints filed with another agency by the party, concerning the subject of the appeal.

(5) The Deputy Superintendent may for good cause extend the time for the filing of a report by the district.

(6) Upon receipt of the district's report, the Deputy Superintendent will conduct an investigation to determine whether there is substantial evidence of a violation of the applicable statute or administrative rule. The investigation will include a review of the written materials submitted by the complainant and school district and may also include actions such as interviews, on-site investigation, surveys, and document review.

(7) The Deputy Superintendent will issue a written final order that addresses each allegation in the complaint that was accepted for appeal and contains reasons for the Deputy Superintendent's decision as to whether or not the district is deficient. The final order will be issued within 90 days of the date the Deputy Superintendent received the district's report.

(a) If the 90-day period for issuing the final order would conclude during the time when the schools of the district are closed for summer, the final order will be issued within 90 days of the date the Deputy Superintendent received the district's report exclusive of the time when the schools of the district are closed for summer.

(b) The Deputy Superintendent may extend the time period for issuing a final order if the Deputy Superintendent has the consent of the complainant and the allegation concerns a comprehensive or widespread deficiency and more extensive investigation is needed than may be reasonably completed within 90 days. The Deputy Superintendent shall prepare a timeline and plan for investigation and provide copies to the complainant and district within two weeks of receiving the district's report.

(c) If the complainant and the school district agree in writing to extend the time in order to engage in alternative dispute resolution, the 90 day time period is tolled until the parties notify the Deputy Superintendent that the alternative dispute resolution process has resulted in an agreement or has been unsuccessful.

(8) If a violation is found, the Deputy Superintendent's final order will include any necessary corrective action to be undertaken by the district as well as any documentation to be supplied by the district to ensure that the corrective action has occurred.

(a) For violations of standards of the Oregon Administrative Rules, chapter 581, division 022, ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0570 corrective action must be completed by the beginning of the school year next following the date of the final order unless an extension is granted pursuant to ORS 327.103(3).

(b) For violations of ORS 659.852, the district must be in compliance within 30 days of the final order. Any additional corrective action must be completed by the beginning of the school year next following the date of the final order unless an extension is granted by the Deputy Superintendent.

(9) Corrective action ordered by the Deputy Superintendent must be completed within the timelines established in the final order unless another time period is specified by the Department. If a deficiency is not corrected within the required time:

(a) For a violation of standards of the Oregon Administrative Rules, chapter 581, division 022, ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0570, the provisions of ORS 327.103 apply.

(b) For a violation of ORS 659.852, the Deputy Superintendent shall order appropriate remedies which may include:

(A) Withholding of all or part of each quarterly payment of the basic school support fund due a school district under ORS 327.095, a public charter school under ORS 338.185, or an education service district under ORS 327.021;

(B) Withholding all or part of payment of the State School Fund due a Youth Corrections Education Program provider under contract with the Oregon Department of Education;

(C) Withholding all or part of the state funding due a Long Term Care and Treatment facility or the Oregon School for the Deaf under ORS 327.023; and

(D) Other appropriate remedies.

(d) The Deputy Superintendent may not award damages to the complainant or attorney fees.

(10)(a) Parties may seek judicial review of the final order under ORS 183.484. Judicial review may be obtained by filing a petition for review within 60 days of service of the final order with the Marion County Circuit Court or with the Circuit Court for the County where the party resides.

(b) Pursuant to OAR 137-004-0080 and ORS 183.484(2), a party to the complaint may request reconsideration of the final order by the Deputy Superintendent within 60 days after the date of the order. Except as provided in this subsection, the Deputy Superintendent and a party seeking reconsideration shall follow the procedure for reconsideration described in OAR 137-004-0080.

(11) This rule applies to appeals filed with the Deputy Superintendent on or after July 1, 2017.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103, 326.051, & 659.852

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 31-2007, f. & cert. ef. 12-12-07; Renumbered from 581-022-1940, ODE 11-2017, f. 6-29-17, cert. ef. 7-1-17

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Rule Caption: Complaint Procedures (Restraint & Seclusion)

Adm. Order No.: ODE 12-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 581-021-0570

ADMINISTRATIVE RULES

Subject: Revisions update the complaint and appeal process for complaints involving Division 22 Standards, Restraint and Seclusion, Discrimination, and Retaliation. The proposed revisions are not required by legislation. The revisions are suggestions by ODE staff for making the complaint and appeal system more consistent, streamlined and user friendly.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0570

Complaint Procedures

(1) An organization or an individual may file a complaint alleging that a public education program is violating or has violated a provision of ORS 339.285 to 339.303 or OAR 581-021-0550 to 581-021-0566. The organization or individual and the school district shall follow the school district's complaint procedure established under OAR 581-022-2370.

(2) A complainant may appeal a final decision by a school district to the Deputy Superintendent as provided in OAR 581-002-0040.

Stat. Auth.: ORS 339.303

Stats. Implemented: ORS 339.285 - 339.303

Hist.: ODE 13-2014, f. & cert. ef. 2-19-14; ODE 15-2014, f. & cert. ef. 3-4-14; ODE 12-2017, f. 6-29-17, cert. ef. 7-1-17

Rule Caption: Teacher and Administrator Evaluation and Support

Adm. Order No.: ODE 13-2017

Filed with Sec. of State: 7-5-2017

Certified to be Effective: 7-5-17

Notice Publication Date: 6-1-2017

Rules Amended: 581-022-1723

Subject: Aligns rule with the vision of educator evaluation described in Oregon's Every Student Succeeds Act (ESSA) State plan.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1723

Teacher and Administrator Evaluation and Support

(1) A school district board shall include the core teaching standards and administrator standards adopted by the State Board for all evaluations of teachers and administrators of the school district occurring on or after July 1, 2013. The standards shall be customized based on the collaborative efforts of the teachers and administrators of the school district and the exclusive bargaining representative of the employees of the school district and be separately developed for teachers and administrators.

(2) Local evaluation and support systems established by school districts for teachers and administrators must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

(a) Four performance level ratings of effectiveness;

(b) For teachers, classroom-level student learning and growth goals set collaboratively between teachers and evaluators.

(c) Consideration of multiple measures of teacher and administrator practice and responsibility which may include, but are not limited to:

(A) Classroom-based assessments including observations, lesson plans and assignments;

(B) Portfolios of evidence;

(C) Supervisor reports; and

(D) Self-reflections and assessments.

(d) Consideration of evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, schools, and school districts that is both formative and summative. Evidence may also include other indicators of student success;

(e) A summative evaluation method for considering multiple measures of professional practice, professional responsibilities and student learning and growth to determine the educator's professional growth path.

(f) Customization for each school district, which may include individualized weighting and application of standards.

(3) Evaluations using the core teaching and administrator standards must attempt to:

(a) Strengthen the knowledge, skills, disposition and classroom and administrative practices of teachers and administrators in public schools;

(b) Refine the support, assistance and professional growth opportunities offered to a teacher or an administrator, based on the individual needs of the teacher and administrator and the needs of the students, the school and the school district;

(c) Allow each teacher or administrator to establish a set of classroom or administrative practices and student learning objectives that are based on the individual circumstances of the teacher or administrator, including the classroom or other assignments of the teacher or administrator;

(d) Establish a formative growth process for each teacher and administrator that supports professional learning and collaboration with other teachers and administrators; and

(e) Use evaluation methods and professional development, support and other activities that are based on curricular standards and that are targeted to the needs of each teacher and administrator; and

(f) Address ways to help all educators strengthen their culturally responsive practices.

(4) Local evaluation and support systems established by school districts must evaluate teachers and administrators on a regular cycle.

(5) District superintendents shall regularly report to their governing boards on implementation of their local evaluation and support systems and educator effectiveness.

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12; ODE 11-2015(Temp), f. & cert. ef. 7-15-15 thru 1-10-16; Administrative correction, 1-22-16; ODE 33-2016, f. & cert. ef. 5-5-16; ODE 13-2017, f. & cert. ef. 7-5-17

Rule Caption: Hearing Impairment Special Education Criteria

Adm. Order No.: ODE 14-2017

Filed with Sec. of State: 7-5-2017

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Notice Publication Date: 6-1-2017

Rules Amended: 581-015-2150

Subject: Adds hearing impairment eligibility criteria for children birth until age three.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-015-2150

Hearing Impairment

(1) Early Childhood Special Education and School Age: If a child is suspected of having a hearing impairment, the following evaluation must be conducted:

(a) Audiology assessment. An audiological assessment by an audiologist licensed by a State Board of Examiners for Speech-Language Pathology and Audiology;

(b) For conductive hearing losses only, medical or health assessment statement indicating hearing loss identified by an audiologist and determined to be untreatable by a physician licensed by a State Board of Medical Examiners; a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner practicing within his or her area of specialty; or a physician assistant licensed by a State Board of Medical Examiners practicing within his or her area of specialty.

(c) For sensorineural hearing loss only, documentation indicating the hearing loss identified by an audiologist, licensed by State Board of Examiners for Speech-Language Pathology and Audiology is determined to be sensorineural.

(d) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age (age 5 to 21) child; or

(ii) On the child's developmental progress for a preschool child (age 3 to 5); and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with a hearing impairment, the child must meet one of the following minimum criteria:

(a) The child has a pure tone average loss of 25 dBHL or greater in the better ear for frequencies of 500 Hz, 1000 Hz, and 2000 Hz, or a pure tone average loss of 35 dBHL or greater in the better ear for frequencies of 3000 Hz, 4000 Hz, and 6000 Hz; or

(b) The child has a unilateral hearing impairment with a pure tone average loss of 50 dBHL or greater in the affected ear for the frequencies 500 Hz to 4000 Hz; and

(c) The loss is either sensorineural or conductive if the conductive loss has been determined to be currently untreatable by a physician.

(3) For a child to be eligible for special education services as a child with a hearing impairment, the eligibility team must also determine that:

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(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

(4) Early Intervention: A child birth until age three is suspected of being deaf/hard of hearing, the following is needed:

(a) Audiological assessment. A hearing evaluation conducted by an audiologist licensed by a State Board of Examiners for Speech-Language Pathology and Audiology.

(b) For conductive hearing losses only, medical or health assessment statement indicating hearing loss identified by an audiologist and determined to be untreatable by a physician licensed by a State Board of Medical Examiners, a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner practicing within his or her area of specialty; or a physician assistant licensed by a State Board of Medical Examiners practicing within his or her area of specialty; and

(c) For sensorineural hearing loss only, documentation indicating the hearing loss identified by an audiologist, licensed by State Board of Examiners for Speech-Language Pathology and Audiology, and that it is determined to be sensorineural.

(d) Any additional evaluations or assessments necessary to identify the child's developmental needs.

(5) To be eligible for Early Intervention services as a child birth until age three who is deaf/hard of hearing:

(a) The child must have hearing thresholds in at least one ear of 25 dBHL or greater at two or more consecutive frequencies at 500 Hz, 1000 Hz, 2000Hz, 4000 Hz, 6000 Hz and 8000 Hz; or

(b) The hearing loss is due to auditory neuropathy spectrum disorder (ANSND) or aural microtia/atresia, as determined by an audiologist or physician, respectively.

(6) For a child to be eligible for special education services as a child with a hearing impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's developmental performance; and

(b) The child needs special education services as a result of the disability.

Stat. Auth.: 7RS 343.035(1), 343.045, 343.146, 343.157

Stats. Implemented: ORS 343.035(1), 343.045, 343.146, 343.157, 34 CFR 300.8, 300.306
Hist.: 1EB 29-1978, f. & ef. 7-20-78; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 7-1986, f. & ef. 2-24-86; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 22-1995, f. & cert. ef. 9-15-95; ODE 11-2000, f. 5-3-00, cert. ef. 7-1-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0051, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2017, f. & cert. ef. 7-5-17

Rule Caption: Accountability Reporting Advisory Committee

Adm. Order No.: ODE 15-2017

Filed with Sec. of State: 7-5-2017

Certified to be Effective: 7-5-17

Notice Publication Date: 6-1-2017

Rules Amended: 581-002-0090

Subject: Broadens a school district's ability to appeal accountability data for unusual or extraordinary circumstance, increasing accuracy of reported data.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-002-0090

Accountability Reporting Advisory Committee

(1) The Superintendent of Public Instruction shall appoint a committee, called the Accountability Reporting Advisory Committee (ARAC), consisting of at least eight members of the educational community. No more than one voting member of the ARAC may be employed by the Oregon Department of Education. The Superintendent shall appoint a chairperson and vice chairperson.

(2) The ARAC will have the following responsibilities:

(a) Recommend to the Oregon Department of Education policies, procedures and methodologies regarding:

(A) School and district report cards;

(B) Cohort graduation rate;

(C) Annual Measurable Objectives;

(D) Business rules for accountability reporting;

(E) Measurement of student growth; and

(F) Other measures for holding schools and districts accountable for student success.

(b) Make recommendations to the Oregon Department of Education on appeals from districts regarding accountability data where the data have not been publicly released in final form and:

(A) The school or district submitted incorrect data or failed to submit data due to unique events that could not be predicted and/or controlled by the school or district; or

(B) The data issue could not otherwise be remedied by correcting data used in a school or district report during the validation window available for each data collection.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 2-2013, f. & cert. ef. 1-15-13; ODE 15-2017, f. & cert. ef. 7-5-17

Rule Caption: Standards for K-12 Public Schools

Adm. Order No.: ODE 16-2017

Filed with Sec. of State: 7-5-2017

Certified to be Effective: 7-5-17

Notice Publication Date: 6-1-2017

Rules Repealed: 581-022-1362, 581-022-1363, 581-022-1365, 581-022-1366, 581-022-1367, 581-022-1368, 581-022-1370, 581-022-1371, 581-022-1372, 581-022-1364, 581-022-1020, 581-022-1030, 581-022-1215

Rules Renumbered: 581-022-1130 to 581-022-2000, 581-022-1134 to 581-022-2010, 581-022-1133 to 581-022-2015, 581-022-1135 to 581-022-2020, 581-022-1131 to 581-022-2025, 581-022-1210 to 581-022-2030, 581-022-0413 to 581-022-2045, 581-022-1440 to 581-022-2050, 581-022-0610 to 581-022-2100, 581-022-0612 to 581-022-2110, 581-022-0615 to 581-022-2115, 581-022-0617 to 581-022-2120, 581-022-0711 to 581-022-2205, 581-022-0416 to 581-022-2210, 581-022-0421 to 581-022-2215, 581-022-0705 to 581-022-2220, 581-022-1420 to 581-022-2225, 581-022-1430 to 581-022-2230, 581-022-0606 to 581-022-2250, 581-022-1060 to 581-022-2255, 581-022-1660 to 581-022-2260, 581-022-1661 to 581-022-2265, 581-022-1670 to 581-022-2270, 581-022-0807 to 581-022-2300, 581-022-1610 to 581-022-2305, 581-022-1140 to 581-022-2310, 581-022-1340 to 581-022-2315, 581-022-1620 to 581-022-2320, 581-022-1310 to 581-022-2325, 581-022-1320 to 581-022-2330, 581-022-1630 to 581-022-2335, 581-022-1520 to 581-022-2340, 581-022-1530 to 581-022-2345, 581-022-1622 to 581-022-2350, 581-022-1640 to 581-022-2355, 581-022-1650 to 581-022-2360, 581-022-1941 to 581-022-2370, 581-022-1710 to 581-022-2400, 581-022-1720 to 581-022-2405, 581-022-1723 to 581-022-2410, 581-022-1724 to 581-022-2415, 581-022-1725 to 581-022-2420, 581-022-1730 to 581-022-2430, 581-022-1330 to 581-022-2500, 581-022-1350 to 581-022-2505, 581-022-0405 to 581-022-2055, 581-022-1510 to 581-022-2060

Subject: Reorganization and revision of rules relating to standards for public schools; repeals obsolete, outdated and redundant rules.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-2000

Diploma Requirements

(1) Each district school board and public charter school with jurisdiction over high school programs shall award diplomas to all students who fulfill all state requirements as described in sections (2) to (11) of this rule and all local school district requirements as described in district school board policies or all public charter school requirements as described in the policies or charter of the public charter school.

(2) Unit of Credit Requirements for students graduating before July 1, 2009:

(a) Each student shall earn a minimum of 22 units of credit to include at least:

(A) English Language Arts — 3 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics — 2;

(C) Science — 2;

(D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance);

(E) Health Education — 1;

(F) Physical Education — 1;

(G) Career and Technical Education, The Arts or World Languages — 1 (one unit shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

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(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 22;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(3) Except as provided in section (4) of this rule, Unit of Credit Requirements for students graduating on or after July 1, 2009 and who were first enrolled in grade 9 prior to the 2008–2009 school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts — 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics — 3;

(C) Science — 2;

(D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));

(E) Health Education — 1;

(F) Physical Education — 1;

(G) Career and Technical Education, The Arts or World Languages — 1 (one unit shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(4) Notwithstanding sections (2) and (3) of this rule, for students who began grade 9 during the 2005–2006 school year and who attended school during the 2006–2007, 2007–2008 and 2008–2009 school years, the unit of credits required for graduating is as described in section (2) of this rule if the student graduates prior to July 1, 2010.

(5) Unit of Credit Requirements for students who were first enrolled in grade 9 during the 2008–2009 or 2009–2010 school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts — 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics — 3;

(C) Science — 3;

(D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));

(E) Health Education — 1;

(F) Physical Education — 1;

(G) Career and Technical Education, The Arts or World Languages — 3 (units shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(6) Unit of Credit Requirements for students who were first enrolled in grade 9 during the 2010–2011 school year or first enrolled in grade 9 in any subsequent school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts — 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics — 3 (shall include one unit at the Algebra I level and two units that are at a level higher than Algebra I);

(C) Science — 3;

(D) Social Sciences 3 — (including history, civics, geography and economics (including personal finance));

(E) Health Education — 1;

(F) Physical Education — 1;

(G) Career and Technical Education, The Arts or World Languages — 3 (units shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(7) Each student shall demonstrate proficiency in essential skills adopted by the State Board of Education as provided in OAR 581-022-2115;

(8) School districts shall develop a process that provides each student the opportunity to develop an education plan and build an education profile in grades 7 through 12 with adult guidance. The plan and profile shall be reviewed and updated periodically (at least annually) and be supported by a Comprehensive Guidance Program as defined in OAR 581-021-0435.

(9) Each student shall develop an education plan and build an education profile.

(a) Each student shall develop an education plan that:

(A) Identifies personal and career interests;

(B) Identifies tentative educational and career goals and post high school next steps (i.e. college, workforce, military, apprenticeship, other);

(C) Sets goals to prepare for transitions to next steps identified in section (7)(b);

(D) Designs, monitors and adjusts a course of study that meets the interest and goals of the student as described in subsection (a) (A), (B) and (C) of this rule that includes but is not limited to:

(i) Appropriate coursework and learning experiences;

(ii) Identified career-related learning experiences; and

(iii) Identified extended application opportunities.

(b) Through the education profile each student shall:

(A) Monitor progress and achievement toward standards including:

(i) Content standards;

(ii) Essential skills;

(iii) Extended application standard; and

(iv) Other standards where appropriate (e.g. industry standards).

(B) Document other personal accomplishments determined by the student or school district.

(C) Review progress and achievement in subsection (b)(A) and (B) of this subsection at least annually.

(10) Each student shall build a collection of evidence, or include evidence in existing collections(s), to demonstrate extended application (as defined in OAR 581-022-0102);

(11) Each student shall participate in career-related learning experiences outlined in the education plan (as defined in OAR 581-022-0102);

(12) Notwithstanding sections (1) to (11) of this rule, each district school board or public charter school governing board with jurisdiction over high school programs shall award a modified diploma to those students who have demonstrated the inability to meet the full set of academic content standards even with reasonable modifications and accommodations and who fulfill all requirements as described in OAR 581-022-2010.

(13) Notwithstanding sections (1) to (11) of this rule, each district school board or public charter school governing board with jurisdiction

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over high school programs shall award an extended diploma to those students who have demonstrated the inability to meet the full set of academic content standards even with reasonable modifications and accommodations and who fulfill all requirements as described in OAR 581-022-2015.

(14) Notwithstanding sections (1) to (11) of this rule and as provided in OAR 581-022-2020, schools districts and public charter schools shall make an alternative certificate available to students as an alternative for students who do not obtain the regular diploma, modified diploma or extended diploma.

(15) Attendance Requirements:

(a) Twelve school years shall be required beginning with grade 1, except when the school district adopts policies providing for early or delayed completion of all state and school district credit and performance requirements;

(b) Notwithstanding subsection (a) of this section, a student may satisfy the requirements of sections (2)(6) of this rule in less than four years. If the school district or public charter school has the consent of the student's parent or guardian, a school district or public charter school shall award a diploma to a student upon request from the student, if the student satisfies the requirements for the diploma that apply to the student based on the date of graduation of the student or the school year when the student first enrolled in grade 9, as applicable.

(c) If a school district or public charter school has the consent of a student's parent or guardian, the school district or public charter school may advance the student to the next grade level if the student has satisfied the requirements for the student's current grade level.

(d) The requirement for obtaining the consent of a student's parent or guardian under subsections (b) and (c) of this section does not apply to a student who is:

(A) Emancipated pursuant to ORS 419B.550 to 419B.558; or

(B) 18 years of age or older.

(e) The district school board may adopt policies for alternative learning experiences, such as credit by examination and credit for off-campus experiences;

(f) With any modification of the attendance requirements for graduation, school district and public charter school staff shall consider age and maturity of students, access to alternative learning experiences, performance levels, school district or public charter school guidelines and the wishes of parents and guardians.

(16) A school district or public charter school shall ensure that students have access to the appropriate resources to achieve a diploma at each high school in the school district or at the public charter school.

Stat. Auth.: ORS 326.051 & 329.451

Stats. Implemented: ORS 326.051, 329.451 & 339.280

Hist.: EB 2-1997, f. 3-27-97, cert. ef. 9-1-97; ODE 12-2002, f. & cert. ef. 4-15-02; ODE 18-2006, f. 12-11-06, cert. ef. 12-12-06; ODE 18-2007, f. & cert. ef. 9-10-07; ODE 18-2008, f. & cert. ef. 6-27-08; ODE 5-2009(Temp), f. 6-29-09, cert. ef. 6-30-09 thru 12-22-09; ODE 20-2009, f. & cert. ef. 12-10-09; ODE 45-2014, f. & cert. ef. 12-17-14; Renumbered from 581-022-1130 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2010

Modified Diploma

(1) Definitions. As used in this rule:

(a) "Documented history" means evidence in the cumulative record and education plans of a student that demonstrates the inability over time to maintain grade level achievement even with appropriate modifications and accommodations.

(b) "Instructional barrier" means a significant physical, cognitive or emotional barrier that impairs a student's ability to maintain grade level achievement.

(c) "Modified course" means a course that has been systematically changed or altered for a student only after reasonable alternative instructional strategies (e.g. accommodations, remediation) are exhausted.

(d) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-2320(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) On or after July 1, 2009, each district school board or public charter school governing board with jurisdiction over high school programs shall award a modified diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma even with reasonable modifications and accommodations but who fulfill all state requirements as described in this rule and all applicable local school district requirements as described in district school board policies or public charter school requirements as described in school policies. In addition, on or after July 1, 2009, a district school board or public charter school governing board may only award a modified diploma to a student who meets the eligibility criteria specified in section 3 of this rule.

(3)(a) Except as provided in paragraph (c) or (d) of this section, a school district or public charter school shall grant eligibility for a modified diploma to a student who has:

(A) A documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers; or

(B) A documented history of a medical condition that creates a barrier to achievement.

(b) A student shall have the opportunity to meet the requirements of a modified diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(c) A student may complete the requirements for a modified diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for a modified diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction.

(D) The consent may not be used to allow a student to satisfy the requirements for a modified diploma in less than three years.

(d) A school district or public charter school may not deny a student who has the documented history described in paragraph (a) of this subsection the opportunity to pursue a diploma with more stringent requirements than a modified diploma for the sole reason that the student has the documented history.

(e) Students currently engaged in the use of illegal drugs are not eligible for a modified diploma if the significant learning and instructional barriers are due to the use of illegal drugs.

(f) Students currently engaged in the illegal use of alcohol are not eligible for a modified diploma if the significant learning and instructional barriers are due to the alcohol abuse, regardless of whether that student is disabled under Section 504 on the basis of alcoholism.

(g) Notwithstanding paragraph (c) and (d) of this section, a school district or public charter school may grant eligibility for a modified diploma to a student who is no longer engaging in illegal use of drugs or alcohol if the student:

(A) Has successfully completed a supervised drug or alcohol rehabilitation program and are no longer engaged in the illegal use of drugs or alcohol; or

(B) Has been rehabilitated successfully and is no longer engaged in the illegal use of drugs or alcohol; or

(C) Is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs or alcohol.

(4)(a) A school district or public charter school shall determine which school teams shall decide if a student will work toward obtaining a modified diploma. A student's school team must include an adult student, parent/guardian of the student.

(b) A school district or public charter school may award a modified diploma to a student only upon the consent of the parent or guardian of the student or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the modified diploma is awarded.

(A) If student is under 18, consent must be received from the parent or guardian.

(B) If the student is under age 18 and emancipated, consent must be received from the student.

(C) If the adult student is 18 or older, consent must be received from the student or guardian.

(D) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(c) Except as provided in subsection (e) of this section, a student's school team shall decide that a student should work toward a modified

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diploma no earlier than the end of the 6th grade and no later than 2 years before the student's anticipated exit from high school.

(d) Beginning in grade five, school district and public charter schools shall annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of a modified diploma and the requirements for the modified diploma.

(e) A student's school team may formally decide to revise a modified diploma decision.

(f) A student's school team may decide that a student who was not previously working towards a modified diploma should work toward a modified diploma when a student is less than 2 years from anticipated exit from high school if the documented history of the student described in section (3) of this rule has changed.

(5) Unit of credit requirements for students graduating with a modified diploma:

(a) To receive a modified diploma a student must earn 24 units of credit, between grade 9 and the end of their high school career with at least 12 of those credits to include:

(A) English Language Arts — 3;

(B) Mathematics — 2;

(C) Science — 2;

(D) Social Sciences (which may include history, civics, geography and economics (including personal finance)) — 2;

(E) Health Education — 1;

(F) Physical Education — 1; and

(G) Career Technical Education, The Arts or World Languages (units may be earned in any one or a combination) — 1.

(b) School districts and public charter schools shall be flexible in awarding the remaining 12 units of credit. These credits must be awarded to meet the needs of the individual student as specified in the education plan of the student with the expectations and standards aligned to the appropriate grade level academic content standards. These credits may include:

(A) Additional core credits described in paragraph (a) of this section;

(B) Professional technical education;

(C) Electives; and

(D) Career development.

(c) Students may earn units of credit through regular education with or without accommodations or modifications and through modified courses.

(d) Students shall have the option to earn credit for demonstrating proficiency. A student may be given credit for successful demonstration of knowledge and skills that meets or exceeds defined levels of performance. Students may demonstrate proficiency through classroom work or documentation of learning experiences outside of school, or through a combination of these means.

(e) School districts and public charter schools shall ensure that students have access to needed courses, modifications and supports to pursue a modified diploma and to progress in the general education curriculum.

(f) A school district or public charter school may not require a student to earn more than 24 units of credit to receive a modified diploma.

(6) A school district or public charter school shall grant credit toward a modified diploma only for courses that contain substantial academic content. A school district or public charter school shall grant credit for a modified diploma through a continuum of instruction beginning at basic skills and progressing through high level skills.

(7) A school district or public charter school shall award a regular diploma under OAR 581-022-2000 if all requirements for a regular diploma are met. Completion of one or more modified courses shall not prohibit a student from earning a regular diploma; however, required core courses taken under modified conditions must be retaken under standard conditions to be counted toward a regular diploma.

(8) A school district or public charter school shall grant credit toward a modified diploma according to individual student needs across academic content areas including applied, consumer, academic, or knowledge and skill development.

(9) Each student shall develop an education plan and build an education profile as provided under OAR 581-022-2000.

(10) A school district or public charter school shall inform the student and parent or guardian of the student if the courses in grades 9-12 have been modified for an individual student.

(11) A school district or public charter school shall provide transcripts which clearly identify modified courses that do not count toward the regular diploma but that do count toward a modified diploma.

(12) Each student shall build a collection of evidence, or include evidence in existing collections, to demonstrate extended application of the standards as defined in OAR 581-022-0102;

(13) Each student receiving a modified diploma shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(14)(a) A student who receives a modified diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team or school team, decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(i) School districts and public charter schools shall ensure that students have on-site access to the appropriate resources to achieve a modified diploma at each high school in the school district or at the public charter school.

(15)(a) The unit of credit requirements in section (5) of this rule for a modified diploma apply to all students who enter 9th grade on or after July 1, 2007.

(b) If a student entered 9th grade prior to July 1, 2007, the student's team shall decide whether the student must meet the unit of credit requirements in section (5) of this rule to receive a modified diploma or the unit of credit requirements specified by the school district or public charter school for a modified diploma when the student entered 9th grade. If a student's team decides that a student may receive a modified diploma by meeting the unit of credit requirements required by the district or school when the student entered 9th grade, a school district or public charter school may award a student who entered 9th grade prior to July 1, 2007 a modified diploma if the student meets the unit of credit requirements for a modified diploma specified by the district or school when the student entered 9th grade.

Stat. Auth.: ORS 329.451

Stats. Implemented: ORS 329.451

Hist.: ODE 15-2008, f. & cert. ef. 5-23-08; ODE 22-2009, f. & cert. ef. 12-10-09; ODE 4-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 45-2014, f. & cert. ef. 12-17-14; Renumbered from 581-022-1134 by ODE 16-2017, f. & cert. ef. 7-5-17

ADMINISTRATIVE RULES

581-022-2015

Extended Diploma

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-2320(4), such as school assemblies, student orientations, testing, etc., which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A school district or public charter school shall award an extended diploma to a student who satisfies the requirements of this rule.

(3) A school district or public charter school shall award an extended diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations.

(4) A school district or public charter school may award an extended diploma to a student only upon the consent of the parent or guardian of the student, or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the extended diploma is awarded.

(a) If student is under 18, consent must be received from the parent or guardian.

(b) If the student is under age 18 and emancipated, consent must be received from the student.

(c) If the adult student is 18 or older, consent must be received from the student.

(d) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(5) To be eligible for an extended diploma, a student must:

(a) Have a documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers or have a documented history of a medical condition that creates a barrier to achievement; and

(b)(A) Participate in an alternate assessment beginning no later than grade six and lasting for two or more assessment cycles; or

(B) Have a serious illness or injury that occurs after grade eight, that changes the student's ability to participate in grade level activities and that results in the student participating in alternate assessments.

(c) While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

(A) Two credits of mathematics;

(B) Two credits of English;

(C) Two credits of science;

(D) Three credits of history, geography, economics or civics;

(E) One credit of health;

(F) One credit of physical education; and

(G) One credit of the arts or a world language;

(6)(a) A student shall have the opportunity to meet the requirements of an extended diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(b) A student may complete the requirements for an extended diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an extended diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an extended diploma in less than three years.

(7) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve an extended diploma at each high school in the school district or at the public charter school.

(b) Beginning in grade five, annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of an extended diploma and the requirements for the extended diploma.

(c) A school district or public charter school may not deny a student who has the documented history described in subsection (1)(a) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.

(8)(a) A student who receives an extended diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(9) School districts and public charter schools shall make extended diplomas as required by ORS 329.451 and this rule first available to students during the 2009-2010 school year.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.451

Hist.: ODE 21-2009, f. & cert. ef. 12-10-09; ODE 3-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 44-2014, f. & cert. ef. 12-17-14; ODE 45-2014, f. & cert. ef. 12-17-14; ODE 29-2016, f. & cert. ef. 4-28-16; ODE 43-2016, f. & cert. ef. 9-6-16; Renumbered from 581-022-1133 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2020

Alternative Certificate

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

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(B) Those services identified in OAR 581-022-2320(4), such as school assemblies, student orientations, testing, etc. which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A School district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a high school diploma, a modified diploma or an extended diploma.

(3)(a) Each district school board or public charter school governing board with jurisdiction over high school programs shall define criteria for an alternative certificate and shall award an alternative certificate to those students who have met the criteria requirements as described in district school board policies.

(4) A student shall have the opportunity to meet the requirements of an alternative certificate by the later of:

(a) Four years after starting grade nine; or

(b) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(c) A student may complete the requirements for an alternative certificate in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an alternative certificate.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an alternative certificate in less than three years.

(5) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve an alternative certificate at each high school in the school district or at the public charter school.

(b) Beginning grade five, annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of an alternative certificate and the requirements for the certificate.

(6) Each student receiving an alternative certificate shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(7)(a) A student who receives an alternative certificate shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team, decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services or other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

Stat. Auth.: ORS 329.451

Stats. Implemented: ORS 329.451

Hist.: ODE 15-2008, f. & cert. ef. 5-23-08; ODE 23-2009, f. & cert. ef. 12-10-09; ODE 5-2012, f. 2-1-12, cert. ef. 2-3-12; Renumbered from 581-022-1135 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2025

Credit Options

(1) A school district or public charter school shall grant required and elective credit towards the diploma or a modified diploma, provided the method for accruing such credit is described in the student's personal education plan and the student earns the credit by meeting the requirements of one or more of the options described in this rule.

(2) A school district or charter school may grant credit to a student if the student demonstrates defined levels of proficiency or mastery of recognized standards (e.g., state academic content standards and essential skills, industry-based or other national or international standards) by any one or more of the following options:

(a) Successfully completing classroom or equivalent work (e.g., supervised independent study, career-related learning experiences, project based learning), which meets Common Curriculum Goals and academic content standards required by OAR 581-022-2030;

(b) Successfully completing classroom or equivalent work designed to measure proficiency or mastery of identified standards (knowledge and skills) in class or out of class, where hours of instruction may vary;

(c) Successfully passing an appropriate exam designed to measure proficiency or mastery of identified standards (knowledge and skills);

(d) Providing a collection of work or other assessment evidence which demonstrates proficiency or mastery of identified standards (knowledge and skills); or

(e) Providing documentation of prior learning activities or experiences which demonstrates proficiency or mastery of identified standards (knowledge and skills) (e.g., certification of training, letters, diplomas, awards, etc.).

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 4-2003, f. & cert. ef. 3-14-03; ODE 2-2009, f. & cert. ef. 4-23-09; ODE 3-2015, f. 1-30-15, cert. ef. 7-1-15; Renumbered from 581-022-1131 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2030

District Curriculum

(1) Each school district shall provide a planned K–12 instructional program.

(2) The planned K–12 instructional program shall include the following:

(a) Common Curriculum Goals and academic content standards to include:

(A) English;

(B) Mathematics;

(C) Science;

(D) Social Science (including history, geography, economics and civics);

(E) The Arts;

(F) World Languages;

(G) Health Education; and

(H) Physical Education.

(b) Additional Common Curriculum Goals for technology.

(c) Essential Learning Skills, as contained in the Common Curriculum Goals and academic content standards;

(d) Career-related learning standards, as contained in the Common Curriculum Goals and academic content standards; and

(e) Career education which may include career and technical education.

(3) The school district shall also provide instruction in other areas identified in chapter 581, division 22 of the Oregon Administrative Rules, including:

(a) Infectious diseases, including AIDS/HIV and Hepatitis B;

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- (b) Prevention education in drugs and alcohol; and
- (c) Emergency plans and safety programs.
- (4) The school district is also accountable to provide instruction in compliance with requirements set forth in ORS Chapter 336, Conduct of Schools Generally.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.045

Hist.: EB 6-1997, f. & cert. ef. 6-9-97; ODE 7-2005(Temp), f. & cert. ef. 3-15-05 thru 9-1-05; Administrative correction 9-21-05; ODE 5-2006, f. & cert. ef. 2-14-06; ODE 19-2007, f. & cert. ef. 9-10-07; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 45-2014, f. & cert. ef. 12-17-14; ODE 5-2017, f. & cert. ef. 5-2-17; Renumbered from 581-022-1210 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2045

Prevention Education in Drugs and Alcohol

(1) Each school district shall develop a comprehensive plan for alcohol and drug abuse prevention program which shall include, but not limited to:

(a) Instruction in the effects of tobacco, alcohol, drugs, including anabolic steroids, performance-enhancing and controlled substances as an integral part of the district's K–12 comprehensive health education program. In addition, at least annually, all high school students, grades 9–12 shall receive age-appropriate instruction about drug and alcohol prevention

(A) The age-appropriate curriculum for this instruction shall:

- (i) Emphasize prevention strategies;
- (ii) Be reviewed and updated annually to reflect current research; and
- (iii) Be consistent with State Board adopted Health Education Academic Content Standards.

(B) Basic information shall include:

- (i) The effects of alcohol, tobacco and other drug use, including anabolic steroids, performance-enhancing and controlled substances
- (ii) All laws relating to the use, especially by minors, of alcohol and other illegal drugs; and
- (iii) The availability of school and community resources.

(C) The instructional program shall include activities which will assist students in developing and reinforcing skills to:

- (i) Understand and manage peer pressure;
- (ii) Understand the consequences of consuming alcohol and other drugs;
- (iii) Make informed and responsible decisions; and
- (iv) Motivate students to adopt positive attitudes towards health and wellness.

(b) A public information program for students, parents, and district staff; and

(c) Policies, rules, and procedures which:

(A) Include a philosophy statement relating to drug-free schools and the established tobacco-free policies and procedures for students, staff and visitors.

(B) Define the nature and extent of the district's program, including a plan to access and use federal funds;

(C) State that alcohol, tobacco, and other drug use by student is illegal and harmful;

(D) In accordance with OAR 581-021-0050 and 581-021-0055, indicate the consequences for using and/or selling alcohol and other drugs, including the specific rule of the school as it relates to law enforcement agencies;

(E) Describe the district's intervention and referral procedures, including those for drug-related medical emergencies;

(F) Indicate clearly that the school district's jurisdiction includes all school sponsored events including student activities; and

(G) Are reviewed and updated annually.

(2) The district's drug and alcohol prevention and intervention program shall be approved by the school district board after consultation from parents, teachers, school administrators, local community agencies, and persons from the health or alcohol and drug service community who are knowledgeable of the latest research information.

(3) Staff development in the district shall:

(a) Inform all staff of the district plan and their responsibilities within that plan; and

(b) Provide alcohol and drug abuse prevention education to all staff.

Stat. Auth.: ORS 326.051, 336.235

Stats. Implemented: ORS 336.067, 336.222

Hist.: EB 30-1989, f. & cert. ef. 10-24-89; ODE 14-2008, f. & cert. ef. 5-23-08; Renumbered from 581-022-0413 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2050

Human Sexuality Education

(1) The following definitions apply to Oregon Administrative Rule 581-022-2050:

(a) "Age-appropriate" means curricula designed to teach concepts, information, and skills based on the social, cognitive, emotional, experience and developmental level of students;

(b) "Balanced" means instruction that provides information with the understanding of, and strength of the preponderance of evidence;

(c) "Best practice" means a practice/curriculum that is based in proven theory and practices, and has some evidence of effectiveness, but has not specifically gone through a randomized controlled trial that is needed to become an evidence-based practice;

(d) "Comprehensive plan of instruction" (as defined by Oregon education statutes) means k–12 programs that emphasize abstinence, but not to the exclusion of condom and contraceptive skills-based education. The human sexuality information provided is complete, balanced, and medically accurate. Opportunities are provided for young people to develop and understand their values, attitudes, beliefs and decisions about sexuality as a means of helping young people exercise responsibility regarding sexual relationships and sexual health decisions as further defined by subsections (2) and (3);

(e) "Consensual" means the presence of a "yes" when "no" is a viable option;

(f) "Culturally inclusive" means using materials and instruction strategies that respond to culturally diverse individuals, families, and communities in a respectful and effective manner;

(g) "Gender expression" means how people express their gender based on mannerisms, dress, etc. A person's gender expression/presentation may not always match their gender identity;

(h) "Gender identity" means a person's internal sense of being male, female or some other gender, regardless of whether the individual's appearance, expression or behavior differs from that traditionally associated with the individual's sex assigned at birth;

(i) "Gender role" means the socially determined sets of behaviors assigned to people based on their biological sex;

(j) "Gender sensitive" means using materials and instruction strategies that are sensitive to individual's similarities and differences regarding gender role, gender identity and/or sexual orientation;

(k) "Healthy relationship" means one in which both people feel a healthy sense of "self". Each person feels comfortable and safe when spending time with the other person. Two individuals try to meet each other's needs, and each can ask for help and support, within and outside of the relationship without fear of criticism or harm;

(l) "Medically accurate" means information that is established through the use of the 'scientific method.' Results can be measured, quantified, and replicated to confirm accuracy, and are reported or recognized in peer-reviewed journals or other authoritative publications;

(m) "Non-consensual sexual behavior" means any sexual act that is inflicted upon a person who is unable to grant consent or that is unwanted and compelled through the use of physical force, manipulation, threats, or intimidation;

(n) "Research-based" means intervention is based on theoretical approaches that have been shown through scientific evaluation to be effective in achieving the intended outcomes. Evaluation based on studies using scientifically based designs; results published in recognized, peer-reviewed journals;

(o) "Sexual intercourse" means a type of sexual contact or activity involving one of the following:

- (A) Vaginal sex;
- (B) Oral sex; or
- (C) Anal sex;

(p) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or other romantic and/or sexual attraction;

(q) "Shame or fear based" means terminology, activities, scenarios, context, language, and/or visual illustrations that are used to devalue, ignore, and/or disgrace students who have had or are having sexual relationships. Not all curricula or activities that describe risks of sexual activities can be considered "fear-based;"

(r) "Skills-based" means instructional strategy that has students practice the desired skill; and

(s) "Student bystander behavior" means behaviors in which students who witness or learn about a peer's harmful behaviors or attitudes intervene when it is safe to do so.

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(2) Each school district shall provide an age-appropriate, comprehensive plan of instruction focusing on human sexuality education, HIV/AIDS and sexually transmitted infections and disease prevention in elementary and secondary schools as an integral part of health education and other subjects. Course material and instruction for all human sexuality education courses that discuss human sexuality in public elementary and secondary schools shall enhance students' understanding of sexuality as a normal and healthy aspect of human development. As part of the comprehensive plan of human sexuality instruction, each school district board shall adopt a child sexual abuse prevention instructional program for students in kindergarten through grade 12 as defined in subsection (9). In addition, the HIV/AIDS and sexually transmitted infections and disease prevention education and the human sexuality education comprehensive plan shall provide adequate instruction at least annually, for all students' grades 6-8 and at least twice during grades 9-12.

(3) Parents, teachers, school administrators, local health department staff, other community representatives, and persons from the medical community who are knowledgeable of the latest scientific information and effective education strategies shall develop the plan of instruction required by this rule, and in alignment with the Oregon Health Education Standards and Benchmarks, cooperatively.

(4) Local school boards shall approve the plan of instruction and require that it be reviewed and updated biennially in accordance with new scientific information and effective education strategies.

(5) Any parent may request that his/her child be excused from that portion of the instructional program required by this rule under the procedures set forth in ORS 336.035(2).

(6) The comprehensive plan of instruction shall include information that:

(a) Promotes abstinence for school-age youth and mutually monogamous relationships with an uninfected partner for adults as the safest and mostly responsible sexual behavior to reduce the risk of unintended pregnancy and exposure to HIV, Hepatitis B/C and other sexually transmitted infectious diseases;

(b) Allays those fears concerning HIV that are scientifically groundless;

(c) Is balanced and medically accurate;

(d) Provides balanced, accurate information, and skills-based instruction on the risks and benefits of contraceptives, condoms and other disease reduction measures which reduce the risk of unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;

(e) Discusses responsible sexual behaviors and hygienic practices which may reduce or eliminate unintended pregnancy, exposure to HIV, hepatitis B/C and other sexually transmitted infections and diseases;

(f) Stresses the risks of contracting HIV, hepatitis B and C and other infectious diseases through sharing of needles or syringes for injecting illegal drugs and controlled substances;

(g) Discusses the characteristics of the emotional, physical and psychological aspects of a healthy relationship;

(h) Discusses the benefits of delaying pregnancy beyond the adolescent years as a means to better ensure a healthy future for parents and their children. Students shall be provided with statistics based on the latest medical information regarding both the health benefits and the possible side effects of all forms of contraceptives, including the success and failure rates for prevention of pregnancy, sexually transmitted infections and diseases;

(i) Stresses that HIV/STDs and hepatitis B/C can be possible hazards of sexual contact;

(j) Provides students with information about Oregon laws that address young people's rights and responsibilities relating to childbearing and parenting, and prevention of the spread of STDs, STIs, including testing for STDs, STIs, HIV and pregnancy;

(k) Advises pupils of the circumstances in which it is unlawful under ORS 163.435 and 163.445 for persons 18 years of age or older to have sexual relations with persons younger than 18 years of age to whom they are not married;

(l) Encourages positive family communication and involvement and helps students learn to make responsible, respectful and healthy decisions;

(m) Teaches that no form of sexual expression, or behavior is acceptable when it physically or emotionally harms oneself or others and that it is wrong to take advantage of or exploit another person;

(n) Teaches that consent is an essential component of healthy sexual behavior. Course material shall promote positive attitudes and behaviors related to healthy relationships and sexuality, and encourage active student bystander behavior;

(o) Teaches students how to identify and respond to attitudes and behaviors which contribute to sexual violence;

(p) Validates through course material and instruction the importance of honesty with oneself and others, respect for each person's dignity and well-being, and responsibility for one's actions;

(q) Uses inclusive materials, language, and strategies that recognizes different sexual orientations, gender identities and gender expression;

(r) Includes information about relevant community resources, how to access these resources, and the laws that protect the rights of minors to anonymously access these resources; and

(s) Is culturally inclusive.

(7) The comprehensive plan of instruction shall emphasize skills-based instruction that:

(a) Assists students to develop and practice effective communication skills, the development of self-esteem and the ability to resist peer and partner pressure;

(b) Provides students with the opportunity to learn about and personalize peer, media, technology and community influences that both positively and negatively impact their attitudes and decisions related to healthy sexuality, relationships, and sexual behaviors, including decisions to abstain from sexual intercourse;

(c) Enhances students' ability to access valid health information and resources related to their sexual health;

(d) Teaches how to develop and communicate relational, sexual and reproductive boundaries;

(e) Is research-based, evidence-based and/or best practice; and

(f) Aligns with the Oregon Health Education Content Standards and Benchmarks.

(8) All human sexuality education programs shall emphasize that abstinence from sexual intercourse, when practiced consistently and correctly, is the only method that is 100 percent effective against unintended pregnancy, HIV infection (when transmitted sexually), hepatitis B/C infection, and other sexually transmitted infections and diseases. Abstinence is to be stressed, but not to the exclusion of contraceptives and condoms for preventing unintended pregnancy, HIV infection, sexually transmitted infections and diseases, and hepatitis B/C. Such courses are to acknowledge the value of abstinence while not devaluing, ignoring or stigmatizing those students who have had or are having sexual relationships. Further, sexuality education materials, instructional strategies, and activities must not, in any way, use shame or fear based tactics.

(9) As part of the comprehensive plan of human sexuality instruction, each school district shall provide child sexual abuse prevention instruction from kindergarten through grade 12. School Districts must provide a minimum of four instructional sessions per year. One instructional session is equal to one standard class period.

(10) Materials and information shall be presented in a manner sensitive to the fact that there are students who have experienced, perpetrated, or witnessed sexual abuse and relationship violence.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.455 & 336.455

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; EB 2-1997, f. & cert. ef. 3-27-97; ODE 25-2002, f. & cert. ef. 11-15-02; ODE 15-2007, f. & cert. ef. 7-6-07; ODE 25-2009, f. & cert. ef. 12-10-09; ODE 10-2013, f. & cert. ef. 4-10-13; ODE 16-2016, f. & cert. ef. 3-22-16; Renumbered from 581-022-1440 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2055

Career Education

Each school district shall implement plans for career education for Grades K through 12, as part of its comprehensive guidance and counseling program, based on the Oregon Department of Education's "Framework for Comprehensive Guidance and Counseling Programs for Pre-Kindergarten through Twelfth Grade." Career education curriculum is part of the overall comprehensive guidance and counseling curriculum, written to address Essential Skills, Education Plan and Education Profile and the four interrelated student developmental domains: academic, career, personal/social, and community involvement.

Stat. Auth.: ORS 326.051 & 329.275

Stats. Implemented: ORS 326.051

Hist.: 1EB 19-1980, f. 6-17-80, ef. 9-1-81; EB 4-1989, f. & cert. ef. 1-23-89; ODE 19-2008, f. & cert. ef. 6-27-08; Renumbered from 581-022-0405 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2060

Comprehensive Guidance and Counseling

(1)(a) District Comprehensive Guidance and Counseling. Each school district shall provide a coordinated comprehensive guidance and counseling program to support the academic, career, personal/social, and community involvement development of each and every student. The district shall:

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(f) Adopt comprehensive guidance and counseling program goals that assist students to:

(A) Understand and utilize the educational opportunities and alternatives available to them;

(B) Meet academic standards;

(C) Establish tentative career and educational goals;

(D) Create and maintain an education plan and education portfolio;

(E) Demonstrate the ability to utilize personal qualities, education and training, in the world of work;

(F) Develop decision-making skills;

(G) Obtain information about self;

(H) Accept increasing responsibility for their own actions, including the development of self-advocacy skills;

(I) Develop skills in interpersonal relations, including the use of affective and receptive communication;

(J) Utilize school and community resources.

(K) Demonstrate and discuss personal contributions to the larger community; and

(L) Know where and how to utilize personal skills in making contributions to the community.

(2) School Comprehensive Guidance and Counseling. Each school shall provide a comprehensive guidance and counseling program that serves students K through 12, based upon the Oregon Department of Education's "Framework for Comprehensive Guidance and Counseling Programs for Pre-Kindergarten through Twelfth Grade" which:

(a) Identifies staff responsibilities to plan, design and deliver a comprehensive guidance and counseling program that meets the unique needs of their students and community;

(b) Aligns with the district's school improvement plans;

(c) Assigns guidance and counseling responsibilities to the appropriate personnel;

(d) Expects all school staff to participate in implementing the comprehensive guidance and counseling program;

(e) Assists each student to develop, and annually review, an educational plan (a formalized plan and process in which students establish their education, career and life goals, identify learning goals and connect them to activities that will help them achieve their goals) in grades 7-12, and

(3) Guidance Staff Assignments. Each school district shall maintain a licensed staff and promote effective guidance practices consistent with the district's expected comprehensive guidance and counseling program outcomes. In determining staffing for the program, the following shall be considered:

(a) Alignment with the American School Counselor Association recommended student to counselor ratio of 250:1;

(b) The number of aides or clerical staff assigned to support the implementation of the comprehensive guidance and counseling program.

Stat. Auth.: ORS 326.051 & 329.275

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 19-2008, f. & cert. ef. 6-27-08; ODE 19-2008, f. & cert. ef. 6-27-08; Renumbered from 581-022-1510 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2100

Administration of State Assessments

(1) Definitions. As used in this rule:

(a) "Accommodations" means changes in procedures or materials that increase equitable access during assessment and generate valid assessment results for students for whom there is documentation of need on an Individualized Education Program (IEP) or 504 (Plan); they allow these students to show what they know and can do.

(b) "Designated supports" means access features of the assessment available for use by any student for whom the need has been indicated by an educator or team of educators.

(c) "District test coordinator" (DTC) means district personnel who ensure secure administration of Oregon Statewide Assessments as defined by Oregon Revised Statute, Administrative Rules, and the Test Administration Manual, including but not limited to supervising the work of the school test coordinators and test administrators.

(d) "Force majeure" means an extraordinary circumstance (e.g., power outage or network disturbance lasting at least one full school day) or act of nature (e.g., flooding, earthquake, volcanic eruption) which directly prevents a school district from making reasonable attempts to adhere to the Test Schedule.

(e) "Impropriety" means the administration of an Oregon Statewide Assessment in a manner not in compliance with the Test Administration Manual, Oregon Revised Statute, or this rule.

(f) "Invalidation" means the act of omitting test results and student responses from the testing, reporting, and accountability systems for a given testing event for which the student may not retest.

(g) "Irregularity" means an unusual circumstance that impacts a group of students who are testing and may potentially affect student performance on the assessment or interpretation of the students' scores. A force majeure is an example of a severe irregularity.

(h) "Modification" means practices and procedures that compromise the intent of the assessment through a change in the achievement level, construct, or measured outcome of the assessment.

(i) "Universal Tools" means access features of the assessment that are either provided as digitally-delivered components of the test administration system or separate from it. Universal tools are available to all students based on student preference and selection.

(j) "Oregon Statewide Assessments" means:

(A) The Oregon Assessment of Knowledge and Skills (OAKS) in:

(i) Science;

(ii) Social Sciences;

(B) The Smarter Balanced Assessments (Smarter) in:

(i) Mathematics

(ii) English Language Arts (ELA)

(C) The English Language Proficiency Assessment (ELPA21);

(D) The Extended Assessment in:

(i) English Language Arts (ELA);

(ii) Mathematics;

(iii) Science; and

(E) The Kindergarten Assessment

(k) "Reset" means the removal of student responses from the web-based testing application for a given testing event for which the student may retest.

(l) "School building" means facilities owned, leased, or rented by a school district, educational service district, public charter school, private school, or private alternative program.

(m) "School district" means:

(A) A school district as defined in ORS 332.002;

(B) The Oregon School for the Deaf;

(C) The Juvenile Detention Education Program as defined in ORS 326.695;

(D) The Youth Corrections Education Program as defined in ORS 326.695;

(E) The Long Term Care Program as defined in ORS 343.961; and

(F) The Hospital Education Programs as defined in ORS 343.261.

(n) "School test coordinator" (STC) means school personnel who provide comprehensive training to test administrators and monitor the testing process.

(o) "Test Administration Manual" means a manual published annually by ODE that includes descriptions of the specific policies and procedures that school districts are required to follow when administering any component of the Oregon Statewide Assessments. References to the Test Administration Manual refer to the edition in effect at the time of test administration and include appendices and any addenda published in accordance with ODE's revision policy.

(p) "Test administrator" (TA) means an individual trained to administer the Oregon Statewide Assessments in accordance with the Test Administration Manual.

(q) "Test Schedule" means the Test Schedule and Required Ship Dates published annually by ODE that includes the windows in which school districts must offer their students the Oregon Statewide Assessments and the deadline by which DTCs must ship or postmark test materials.

(2)(a) School districts, as defined in ORS 332.002, must enforce the assessment policies described in this rule for all students enrolled in a school operated by the district or enrolled in a public charter school that is located within the boundaries of the school district.

(b) School districts, as defined in ORS 332.002, must enforce the assessment policies described in this rule for all resident students enrolled in a private alternative education program, regardless of whether the private alternative education program is located within the boundaries of the school district.

(c) The Oregon School for the Deaf must enforce the assessment policies described in this rule for all students enrolled in that school.

(d) The Juvenile Detention Education Program and the Youth Corrections Education Program must enforce the assessment policies described in this rule for all students enrolled in that program.

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(e) The Long Term Care Program and the Hospital Education Programs must enforce the assessment policies described in this rule for all students enrolled in that program.

(f) School districts may delegate responsibility for enforcing the assessment policies described in this rule to another school district or education service district under the conditions specified in the Test Administration Manual.

(3) School districts must administer Oregon Statewide Assessments in accordance with the Test Administration Manual and Test Schedule published by ODE. The results of these assessments are used to satisfy the requirements specified in OAR 581-022-2270 and 581-022-2250 and as a method to evaluate compliance with 581-022-2030.

(4) School districts must ensure that students are administered the proper Oregon Statewide Assessment and that the testing environment satisfies the following testing conditions:

(a) School districts must ensure that Oregon Statewide Assessments are administered by a trained TA who has signed an Assurance of Test Security form for the current school year on file in the district office;

(b) School districts must administer Oregon Statewide Assessments in a school building or in an environment that otherwise complies with the Test Administration Manual;

(c) School districts must apply the following criteria in deciding whether to provide a student with an accommodation during administration of an Oregon Statewide Assessment:

(A) School districts must decide whether to provide accommodations during an assessment on an individual student basis and separately for each content area to be assessed; and

(B) For students with an Individualized Education Plan (IEP) or 504 Plan, school districts must implement the assessment decision made by a student's IEP or 504 team and documented in the IEP or 504 Plan;

(d) School districts may only administer modifications to students with an IEP or 504 Plan and only in accordance with the assessment decision made by the student's IEP or 504 team and documented in the IEP or 504 Plan. Before administering an assessment using a modification, a student's IEP or 504 team must inform the student's parent that the use of a modification on an assessment will result in an invalid assessment;

(e) School districts must provide only those subject-specific accommodations, designated supports, and universal tools listed in the Oregon Accessibility Manual and must provide these supports in a manner consistent with the policies contained in the Test Administration Manual and Oregon Accessibility Manual;

(f) School districts must ensure that students do not access electronic communication devices such as cellular phones or personal digital assistants (PDAs) during an assessment; and

(g) School districts must follow all additional testing conditions specified in the Test Administration Manual.

(5) Failure by a school district to comply with section (4) of this rule constitutes an impropriety as defined in section (1)(e) of this rule. DTCs must report all potential improprieties or irregularities to ODE within one business day of learning of the potential impropriety or irregularity in accordance with the reporting procedures contained in the Test Administration Manual.

(6) The ODE may invalidate assessment results and student responses for assessments administered under conditions not meeting the assessment administration requirements specified in Sections 3 and 4 of this rule. In rare instances, ODE may reset a student assessment at the request of the school district if ODE determines that a reset would not compromise the security or validity of the assessment.

(7) ODE counts assessments that meet the following conditions as non-participants in ODE calculations of participation and does not include such assessments in ODE calculations of performance:

(a) Assessments administered using modifications as defined in section (1)(h) of this rule;

(b) Invalidated assessments;

(c) Assessments administered outside the testing window specified in the Test Schedule; or

(d) Assessments shipped or postmarked after the dates identified in the Test Schedule.

(8) ODE only allows extensions to the testing window or shipping deadlines identified in the Test Schedule in cases where a force majeure occurs within three days of the close of the testing window or shipping deadline and prevents a school district from meeting the deadline. Upon receiving a force majeure extension request from the school district, ODE may permit a one-day extension of the testing window or shipping deadline for each day of the force majeure, for up to five days. The force majeure

extension begins on the first school day after normal operations resume and ends no later than the last school day in the month in which the testing window closes.

(9) School districts may only assess students using the Extended Assessment instead of OAKS or Smarter if the student has an IEP Plan and the student's Plan indicates that the student requires the Extended Assessment.

(10) School districts must administer ELPA annually to all students determined by the school district to be eligible for English language development (ELD) services under Title III of the Elementary and Secondary Education Act (ESEA), regardless of whether an eligible student actually receives ELD services.

(11) Administration of the Kindergarten Assessment is governed by OAR 581-022-2130.

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.075 & 329.485

Hist.: IEB 2-1985, f. 1-4-85, ef. 1-7-85; EB 14-1990(Temp), f. & cert. ef. 3-5-90; ODE 6-2002(Temp), f. & cert. ef. 2-15-02 thru 6-30-02; ODE 16-2002, f. & cert. ef. 6-10-02; ODE 30-2008, f. 12-16-08, cert. ef. 12-19-08; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 7-2010, f. & cert. ef. 5-27-10; ODE 7-2011, f. & cert. ef. 7-1-11; ODE 34-2014, f. & cert. ef. 6-24-14; ODE 26-2015, f. & cert. ef. 12-21-15; Renumbered from 581-022-0610 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2110

Exception of Students with Disabilities from State Assessments

(1) For the purposes of this rule a "student with a disability" is a student identified under the Individuals with Disabilities Education Act, consistent with OAR chapter 581, division 015, or a student with a disability under Section 504 of the Rehabilitation Act of 1973.

(2) A public agency shall not exempt a student with a disability from participation in the Oregon State Assessment System or any district wide assessments to accommodate the student's disability unless the parent has requested such an exemption.

Stat. Auth.: ORS 326.051 & 343.045

Stats. Implemented: ORS 329.485 & 659.850

Hist.: ODE 3-2002(Temp), f. & cert. ef. 1-25-02 thru 6-30-02; ODE 14-2002, f. & cert. ef. 5-15-02; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-0612 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2115

Assessment of Essential Skills

(1) Definitions. As used in this rule:

(a) "Assessment option" means an assessment approved to assess proficiency in the Essential Skills for the purpose of earning a high school diploma or a modified diploma.

(b) "Essential Skills" means process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings.

(c) "Local performance assessment" means a standardized measure (e.g., activity, exercise, problem, or work sample scored using an official state scoring guide), embedded in the school districts' and public charter schools' curriculum that evaluates the application of students' knowledge and skills.

(d) "Official state scoring guide" means an evaluation tool designed for scoring student work that includes specific, consistent assessment criteria for student performance and a 1-6 point scale to help rate student work. It is used by Oregon teachers to evaluate student work samples.

(e) "Student-initiated test impropriety" means student conduct that:

(A) Is inconsistent with:

(i) The Test Administration Manual; or

(ii) Accompanying guidelines; or

(B) Results in a score that is invalid.

(f) "Worksample" means a representative sample of individual student work (e.g., research papers, statistical experiments, speaking presentations, theatrical performances, work experience) that may cover one or more content areas and therefore may be scored using one or more official state scoring guide(s). At the high school level, a work sample can be used to fulfill both the local performance assessment requirement described in Section 2 of this rule and the Essential Skills requirement described in Section 3 of this rule.

(2) School districts and public charter schools that offer grades 3 through 8 or high school shall administer local performance assessments for students in grades 3 through 8 and at least once in high school. For each skill area listed in section (17) of this rule, the assessments shall consist of:

(a) One worksample per grade scored using official state scoring guides; or

(b) Comparable measures adopted by the district.

(3) School districts and public charter schools shall require high school students to demonstrate proficiency in the Essential Skills using

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assessment options that are approved by the State Board of Education for the purpose of student eligibility for:

- (a) The high school diploma as established in OAR 581-022-2000; or
- (b) The modified diploma as established in OAR 581-022-2010.
- (4) Pursuant to ORS 339.115 and 339.505, school districts and public charter schools shall provide any eligible student with instruction in and multiple assessment opportunities to demonstrate proficiency in the Essential Skills for the purpose of achieving the high school diploma or the modified diploma.
- (5) To be eligible to receive a high school diploma or a modified diploma:
 - (a) For students first enrolled in grade 9 during the 2008-2009 school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skill listed in section (16)(a) of this rule: Read and comprehend a variety of text.
 - (b) For students first enrolled in grade 9 during the 2009-2010 school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skills listed in sections (16)(a)-(b) of this rule:
 - (A) Read and comprehend a variety of text; and
 - (B) Write clearly and accurately.
 - (c) For students first enrolled in grade 9 during the 2010-2011 school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skills listed in section (16)(a)-(c) of this rule:
 - (A) Read and comprehend a variety of text;
 - (B) Write clearly and accurately; and
 - (C) Apply mathematics in a variety of settings.
 - (d) For students first enrolled in grade 9 during the 2011-2012 school year or first enrolled in grade 9 in any subsequent school year, school districts and public charter schools shall require students to demonstrate proficiency in the Essential Skills listed in Section 16(a)-(c) of this rule and any additional Essential Skills for which:
 - (A) The State Board of Education has adopted the determination to phase in for inclusion in the high school diploma and modified diploma requirements; and
 - (B) The State Board of Education has adopted assessment options by March 1 of the student's 8th grade year.
 - (e) School districts and public charter schools may require students to demonstrate proficiency in additional Essential Skills beyond the minimum requirements described in section (5)(a)-(d) of this rule.
 - (6) The Superintendent of Public Instruction shall establish an Assessment of Essential Skills Review Panel (AESRP) to make recommendations on:
 - (a) The phasing in of Essential Skills for inclusion in the high school diploma and the modified diploma requirements;
 - (b) The adoption of assessment options to measure students' proficiency in the approved Essential Skills for the purpose of the high school diploma or the modified diploma; and
 - (c) The achievement standards used to determine student eligibility for the high school diploma or the modified diploma.
 - (7) The AESRP shall work toward the goal of a system with a high degree of technical adequacy and equivalent rigor between assessment options as practicable.
 - (8) The AESRP shall base its recommendations on evidence provided by:
 - (a) School districts;
 - (b) Research organizations; and
 - (c) Other experts.
 - (9) The AESRP shall consist of assessment experts from:
 - (a) School districts, including but not limited to:
 - (A) Superintendents;
 - (B) Principals;
 - (C) Curriculum Directors;
 - (D) Educators;
 - (E) Special education educators; and
 - (F) English Language Learners (ELL) educators;
 - (b) Post-secondary education institutions; and
 - (c) Business partners who have expertise in:
 - (A) Assessment design;
 - (B) Assessment administration; or
 - (C) Use of assessments
 - (10) The State Board of Education shall make the determination to adopt the AESRP's recommended assessment options, and achievement standards for the purpose of conferring high school diplomas and modified

diplomas. The determination of the State Board of Education will be final and not subject to appeal.

- (11) The ODE shall issue the State Board of Education's intentions regarding the AESRP's recommendations by December 15 of each year and formal notice of the State Board of Education's final determination regarding the AESRP's recommendations by March 1 of each year as an addendum to the Test Administration Manual, which the ODE shall issue by August 1 of each year.
- (12) School districts and public charter schools shall adhere to the requirements set forth in the Test Administration Manual to:
 - (a) Administer;
 - (b) Score;
 - (c) Manage; and
 - (d) Document the district and school assessments of students' proficiency in the Essential Skills required to receive a high school diploma or a modified diploma.
- (13) School districts and public charter schools shall establish conduct and discipline policies addressing student-initiated test impropriety.
- (14) School districts and public charter schools shall allow students to use assessment options and achievement standards adopted by the State Board of Education in a student's ninth through twelfth grade years as follows:
 - (a) Students may demonstrate proficiency in the Essential Skills using assessment options adopted in their ninth through twelfth grade years.
 - (b) Students may use achievement standards adopted in their 9th through 12th grade years that are equal to or lower than the achievement standards approved as of March 1 of the students' 8th grade year.
- (15) Districts may develop and administer a local assessment option for students to demonstrate proficiency in the Essential Skills, using established professional and technical standards in place of the assessment options adopted by the State Board of Education as described in section 14 of this rule. Districts that choose this option are required to publish:
 - (a) A communication strategy to ensure stakeholders are notified of the district's approach to the local assessment option; and
 - (b) Materials written in plain language that contain descriptions of the:
 - (A) Purpose of the assessment;
 - (B) Scoring methodology;
 - (C) Method by which students and parents will receive results from the assessment;
 - (D) Criteria for determining student proficiency using the assessment; and
 - (E) Criteria for determining which students will have access to the assessment
- (16) The ODE shall publish the subset of Essential Skills assessment options and the associated performance levels which may be used by each of Oregon's post-secondary institutions as defined by those institutions' policies provided to the ODE by October 15 of each year.
- (17) The Essential Skills identified by the State Board of Education as of July 1, 2008 are as follows:
 - (a) Read and comprehend a variety of text;
 - (b) Write clearly and accurately;
 - (c) Apply mathematics in a variety of settings;
 - (d) Listen actively and speak clearly and coherently;
 - (e) Think critically and analytically;
 - (f) Use technology to learn, live, and work;
 - (g) Demonstrate civic and community engagement;
 - (h) Demonstrate global literacy; and
 - (i) Demonstrate personal management and teamwork skills.
- (18) School districts and public charter schools shall include one or more local performance assessments for grades 3 through 8 and for high school for each of the following skill areas:
 - (a) Writing;
 - (b) Speaking;
 - (c) Mathematical problem-solving; and
 - (d) Scientific inquiry.
- (19) School districts and public charter schools may include one social science analysis worksample that is administered in accordance with school district or public charter school policies as a local performance assessment for grades 3 through 8 and for high school.
- (20) For students on an Individualized Education Plan (IEP) or 504 Plan, if a student's IEP or 504 Team determines that the nature of a student's disability prevents the student from demonstrating proficiency in an Essential Skill using any of the approved assessment options listed in the Test Administration Manual, the student's IEP Team may exempt the student from the requirement as listed in the Test Administration Manual and

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determine an appropriate replacement assessment option for the student to use that addresses the Essential Skill in a manner that is consistent with:

- (a) The student's instructional plan; and
- (b) The state assessment criteria adopted by the State Board of Education.

(21) For students seeking a modified diploma, school districts and public charter schools may modify the assessment options adopted by the State Board of Education when the following conditions are met:

- (a) For students on IEP or 504 Plans:

(A) School districts and public charter schools must comply with all requirements established by the student's IEP or 504 Plan when implementing modifications for work samples;

(B) School districts and public charter schools must comply with OAR 581-022-2100 section (4)(d) when implementing modifications for a statewide assessment.

- (b) For students not on IEP or 504 Plans:

(A) School districts and public charter schools may only implement modifications for work samples that are consistent with the modifications the student has received during instruction in the content area to be assessed in the year in which the work sample is administered.

(B) School districts and public charter schools must obtain approval from the school team responsible for monitoring the student's progress toward the modified diploma before implementing modifications for work samples.

(C) Consistent with OAR 581-022-2100, school districts and public charter schools may not implement modifications for statewide assessments for students who are not on an IEP or 504 Plan.

Stat. Auth.: ORS 329.451, 338.025, 339.115 & 339.505

Stats. Implemented: 329.045, 329.075, 329.451, 329.485 & 338.115

Hist.: ODE 17-2008, f. & cert. ef. 6-27-08; ODE 10-2009(Temp), f. & cert. ef. 9-1-09 thru 2-28-10; ODE 19-2009, f. & cert. ef. 12-10-09; ODE 8-2011, f. & cert. ef. 7-1-11; Renumbered from 581-022-0615 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2120

Essential Skill Assessments for English Language Learners

- (1) Definitions. As used in this rule:

(a) "Assessment option" means an assessment approved to assess proficiency in the Essential Skills for the purpose of earning a high school diploma or a modified diploma.

(b) "English Language Learner" (ELL) means a student who meets the definition of "Limited English Proficient" found in Title IX, Part A, Section 9101.25 of the No Child Left Behind Act of 2001 (NCLB).

(c) "Essential Skills" means process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings.

- (d) "Qualified Rater" means any individual who is:

(A) Trained to a high degree of proficiency in scoring the assessment administered to the student; and

(B) Endorsed by the school district or public charter school, consistent with local school board policy, as proficient in the student's language of origin for the purposes of accurately scoring the student's work in the student's language of origin.

(2) Consistent with OAR 581-022-2115, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in the Essential Skill of "Apply mathematics in a variety of settings" in the students' language of origin for those ELL students who by the end of high school:

- (a) Are on track to meet all other graduation requirements; and
- (b) Are unable to demonstrate proficiency in the Essential Skills in English.

(3) Consistent with OAR 581-022-2115, school districts and public charter schools must adopt a policy whether to allow ELL students to demonstrate proficiency in Essential Skills other than "Apply mathematics in a variety of settings" in the students' language of origin for those ELL students who by the end of high school:

- (a) Meet the criteria in Section 2(a)–(b) of this rule;
- (b) Have been enrolled in a U.S. school for five (5) years or less; and
- (c) Have demonstrated sufficient English language skills using an English language proficiency assessment option that is approved by the State Board of Education. ODE will issue final notice of the State Board of Education's adoption of English language proficiency assessment in the Essential Skills and Local Performance Assessment Manual.

(4) If a school district or public charter school adopts a policy allowing ELL students to demonstrate proficiency in the Essential skills in the students' language of origin under Sections 2 and 3 of this rule, that policy must include the following:

(a) Development of a procedure to provide assessment options as described in the Essential Skills and Local Performance Assessment Manual in the ELL students' language of origin for those ELL students who meet the criteria in Section 2(a)–(b) of this rule.

(b) Development of a procedure to ensure that locally scored assessment options administered in an ELL student's language of origin are scored by a qualified rater.

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.045, 329.075 & 329.485

Hist.: ODE 18-2010, f. & cert. ef. 12-17-10; ODE 22-2016, f. & cert. ef. 3-22-16; Renumbered from 581-022-0617 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2205

Policies on Reporting of Child Abuse

(1) Each school board shall adopt policies applicable to all school district employees, specifying that child abuse by school employees is not tolerated and that all school employees report suspected child abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015 and report suspected child abuse to the employees' supervisors or other persons designated by the school board.

- (2) The policy must:

(a) Designate a person to receive reports of suspected child abuse by school employees and specify the procedures to be followed by that person upon receipt of a report;

(b) Require the posting in each school building of the name and contact information for the person designated for the school building to receive reports of suspected child abuse by school employees and the procedures the person will follow upon receipt of a report;

(c) Specify that the initiation of a report in good faith about suspected child abuse may not adversely affect any terms or conditions of employment or the work environment of the complainant;

(d) Specify that the school board or any school employee will not discipline a student for the initiation of a report in good faith about suspected child abuse by a school employee;

(e) Require notification by the school district to the person who initiated the report about actions taken by the school district based on the report;

(f) Require a written procedure for the reporting of child abuse by school employees in accordance with ORS 339.375; and

- (g) Require a written procedure for providing annual training for:

(A) School employees each school year on the prevention and identification of child abuse and on the obligations of school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board to report child abuse;

(B) Parents and legal guardians of children who attend a school operated by the school board. The training shall be on the prevention and identification of child abuse and on the obligations of school employees under ORS 419B.005 to 419B.050. The training shall be provided separately from the training provided to school employees under paragraph (A) of this subsection.

(C) Children who attend a school operated by the education provider. The training shall be designed to prevent child abuse.

(3)(a) The school district shall maintain records of each reported incident of child abuse, action taken by the school district and any findings as a result of the report.

(b) A supervisor or other person designated by the school board in its policy who receives a report, shall follow the procedures required by the policy adopted by the school board under ORS 339.372 and this rule.

(c) Except as provided in paragraph (d) of this section, when a school district receives a report of suspected child abuse by one of its employees, and the school district determines that there is reasonable cause to support the report, the school district shall place the school employee on paid administrative leave until either:

(A) The Department of Human Services or a law enforcement agency determines that the report is unfounded or that the report will not be pursued; or

(B) The Department of Human Services or a law enforcement agency determines that the report is founded and the school district takes the appropriate disciplinary action against the school employee.

(d) If the Department of Human Services or a law enforcement agency is unable to determine, based on a report of suspected child abuse, whether child abuse occurred, an education provider may reinstate a school employee placed on paid administrative leave under paragraph (c) of this subsection or may take the appropriate disciplinary action against the employee.

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(e)(A) Upon request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission, a school district shall provide the records of investigations of suspected child abuse by a school employee or former school employee.

(B) The disciplinary records of a school employee or former school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under 192.501 or 192.502. If a school employee is convicted of a crime listed in 342.143, the school district that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request. If a former school employee is convicted of a crime listed in 342.143, the education provider that was the employer of the former employee when the crime was committed shall disclose the disciplinary records of the former employee to any person upon request.

(C) Prior to disclosure of a disciplinary record under this paragraph, the school district shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school employee or former school employee who is not the subject of the disciplinary record.

Stat. Auth. ORS 326.051

Stats. Implemented: ORS 339.370, 339.372, 339.375, 339.377

Hist.: ODE 31-2008, f. 12-16-08, cert. ef. 12-19-08; Renumbered from 581-022-0711 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2210

Anabolic Steroids and Performance Enhancing Substances

(1) As used in this rule:

(a) "Anabolic steroid" includes any drug or hormonal substance chemically or pharmacologically related to testosterone, all prohormones, including dehydroepiandrosterone and all substances listed in the Anabolic Steroid Control Act of 2004. "Anabolic steroid" does not include estrogens, progestins, corticosteroids and mineralocorticoids.

(b) "Performance-enhancing substance" means a manufactured product for oral ingestion, intranasal application or inhalation containing compounds that:

(A) Contain a stimulant, amino acid, hormone precursor, herb or other botanical or any other substance other than an essential vitamin or mineral; and

(B) Are intended to increase athletic performance, promote muscle growth, induce weight loss or increase an individual's endurance or capacity for exercise.

(c) "School district employee" means:

(A) An administrator, teacher or other person employed by a school district;

(B) A person who volunteers for a school district; and

(C) A person who is performing services on behalf of a school district pursuant to a contract.

(2) Each school district shall:

(a) Utilize evidence-based programs such as the Oregon Health and Science University's Athletes Training and Learning to Avoid Steroids (ATLAS) and Athletes Targeting Healthy Exercise and Nutrition Alternatives (ATHENA) for the reduction in anabolic steroid and performance-enhancing substance abuse by high school athletes.

(b) Ensure school district employees who are coaches or athletic directors receive training once every four years on identifying the components of anabolic steroids abuse and prevention strategies for the use of performance-enhancing substances.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 342.721 & 342.726

Hist.: ODE 22-2008, f. 8-28-08, cert. ef. 8-29-08; Renumbered from 581-022-0416 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2215

Safety of School Sports – Concussions

(1) As used in this rule:

(a) "Annual training" means once in a twelve month period.

(b) "Coach" means a person who instructs or trains members on a school athletic team and may be:

(A) A school district employee;

(B) A person who volunteers for a school district

(C) A person who is performing services on behalf of a school district pursuant to a contract.

(c) "Concussion" means exhibiting signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body.

(d) "Health care professional" means a medical doctor, osteopathic physician, psychologist, physician assistant or nurse practitioner licensed or certified under the laws of this state.

(e) "Proper medical treatment" means treatment provided by a licensed healthcare professional which is within their scope of practice.

(f) "Return to participation" means a student can rejoin the athletic event or training.

(g) "Training timeline" means every coach receives the training prior to the beginning of the season for the school athletic team they are specifically coaching.

(h) "Same day" means the same calendar day on which the injury occurs.

(2) Each school district shall:

(a) Develop a list of coaches.

(b) Identify which community (may include state or national) resources the district will use to provide the training as required in section (3) of this rule.

(c) Develop training timelines for coaches of all school athletic teams.

(d) Ensure coaches receive training once every twelve months.

(e) Develop a tracking system to document that all coaches meet the training requirements of this rule.

(f) Ensure no coach allows a member of a school athletic team to participate in any athletic event or training on the same calendar day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(g) Except as provided by subsection (3) in this section ensure no coach will allow a student who is prohibited from participating in an athletic event or training, as described in section (2)(f), to return to participate in an athletic event or training no sooner than the day after the student experienced a blow to the head or body. The student may not return to participate in an athletic event or training until the following two conditions have been met:

(A) The student no longer exhibits signs, symptoms or behaviors consistent with a concussion; and

(B) The student receives a medical release form from a health care professional.

(3) A coach may allow a member of a school athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers determines that the member has not suffered a concussion. The athletic trainer may, but is not required to, consult with a healthcare professional in making the determination that the member has not suffered a concussion.

(4) The training required of coaches under this rules shall include the following:

(a) Training in how to recognize the signs and symptoms of a concussion;

(b) Training in strategies to reduce the risk of concussions;

(c) Training in how to seek proper medical treatment for a person suspected of having a concussion; and

(d) Training in determination of when the athlete may safely return to the event or training.

Stat. Auth: ORS 336.485

Stats. Implemented: ORS 336.485

Hist.: ODE 13-2010, f. & cert. ef. 6-30-10; ODE 2-2011, f. 1-31-11, cert. ef. 2-1-11; ODE 29-2015, f. & cert. ef. 12-22-15; Renumbered from 581-022-0421 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2220

Health Services

(1) The school district shall maintain a prevention oriented health services program for all students which provides:

(a) Health care and space that is appropriately supervised and adequately equipped for providing first aid, and isolates the sick or injured child from the student body;

(b) Communicable disease control, as provided in Oregon Revised Statutes;

(c) Health screening information, including required immunizations and TB certificates, when required by ORS 433.260 and 431.110 and OAR 333-019-0405;

(d) Services for students who are medically fragile or have special health care needs;

(e) Integration of school health services with school health education programs and coordination with health and social service agencies, public and private;

(f) Vision and hearing screening;

(g) Compliance with OR-OSHA Bloodborne Pathogens Standards for all persons who are assigned to job tasks which may put them at risk for exposure to body fluids (ORS 1910-1030); and

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(h) Policy and procedures for medications, as per ORS 339.870.

(2) School districts shall adopt policies and procedures which consider admission, placement and supervision of students with communicable diseases, including but not limited to Hepatitis B (HBV), Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) (OAR 333-019-0015).

(3) School districts which employ nurses to provide health services shall employ persons currently licensed to practice as Registered Nurses or Nurse Practitioners in Oregon:

(a) School districts may employ Licensed Practical Nurses, providing that their practice is supervised by a Registered Nurse or Nurse Practitioner with the above stated qualifications;

(b) Job descriptions shall reflect assignments complying with the Oregon State Board of Nursing (OSBN) Scope of Practice Administrative Rules for all levels of licensed providers, OAR 851-450-0000 to 0010 and 851-050-0000 and 0005; and

(c) If school districts employ Registered Nurses or Nurse Practitioners who are not licensed by Teacher Standards and Practices Commission as school nurses, the district shall not designate such personnel as "school nurse" by job title as per ORS 342.475 and 342.495.

(4) Each school shall have, at a minimum, at least one staff member with a current first aid card for every 60 students enrolled, or an emergency response team per building consisting of no less than six persons who hold current first aid/CPR cards and who are trained annually in the district and building emergency plans.

(5) The school district shall have policies and/or administrative procedures concerning employees with communicable diseases, including but not limited to Hepatitis B (HBV), Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS).

(6) Each school building must have a written plan for response to medical emergencies; such plan should be articulated with general emergency plans for buildings and districts as required by OAR 581-022-2225.

Stat. Auth.: ORS 326 & 342

Stats. Implemented: ORS 326.051

Hist.: 1EB 19-1980, f. 6-17-80, ef. 9-1-80; 1EB 16-1981 (Temp), f. & ef. 11-3-81; 1EB 12-1982, f. & ef. 3-24-82; EB 21-1988, f. & cert. ef. 4-26-88; EB 17-1996, f. & cert. ef. 11-1-96; Renumbered from 581-022-0705 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2225

Emergency Plans and Safety Programs

The school district shall maintain a comprehensive safety program for all employees and students which shall:

(1) Include plans for responding to emergency situations.

(2) Specify general safety and accident prevention procedures with specific instruction for each type of classroom and laboratory.

(3) Provide instruction in basic emergency procedures for each laboratory, shop and studio, including identification of common physical, chemical, and electrical hazards.

(4) Require necessary safety devices and instruction for their use.

(5) Require that an accident prevention in service program for all employees be conducted periodically and documented.

(6) Provide assurance that each student has received appropriate safety instruction.

(7) Provide for regularly scheduled and documented safety inspections which will assure that facilities and programs are maintained and operated in a manner which protects the safety of all students and employees.

(8) Require reports of accidents involving school district property, or involving employees, students or visiting public, as well as prompt investigation of all accidents, application of appropriate corrective measures, and monthly and annual analyses of accident data and trends.

(9) In schools operated by the district that are occupied by students, the district must ensure that all students are instructed and have drills on emergency procedures in compliance with ORS 336.071. The emergency procedures shall include drills and instruction on:

(a) Fires;

(b) Earthquakes, which shall include tsunami drills and instruction in schools in a tsunami hazard zone; and

(c) Safety threats including procedures related to lockdown, lockout, shelter in place and evacuation and other appropriate actions to take when there is a threat to safety.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.071

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 28-2015, f. & cert. ef. 12-22-15; Renumbered from 581-022-1420 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2230

Asbestos Management Plans

(1) The statutory authority for this rule is the Asbestos Hazard Emergency Response Act of 1986 as amended by Public Law 100.368 and subsequent rule published in the Friday, October 30, 1987, Federal Register (40 CFR Part 763).

(2) Any public and private school that acquires or leases a school building after October 12, 1988 shall submit an Asbestos Management Plan to the Department of Education prior to occupancy.

(3) The Management Plan shall include all the elements contained in 40 CFR §763.93(e).

(4) General local education agency responsibilities (as stated in 40 CFR §763.84). Each local education agency shall:

(a) Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with Subpart E (40 CFR 763);

(b) Ensure that all custodial and maintenance employees are properly trained as required by Subpart E (40 CFR 763) and other applicable federal and/or state regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the EPA worker protection rule);

(c) Ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress; or

(d) Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are provided information regarding the locations of Asbestos Containing Building Material (ACBM) and suspected ACBM assumed to be Asbestos Containing Material (ACM);

(e) Ensure that warning labels are posted in accordance with §763.95;

(f) Ensure that management plans are available for inspection and notification of such availability has been provided as specified in the management plan under §763.93(g);

(g)(A) Designate a person to ensure that requirements of this section are properly implemented; and

(B) Ensure that the designated person receives adequate training to perform duties assigned under this section. Such training shall provide, as necessary, basic knowledge of:

(i) Health effects of asbestos;

(ii) Detection, identification, and assessment of ACM;

(iii) Options of controlling ACBM;

(iv) Asbestos management programs;

(v) Relevant federal and state regulations concerning asbestos, including those in Subpart E (40 CFR 763) and those of the Occupational Safety and Health Administration, U. S. Department of Labor, the U. S. Department of Transportation and the U. S. Environmental Protection Agency.

(h) Consider whether any conflict of interest may arise from the inter-relationships among accredited personnel and whether that should influence the selection of accredited personnel to perform activities under this subpart.

Stat. Auth.: ORS 363 & PL 100.368

Stats. Implemented: 40 CFR Part 763

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; Renumbered from 581-022-1430 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2250

District Improvement Plan

(1) For the purposes of OAR 581-022-2250 the following definitions apply:

(a) "Aligned with standards" means that the taught curriculum (what teachers teach), the learned curriculum (what students learn), and the assessed curriculum (what students are tested on) as identified through state and national academic standards do not deviate significantly one from another. This alignment includes four components:

(A) Content match — topical coverage, or comprehensiveness and level of detail

(B) Depth match — level of difficulty, or cognitive complexity

(C) Emphasis match — the relative duration of the instruction about each topic/standard within a subject

(D) Performance match — the type of performance required to demonstrate proficiency of the standard

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(b) "Data-driven" means the use of information available from a high quality data system to focus decisions regarding curriculum, instruction, staff assignment, and staff development to promote student achievement through a planned, systemic program improvement effort.

(c) "Family and community engagement" means a system of shared responsibility in which schools and other community agencies and organizations are committed to engaging families in meaningful and culturally respectful ways while families are committed to actively supporting their children's learning and development.

(d) "High quality data system" means a method by which teachers and administrators have access to data needed for instructional and administrative decision-making, one that makes available to the public appropriate data content and displays and provides for regular updates to the data, maintenance and upgrading of the system, and training for key personnel on use and maintenance. The collection and use of data in such a system would include district-, school-, and student-level data describing but not limited to:

- (A) Instruction;
- (B) Accountability;
- (C) Demographics;
- (D) Achievement; and
- (E) Assessment.

(e) "High quality instructional programs" means that teachers teach knowledge and skills through the use of an appropriate variety of instructional strategies reflecting best practice and based on state/national standards and assessments that effectively measure what the standards require. Such instruction is not universal but is situational based on instructional context.

(f) "Long-term professional development plans" means teacher training reflecting best practice as defined by national standards related to content, process, and context. Such training supports:

- (A) Continuing advancement of professional collaboration;
- (B) Ongoing, job-embedded experiences,
- (C) Standards-based instruction, and
- (D) Continual, guided reflection on school/student data a part of professional learning.

(g) "Rigorous curriculum" means multiple courses of study any one of which will prepare students to successfully meet the Oregon diploma requirements. These courses are cognitively demanding and challenging to students as those students apply the fundamental concepts and skills from various disciplines to real world problems in complex and open ended situations.

(h) "Safe educational environment" means a healthy, positive school climate free of drug use, gangs, violence, intimidation, fear, and shaming, ensuring the physical and emotional well-being and academic and social growth of every student.

(i) "Service plans for students" means a system of planned services outlining student educational activities, supporting students in meeting expectations for one or more content areas and continuing to academically challenge students who have exceeded expectations in one or more content areas.

(j) "Short-term professional development plans" means a component of a long term professional development plan with a direct connection with one or more of the following—individual continuing professional development plans; board, district or school goals; state certification criteria; or other regulatory mandates. Such plans may be responsive to emerging needs not yet addressed in long-term professional development plans.

(k) "Staff leadership development" means practices, policies, and procedures that create shared leadership opportunities and empower teacher participation in setting and achieving school goals and policies.

(l) "Strong school library program" means a planned effort to ensure the instruction of students, school staff, and the broader learning community in library skills, information literacy, and educational technology; such a program promotes a rich array of literacy experiences supporting life-long reading; facilitates collaboration in lesson planning and instruction; ensures equitable access to library resources and licensed school librarians; and develops and manages current, plentiful, and diverse library collections of print and electronic resources that support classroom curricula and student interests.

(2) Each school district shall conduct self-evaluations in order to develop and update their local district continuous improvement plans once every three years. Except as provided in subsection (3) of this rule, the department may not require school districts or schools to conduct self-evaluations or to update their local district continuous improvement plans more frequently than biennially.

(3) Each school district shall:

(a) Submit its local district continuous improvement plan to the Department of Education once every three years unless there are substantial changes.

(b) Notify the Department and update its local district continuous improvement plan when there has been a substantial change.

(c) Substantial change is defined as changes to:

- (A) School or district improvement status under state or federal law;
- (B) Student academic achievement;
- (C) Student demographics (including changes in excess of 10% in identified subgroups);
- (D) Instructional staffing (either counts of personnel or changes in individual staff);
- (E) Financial resources available to the district; or
- (F) The district's goals for student achievement.

(4) The self-evaluation process shall involve the public in the setting of local goals. The school district shall ensure that representatives from the demographic groups of their school population are invited to participate in the development of local district continuous improvement plans to achieve the goals.

(5) As part of setting local goals, school districts shall undertake a communications process that involves parents, students, teachers, school employees and community representatives to explain and discuss the local goals and their relationship to programs in the continuous improvement plan.

(6) At the request of the school district, department staff shall provide ongoing technical assistance in the development and implementation of the local district continuous improvement plan.

(7) The local district continuous improvement plan shall include:

- (a) A rigorous curriculum aligned with state standards;
- (b) High-quality instructional programs;
- (c) Short-term and long-term professional development plans;
- (d) Programs and policies to achieve a safe educational environment;
- (e) A plan for family and community engagement;
- (f) Staff leadership development;
- (g) High-quality data systems;
- (h) Improvement planning that is data-driven;
- (i) Education service plans for students who have or have not exceeded all of the academic content standards;
- (j) A strong school library program;
- (k) A review of demographics, student performance, staff characteristics and student access to, and use of, educational opportunities; and
- (l) District efforts to achieve local efficiencies and efforts to make better use of resources.

(8) Each school district shall annually review and report test results and progress on the district improvement plan to the community.

(9) Each school district shall maintain copies of the school and district improvement plans as a public record.

(10) Each school district shall submit the district improvement plan to the Department of Education when requested.

Stat. Auth.: ORS 326.051 & 329.095

Stats. Implemented: ORS 326.051 & 329.095

Hist.: 1EB 19-1980, f. 6-17-80, ef. as follows: Section (1) 9-1-80; Sections (2), (4), (5) 9-1-81; Section (3) 7-1-80; 1EB 26-1980, f. 11-7-80, ef. as follows: Sections (1) and (3) 9-1-81; Sections (2), (4) and (5) 9-1-82; 1EB 21-1986, f. & ef. 7-2-86; EB 38-1990, f. & cert. ef. 7-10-90; EB 15-1996, f. & cert. ef. 9-26-96; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 38-2013, f. & cert. ef. 12-18-13; Renumbered from 581-022-0606 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2255

School and District Performance Report Criteria

(1) The Superintendent of Public Instruction will annually collect data and produce annual school district and school performance reports to provide information to parents and to improve schools.

(2) The Superintendent will notify the public and the media by December 15 of each year that school and district performance reports are available at each school and school district and at the Department of Education website and office.

(3) Each school and school district report shall contain the information required by this rule. By January 15 of each year, school districts shall make a copy of the state provided school and school district performance report available to the parent(s) or guardian(s) of each child enrolled in a public school in the school district by doing one or more of the following:

- (a) Mailing a copy;
- (b) Electronically sending a copy; or
- (c) Providing a link to a state or district web site containing the reports and also making copies available in local schools, libraries, parents centers,

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community centers, or other public locations easily accessible to parents and others.

(4) School performance reports will include ratings assigned by the Superintendent. School ratings shall be reported in terms of five levels.

(5) The school rating system will be based upon the following indicators:

- (a) Achievement in reading and mathematics.
- (b) Growth in reading and mathematics.
- (c) Growth for underserved subgroups of students.
- (d) Student participation rates in reading and mathematics.

(6) In addition to the indicators listed in subsection (5) of this section, for schools that are high schools or that offer grades 9, 10, 11 or 12 as part of the schools the rating system will also include the following indicators:

- (a) Graduation rates for all students.
- (b) Graduation rate for underserved subgroups.

(7) School performance reports may include information other than that listed in ORS 329.105 or sections (4), (5) and (6) of this rule. Such information will not be part of the calculation of the school rating.

(8) School district performance reports will be developed and must include the overall rating of each school in the district. The district performance report may include information other than that listed in ORS 329.105 or section (4) of this rule.

(9) School and school districts may include information in addition to that listed in ORS 329.105 or sections (4) and (5) of this rule in their locally prepared and distributed school and school district performance reports.

(10) School and school district performance reports, in conjunction with electronic supplements of the performance reports, will serve as the means by which the state meets the report card requirements of section 1111 of the Elementary and Secondary Education Act of 1965 (ESEA).

(11) The Superintendent shall produce a Policy and Technical Manual to provide school districts and schools with details of the data elements and calculations used the district and school performance reports. The Superintendent shall make the manual available to districts and schools.

Stat. Auth.: ORS 326.051 & 329.075
Stats. Implemented: ORS 329.105
Hist.: ODE 36-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 5-2007, f. & cert. ef. 2-21-07; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 4-2009, f. & cert. ef. 6-29-09; ODE 17-2011, f. 12-15-11, cert. ef. 1-1-12; ODE 13-2013, f. & cert. ef. 7-11-13; Renumbered from 581-022-1060 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2260

Records and Reports

(1) Required Records and Reports: The school district shall provide all records and reports required by the Oregon Department of Education.

(2) Student Activity Funds: The school district shall prescribe the purposes for which student activity funds may be obtained and used and the role of students in management and expenditure of funds.

(3) Education Records of Students: The school district shall maintain education records of students according to the provisions of OARs 581-021-0210 through 581-021-0440.

(4) ESD Annual Report: Pursuant to the requirements and review schedule as set out in OAR 581-024-0228 and ORS 334.125 (9), all school districts shall cooperate with their education service district in:

- (a) Annually reviewing specific school district operations for purposes of achieving economies and efficiencies; and
- (b) Preparing and submitting an annual report concerning the results of the annual review to the State Board of Education.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 334.125(9)
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 3-1999, f. & cert. ef. 1-12-99; Renumbered from 581-022-1660 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2265

Report on PE Data

(1) The following definitions apply to this rule:

(a) "Additional facilities" means the added space to the school needed to provide the minimum number of minutes of physical education instruction per week.

(b) "Number of minutes" means the number of minutes of physical education instruction that is actually provided to all students kindergarten through grade 8 each school week.

(c) "Physical capacity" means the space, indoors and out, available at the school to provide the prescribed number of minutes per at a class size that promotes effective practices consistent with the outcomes expected of the instructional programs.

(2) The Department of Education shall collect from school districts:

(a) The number of minutes of physical education that are provided to students in kindergarten through grade 8 each school week in each public school within the district;

(b) The physical capacity of public schools to provide students in kindergarten through grade 5 with at least 150 minutes of physical education during each school week and to provide students in grades 6 through 8 with at least 225 minutes of physical education during each school week; and

(c) The additional facilities required by public schools to provide physical education to students for the minimum number of minutes as described in paragraph (b) of this subsection.

(3) The department shall collect the data described in paragraph (2) of this section:

(a) Annually, for data described in paragraph (2)(a) of this section.

(b) Whenever a public school increases or decreases the school's physical capacity to provide students with physical education, for data described in paragraph (2)(b) and (c) of this paragraph.

(4) Prior to February 1 of each odd-numbered year, the Department shall report to the Legislative Assembly on the data collected under this rule for the prior two school years.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 329.498
Hist.: ODE 30-2007, f. & cert. ef. 12-12-07; ODE 42-2014, f. & cert. ef. 12-4-14; Renumbered from 581-022-1661 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2270

Individual Student Assessment, Recordkeeping and Reporting

(1) As used in this rule:

(a) "Continuum of knowledge and skills" means the Oregon Academic Content Standards.

(b) "Proficiency" means demonstrated knowledge and skills which meet or exceed defined levels of performance.

(2) Each school district shall assess and record each student's progress and achievement in all subject areas of instruction and to academic content standards consistent with ORS 329.045 and OAR 581-022-2030:

(a) At a minimum, provide all teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects with student performance data, including growth data on their current students and students they taught in the previous year in a manner that is timely and informs instructional programs.

(b) Instruments and/or strategies used to determine student progress may assess multiple standards;

(c) Results from the assessment instruments and/or strategies may be used as a record of achievement level; and

(d) Records of student performance may be kept in teacher grade books, student folders, portfolios, or similar devices.

(3) Each school district shall assist teachers in adapting instruction and curriculum to meet the needs and learning rates of all students in achieving proficiency in the academic content standards. Districts must:

(a) Provide multiple opportunities for students to demonstrate mastery of academic content standards through sufficient and appropriate assessment evidence.

(b) Continue to provide opportunities for students who have met standards to advance their learning.

(c) Provide students who have not met or have exceeded the academic content standards with access to additional services and other public school or alternative educational options.

(4) Each school district shall annually report progress towards completion of diploma requirements to parents of students in grades 9–12, including credits earned, demonstration of extended application, and demonstration of the Essential Skills.

(5) Each school district shall adopt a grading system based on the local district board adopted course content aligned to the academic content standards consistent with Section (2) of this rule. The grading system shall:

(a) Clearly show the student and parents whether the student is achieving course requirements at the student's current grade level;

(b) Be based on the student's progress toward becoming proficient in a continuum of knowledge and skills; and

(c) Assure that the student's academic grade reflects his/her academic performance consistent with OAR 581-021-0022; behavioral performance shall be reported separately.

(6) Each school district shall report at least annually on student progress to meeting or exceeding grade-level academic content standards to parents or guardians of all students in grades K–12 including, but not limited to, the following:

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(a) Information on progress in each subject area (e.g., grades, checklists, folders, etc.) including major goals used to determine such information;

(b) Upon request from a parent or guardian, specific evidence of student progress on the continuum of knowledge and skills (academic content standards) of a subject area and

(c) Student scores on all state and local assessments indicating any of the requirements that have been waived for the school district or the individual and the time periods for the waiver.

(7) Each school district shall maintain student records under the student's legal name and SSID or establish a cross-reference system to locate the student's records by use of the student's legal name, for time periods consistent with state archive rules as outlined in OAR 166-400-0060.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 18-2002, f. & cert. ef. 6-10-02; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 7-2013, f. & cert. ef. 2-20-13; Renumbered from 581-022-1670 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2300 Standardization

(1) A school district, to be standard, must provide acceptable educational opportunities for all Oregon students who reside in the district regardless of where they live in the district.

(2) Local school districts shall cooperate with procedures to verify compliance with state standards, to collect information about schools, to identify exemplary performance, and to promote school improvement.

(3) Methods of verifying compliance and identifying practices or conditions needing improvement shall include:

(a) Assurances of the district school board designated chief administrative officer;

(b) Review of district materials through Department of Education desk audit;

(c) On-site review of practices or conditions; and

(d) Other methods selected by the Superintendent of Public Instruction.

(3) The Superintendent or a designee of the superintendent shall declare a school district as "Nonstandard" as defined in OAR 581-022-0102, after verification through the methods described in section (2) of this rule.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051 & 327.103
Hist.: 1EB 3-1985, f. 1-4-85, ef. 1-7-85; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-0807 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2305 Operating Policies and Procedures

(1) Districts must comply with the state standards set forth in OAR chapter 581, division 22.

(2) Districts must maintain evidence of compliance with the state standards and make such evidence available upon request.

(3) Districts must report compliance with state standards:

(a) To the community by January 15 of each school year; and

(b) To the Department of Education, annually, on a form to be provided by the Department of Education.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 46-2014, f. & cert. ef. 12-17-14; Renumbered from 581-022-1610 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2310 Equal Education Opportunities

(1) Each district school board shall adopt written policies, and the school district shall implement in each school, programs which assure equity, opportunity and access for all students as provided in OAR 581-021-0045 and 581-021-0046.

(2) Each district school board shall adopt a policy in accordance with ORS 339.356 prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 659.150 & 339.356
Hist.: EB 1-1997, f. & cert. ef. 3-12-97; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-1140 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2315 Special Education for Children with Disabilities

Each school district shall provide an educational program for all resident children with a disability who are eligible under ORS Chapter 343.

The program shall be carried out in accordance with all applicable Oregon Administrative Rules.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 343.041
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-1340 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2320 Required Instructional Time

(1) Each school district shall ensure that at least 92% of all students in the district and at least 80% of all students at each school operated by the district are scheduled to receive annually the following minimum hours of instructional time:

- (a) Grade 12 — 966 hours;
- (b) Grades 9–11 — 990 hours; and
- (c) Grades K–8 — 900 hours.

(2) If a school district chooses to offer less than 900 hours of instructional time for kindergarten students, the kindergarten program shall be considered a half-day program for purposes of ORS 327.006(1) and the school district shall ensure that every kindergarten student is scheduled to receive a minimum of 450 hours of instructional time per year.

(3) Upon approval by the local school board, a district may include in its calculation of instructional time required by subsection (1) of this rule the following:

- (a) For kindergarten programs offering 900 hours or more of instructional time, up to 60 hours of recess;
- (b) For kindergarten programs offering less than 900 hours of instructional time, up to 30 hours of recess;
- (c) For grades 1–3, up to 60 hours of recess;
- (d) Up to 30 hours for staff professional development;
- (e) Up to 30 hours for parent teacher conferences; and
- (f) For the 2015–16 school year, up to 14 hours for emergency school closures due to adverse weather conditions and facilities failure.

(4) For students participating in online instruction:

(a) Instructional time includes online instruction supported by a licensed or registered teacher through electronic means.

(b) For online instruction, up to one hour per course per day may be counted as instructional time where the following criteria are met:

(A) Every student has access to a licensed or registered teacher through in-person, telephone, or electronic means for each course taken; and

(B) Every student has regular contact with school personnel for the purpose of attendance and progress monitoring as outlined in the policies maintained by the Oregon Department of Education.

(c) Instructional time may not be claimed for weekends or holidays, per ORS 336.010 and 187.010, or any other day during which a licensed or registered teacher is not available to students.

(5) There shall be no fewer than 265 consecutive calendar days between the first and last instructional day of each school year at each grade level.

(6) No student shall be required to exceed the following number of instructional hours per day:

- (a) Grades 9–12 — 8.5 hours;
- (b) Grades K–8 — 8 hours.

(7) The minimum instructional hours requirement set forth in subsection (1) of this rule shall first apply to the 2015–16 school year but full compliance shall be phased in over a period of four school years. A school district will be in compliance with the requirements of subsection (1) of this rule if the following benchmarks are met:

(a) For the 2015–16 school year, at least 80% of all students in the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(b) For the 2016–17 school year, at least 85% of all students in the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(c) For the 2017–18 school year, at least 90% of all students in the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(d) For the 2018–19 school year, at least 92% of all students in the district and at least 80% of all students at each school operated by the district must be scheduled to receive the minimum hours of instructional time set forth in subsection (1) of this rule.

(8) The State Board of Education shall conduct a public hearing and board discussion relating to instructional time at the 2016, 2017 and 2018 January board meetings. The purpose of the public hearing will be to receive information about and consider the implementation and potential

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financial concerns relating to required instructional time, OAR 581-022-0102 (definition of instructional time) and 581-022-2025 (credit options).

Stat. Auth.: ORS 326.011 & 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 2-2015, f. 1-30-15, cert. ef. 7-1-15; Renumbered from 581-022-1620 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2325

Identification of Academically Talented and Intellectually Gifted Students

(1) Each school district shall have local district policies and procedures for the identification of talented and gifted students as defined in ORS 343.395 who demonstrate outstanding ability or potential in one or more of the following areas:

(a) General intellectual ability as commonly measured by measures of intelligence and aptitude.

(b) Unusual academic ability in one or more academic areas.

(2) The policies and procedures must meet the following requirements:

(a) Districts shall use research based best practices to identify students from underrepresented populations including: ethnic minorities, students with disabilities, students who are culturally and/or linguistically diverse, or economically disadvantaged.

(b) A team shall make the final decisions on the identification of students using the information collected under paragraphs (c) and (d) of this section. No single test, measure or score shall be the sole criterion. A record of the team's decision, and the data used by the team to make the decision, shall become part of the education record for each student considered.

(c) Districts shall collect behavioral, learning and performance information and include the information in all procedures for the identification of students.

(d) The following measures and criteria for identifying the intellectually gifted and the academically talented shall be used by the team:

(A) Intellectually gifted students shall score at or above the 97th percentile on a nationally standardized test of mental ability; and

(B) Academically talented students shall score at or above the 97th percentile on a test of total reading or a test of total mathematics from a nationally standardized test battery, a nationally standardized test of reading or mathematics, or a test of total English Language Arts/Literacy or total mathematics on the Smarter Balanced Assessment.

(e) Despite a student's failure to qualify under paragraphs (d) (A) and (B) of this subsection, districts, by local policies and procedures, shall identify students who demonstrate the potential to perform at the 97th percentile.

(3) School districts may identify additional students who are talented and gifted as defined in ORS 343.395, as determined by local district policies and procedures, if the students demonstrate outstanding ability or potential in one or more of the following areas:

(a) Creative ability in using original or nontraditional methods in thinking and producing.

(b) Leadership ability in motivating the performance of others either in educational or non-educational settings.

(c) Ability in the visual or performing arts, such as dance, music or art.

Stat. Auth.: ORS 343.391 - 343.413

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 6-2009, f. & cert. ef. 6-29-09; ODE 23-2016, f. & cert. ef. 4-7-16; Renumbered from 581-022-1310 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2330

Rights of Parents of TAG Students

In carrying out the requirements of OAR 581-022-2325 and OAR 581-022-2500, the school district shall:

(1) Inform parents at the time of the identification of the child and the programs and services available.

(2) Provide an opportunity for the parents to provide input to and discuss with the district the programs and services to be received by their child.

(3) The parents may, at any time, request the withdrawal of their child from programs and services provided under OAR 581-022-2330. The school district shall notify parents of identified students of this right.

(4) Parents shall be informed of their right to file a complaint under OAR 581-002-0040.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 343.391 - 343.413

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; Renumbered from 581-022-1320 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2335

Daily Class Size

A school district shall maintain class sizes and teacher assignments which promote effective practices consistent with the outcomes expected of each instructional program.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-1630 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2340

Media Programs

(1) School District Media Services: The school district shall provide a coordinated media program. The district shall:

(a) Adopt Program goals for:

(A) Media instruction for all grade levels; and

(B) Support services.

(b) Provide appropriate instructional facilities, materials, equipment, and services which support the school district, program and course goals;

(c) Assign responsibilities to certificated media specialists and other personnel for the development, implementation, maintenance, and supervision of media services;

(d) Organize media services and materials required for the achievement of district and building media program goals; and

(e) Evaluate district and school media programs.

(2) School Media Services: The school district shall provide in each school a media program consistent with district, program and course goals which:

(a) Provides an organized media center with materials, equipment and services supervised by appropriate certificated personnel;

(b) Identifies instructional activities designed to achieve media skills goals; and

(c) Includes instruction that addresses the ability of each student to:

(A) Locate and retrieve organized print and nonprint media;

(B) Use media to record and express ideas and knowledge; and

(C) Listen to, view, interpret and analyze media materials.

(3) In determining whether the assignment of certificated media and other staff is appropriate, the following shall be considered:

(a) The district, program and course goals of the media services program;

(b) The number of schools, students and staff to be served;

(c) The access students and staff have to media services defined in the media program;

(d) The number, certification and training of personnel assigned to media program responsibilities including specialists, teachers and aides;

(e) The extent to which staffing patterns vary from general statewide practice; and

(f) The extent to which the media program enables students to attain instructional goals.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; Renumbered from 581-022-1520 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2345

Auxiliary Services

(1) Pupil Transportation Services: Pupil transportation provided by the school district shall comply with all applicable Oregon Revised Statutes and Oregon Administrative Rules.

(2) School Food Services: A school district operating a reimbursed student food service program shall comply with State Board of Education and State Health Division rules.

(3) Custodial Services: The school district shall maintain buildings and grounds to provide conditions conducive to health and safety of all persons and in accordance with all applicable Oregon Revised Statutes and Oregon Administrative Rules.

(4) Facilities: The school district shall provide physical facilities which are appropriate to instructional and support program activities.

(5) Equipment and Materials: The school district shall provide furniture, equipment and materials appropriate to instructional and support program activities.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; Renumbered from 581-022-1530 by ODE 16-2017, f. & cert. ef. 7-5-17

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581-022-2350

Independent Adoptions of Instructional Materials

Without prior notice to the State Board of Education, the district school board of any school district, with the assistance of teachers and administrators of the district, may adopt independently instructional materials for use in place of or in addition to those adopted by the Board, provided they meet the guidelines and criteria established by the Board. The district school board shall involve parents and citizens in the process. Such district adoptions shall be known as independent adoptions. In order to give proper notification that an independent adoption is being made, the administrative head of the district must provide the district school board, prior to placing the instructional materials into use in the local schools, the following information:

- (1) The subject, category, and grade level(s) in which the instructional materials will be used;
- (2) The title of the instructional materials;
- (3) The publisher of the instructional materials;
- (4) The copyright date of the instructional materials;
- (5) The date on which the district intends to install the instructional materials for use in the school system; and
- (6) A statement that a completed criteria checklist showing the degree to which the instructional materials meet the criteria established by the State Board of Education is on file in the district office. (Criteria checklists for the specific subject/category are available from the Department of Education.)
- (7) A statement of assurance that the independently adopted instructional materials will comply with the most current National Instructional Materials Accessibility Standard (NIMAS) specifications regarding accessible instructional materials.

Stat. Auth.: ORS 337.050(2) & 337.141

Stats. Implemented: ORS 337.120 & 337.141

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; 1EB 19-1982, f. & ef. 11-23-82; EB 2-1991, f. & cert. ef. 2-28-91; EB 21-1991(Temp), f. 10-30-91, cert. ef. 11-1-91; EB 30-1991, f. & cert. ef. 12-18-91; ODE 10-2001, f. & cert. ef. 5-15-01; Renumbered from 581-011-0085, ODE 25-2008, f. & cert. ef. 9-26-08; ODE 3-2009, f. & cert. ef. 6-29-09; ODE 22-2012, f. & cert. ef. 8-1-12; Renumbered from 581-022-1622 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2355

Instructional Materials Adoption

(1) For each program and course in grades K-12, each school district, on a cycle established by the State Board of Education, shall select and provide students with free appropriate instructional and resource materials produced in accordance with the National Instructional Materials Accessibility Standard (NIMAS). These materials shall contribute to the attainment of district, program, and course or grade level goals and reflect recent knowledge, trends, and technology in the field. The school district process for selecting and adopting instructional materials shall include opportunities for citizen and parent involvement.

(2) The school district process must identify whether the district coordinates with the National Instructional Materials Access Center (NIMAC) when purchasing print materials under OAR 581-022-2350 and 581-022-2360.

(3) Districts that do not coordinate with NIMAC must provide instructional materials to persons who are blind and persons with print disabilities in accessible formats under 581-015-2060.

(4) Sufficient quantities, including those produced in alternate formats and those that cannot be produced from NIMAS files, shall be available in a timely manner to accommodate the number of students who will be using them at any one time. A timely manner means the materials are available at the same time materials are available for students who do not need materials in alternate formats.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 337.150

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 11-1998, f. & cert. ef. 6-23-98; ODE 13-2007, f. 4-25-07, cert. ef. 4-27-07; ODE 3-2009, f. & cert. ef. 6-29-09; Renumbered from 581-022-1640 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2360

Postponement of Purchase of State-Adopted Instructional Materials

If a district seeks to postpone regular purchase of state-adopted materials as required by ORS 337.120, it shall submit an application to the Department which shall include:

- (1) The reason for seeking postponement;
- (2) The subjects or categories for which postponement is sought;
- (3) The projected dates for purchase and implementation of new instructional materials which shall not be later than two years from the beginning of the school year following the state adoption;

(4) Identification of the instructional materials to be used during the postponement;

(5) Assurance that the postponement will not delay future purchases in other subject areas; and

(6) Local school board approval of the application and the date of such approval.

Stat. Auth.: ORS 337.120

Stats. Implemented: ORS 337.120

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 3-2009, f. & cert. ef. 6-29-09; Renumbered from 581-022-1650 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2370

Complaint Procedures

(1) Each school district must establish a process for the prompt resolution of a complaint by a person who resides in the district or by any parent or guardian of a student who attends school in the school district.

(2) A school district's complaint procedure must:

(a) Be in writing available at the main administrative office and, if the school district has a website, in a form available on the home page of the school district's website;

(b) Include the name of the person, position, or office within the school district with the responsibility for responding to the complaint; and

(c) Specify the time period during which the complaint will be addressed and a final decision issued. If the complaint procedure has multiple steps, the procedure must establish the time period for each step as well as the overall time period for completing the complaint procedure.

(3) A school district's complaint procedure may:

(a) Distinguish between those complaints that may be appealed under OAR 581-002-0040 and other complaints;

(b) Offer mediation or other alternative dispute resolution processes as an option available if all parties to the complaint agree in writing to participate;

(c) Impose a time limitation for filing a complaint that is the later of either:

(A) Two years after the alleged violation or unlawful incident occurred or the complainant discovered the alleged violation or unlawful incident. For incidents that are continuing in nature, the time limitation must run from the date of the most recent incident; or

(B) One year after the affected student has graduated from, moved away from, or otherwise left the school district.

(d) Include more than one but no more than four steps for addressing the complaint.

(4) The procedure for hearing and acting on complaints alleging violation of the Oregon Administrative Rules, chapter 581, division 22 (division 22 Standards), ORS 339.285 to 330.303 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion), ORS 659.850 (Discrimination), or ORS 659.852 (Retaliation) must include the following:

(a) The point at which the district's decision is final; and

(b) A final decision in written or electronic form that addresses each allegation in the complaint and contains reasons for the district's decision and notifies the complainant that the district's decision may be appealed to the Deputy Superintendent of Public Instruction under OAR 581-002-0040.

(5) This rule applies to appeals filed with a school district on or after January 1, 2018.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103 & 326.051

Hist.: ODE 31-2007, f. & cert. ef. 12-12-07; ODE 9-2017, f. 6-29-17, cert. ef. 7-1-17; Renumbered from 581-022-1941; Renumbered from 581-022-1650 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2400

Personnel

(1) All teachers, specialists, and administrators employed by school districts must hold valid Oregon licenses and be assigned in accordance with the individual license district policies, program goals and applicable statutes and administrative rules.

(2) Any school district employing teacher aides shall follow applicable Oregon Administrative Rules.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-1710 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2405

Personnel Policies

(1) The school district shall adopt and implement personnel policies which address:

(a) Affirmative action;

(b) Staff development;

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- (c) Equal employment opportunity;
- (d) Evaluation procedures; and
- (e) Employee communication system.

(f) The requirement for releasing to Teacher Standards and Practices Commission, another district or any person upon request the disciplinary records of an employee or former school employee if the employee was convicted of one or more of the list of crimes addressed in ORS 342.143.

(2) Personnel policies shall be accessible to any school employee and notice of their availability to the general public shall be published:

(a) A current copy shall be accessible in each school office and library; and

(b) Any organization which represents employees of the district shall be furnished a copy and revisions as they are made.

(3) Bonded Employees: All employees responsible for funds, fees or cash collections shall be bonded in compliance with Oregon Revised Statutes and Oregon Administrative Rules.

(4) Employees for whom a teaching certificate is not required: The school district shall give to each such employee an individual written notice of reasonable assurance of continued employment as required by ORS 332.554.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08; ODE 21-2011, f. & cert. ef. 12-15-11; Renumbered from 581-022-1720 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2410

Teacher and Administrator Evaluation and Support

(1) A school district board shall include the core teaching standards and administrator standards adopted by the State Board for all evaluations of teachers and administrators of the school district occurring on or after July 1, 2013. The standards shall be customized based on the collaborative efforts of the teachers and administrators of the school district and the exclusive bargaining representative of the employees of the school district.

(2) The core teaching standards and administrator standards must:

(a) Take into consideration multiple measures of teacher and administrator effectiveness that encompass a range of appropriate teaching and administrative behaviors that use multiple evaluation methods that use multiple measures to evaluate teacher and administrator performance which may include, but are not limited to:

- (A) Student performance;
- (B) Student assessments;
- (C) Classroom-based assessments including observations, lesson plans and assignments;
- (D) Portfolios of evidence;
- (E) Supervisor reports; and
- (F) Self-reflections and assessments.

(b) Take into consideration evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, schools, and school districts;

- (c) Be research-based;
- (d) Be separately developed for teachers and administrators; and
- (e) Be customized for each school district, which may include individualized weighting and application of standards.

(3) Evaluations using the core teaching and administrator standards must attempt to:

(a) Strengthen the knowledge, skills, disposition and classroom and administrative practices of teachers and administrators in public schools;

(b) Refine the support, assistance and professional growth opportunities offered to a teacher or an administrator, based on the individual needs of the teacher and administrator and the needs of the students, the school and the school district;

(c) Allow each teacher or administrator to establish a set of classroom or administrative practices and student learning objectives that are based on the individual circumstances of the teacher or administrator, including the classroom or other assignments of the teacher or administrator;

(d) Establish a formative growth process for each teacher and administrator that supports professional learning and collaboration with other teachers and administrators; and

(e) Use evaluation methods and professional development, support and other activities that are based on curricular standards and that are targeted to the needs of each teacher and administrator.

(4) Local evaluation and support systems established by school districts for teachers and administrators must be:

(a) Designed with four performance level ratings of effectiveness as defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems;

(b) Based on significant consideration of student learning which may include but is not limited to:

(A) School-wide academic growth, as determined by the statewide assessment system implemented by the Department of Education under ORS 329.485;

(B) Formative and summative assessments; and

(C) For teachers, classroom-level student learning goals set collaboratively between teachers and evaluators.

(5) Local evaluation and support systems established by school districts must evaluate teachers and administrators on a regular cycle.

(6) District superintendents shall regularly report to their governing boards on implementation of their local evaluation and support systems and educator effectiveness.

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12; ODE 11-2015(Temp), f. & cert. ef. 7-15-15 thru 1-10-16; Administrative correction, 1-22-16; ODE 33-2016, f. & cert. ef. 5-5-16; ODE 13-2017, f. & cert. ef. 7-5-17; Renumbered from 581-022-1723 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2415

Core Teaching Standards

School districts shall use the core teaching standards to evaluate teacher effectiveness outlined in OAR 581-022-2410. Performances, essential knowledge and critical dispositions for each standard are contained within the Interstate Teacher Assessment and Support Consortium (InTASC) core teaching standards published at: http://www.ccsso.org/Documents/2011/InTASC_Stds_MS_Word_version_4_24_11.doc. The core teaching standards are the same standards adopted by the Teacher Standards and Practices Commission (TSPC) for initial and advanced teacher preparation. The standards include:

(1) The Learner and Learning

(a) Learner Development: The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. [InTASC Standard #1]

(b) Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. [InTASC Standard #2]

(c) Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. [InTASC Standard #3]

(2) Content

(a) Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. [InTASC Standard #4]

(b) Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. [InTASC Standard #5]

(3) Instructional Practice

(a) Assessment: The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. [InTASC Standard #6]

(b) Planning for Instruction: The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context. [InTASC Standard #7]

(c) Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. [InTASC Standard #8]

(4) Professional Responsibility

(a) Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. [InTASC Standard #9]

(b) Leadership and Collaboration: The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to

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collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession. [InTASC Standard #10]

Stat. Auth.: ORS 342.805–342.937

Stats. Implemented: OL 2011 § 2, Ch 729 (SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; Renumbered from 581-022-1724 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2420

Educational Leadership — Administrator Standards

School districts shall use the educational leadership–administrator standards to evaluate administrator effectiveness outlined in OAR 581-022-2410. These standards align with the Educational Leadership Constituents Council (ELCC) standards for Educational Leadership published at: <http://www.ncate.org/Standards/ProgramStandardsandReportForms/tabid/676/Default.aspx#ELCC> The knowledge and skill abilities required for each program standard are found within the full document of the standards. These standards are aligned with the Interstate School Leaders Licensure Consortium (ISLLC) published at: http://www.ccsso.org/Documents/2008/Educational_Leadership_Policy_Standards_2008.pdf. The educational leadership–administrator standards are the same standards adopted by the Teacher Standards and Practices Commission (TSPC) for administrator licensure. The standards include:

(1) Visionary Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by stakeholders. [ISLLC Standard 1]

(2) Instructional Improvement: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by sustaining a positive school culture and instructional program conducive to student learning and staff professional growth. [ISLLC Standard 2]

(3) Effective Management: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment. [ISLLC Standard 3]

(4) Inclusive Practice: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups. [ISLLC Standard 4]

(5) Ethical Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by acting with integrity, fairness, and in an ethical manner. [ISLLC Standard 5]

(6) Socio-Political Context: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. [ISLLC Standard 6]

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12; Renumbered from 581-022-1725 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2430

Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

All public school districts shall comply with the requirements for Fingerprinting of subject individuals as defined in and in compliance with OAR 581-021-0500.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 12-1998(Temp), f. & cert. ef. 6-23-98 thru 12-19-98; ODE 4-1999, f. & cert. ef. 1-12-99; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; ODE 3-2004, f. & cert. ef. 1-15-04; ODE 9-2006, f. & cert. ef. 2-21-06; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-1730 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2500

Programs and Services for Talented and Intellectually gifted Students

(1) Each school district shall have local district policies and procedures for the identification of talented and gifted students as defined in

ORS 343.395 who demonstrate outstanding ability or potential in one or more of the following areas:

(a) General intellectual ability as commonly measured by measures of intelligence and aptitude.

(b) Unusual academic ability in one or more academic areas.

(2) The policies and procedures must meet the following requirements:

(a) Districts shall use research based best practices to identify students from underrepresented populations including: ethnic minorities, students with disabilities, students who are culturally and/or linguistically diverse, or economically disadvantaged.

(b) A team shall make the final decisions on the identification of students using the information collected under paragraphs (c) and (d) of this section. No single test, measure or score shall be the sole criterion. A record of the team's decision, and the data used by the team to make the decision, shall become part of the education record for each student considered.

(c) Districts shall collect behavioral, learning and performance information and include the information in all procedures for the identification of students.

(d) The following measures and criteria for identifying the intellectually gifted and the academically talented shall be used by the team:

(A) Intellectually gifted students shall score at or above the 97th percentile on a nationally standardized test of mental ability; and

(B) Academically talented students shall score at or above the 97th percentile on a test of total reading or a test of total mathematics from a nationally standardized test battery, a nationally standardized test of reading or mathematics, or a test of total English Language Arts/Literacy or total mathematics on the Smarter Balanced Assessment.

(e) Despite a student's failure to qualify under paragraphs (d) (A) and (B) of this subsection, districts, by local policies and procedures, shall identify students who demonstrate the potential to perform at the 97th percentile.

(3) School districts may identify additional students who are talented and gifted as defined in ORS 343.395, as determined by local district policies and procedures, if the students demonstrate outstanding ability or potential in one or more of the following areas:

(a) Creative ability in using original or nontraditional methods in thinking and producing.

(b) Leadership ability in motivating the performance of others either in educational or non-educational settings.

(c) Ability in the visual or performing arts, such as dance, music or art.

Stat. Auth.: ORS 343.391 - 343.413

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 6-2009, f. & cert. ef. 6-29-09; ODE 20-2011, f. & cert. ef. 12-15-11; Renumbered from 581-022-1330 by ODE 16-2017, f. & cert. ef. 7-5-17

581-022-2505

Alternative Education Programs

(1) Sections (2)–(9) of this rule apply to each public or private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term “program” includes “school.”

(2) In order to provide innovative and more flexible ways of educating children, school districts may establish alternative education options within the public school system.

(3) School districts must adopt policies and procedures for the approval and at least annual evaluation of public and private alternative education programs under ORS 336.615-336.665 (Alternative Education Programs) that receive public funds. Those policies and procedures must provide that:

(a) The district's approval and at least annual evaluation must require that a public alternative program complies with all state statutes, rules and federal law applicable to public schools;

(b) Before contracting with or distributing any public school funds to a private alternative education program, the district must document that:

(A) The program is registered with the Oregon Department of Education (ODE) under the provisions of OAR 581-021-0072 by receiving a copy of the Department's written notice that the program's registration is approved for the current school year;

(B) The ODE has assigned the private alternative program an institution identification number;

(C) Before contracting with or distributing any public school funds to any private alternative education program for special education services identified in a child's IEP, the program is approved by the Department in compliance with OAR 581-015-2270;

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(D) The program complies with the individual education plan for each student who is eligible to receive special education services;

(E) An education plan and education profile that meet the requirements of OAR 581-022-2000 are designed and implemented with each student in the program;

(F) The education plan includes criteria for determining if, when, where, and how the student may transition from the alternative program;

(G) A transportation plan is in place ensuring that the program is accessible to each student approved for placement in the program;

(H) The program assists the district in meeting its comprehensive K-12 instructional program in compliance with OAR 581-022-2030;

(I) The program assures that it provides an instruction based on academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;

(J) The program assists students in earning diploma credits consistent with OAR 581-022-2000, 581-022-2010 and 581-022-2020;

(K) The program collects and reports to the district each student's local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

(L) Student data is included in the district's at least annual evaluation of the program;

(M) The program complies with federal law; and

(N) If applicable, the private alternative education program is in compliance with its existing district contract.

(4) The contract between a school district and a private alternative education program must state that non-compliance with a rule or statute under this rule (OAR 581-022-2505) will result in the termination of the contract, and suspension or revocation of registration by the Department will terminate the district's contract with the private alternative program and that the private alternative education program's annual statement of expenditures is reviewed in the district's evaluation in accordance with ORS 336.635(2).

(5) School districts shall adopt policies and procedures to approve placing students in district approved public alternative education programs and district approved private alternative education programs. Such policies and procedures must ensure that:

(a) Students placed in alternative education programs are those whose educational needs and interests are best served by participation in such programs and will include:

(A) Students identified pursuant to ORS 339.250;

(i) Who are being considered for suspension or expulsion pursuant to ORS 339.250;

(ii) Who have been suspended or expelled pursuant to ORS 339.250;

(iii) Whose attendance patterns have been found to be so erratic that the students are not benefiting from the regular educational program; or

(iv) Who have had a second or subsequent occurrence within any three-year period of a severe disciplinary problem;

(B) Students identified pursuant to ORS 329.485 and OAR 581-022-1110(5) who do not meet the standards or who exceed all of the standards at any benchmark level;

(C) Students admitted to the district pursuant to ORS 339.115 who have not yet turned 21 prior to the start of the school year and who need additional instruction to earn a diploma in compliance with OAR 581-022-2000;

(D) Students whose parents or legal guardians apply for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 and OAR 581-021-0076; and

(E) Others who are individually approved for placement consistent with the district's board policies regarding the placement;

(b) Placement of a student in a public or private alternative education program may be made only if:

(A) The student is a resident of the district and the district has legal responsibility for the student's education consistent with ORS 327.006(7);

(B) After assessing the student's needs and interests and consulting with the parent or guardian, the district determines that the student is not benefiting, has not benefited, or will not benefit from attendance in other district schools or programs;

(C) The alternative program is determined by the district to best serve the student within local and state academic standards; and

(D) Placement in the program is made consistent with the student's education plan pursuant to OAR 581-022-1120(3)(a) and (b) and 581-022-2000(3) and with district policies and procedures;

(c) Placement in a public or private alternative education program must be made with the approval of the student's resident school district and attending school district; and

(d) Payment to private alternative education providers must be the actual cost of the program or an amount at least equivalent to 80 percent of the district's estimated current year's average per student net operating expenditure, whichever is less.

(6) A school district must adopt policies and procedures for notification of students, parents or guardians of students of:

(a) The law regarding alternative education programs;

(b) The availability of existing alternative education programs; and

(c) The procedures for students, parents, or guardians of students residing in the district to request the establishment of new alternative education programs.

(7) School districts must include opportunities for participation by educators, community members, and parents or guardians in the development of policies and procedures under this rule.

(8) School districts must have policies and procedures in place to ensure that, for the purposes of making claims for state school funds;

(a) Students enrolled in a public school district and receiving instruction in the district's comprehensive planned K-12 curriculum consistent with OAR 581-022-2030 and who are individually placed by the school district in an alternative education programs are accounted consistent with 581-023-0006(7);

(b) Students supplementing home or private schooling by attending part-time and receiving less than comprehensive education from the district are accounted consistent with OAR 581-023-0006(6)(a);

(c) Students receiving online instruction are accounted consistent with reporting guidelines published in the Oregon Student Personnel Accounting Manual, and

(d) Activities claimed for state school funds and credits awarded in the alternative education program consistent with OAR 581-023-0008 are approved by the district and by the contract between a private alternative program and the district.

(9) School districts must have policies and procedures in place to ensure that data for each student in public and private alternative education programs are included in district reporting as required by ODE.

Stat. Auth.: ORS 326.051, 327.125, 336.625 & 336.645

Stats. Implemented: ORS 327.006, 329.485, 336.615 - 336.665, 329.485, 339.115, 339.030 & 339.250

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 4-2003, f. & cert. ef. 3-14-03; ODE 12-2007, f. & cert. ef. 4-25-07; ODE 20-2007, f. & cert. ef. 9-10-07; ODE 25-2008, f. & cert. ef. 9-26-08; Renumbered from 581-022-1350 by ODE 16-2017, f. & cert. ef. 7-5-17

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**Oregon Department of Education,
Early Learning Division
Chapter 414**

Rule Caption: Regarding the use of vehicles in regulated and licensed child care settings.

Adm. Order No.: ELD 7-2017

Filed with Sec. of State: 6-27-2017

Certified to be Effective: 6-27-17

Notice Publication Date: 6-1-2017

Rules Amended: 414-180-0025, 414-205-0110, 414-300-0350, 414-350-0250

Subject: The Office of Child Care licenses Certified Centers, Certified Family Child Care Homes, Registered Family Child Care Homes and monitors Regulated Subsidy child care. All types of care provide safe and healthy environments for children when in care.

An important component of health and safety is the safe transportation of child care children.

The rules establish allowable vehicle types, and provides options for types of vehicles and establishes conditions.

Rules Coordinator: Lisa Pinheiro—(503) 910-8135

414-180-0025

Safety

(1) The room temperature must be at least 68°F during the hours which child care children are in care.

(2) Rooms child care children are predominantly occupying must have a combination of natural and artificial lighting.

(3) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.

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(4) Potentially aggressive animals must not be in the same physical space as the children.

(5) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:

(a) All exposed electrical outlets in rooms used by preschool or younger children must have hard-to-remove protective caps or safety devices installed when the outlet is not in use.

(b) Extension cords shall not be used as permanent wiring;

(c) All appliance cords must be in good condition;

(d) Multiple connectors for cords shall not be used;

(e) A grounded power strip outlet with a built-in over-current protection may be used;

(f) A stable barrier shall be installed to prevent children from falling into hazards, including, but not limited to: fireplaces, heaters and woodstoves that are in use when child care children are present;

(g) A secure barrier shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers;

(6) The home has a working smoke detector on each floor level and in any area where a child naps.

(7) Cleaning supplies, paints, matches, lighters, and any plastic bags large enough to fit over a child's head kept under child-safety lock.

(8) Other potentially dangerous items, such as medicine, drugs, sharp knives and poisonous and toxic materials kept under child-safety lock.

(9) Firearms, BB guns, pellet guns and ammunition kept under lock, with ammunition stored and locked separately. Firearms, BB guns and pellet guns must remain unloaded;

(10) If any preschool age or younger children are in care, poisonous plants must be kept out of the reach of children;

(11) All clear glass panels in doors clearly marked at child level.

(12) Each provider must:

(a) Ensure that the home where care is provided meets all of the following standards:

(A) Each floor level used by a child has two useable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a useable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home has a working telephone or telephone service in operating condition.

(C) Emergency telephone numbers for fire, ambulance, police and poison control and the home address must be posted in a visible location.

(D) The building, grounds, water supply, and toys, equipment and furniture used by children must be maintained in a hazard-free condition.

(E) Broken toys, furniture and equipment must be removed from areas accessible to children.

(13) Wading pools are prohibited for wading.

(14) The provider is responsible for the children in care. At all times the provider must:

(a) Be within sight or sound of all children;

(b) Be aware of what each child is doing;

(c) Be near enough to children to respond when needed.

(15) The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the child care home, familiar to the children and the caregivers, and practiced at least every other month and must include:

(a) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;

(b) Procedures to address the needs of individual children, including infants and toddlers, children with special needs and children with chronic medical conditions;

(c) An acceptable method to ensure that all children in attendance are accounted for;

(d) Procedures for handling natural disasters (e.g. fire, earthquake, etc.) and man-caused events, such as violence at a child-care facility;

(e) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and

(f) Procedures for maintaining continuity of child care operations.

(16) If a caregiver is transporting children, the caregiver must have a valid driver's license and proof of appropriate insurance.

(17) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

(18) Car seats are to be used for transportation only. Children who arrive at and brought into the provider's home asleep in a car seat may remain in the car seat until the child awakens.

(19) The provider must take precautions to protect children from vehicular traffic. The provider shall:

(a) Require drop off and pick up only at the curb or at an off-street location protected from traffic.

(b) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.

(20) The following vehicles may be used to transport child care children:

(a) A vehicle manufactured to carry fewer than ten passengers;

(b) A school bus or a multi-function school activity bus;

(c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or

(d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:

(A) Travel speed may not exceed 50 mph; and

(B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the Early Learning Division or on a form provided by the inspector which contains the same information.

(21) The provider must have a written statement from the parent(s) regarding whether or not the provider is authorized to:

(a) Take a child on a field trip or other activity outside the child care home or participate in any water activity; and

(b) Transport a child to or from school or allow a child to bus or walk to or from school or child care home.

[ED. NOTE: Table referenced are available from the agency.]

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

Hist.: ELD 2-2016, f. & cert. ef. 6-29-16; ELD 2-2017, f. & cert. ef. 1-31-17; ELD 6-2017, f. & cert. ef. 3-27-17; ELD 7-2017, f. & cert. ef. 6-27-17

414-205-0110

Safety

(1) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:

(a) All exposed electrical outlets in rooms used by preschool or younger children must have hard-to-remove protective caps or safety devices installed when the outlet is not in use.

(b) Extension cords shall not be used as permanent wiring;

(c) All appliance cords must be in good condition;

(d) Multiple connectors for cords shall not be used;

(e) A grounded power strip outlet with a built-in over-current protection may be used;

(f) A stable barrier shall be installed to prevent children from falling into hazards, including, but not limited to: fireplaces, heaters and woodstoves that are in use when child care children are present;

(g) A secure barrier shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers;

(h) A working smoke detector on each floor and in any area where children nap;

(i) A working fire extinguisher with a rating of at least 2-A:10-BC;

(j) Firearms, BB guns, pellet guns and ammunition kept under lock, with ammunition stored and locked separately. Firearms, BB guns and pellet guns must remain unloaded;

(k) Cleaning supplies, paints, matches, lighters, and plastic bags kept under child-safety lock;

(l) Other potentially dangerous items, such as medicine, drugs, sharp knives and poisonous and toxic materials kept under child-safety lock;

(m) Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container and, if over one gallon, kept in an unattached storage building;

(n) If any preschool age or younger children are in care, poisonous plants must be kept out of the reach of children; and

(o) All clear glass panels in doors clearly marked at child level.

(2) All floor levels used by children must have access to two useable exits, as defined in OAR 414-205-0010(32), to the outdoors.

(a) If a basement is used for child care purposes, the requirement for two useable exits may be met by one of the following:

(A) A sliding glass door or swinging door to the outside and a window that meets the definition of a useable exit; or

(B) A window which meets the definition of a useable exit and an internal stairway to ground level that has unobstructed and direct access to the outdoors.

(b) If a window, which meets the definition of a useable exit, is used:

(A) Steps must be placed under the window to allow children to exit without assistance; and

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- (B) The window must be kept in good working condition.
- (c) If a window used as an exit has a window well, a mechanism must be in place to allow children to exit the window well.
- (3) Second floors (does not apply to providers registered continuously at the same address before 2009, unless the provider has moved the child care license to a new residence):
- (a) Child care children shall not sleep on the second floor or above;
- (b) Care shall not be provided for infants and toddlers on the second floor or above;
- (c) Night care shall not be provided on the second floor or above;
- (d) Children may be allowed on the second floor to use the bathroom if the only bathroom is on the second floor;
- (e) Care can be provided for preschool and school-age children on the second floor or above, if:
- (A) There are two staircases to the ground level and all children are mobile enough to exit safely; or
- (B) The designated fire marshal has approved the use of the upper floor.
- (4) The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the home, familiar to the children and the caregivers, and practiced at least every other month and must include:
- (a) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;
- (b) Procedures to address the needs of individual children, including infants and toddlers, children with special needs and children with chronic medical conditions;
- (c) An acceptable method to ensure that all children in attendance are accounted for;
- (d) Procedures for handling natural disasters (e.g. fire, earthquake, etc.) and man-caused events, such as violence at a child-care facility;
- (e) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and
- (f) Procedures for maintaining continuity of child care operations.
- (5) A telephone in working condition must be in the family child care home.
- (a) Parents must be given the telephone number so they can contact the provider if needed.
- (b) Emergency telephone numbers for fire, ambulance, police and poison control and the provider's home address must be posted in a visible location.
- (6) The building, grounds, water supply, and toys, equipment and furniture used by children must be maintained in a hazard-free condition.
- (a) Broken toys, furniture and equipment must be removed from areas accessible to children.
- (b) Both the exterior and interior of the home must be maintained in good repair.
- (c) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint.
- (d) The provider shall report to OCC any damage to the building that affects the provider's ability to comply with these requirements, within 48 hours after the occurrence.
- (7) If a caregiver is transporting children, the caregiver must have a valid driver's license and proof of appropriate insurance.
- (8) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.
- (9) Car seats are to be used for transportation only. Children who arrive at the provider's home asleep in a car seat may remain in the car seat until the child awakens.
- (10) The provider must take precautions to protect children from vehicular traffic. The provider shall:
- (A) Require drop off and pick up only at the curb or at an off-street location protected from traffic.
- (B) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.
- (11) The following vehicles may be used to transport child care children:
- (a) A vehicle manufactured to carry fewer than ten passengers;
- (b) A school bus or a multi-function school activity bus;
- (c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or
- (d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:

- (A) Travel speed may not exceed 50 mph; and
- (B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the Early Learning Division or on a form provided by the inspector which contains the same information.

Stat. Auth.: ORS 329A.250 – 329A.450, 326.425

Stats. Implemented: ORS 329A.250 – 329A.450

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 7-2010, f. 12-29-10, cert. ef. 1-1-11; ELD 4-2015, f. & cert. ef. 2-3-15; ELD 5-2016, f. & cert. ef. 9-29-16 thru 3-27-17; ELD 5-2017, f. & cert. ef. 3-27-17; ELD 7-2017, f. & cert. ef. 6-27-17

414-300-0350

Transportation

When transportation is provided by or arranged for by the center, the following requirements shall be met:

- (1) Drivers shall:
- (a) Be at least 18 years of age;
- (b) Hold a current driver's license. If required by the Motor Vehicles Division (DMV), a commercial driver's license shall be obtained; and
- (c) Maintain a safe driving record.
- (d) The provider must take precautions to protect children from vehicular traffic.
- (2) The operator shall obtain a copy of the driving record from DMV for each staff whose job description includes driving duties. The DMV check shall be updated annually.
- (3) The vehicle shall be:
- (a) In compliance with all applicable state and local motor vehicle laws; and
- (b) Maintained in a safe operating condition.
- (4) If transportation is provided between the center and the child's school or other destination, the center shall have in writing an acknowledgment from the parent(s) that they are aware of the time of day their child is to be picked up and/or delivered by the center. If the pick-up schedule results in children being unsupervised at school or other location, the center shall notify parents of this fact.
- (5) When transporting children on a regular basis, there shall be sufficient staff to meet the required staff/child ratios (OAR 414-300-0130) for each age group of children being transported.
- (a) The driver may count in the staff/child ratios.
- (b) Staff shall be teacher-qualified or Aide I qualified. Aide I qualified staff may count in the staff/child ratios if one other staff is teacher-qualified.
- (c) If none of the staff is teacher-qualified, an adult in the vehicle shall be trained in first aid and the vehicle shall be equipped with a cell phone or other communication device.
- (6) When transporting children on field trips, the center shall follow its procedures for field trips (OAR 414-300-0030(7)(e)). The procedures shall include, but not be limited to, requirements regarding drivers and adult supervision.
- (7) When transporting children for any and all purposes:
- (a) Children shall be transported only in sections of vehicles designed for and equipped to carry passengers;
- (b) A seat that fully supports the passenger shall be provided for each child;
- (c) All children, shall be transported in accordance with ORS 811.210. The child safety system and safety belts shall comply with ORS 815.055 and the standards adopted by the Oregon Department of Transportation;
- (d) Infants, toddlers, and preschool age children shall leave the vehicle on the same side of the street as the building they will enter;
- (e) Drivers delivering children to their homes shall not depart until the child has been received by an authorized person; and
- (f) No child shall be left unattended inside or outside a vehicle.
- (8) The center shall maintain a written plan for transportation.
- (9) The following vehicles may be used to transport child care children:
- (a) A vehicle manufactured to carry fewer than ten passengers;
- (b) A school bus or a multi-function school activity bus;
- (c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or
- (d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:
- (A) Travel speed may not exceed 50 mph; and
- (B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the Early Learning Division or on a form provided by the inspector which contains the same information.

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Stat. Auth.: ORS 329A.250 – 329A.450, 326.425
Stats. Implemented: ORS 329A.250 – 329A.450
Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94, Renumbered from 412-010-0678; CSD 11-1994, f. & cert. ef. 5-23-94; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 3-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; ELD 3-2016(Temp), f. & cert. ef. 9-29-16 thru 3-27-17; ELD 3-2017, f. & cert. ef. 3-27-17; ELD 7-2017, f. & cert. ef. 6-27-17

414-350-0250 Transportation

When transportation is provided by or arranged for by the certified family child care home, the following requirements must be met.

(1) Drivers shall be at least 18 years of age and hold a current driver's license.

(2) The vehicle shall be:

(a) In compliance with all applicable state and local motor vehicle laws, and

(b) Maintained in a safe operating condition.

(3) If transportation is provided between the certified family child care home and the child's school or other destination, the provider shall have in writing an acknowledgment from the parent(s) that they are aware of the time of day their child is to be picked up and/or delivered by the provider. If the pick-up schedule results in children being unsupervised at school or other location, the provider shall notify parents of this fact.

(4) When transporting children:

(a) The emergency information for each child who is being transported shall be in the vehicle.

(b) Children shall be transported only in sections of vehicles designed for and equipped to carry passengers.

(c) A seat that fully supports the passenger shall be provided for each child.

(d) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

(e) All children shall be transported in accordance with ORS 811.210. The child safety system and safety belts shall comply with ORS 815.055 and the standards adopted by the Oregon Department of Transportation. A child under four years of age and weighing 40 pounds or less shall be in an approved child safety system. A child between the ages of 4 and 6 years AND children who weigh between 40 and 60 pounds, regardless of age, must use a booster seat.

(f) Staff/child ratios, as specified in OAR 414-350-0120, shall be maintained in vehicles, as well as in the certified family child care home, when one caregiver is transporting children.

(g) Infants, toddlers, and preschool age children shall leave the vehicle on the same side of the street as the building they will enter.

(h) Drivers delivering children to their homes shall not depart until the child has been received by an authorized person.

(i) No child shall be left unattended inside or outside a vehicle.

(j) If firearms and ammunition are stored in a vehicle, they must be stored as specified in OAR 414-350-0170(10)(d).

(5) The following vehicles may be used to transport child care children:

(a) A vehicle manufactured to carry fewer than ten passengers;

(b) A school bus or a multi-function school activity bus;

(c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or

(d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:

(A) Travel speed may not exceed 50 mph; and

(B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the Early Learning Division or on a form provided by the inspector which contains the same information.

Stat. Auth.: ORS 329A.250 – 329A.450, 326.425

Stats. Implemented: ORS 329A.250 – 329A.450

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94, Renumbered from 412-010-0776; CSD 11-1994, f. & cert. ef. 5-23-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 6-2005(Temp), f. 12-29-05, cert. ef. 1-1-06 thru 6-29-06; CCD 3-2006, f. & cert. ef. 6-13-06; CCD 4-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; ELD 4-2016(Temp), f. & cert. ef. 9-29-16 thru 3-27-17; ELD 4-2017, f. & cert. ef. 3-27-17; ELD 7-2017, f. & cert. ef. 6-27-17

Oregon Health Authority, Health Policy and Analytics Chapter 409

Rule Caption: Amendments to the All Payer All Claims data reporting program rules.

Adm. Order No.: OHP 2-2017

Filed with Sec. of State: 6-23-2017

Certified to be Effective: 1-1-18

Notice Publication Date: 6-1-2017

Rules Amended: 409-025-0100, 409-025-0110, 409-025-0120, 409-025-0130, 409-025-0150

Subject: The Oregon Health Authority proposes to amend the rules in order to update definitions, clarify language and align data collection requirements with program needs, OHA priorities, and statutory requirements.

Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-025-0100

Definitions

The following definitions apply to OAR 409-025-0100 to 409-025-0170:

(1) "Accident policy" means an insurance policy that provides benefits only for a loss due to accidental bodily injury.

(2) "Allowed amount" means the actual amount of charges for health-care services, equipment, or supplies that are covered expenses under the terms of an insurance policy or health benefits plan.

(3) "Annual supplemental provider level APM summary file" means a data set composed of total and primary care-related dollars disbursed, by payment arrangement and line of business.

(4) "APAC" means all payer all claims.

(5) "APM" means alternative payment method.

(6) "Association" means any organization, including a labor union, that has an active existence for at least one year, that has a constitution and bylaws and that has been organized and is maintained in good faith primarily for purposes other than that of obtaining insurance.

(7) "Attending provider" means the individual health care provider who delivered the health care services, equipment, or supplies specified on a health care claim.

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

(9) "Billing provider" means the individual or entity that submits claims for health care services, equipment, or supplies delivered by an attending provider.

(10) "Capitated services" means services rendered by a provider through a contract in which payments are based upon a fixed dollar amount for each enrollee on a monthly basis.

(11) "Carrier" shall have the meaning given that term in ORS 743B.005.

(12) "Certificate of authority" shall have the meaning given that term in ORS 731.072.

(13) "Charges" means the actual dollar amount charged on the claim.

(14) "Claim" means an encounter or request for payment under the terms of an insurance policy, health benefits plan, Medicare, or Medicaid.

(15) "Co-insurance" means the percentage an enrollee pays toward the cost of a covered service.

(16) "Coordinated Care Organization (CCO)" shall have the meaning given that term in ORS 414.025.

(17) "Co-payment" means the fixed dollar amount an enrollee pays to a health care provider at the time a covered service is provided or the full cost of a service when that is less than the fixed dollar amount.

(18) "Data file" means electronic health information including medical claims files, eligibility files, medical provider files, pharmacy claims files, control totals files, subscriber-billed premiums files, APM files and any other related information specified in these rules.

(19) "Data set" means a collection of individual data records, whether in electronic or manual files.

(20) "DCBS" means the Oregon Department of Consumer and Business Services.

(21) "Deductible" means the total dollar amount an enrollee pays toward the cost of covered services over an established period of time before the carrier or third-party administrator makes any payments under an insurance policy or health benefit plan.

(22) "De-identified health information" means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(23) "Direct personal identifier" means information relating to an individual patient or enrollee that contains primary or obvious identifiers, including:

(a) Names;

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(b) Business names when that name would serve to identify a person;
(c) Postal address information other than town or city, state, and 5-digit zip code;

(d) Specific latitude and longitude or other geographic information that would be used to derive postal address;

(e) Telephone and fax numbers;

(f) Electronic mail addresses;

(g) Social security numbers;

(h) Vehicle identifiers and serial numbers, including license plate numbers;

(i) Medical record numbers;

(j) Health plan beneficiary numbers;

(k) Certificate and license numbers;

(l) Internet protocol (IP) addresses and uniform resource locators (URL) that identify a business that would serve to identify a person;

(m) Biometric identifiers, including finger and voice prints; and

(n) Personal photographic images.

(24) "Disability policy" means an insurance policy that provides benefits for losses due to a covered illness or disability.

(25) "Disclosure" means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

(26) "DRC" means Data Review Committee.

(27) "Dual eligible special needs plan" means a special needs plan that enrolls beneficiaries entitled to both Medicare and Medicaid.

(28) "Eligibility file" means a data set containing demographic information for each individual enrollee eligible for medical benefits for one or more days of coverage at any time during a calendar month for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(29) "Eligible employee" shall have the meaning given that term in ORS 743B.005.

(30) "Employee" shall have the meaning given that term in ORS 654.005.

(31) "Employer" shall have the meaning given that term in ORS 654.005.

(32) "Encrypted identifier" means a code or other means of identification to allow individual patients or enrollees to be tracked across data sets without revealing their identity.

(33) "Encryption" means a method by which the true value of data has been disguised in order to prevent the identification of individual patients or enrollees and does not provide the means for recovering the true value of the data.

(34) "Enrollee" means enrollee as defined in ORS 743B.005.

(35) "ERISA" means the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001

(36) "Facility" means a health care facility as defined in ORS 442.015.

(37) "Genetic test" shall have the meaning given that term in ORS 192.531.

(38) "Group health insurance" shall have the meaning given that term in ORS 731.098.

(39) "Health benefit plan" shall have the meaning given that term in ORS 743B.005.

(40) "Health care" shall have the meaning given that term in ORS 192.556.

(41) "Health care operations" means certain administrative, financial, legal, and quality improvement activities that are necessary to run programs including, but not limited to, conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, case management and care coordination, evaluating practitioner, provider, or health plan performance, and underwriting, enrollment, premium rating and other activities related to creation, renewal, or replacement of a health insurance contract.

(42) "Health care provider" shall have the meaning given that term in ORS 192.556.

(43) "Health information" shall have the meaning given that term in ORS 192.556.

(44) "Health insurance exchange" shall have the meaning given that term in ORS 741.300.

(45) "Healthcare Common Procedure Coding System (HCPCS)" means a medical code set, maintained by the United States Department of Health and Human Services, that identifies health care procedures, equipment, and supplies for claim submission purposes.

(46) "HIPAA" means Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d, et seq. and the federal regulations adopted to implement the Act.

(47) "Hospital indemnity policy" means an insurance policy that provides benefits only for covered hospital stays.

(48) "Indirect personal identifier" means information relating to an individual patient or enrollees that a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods could apply to render such information individually identifiable by using such information alone or in combination with other reasonably available information.

(49) "Individual", when used in a list of required lines of business, means individual health benefit plans.

(50) "Individually identifiable health information" shall have the meaning given that term in ORS 192.556.

(51) "Insurance" shall have the meaning given that term in ORS 731.102.

(52) "Labor union" means any organization which is constituted for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(53) "Large group" means health benefit plans for employers with more than 50 employees.

(54) "Limited data set" means protected health information that excludes direct personal identifiers and is disclosed for research, health care operations, or to a public health authority for public health purposes.

(55) "Long-term care insurance" shall have the meaning given that term in ORS 743.652.

(56) "Mandatory reporter" means any reporting entity defined as a mandatory reporter in OAR 409-025-0110.

(57) "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section 1902 of the Social Security Act), as administered by the Division of Medical Assistance Programs.

(58) "Medicaid fee-for-service" (Medicaid FFS) means that portion of Medicaid where a health care provider is paid a fee for each covered health care service delivered to an eligible Medicaid patient.

(59) "Medical claims file" means a data set composed of health care service level remittance information for all adjudicated claims for each billed service including but not limited to member demographics, provider information, charge and payment information, and clinical diagnosis and procedure codes for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(60) "Medical provider file" means a data set containing information about health care providers providing health care services, equipment, or supplies to enrollees during the reporting period.

(61) "Medicare" means coverage under Part A, Part B, Part C, or Part D of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq., as amended.

(62) "Medicare Modernization Act" means the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) and the federal regulations adopted to implement the Act.

(63) "OEGB" means the Oregon Educators Benefit Board.

(64) "OMIP" means the Oregon Medical Insurance Pool.

(65) "Patient" means any person in the data set who is the subject of the activities of the claim performed by the health care provider.

(66) "Paid amount" means the actual dollar amount paid for claims.

(67) "PEBB" means the Oregon Public Employees' Benefit Board.

(68) "Person" shall have the meaning given that term in ORS 731.116.

(69) "Pharmacy benefit manager (PBM)" means a person or entity that performs pharmacy benefit management, including a person or entity in a contractual or employment relationship with a person or entity performing pharmacy benefit management for a health benefits plan.

(70) "Pharmacy claims file" means a data set containing service level remittance information from all adjudicated claims including, but not limited to, enrollee demographics, provider information, charge and payment information, and national drug codes for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(71) "Pharmacy eligibility file" means a data set containing demographic information for each individual enrollee eligible for pharmacy benefits for one or more days of coverage at any time during a calendar month for an Oregon resident as defined in ORS 803.355, a non-Oregon resident

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who is a member of a PEBB or OEBB group health insurance plan, or services provided in Oregon.

(72) "Policy" shall have the meaning given that term in ORS 731.122.

(73) "Prepaid amount" means the fee for the service equivalent that would have been paid for a specific service if the service had not been capitated.

(74) "Premium" shall have the meaning given that term in ORS 743B.005.

(75) "Principal investigator (PI)" means the person in charge of a research project that makes use of limited data sets. The PI is the custodian of the data and shall comply with all state and federal restrictions, limitations, and conditions of use associated with the data release.

(76) "Protected health information" shall have the meaning given that term in ORS 192.556.

(77) "Public health authority" means the Public Health Division of the Authority or local public health authority as defined in ORS 431A.005.

(78) "Public health purposes" means the activities of a public health authority for the purpose of preventing or controlling disease, injury, or disability including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, investigations, and interventions.

(79) "Public use data set" means a publicly available data set of de-identified health information containing only the data elements specified by the Authority for inclusion.

(80) "Registered entity" means any person required to register with DCBS under ORS 744.714.

(81) "Reporting entity" means:

(a) An insurer as defined in ORS 731.106 or fraternal benefit society as defined in ORS 748.106 required to have a certificate of authority to transact health insurance business in Oregon.

(b) A health care service contractor as defined in ORS 750.005 that issues medical insurance in Oregon.

(c) A third-party administrator required to obtain a license under ORS 744.702.

(d) A pharmacy benefit manager or fiscal intermediary, or other person that is by statute, contract, or agreement legally responsible for payment of a claim for a health care item or service.

(e) An insurer providing coverage funded under Part A, Part B, or Part D of Title XVIII of the Social Security Act, subject to approval by the United States Department of Health and Human Services.

(82) "Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalized knowledge.

(83) "Self-insured plan" means any plan, program, contract, or any other arrangement under which one or more employers, unions, or other organizations provide health care services or benefits to their employees or members in this state, either directly or indirectly through a trust or third-party administrator.

(84) "Small employer health insurance" means health benefit plans for employers whose workforce consists of at least two but not more than 50 eligible employees.

(85) "Special Needs Plan" means a Medicare health benefit plan created by the Medicare Modernization Act that is specifically designed to provide targeted care to individuals with special needs.

(86) "Specific disease policy" means an insurance policy that provides benefits only for a loss due to a covered disease.

(87) "Strongly-encrypted" means an encryption method that uses a cryptographic key with a large number of random keyboard characters.

(88) "Subscriber" means the individual responsible for payment of premiums or whose employment is the basis for eligibility for membership in a health benefit plan.

(89) "Summarized data" means data aggregated by one or more categories. Summarized data created from protected health information may not contain direct or indirect identifiers.

(90) "Third-party administrator (TPA)" means any person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of Oregon or residents of another state from offices in Oregon, in connection with life insurance or health insurance coverage; or any person or entity who must otherwise be licensed under ORS 744.702.

(91) "Transact insurance" shall have the meaning given that term in ORS 731.146.

(92) "Trust" means a fund established by two or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association.

(93) "Vision policy" means a health benefits plan covering only vision health care.

(94) "Voluntary reporter" means any registered or reporting entity, other than a mandatory reporter, that voluntarily elects to comply with the reporting requirements in OAR 409-025-0100 to 409-025-0170.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 5-2012(Temp), f. 6-23-12, cert. ef. 6-1-12 thru 11-15-12; OHP 6-2012, f. 6-26-12, cert. ef. 7-9-12; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 2-2017, f. 6-23-17, cert. ef. 1-1-18

409-025-0110

General Reporting Requirements

(1) Definition of "mandatory reporter"

(a) For carriers and licensed third-party administrators, the Authority shall identify mandatory reporters using information collected by DCBS including, but not limited to, data from the Health Insurance Member Enrollment Report.

(A) The Authority shall aggregate the most recent four quarters of data.

(B) The Authority shall calculate the mean total lives for each carrier and licensed third-party administrator.

(C) All carriers and licensed third-party administrators with calculated mean total lives of 5,000 or higher shall be mandatory reporters.

(b) All PBMs shall be mandatory reporters.

(c) All CCOs shall be mandatory reporters.

(d) All reporting entities with Dual Eligible Special Needs Plans in Oregon shall be mandatory reporters.

(e) All insurers providing coverage funded under Part A, Part B or Part D of Title XVIII of the Social Security Act, subject to approval by the United States Department of Health and Human Services shall be mandatory reporters.

(f) All insurers offering a health benefits plan in Oregon's health insurance exchange shall be mandatory reporters.

(g) All insurers providing group health insurance plans to PEBB and OEBB members shall be mandatory reporters.

(2) Voluntary reporters may elect to participate by notifying the Authority in writing.

(3) Mandatory and voluntary reporters shall submit data files for all required lines of business. They may submit data files for the voluntary lines of business and may not submit data files for any excluded lines of business.

(a) Required lines of business include:

(A) Medicare (parts C and D);

(B) Medicaid;

(C) Individual;

(D) Small employer health insurance;

(E) Large group;

(F) Associations and trusts;

(G) PEBB and OEBB group health insurance plans; and

(H) Self-insured plans not subject to ERISA.

(b) Voluntary lines of business include self-insured plans subject to ERISA.

(c) Excluded lines of business include:

(A) Accident policy;

(B) Dental insurance;

(C) Disability policy;

(D) Hospital indemnity policy;

(E) Long-term care insurance;

(F) Medicare supplemental insurance;

(G) Specific disease policy;

(H) Stop-loss plans;

(I) Student health policy;

(J) Vision-only insurance; and

(K) Workers compensation.

(4) Mandatory and voluntary reporters shall comply with data file layout, format, and coding requirements in OAR 409-025-0120.

(5) Mandatory and voluntary reporters shall comply with data submission requirements in OAR 409-025-0130.

(6) Unless otherwise required by state or federal rules, regulations or statutes, mandatory and voluntary reporters may not submit claims subject to stricter disclosure limits imposed by state or federal rules, regulations, or statutes.

(7) The Authority shall provide written notification by July 1 of each year to all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 for the following calendar year.

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Stat. Auth.: ORS 442.466
Stats. Implemented: ORS 442.464 & 442.466
Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 5-2012(Temp), f. 6-23-12, cert. ef. 6-1-12 thru 11-15-12; OHP 6-2012, f. 6-26-12, cert. ef. 7-9-12; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 2-2017, f. 6-23-17, cert. ef. 1-1-18

409-025-0120

Data File Layout, Format, and Coding Requirements

- (1) All data files shall include:
- (a) Medical claims;
 - (b) Eligibility;
 - (c) Medical provider;
 - (d) Pharmacy claims;
 - (e) Control totals;
 - (f) Subscriber billed premiums;
 - (g) Annual supplemental provider level APM summary; and
 - (h) Control totals for annual supplemental provider level APM summary.

(2) The medical claims file shall be submitted using the approved layout, format, and coding described in Appendix A.

(3) The eligibility file shall be submitted using the approved layout, format, and coding described in Appendix B.

(a) Mandatory reporters shall report race and ethnicity data as outlined in Appendix B. This layout aligns with the Office of Management and Budget's (OMB) Federal Register Notice of October 30, 1997 (62 FR 58782-58790).

(b) Mandatory reporters shall report primary language in accordance with ANSI/NISO guidance using the three-character string outlined in Codes for the Representation of Languages for Information Interchange.

(c) Race, ethnicity and primary language data shall be collected in a manner that aligns with the following principles:

(A) To the greatest extent practicable, race, ethnicity, and preferred language shall be self-reported.

(i) Collectors of race, ethnicity and primary language data may not assume or judge ethnic and racial identity or preferred signed, written and spoken language, without asking the individual.

(ii) If an individual is unable to self-report and a family member, advocate, or authorized representative is unable to report on his or her behalf, the information shall be recorded as unknown.

(B) When an individual declines to identify race, ethnicity or preferred language, the information shall be reported as refused.

(4) The medical provider file shall be submitted using the approved layout, format, and coding described in Appendix C.

(5) The pharmacy claims file shall be submitted using the approved layout, format, and coding described in Appendix D.

(6) The control totals file shall be submitted using the approved layout, format, and coding described in Appendix E.

(7) The subscriber billed premium file shall be submitted using the approved layout, format, and coding described in Appendix F.

(8) The annual supplemental provider level APM summary file shall be submitted using the approved layout, format, and coding described in Appendix G.

(9) The control totals for annual supplemental provider level APM summary file shall be submitted using the approved layout, format, and coding described in Appendix H.

(10) All data elements are required unless specified as optional or situational.

(11) All required data files shall be submitted as delimited ASCII files.

(12) Numeric data are positive integers unless otherwise specified.

(a) Negative values are allowed for revenue codes, quantities, charges, payment, co-payment, co-insurance, deductible, and prepaid amount.

(b) Negative values shall be preceded by a minus sign.

(13) The Authority shall convene a technical advisory group to advise the Authority and associated contractors on submission specifications including but not limited to Appendices A-H, Schedule A and any additional data submission requirements. The advisory group shall include, but is not limited to representatives from:

- (a) Mandatory reporters;
- (b) Providers;
- (c) Researchers, and;
- (d) Other stakeholders and interested parties.

(14) All data files shall pass edit checks and validations implemented by the Authority or the data vendor.

(a) Data vendors may perform quality and edit checks on data file submissions. If data files do not pass data vendor edit checks or validation, mandatory reporters must make corrections and resubmit data. Mandatory reporters must submit corrected data or an exception request within 14 calendar days of notification of error.

(b) Mandatory reporters must participate in efforts to validate and check the quality of current and historic APAC data, as prescribed and requested by the Authority.

(A) The Authority may request from mandatory reporters information from their internal records that is reasonably necessary to validate and check the quality of APAC data. This information may include, but is not limited to, aggregated number of enrolled members, number of claims and claim lines, charges, allowed amounts, paid amounts, co-insurance, co-payments, premiums, number of visits to primary care, emergency department, inpatient, and other health care treatment settings, and number of prescriptions.

(B) Mandatory reporters shall provide the aggregated information within 30 days of the Authority's request.

(C) If the Authority finds errors through edit checks or validation, mandatory reporters must make corrections and resubmit data or submit an exception request within 30 days or at the next regularly scheduled submission due date.

[ED. NOTE: Appendices and Schedules referenced are available from the agency.]

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 13-2016, f. & cert. ef. 9-13-16; OHP 1-2017, f. & cert. ef. 5-3-17; OHP 2-2017, f. 6-23-17, cert. ef. 1-1-18

409-025-0130

Data Submission Requirements

(1) Mandatory reporters shall submit data files as specified in Schedule A. Voluntary reporters may consult with the Authority to submit healthcare claims data files on an alternative schedule.

(2) Mandatory and voluntary reporters shall submit data files directly to the data vendor unless otherwise specified by the Authority.

(3) Mandatory and voluntary reporters shall transmit data files using one of the following approved processes:

(a) Secure file transfer protocol (SFTP) including separate strong encryption of data files prior to SFTP transmission; or

(b) Any process incorporating strong encryption that is approved in writing by both the Authority and the data vendor.

[ED. NOTE: Schedule A referenced is available from the agency]

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 13-2016, f. & cert. ef. 9-13-16; OHP 2-2017, f. 6-23-17, cert. ef. 1-1-18

409-025-0150

Compliance and Enforcement

Penalties for failure to comply shall be enforced by the Authority.

(1) Unless approved by a waiver or exception, failure to comply with general reporting requirements shall include but is not limited to:

(a) Failure to submit data files for a required line of business; and

(b) Submitting health information for an excluded line of business.

(2) Unless approved by a waiver or exception, failure to comply with data file requirements shall include but is not limited to:

(a) Submitting a data file in an unapproved layout;

(b) Submitting a data element in an unapproved format;

(c) Submitting a data element with unapproved coding;

(d) Failure to submit a required data element; or

(e) Failure to comply with validation and quality control efforts, including resubmitting or correcting data as requested by the Authority.

(3) Unless approved by a waiver or exception, failure to comply with data submission requirements shall include but is not limited to:

(a) Failure to submit test files as specified by the data vendor;

(b) Submitting data files later than five days after the submission due date as outlined in Schedule A;

(c) Rejection of a data file by the data vendor that is not resubmitted or corrected by the submitter within 14 calendar days from notification of error; or

(d) Transmitting data files using an unapproved process.

(4) The Authority shall provide mandatory reporters written notification of each failure to comply.

(5) The Authority may impose fines of up to \$500 per day for each failure to comply that is not resolved within 30 calendar days of written notification.

ADMINISTRATIVE RULES

(6) If a mandatory reporter has made documented efforts to comply with these rules, the Authority may consider this a mitigating factor before imposing regulatory action against the mandatory reporter.

[ED. NOTE: Schedule A referenced is available from the agency.]

Stat. Auth.: ORS 442.466 & 442.993

Stat. Implemented: ORS 442.464, 442.466 & 442.993

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 1-2016, f. & cert. ef. 1-5-16; OHP 10-2016, f. 6-22-16, cert. ef. 1-1-17; OHP 13-2016, f. & cert. ef. 9-13-16; OHP 2-2017, f. 6-23-17, cert. ef. 1-1-18

**Oregon Health Authority,
Health Systems Division: Addiction Services
Chapter 415**

Rule Caption: Clarify Procedural Detail and Process for Taking Action on a Behavioral Health Provider License

Adm. Order No.: ADS 2-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Adopted: 415-012-0075

Rules Amended: 415-012-0010, 415-012-0020, 415-012-0030, 415-012-0035, 415-012-0060

Rules Repealed: 415-012-0010(T), 415-012-0020(T), 415-012-0030(T), 415-012-0035(T), 415-012-0060(T), 415-012-0075(T)

Subject: Under Oregon Revised Statutes 443.400 to 443.455, 430.357, 430.335, 430.256, and 413.032, the Oregon Health Authority licenses and has authority to regulate residential substance use disorders treatment providers. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers. The rules provide clarification and procedural detail regarding how an applicant may obtain a license and the circumstances and process by which the Authority may take action regarding a license or application for a license, such as denials, revocations, or imposing of conditions. In particular, the rule clarifies that the Authority may take action on a license based on substantiated evidence of abuse, neglect, or mistreatment. If these immediate amendments were not adopted, there could be delay in providers achieving compliance with administrative rules or delay in the Authority's response in situations to protect vulnerable persons being served by these providers.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

415-012-0010

Definitions

(1) "Applicant" means any individual or entity who has requested, in writing, a license.

(2) "Chief Officer" means the Chief Health Systems Officer of the Health Systems Division or designee.

(3) "Community Mental Health Program (CMHP)" means the organization of various services for individuals with a mental health diagnosis or addictive disorders, operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an agreement with the Division pursuant to OAR chapter 309, division 14.

(4) "Coordinated Care Organization (CCO)" means an entity that has been certified by the Authority to provide coordinated and integrated health services.

(5) "Contract" means the document describing and limiting the relationship and respective obligations between an organization other than a county and the Division for the purposes of operating the substance use disorder service within a county's boundaries, or operating a statewide, regional, or specialized service.

(6) "Division" means the Health Systems Division of the Oregon Health Authority.

(7) "Individual" means the individual requesting or receiving services addressed in these rules.

(8) "Intergovernmental Agreement" or "Agreement" means the document describing and limiting the contractual relationship and respective obligations between a county or other government organization and the Division for the purpose of operating a substance use disorder service.

(9) "License" means a license issued by the Division to applicants who are in substantial compliance with applicable administrative rules for

substance use disorder treatment in a residential setting and that is renewable every two years.

(10) "Licensed Child Care Facility" means a facility licensed under ORS 657A.280.

(11) "Non-Funded Provider" means an organization not contractually affiliated with the Division, a CCO, a CMHP, or other Division contractor.

(12) "Provider" means an organization licensed under these rules to provide substance use disorder prevention, intervention, or treatment services under contract with the Division or under subcontract with a local entity or public body or otherwise receiving public funds for these services.

(13) "Provisional" means a license issued for one year or less pending completion of specified requirements because of substantial failure to comply with applicable administrative rules.

(14) "Quality Assurance" means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of care to identify and resolve identified problems.

(15) "Restriction" means any limitations placed on a license such as age of individuals or number of individuals to be served.

(16) "Revocation" means the removal of authority for a provider to provide certain services under a license.

(17) "School Attended Primarily by Minors" means an existing public or private elementary, secondary, or career school attended primarily by individuals under age 18.

(18) "Service Element" means a distinct service or group of services for individuals with substance use disorders defined in administrative rule and included in a contract or agreement issued by the Division.

(19) "Substantial Compliance" means a level of adherence to applicable administrative rules that, even if not meeting one or more of the requirements, does not, in the determination of the Division:

(a) Constitute a danger to the health or safety of any individual;

(b) Constitute a willful, repeated, or ongoing violation of administrative rules; or

(c) Prevent the accomplishment of the state's purposes in approving or supporting the applicant or provider.

(20) "Substantial Failure to Comply" means a level of adherence to applicable administrative rules, statutes, and regulations that, in the determination of the Division:

(a) Constitutes a danger to the health, welfare, or safety of any individual or to the public;

(b) Constitutes a willful, repeated, or ongoing violation of administrative rules; or

(c) Prevents the accomplishment of the state's purposes in approving or supporting the applicant or provider.

(21) "Suspension" means a temporary removal of authority for a provider to operate under a license issued under OAR 415 division 012.

(22) "Temporary" means a license issued for 185 days to a program approved for the first time. A temporary license may not be extended.

(23) "Variance or Exception" means a waiver of a regulation or provision of these rules granted by the Division upon written application.

Stat. Auth.: ORS 413.042 & 430.256

Stat. Implemented: ORS 430.010 - 430.030, 430.306, 430.397, 430.405, 430.450, 430.630, 430.850, 443.400

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADAP 1-2001, f. 3-29-01, cert. ef. 4-1-01; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 2-2013(Temp), f. & cert. ef. 1-14-13 thru 7-12-13; ADS 4-2013, f. & cert. ef. 5-3-13; ADS 2-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; ADS 8-2016, f. & cert. ef. 12-14-16; ADS 1-2017(Temp), f. & cert. ef. 2-2-17 thru 7-31-17; ADS 2-2017, f. 6-29-17, cert. ef. 7-1-17

415-012-0020

General Requirements

(1) Every provider that operates a residential service element by contract with the Division or subcontracts with a local entity or public body or receives public funds for providing substance use disorder prevention, intervention, or treatment services shall have a license and:

(a) Providers may not represent themselves as conducting any service described in this rule without first obtaining a license;

(b) A provider that does not have a license for conducting a service described in this rule may not admit an individual needing that service; and

(c) The license shall be posted in the facility and available for inspection at all times.

(2) Licensed providers shall also maintain a current certificate of approval for the provision of behavioral health treatment services pursuant to OAR 309-008-0100 to 1600 if also providing an outpatient service.

(3) Any facility that meets the definition of a residential treatment facility for individuals with substance use disorders under ORS 443.400 or a detoxification center as defined in ORS 430.306 shall be licensed by the Division:

ADMINISTRATIVE RULES

(a) No individual or entity may represent themselves as a residential treatment facility for individuals with substance use disorders or as a detoxification center without being licensed;

(b) A residential treatment facility or a detoxification center that is not licensed may not admit individuals needing residential or detoxification care or treatment; and

(c) A license shall be posted in the facility and available for inspection at all times.

(4) Approval or licensure of a service element pursuant to this rule does not create an express or implied contract in the absence of a fully executed written contract.

Stat. Auth.: ORS 413.042, 430.256

Stats. Implemented: ORS 430.010-030, 430.306, 430.397, 430.405, 430.450, 430.630, 430.850, 443.400

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 2-2013(Temp), f. & cert. ef. 1-14-13 thru 7-12-13; ADS 4-2013, f. & cert. ef. 5-3-13; ADS 2-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; ADS 8-2016, f. & cert. ef. 12-14-16; ADS 1-2017(Temp), f. & cert. ef. 2-2-17 thru 7-31-17; ADS 2-2017, f. 6-29-17, cert. ef. 7-1-17

415-012-0030

Initial Application Procedures

(1) The Division shall mail an application packet to all applicants seeking residential licensure.

(2) All programs applying for the first time for a residential license to operate a treatment or prevention program shall schedule a meeting with Division staff for the purpose of receiving needed technical assistance regarding the approval and licensure criteria and procedures.

(3) A separate application must be submitted for each location where the provider intends to operate a residential treatment facility.

(4) The applicant may withdraw the application at any time during the application process by notifying the Division in writing. At such time, all materials shall be returned to the applicant.

Stat. Auth.: ORS 430.256

Stats. Implemented: ORS 430.010-030, 430.306, 430.397, 430.405, 430.450, 430.630, 430.850, 443.400

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 2-2013(Temp), f. & cert. ef. 1-14-13 thru 7-12-13; ADS 4-2013, f. & cert. ef. 5-3-13; ADS 2-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; ADS 8-2016, f. & cert. ef. 12-14-16; ADS 1-2017(Temp), f. & cert. ef. 2-2-17 thru 7-31-17; ADS 2-2017, f. 6-29-17, cert. ef. 7-1-17

415-012-0035

Responses To Application

(1) If the application is found to be complete and the materials demonstrate compliance with applicable administrative rules, the Division shall issue a license no later than 30 days after final approval of the application. In determining whether to issue a license, the Division may consider the applicant's history of compliance with Division rules and orders.

(2) If the application is not complete or does not demonstrate compliance, the Division shall provide written notice within 60 days of the Division's receipt of an incomplete or noncompliant application describing any necessary amendment to the application. The applicant must submit an amended application to the Division for review within 21 calendar days of receipt of the Division's notice.

(3) If an application is denied:

(a) The Division shall issue a written notice of denial within 14 days of the determination in accordance with ORS 183;

(b) The applicant shall be entitled to a contested case hearing consistent with ORS 183 if the applicant requests a hearing in writing within 60 days of the receipt of the notice;

(c) If no written request for a hearing is received within the 60-day timeline, the notice of denial shall become the final order by default, and the Chief Officer may designate its file as the record for purposes of order by default.

Stat. Auth.: ORS 413.042 & 430.256

Stats. Implemented: ORS 430.010-30, 430.306, 430.397, 430.405, 430.450, 430.630, 430.850, & 443.400

Hist.: ADS 4-2013, f. & cert. ef. 5-3-13; ADS 2-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; ADS 8-2016, f. & cert. ef. 12-14-16; ADS 1-2017(Temp), f. & cert. ef. 2-2-17 thru 7-31-17; ADS 2-2017, f. 6-29-17, cert. ef. 7-1-17

415-012-0060

Denial, Revocation, or Non-renewal

(1) The Division shall deny an application, a request for renewal, or revoke a license when it finds any of the following:

(a) There is a threat to the health, welfare, or safety of an individual or the public;

(b) There is substantiated evidence of abuse, neglect, or mistreatment by the applicant, provider, or provider staff;

(c) The applicant or provider has substantially failed to comply with applicable administrative rules or with local codes and ordinances or any other state or federal law or regulation;

(d) The applicant or provider has had a prior LOA or license to operate a substance use disorder treatment program denied, revoked, or refused to be renewed in Oregon within three years preceding the present application for reason of abuse or neglect of individuals:

(A) If a prior denial, revocation, or refusal to renew occurred more than three years from the present action, the applicant or provider shall establish to the Division by clear and convincing evidence of the applicant's, provider's, or administrator's ability and fitness to operate a treatment program;

(B) If the applicant or provider does not provide such evidence, the Division shall deny the application.

(e) The applicant or provider submits fraudulent or untrue information to the Division;

(f) The applicant or provider has a history of or currently demonstrates financial insolvency such as filing for bankruptcy, foreclosures, eviction due to failure to pay rent, termination of utility services due to failure to pay bills, failure to pay taxes such as employment or social security in a timely manner;

(g) The applicant or provider refuses to allow immediate access and onsite inspection by the Division; or

(h) The applicant or provider fails to maintain sufficient staffing or fails to comply with staff qualification requirements;

(i) The applicant or provider fails to comply with one or more restrictions or conditions on the license;

(j) The applicant or provider fails to submit or implement a plan of correction sufficient to comply with these and other applicable rules or regulations.

(2) When the Division determines that an applicant's request for a license should be denied, the Chief Officer or designee shall notify the applicant by certified mail, return receipt requested, of the Division's decision to deny the licensure and the reasons for the denial.

Stat. Auth.: ORS 413.042, 430.256

Stats. Implemented: ORS 430.397, 430.010-030, 430.306, 430.405, 430.450, 430.630, 430.850, 443.400, 813.020, 813.260 & 813.500

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADAP 1-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 4-2013, f. & cert. ef. 5-3-13; ADS 2-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; ADS 8-2016, f. & cert. ef. 12-14-16; ADS 1-2017(Temp), f. & cert. ef. 2-2-17 thru 7-31-17; ADS 2-2017, f. 6-29-17, cert. ef. 7-1-17

415-012-0075

Licensure Conditions

(1) The Division may at any time and at its discretion impose conditions on a license upon a finding that:

(a) There is a threat to the health, welfare, or safety of an individual or the public;

(b) There is substantiated evidence of abuse, neglect, or mistreatment by the applicant, provider, or provider staff;

(c) The applicant or provider employs or contracts with any program staff that fails to meet relevant minimum qualifications described in these rules, service delivery rules, or other applicable law;

(d) The applicant or provider substantially fails to comply with these rules, service delivery rules, or other applicable law; or

(e) The applicant or provider fails to fully implement a plan of correction or adequately maintain a corrective action.

(2) When deciding whether to impose conditions rather than denying, suspending, refusing to renew, or revoking a license the Division shall consider all of the circumstances including but not limited to the following criteria:

(a) The expressed willingness and demonstrated ability of the applicant or provider to gain and maintain compliance with all applicable administrative rules and laws;

(b) The submitted plan of correction prescribing reasonable, sustained, and timely resolution to areas of non-compliance;

(c) The relative availability of alternative providers to address any service needs that would be unmet if the applicant or provider is not issued a license with conditions as an alternative to revocation or refusal to award a license; or

(d) The applicant or provider's historical compliance with Division rules or orders, previous conditions placed on licenses, and previous plans of correction.

(3) Conditions to the license may include:

(a) Requiring corrective actions with timeframes for completion to correct areas of non-compliance or concern identified by the Division;

ADMINISTRATIVE RULES

(b) Limiting the total number of individuals enrolled in services or on a waitlist for services;

(c) Limiting the population, such as narrowing the age range of individuals who the applicant or provider may serve;

(d) Limiting the scope and type of services that the applicant or provider may provide;

(e) Other conditions deemed necessary by the Division to ensure the health and safety of individuals and the public; and

(f) Other conditions deemed necessary by the Division for the purpose of ensuring regulatory compliance with these or other applicable administrative rules and laws.

(4) The Division may impose conditions on a license with or without notice. In both processes, a provider or applicant may request an informal conference:

(a) The Division may issue the conditions with notice by issuing a Notice of Impending Imposition of License Condition (Notice) at least 48 hours prior to issuing an Order Imposing License Condition (Order) to a provider or applicant. After the Order is issued, the Division shall revise the license to indicate the conditions that have been ordered;

(b) The Division may impose the conditions without notice only if the Division determines that there is an imminent threat to individuals and the Division determines it is not safe or practical to give an applicant or provider advance notice. The Division may impose the conditions without notice by issuing an Order to a provider or applicant. After the Order is issued, the Division shall revise the license to indicate the conditions that have been ordered.

(5) The Notice shall be provided in writing, or orally with subsequent written notice. When the Notice is provided in writing, it shall be sent by certified or registered mail or delivered in person to the applicant or provider. If the Notice is provided orally, it may be provided by telephone or in person to the applicant, provider, or person represented as being in charge of the program. The Notice shall:

(a) Describe the acts or omissions of the applicant or provider and the circumstances that led to the finding that the imposition of a license condition is warranted;

(b) Describe why the acts or omissions and the circumstances create a situation for which the imposition of a condition is warranted;

(c) Provide a brief statement identifying the impending condition;

(d) Identify an individual within the Division who the applicant or provider may contact and who is authorized to enter the Order or to make recommendations regarding issuance of the Order;

(e) Specify the date and time the Order is scheduled to take effect; and

(f) Inform the applicant or provider that they may request an informal conference prior to the issuance of the Order, or if the provider has already requested an informal conference, specify the date and time that an informal conference shall be held.

(6) If an informal conference is requested regarding conditions, the conference shall be held at a location designated by the Division. If the Division determines it to be appropriate, the conference may be held by telephone. Following the informal conference, the Division may modify the conditions. The timing of the informal conference is described as follows:

(a) If a Notice is issued, the applicant or provider may request an informal conference to object to the Division's proposed action before the condition is scheduled to take effect. The request for an informal conference shall be made prior to the date the conditions are intended to be effective. If requested timely, the informal conference shall be held within seven days of the request. The Order may be issued at any time after the informal conference;

(b) If an Order is issued without a prior Notice, the applicant or provider may, within two business days of the issuance of the Order, request an informal conference. If timely requested, the informal conference shall be held within two business days of receipt of the request. Following the informal conference, the Division at its discretion may modify the conditions.

(7) When an Order is issued, the Division must serve the Order either personally or by registered or certified mail. The Order must include the following statements:

(a) The authority and jurisdiction under which the condition is being issued;

(b) A reference to the particular sections of the statute and administrative rules involved;

(c) The effective date of the condition;

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

(e) The specific terms of the license condition;

(f) Right to request a contested case hearing under ORS Chapter 183;

(g) A statement that if a request for hearing is not received by the Division within 21 days of the date of the Order, the applicant or provider shall waive the right to a hearing under ORS Chapter 183;

(h) Findings of specific acts or omissions of the applicant or provider that are grounds for the condition and the reasons the acts or omissions create a situation for which the imposition of a license condition is warranted; and,

(i) A statement that the Division may combine the hearing on the Order with any other proceeding affecting the license. The procedures for the combined proceeding must be those applicable to the other proceedings affecting the license.

(8) Hearing:

(a) If the Division issues an Order, the applicant or provider may request a contested case hearing pursuant to ORS Chapter 183;

(b) The Division must receive the request for a hearing within 21 days of the date of Order. If a request for hearing is not received by the Division within 21 days of the date of the Order, the applicant or provider shall waive the right to a hearing under ORS Chapter 183;

(c) The applicant or provider may request a contested case hearing regarding the imposition of the conditions in addition to, or in lieu of, an informal conference. Requesting a contested case hearing may not delay the effective date of the conditions.

(9) When a restriction of enrollment or intake is in effect pursuant to an Order, the Division in its sole discretion may authorize the provider to admit or serve new individuals for whom the Division determines that alternate placement or provider is not feasible.

(10) Conditions may be imposed for the duration of the license or limited to a shorter period of time. If the condition corresponds to the license period, the reasons for the condition shall be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the condition shall be indicated on the license.

(11) When the applicant or provider determines that the circumstances leading to imposition of the condition no longer exist and that effective systems are in place to ensure that similar deficiencies do not reoccur, the applicant or provider may make written request to the Division for re-inspection.

(12) Re-inspection:

(a) If the Division finds that the situation for which the condition was imposed has been corrected and finds that systems are in place to ensure that similar deficiencies do not reoccur, the condition shall be withdrawn, and the Division shall revise the license accordingly. Following re-inspection, the Division shall notify the facility by telephone of the decision to withdraw the condition. Telephone notification shall be followed by written notification;

(b) If the Division determines after a re-inspection that the situation for which the condition was imposed continues to exist or that there are not sufficient systems in place to prevent similar deficiencies, the license condition may not be withdrawn, and the Division is not obligated to re-inspect again for at least 45 days. A decision not to withdraw the Order shall be given to the applicant or provider in writing, and shall include information of the right to a contested case hearing pursuant to ORS Chapter 183. Nothing in this rule is intended to limit the Division's authority to inspect facilities at any time.

(13) The Division may deny, suspend, refuse to renew, or revoke the license when the provider or applicant fails to timely comply with one or more conditions.

(14) When the Division orders a condition be placed on a license the applicant or provider may request a hearing in accordance with ORS Chapter 183.

Stat. Auth.: ORS 413.042 & 430.256 & 430.357

Stats. Implemented: ORS 413.032, 430.010, 430.256, 430.306, 430.397, 430.405, 430.450, 430.630, 430.850, 443.400 to 443.455

Hist.: ADS 1-2017(Temp), f. & cert. ef. 2-2-17 thru 7-31-17; ADS 2-2017, f. 6-29-17, cert. ef. 7-1-17

Oregon Health Authority, Health Systems Division:
Medical Assistance Programs
Chapter 410

Rule Caption: IMD Inpatient Psychiatric Services and an Addition of IMD to the Definition OAR

Adm. Order No.: DMAP 21-2017(Temp)

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 410-141-0000, 410-141-3160

Subject: This amendment is needed to give the CCOs the opportunity to cover and reimburse an Institution for Mental Diseases (IMD) as an alternative service or setting using Medicaid capitated funds for inpatient psychiatric services. The Division needs to add the definition of IMDs to the OHP definition rules.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0000

Definitions

In addition to the definitions in OAR 410-120-0000, the following definitions apply:

(1) “Action” means in the case of a Prepaid Health Plan (PHP) or Coordinated Care Organization (CCO):

(a) The denial or limited authorization of a requested service including the type or level of service;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial in whole or in part of payment for a service;

(d) The failure to provide services in a timely manner as defined by the Health Systems Division, Medical Assistance Programs (Division);

(e) The failure of a PHP or CCO to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For a member who resides in a rural service area where the PHP or CCO is the only PHP or CCO, the denial of a request to obtain covered services outside of the PHP or CCO provider network under any of the following circumstances:

(A) From any other provider (in terms of training, experience, and specialization) not available within the network;

(B) From a provider not part of the network that is the main source of a service to the member as long as the provider is given the same opportunity to become a participating provider as other similar providers. If the provider does not choose to join the network or does not meet the qualifications, the member is given a choice of participating providers and is transitioned to a participating provider within 60 days;

(C) Because the only plan or provider available does not provide the service due to moral or religious objections;

(D) Because the member’s provider determines the member needs related services that would subject the member to unnecessary risk if received separately, and not all related services are available within the network; or

(E) The Authority determines that other circumstances warrant out-of-network treatment for moral or religious objections.

(2) “Adjudication” means the act of a court or entity in authority when issuing an order, judgment, or decree, as in a final CCO or MCO claims decision or the Authority issuing a final hearings decision. This function is non-delegable under the Coordinated Care contracts in the context of hearings and appeals.

(3) “Capitated Services” means those covered services that a PHP agrees to provide for a capitation payment under contract with the Authority.

(4) “Capitation Payment” means monthly prepayment to a PHP for health services the PHP provides to members.

(5) “CCO Payment” means the monthly payment to a CCO for services the CCO provides to members in accordance with the global budget.

(6) “Certificate of Authority” means the certificate issued by DCBS to a licensed health entity granting authority to transact insurance as a health insurance company or health care service contractor.

(7) “Client” has the meaning given that term in OAR 410-120-0000.

(8) “Cold Call Marketing” means a PCP’s or CCO’s unsolicited personal contact with a potential member for the purpose of marketing.

(9) “Community Advisory Council” means the CCO-convened council that meets regularly to ensure the CCO is addressing the health care needs of CCO members and the community consistent with ORS 414.625.

(10) “Community Standard” means typical expectations for access to the health care delivery system in the member’s community of residence. Except where the community standard is less than sufficient to ensure quality of care, the Division requires that the health care delivery system available to Division members in PHPs take into consideration the community standard and be adequate to meet the needs of the Division.

(11) “Contract” means an agreement between the State of Oregon acting by and through the Authority and a PHP or CCO to provide health services to eligible members.

(12) “Converting MCO” means a CCO that:

(a) Is the legal entity that contracted as an MCO with the Authority as of July 1, 2011, or;

(b) Was formed by one or more MCOs that contracted with the Authority as of July 1, 2011.

(13) “Coordinated Care Organization (CCO)” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

(14) “Coordinated Care Services” mean a CCO’s fully integrated physical health, behavioral health services pursuant to ORS 414.651, and dental health services pursuant to ORS 414.625(3) that a CCO agrees to provide under contract with the Authority.

(15) “Corrective Action or Corrective Action Plan” means a Division-initiated request for a contractor or a contractor-initiated request for a sub-contractor to develop and implement a time specific plan for the correction of identified areas of noncompliance.

(16) “Dental Care Organization (DCO)” means a PHP that provides and coordinates dental services as capitated services under OHP.

(17) “Dental Case Management Services” means services provided to ensure the member receives dental services including a comprehensive, ongoing assessment of the member’s dental and medical needs related to dental care and the development and implementation of a plan to ensure the member receives those services.

(18) “DCBS Reporting CCO” means for the purpose of OAR 410-141-3340 through 410-141-3395 a CCO that reports its solvency plan and financial status to DCBS, not a CCO holding a certificate of authority.

(19) “Department of Consumer and Business Services (DCBS)” means Oregon’s business regulatory and consumer protection agency.

(20) “Disenrollment” means the act of removing a member from enrollment with a PHP or CCO.

(21) “Exceptional Needs Care Coordination (ENCC)” means for PHPs a specialized case management service provided by FCHPs to members identified as aged, blind, or disabled who have complex medical needs, consistent with OAR 410-141-0405. ENCC includes:

(a) Early identification of those members who are aged, blind, or disabled who have complex medical needs;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(22) “Enrollment” means the assignment of a member to a PHP or CCO for management and receipt of health services.

(23) “Free-Standing Mental Health Organization (MHO)” means the single MHO in each county that provides only behavioral services and is not affiliated with a fully capitated health plan for that service area.

(24) “Fully-Capitated Health Plan (FCHP)” means PHPs that contract with the Authority to provide capitated health services including inpatient hospitalization.

(25) “Global Budget” means the total amount of payment as established by the Authority to a CCO to deliver and manage health services for its members including providing access to and ensuring the quality of those services.

(26) “Grievance” means a member’s complaint to a PHP, CCO, or to a participating provider about any matter other than an action.

(27) “Grievance System” means the overall system that includes:

(a) Grievances to a PHP or CCO on matters other than actions;

(b) Appeals to a PHP or CCO on actions; and

(c) Contested case hearings through the state on actions and other matters for which the member is given the right to a hearing by rule or state statute.

(28) “Health Services” means:

(a) For purposes of CCOs, the integrated services authorized to be provided within the medical assistance program as defined in ORS 414.025 for the physical medical, behavioral health that includes mental health and substance use disorders, and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services;

(b) For all other purposes, the services authorized to be provided within the medical assistance program as defined in ORS 414.025 for the physical medical, behavioral health, and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services.

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(29) “Holistic Care” means incorporating the care of the entire member in all aspects of well-being including physical, psychological, cultural, linguistic, and social and economic needs of the member. Holistic care utilizes a process whereby providers work with members to guide their care and identify needs. This also involves identifying with principles of holism in a system of therapeutics, especially one considered outside the mainstream of scientific medicine as naturopathy or chiropractic and often involving nutritional measures.

(30) “Home CCO” means enrollment in a CCO in a given service area based upon a client’s most recent permanent residency, determined at the time of original eligibility determination or most current point of CCO enrollment prior to hospitalization.

(31) “Institution for Mental Diseases (IMD)” means, as defined in 42 CFR 435.1010, a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing inpatient psychiatric services such as diagnosis, treatment, or care of individuals with mental diseases, including medical attention, nursing care, and related services. Its primary character is that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.

(32) “Intensive Case Management (ICM)” means a specialized case management service provided by CCOs to members identified as aged, blind, or disabled who have complex medical needs including:

(a) Early identification of members eligible for ICM services;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating necessary and appropriate linkage of community support and social service systems with medical care systems.

(33) “Licensed Health Entity” means a CCO that has a Certificate of Authority issued by DCBS as a health insurance company or health care service contractor.

(34) “Line Items” means condition/treatment pairs or categories of services included at specific lines in the Prioritized List of Health Services.

(35) “Managed care entity (MCE)” means, as stated in 42 CFR 457.10, an entity that enters into a contract to provide services in a managed care delivery system including, but not limited to, managed care organizations, prepaid health plans, and primary care case managers.

(36) “Marketing” means any communication from a PHP or a CCO to a potential member who is not enrolled in the PHP or CCO, and the communication can reasonably be interpreted as intended to compel or entice the potential member to enroll in that particular CCO.

(37) “Medical Case Management Services” means services provided to ensure members obtain health services necessary to maintain physical and emotional development and health.

(38) “Member” has the meaning given that term in OAR 410-120-0000.

(39) “Mental Health Organization (MHO)” means a PHP that provides capitated behavioral services for clients.

(40) “National Association of Insurance Commissioners (NAIC)” means the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories.

(41) “Net Premium” means the premium, net of reinsurance premiums paid, HRA and GME payments, and MCO tax expenses.

(42) “Non-Participating Provider” means a provider that does not have a contractual relationship with a PHP or CCO and is not on their panel of providers.

(43) “Oregon Health Authority or Authority Reporting CCO” means a CCO that reports its solvency plan and financial status to the Authority under these rules.

(44) “Other Non-Medical Services” means non-state plan, health related services, also referred to as “flexible services.” These services are provided in-lieu of traditional benefits and are intended to improve care delivery, member health, and lower costs. Services may effectively treat or prevent physical or behavioral healthcare conditions. Services are consistent with the member’s treatment plan as developed by the member’s primary care team and documented in the member’s medical record.

(45) “Participating Provider” means a provider that has a contractual relationship with a PHP or CCO and is on their panel of providers.

(46) “Physician Care Organization (PCO)” means a PHP that contracts with the Authority to provide partially-capitated health services under OHP exclusive of inpatient hospital services.

(47) “Potential Member” means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific PHP or CCO.

(48) “Prioritized List of Health Services” means the listing of condition and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP health services.

(49) “Service Area” means the geographic area within which the PHP or CCO agreed under contract with the Authority to provide health services.

(50) “Treatment Plan” means a documented plan that describes the patient’s condition and procedures that will be needed, detailing the treatment to be provided and expected outcome and expected duration of the treatment prescribed by the healthcare professional. This therapeutic strategy is designed in collaboration with the member, the member’s family, or the member representative and may incorporate patient education, dietary adjustment, an exercise program, drug therapy, and the participation of nursing and allied health professionals.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 50-2003, f. 7-31-03, cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04, cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04, cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 45-2014, f. 7-15-14, cert. ef. 8-1-14; DMAP 54-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 71-2015, f. & cert. ef. 12-10-15; DMAP 39-2016, f. 6-30-16, cert. ef. 7-1-16; DMAP 21-2017(Temp), f. 6-29-17, cert. ef. 7-1-17 thru 12-27-17

410-141-3160

Integration and Care Coordination

(1) In order to achieve the objectives of providing CCO members integrated person-centered care and services, CCOs shall assure that physical, behavioral, and oral health services are consistently provided to members in all age groups and all covered populations when medically appropriate and consistent with the needs identified in the community health assessment and community health improvement plan (Plan). CCOs shall develop, implement, and participate in activities supporting a continuum of care that integrates physical, behavioral, and oral health interventions in ways that are whole to the member and serve members in the most integrated setting appropriate to their needs:

(a) CCOs shall ensure the provision of care coordination, treatment engagement, preventive services, community-based services, and follow-up services for all members’ health conditions;

(b) CCOs shall enter into contracts with providers of residential chemical dependency treatment services not later than July 1, 2013, and shall notify the Authority within 30 calendar days of executing the contract;

(c) By July 1, 2014, each CCO shall have a contractual relationship with any dental care organization that serves members in the area where they reside;

(d) CCOs shall have adequate, timely, and appropriate access to hospital and specialty services. CCOs shall establish hospital and specialty service agreements that include the role of patient-centered primary care homes and that specify processes for requesting hospital admission or specialty services, performance expectations for communication, and medical records sharing for specialty treatments at the time of hospital admission or discharge for after-hospital follow up appointments;

(e) CCOs shall demonstrate how hospitals and specialty services shall be accountable to achieve successful transitions of care. CCOs shall ensure members are transitioned out of hospital settings into the most appropriate independent and integrated community settings. This includes transitional services and supports for children, adolescents, and adults with serious behavioral health conditions facing admission to or discharge from acute psychiatric care, residential treatment settings and the state hospital.

(2) CCOs shall develop evidence-based or innovative strategies for use within their delivery system networks to ensure access to integrated and coordinated care, especially for members with intensive care coordination needs. CCOs shall:

(a) Demonstrate that each member has a primary care provider or primary care team that is responsible for coordination of care and transitions

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and that each member has the option to choose a primary care provider of any eligible CCO participating provider type.

(b) Ensure that members with high health needs, multiple chronic conditions, or behavioral health issues are involved in accessing and managing appropriate preventive, health, behavioral health, remedial and supportive care and services;

(c) Use and require its provider network to use individualized care plans to the extent feasible to address the supportive and therapeutic needs of each member, particularly those with intensive care coordination needs, including members with severe and persistent mental illness receiving home and community-based services covered under the state's 1915(1) State Plan Amendment, and those receiving DHS Medicaid-funded long-term care services. Plans shall reflect member family or caregiver preferences and goals to ensure engagement and satisfaction;

(d) Implement systems to assure and monitor improved transitions in care so that members receive comprehensive transitional care, and improve members' experience of care and outcomes, particularly for transitions between hospitals and long-term care;

(e) Demonstrate that participating providers have the tools and skills necessary to communicate in a linguistically and culturally appropriate fashion with members and their families or caregivers and to facilitate information exchange between other providers and facilities (e.g., addressing issues of health literacy, language interpretation, having electronic health record capabilities);

(f) Work across provider networks to develop partnerships necessary to allow for access to and coordination with social and support services, including crisis management and community prevention and self-managed programs;

(g) Communicate its integration and coordination policies and procedures to participating providers, regularly monitor providers' compliance and take any corrective action necessary to ensure compliance. CCOs shall document all monitoring and corrective action activities.

(3) CCO's shall assess the needs of its membership and make available supported employment and assertive community treatment services available when medically appropriate and when an appropriate provider is available. Appropriate providers are those that meet the requirements in 309-016-0825. When no appropriate provider is available, the CCO shall consult with the Division and develop an approved plan to make supported employment and assertive community treatment services available.

(4) CCOs shall develop and use Patient Centered Primary Care Home (PCPCH) capacity by implementing a network of PCPCHs to the maximum extent feasible:

(a) PCPCHs shall become the focal point of coordinated and integrated care, so that members have a consistent and stable relationship with a care team responsible for comprehensive care management;

(b) CCOs shall develop mechanisms that encourage providers to communicate and coordinate care with the PCPCH in a timely manner, using electronic health information technology, where available;

(c) CCOs shall engage other primary care provider (PCP) models to be the primary point of care and care management for members, where there is insufficient PCPCH capacity;

(d) CCOs shall develop services and supports for primary care that are geographically located as close as possible to the member's residence and are, if available, offered in nontraditional settings that are accessible to families, diverse communities, and underserved populations. CCOs shall ensure that all other services and supports are provided as close to the member's residence as possible.

(5) If a CCO implements other models of patient-centered primary health care in addition to the use of PCPCH, the CCO shall ensure member access to coordinated care services that provide effective wellness and prevention, coordination of care, active management and support of individuals with special health care needs, a patient and family-centered approach to all aspects of care, and an emphasis on whole-person care in order to address a patient's physical and behavioral health care needs.

(6) If the member is living in a DHS Medicaid funded long-term care (LTC) nursing facility or community-based care facility, or other residential facility, the CCO shall communicate with the member and the DHS Medicaid funded long-term care provider or facility about integrated and coordinated care services:

(a) The CCO shall establish procedures for coordinating member health services and how it will work with long-term care providers or facilities to develop partnerships necessary to allow for access to and coordination of CCO services with long-term care services and crisis management services;

(b) CCOs shall coordinate transitions to DHS Medicaid-funded long-term care by communicating with local AAA/APD offices when members are being discharged from an inpatient hospital stay or transferred between different LTC settings;

(c) CCOs shall develop a Memorandum of Understanding (MOU) or contract with the local type B Area Agency on Aging or the local office of the Department's APD, detailing their system coordination agreements regarding members' receiving Medicaid-funded LTC services.

(7) For members who are discharged to post hospital extended care at the time of admission to a skilled nursing facility (SNF), the CCO shall notify the appropriate AAA/APD office and begin appropriate discharge planning. The CCO shall pay for the post hospital extended care benefit if the member was a member of the CCO during the hospitalization preceding the nursing facility placement. The CCO shall notify the SNF and the member no later than two working days before discharge from post hospital extended care. For members who are discharged to Medicare Skilled Care, the CCO shall notify the appropriate AAA/APD office when the CCO learns of the admission.

(8) When a member's care is being transferred from one CCO to another or for OHP clients transferring from fee-for-service or PHP to a CCO, the CCO shall make every reasonable effort within the laws governing confidentiality to coordinate, including but not limited to ORS 414.679, transfer of the OHP client into the care of a CCO participating provider.

(9) CCOs shall establish agreements with the Local Mental Health Authorities (LMHAs) and Community Mental Health Programs (CMHPs) operating in the service area, consistent with ORS 414.153, to maintain a comprehensive and coordinated behavioral health delivery system and to ensure member access to mental health services, some of which are not provided under the global budget.

(10) A CCO may cover and reimburse inpatient psychiatric services, but not including substance use disorder treatment, at an Institution for Mental Diseases (IMD), as defined in 42 CFR 435.1010. See OAR 410-141-0000(31) for the definition of an IMD.) The state may make a monthly capitation payment to a CCO using Medicaid capitated funds for inpatient psychiatric services for an alternative service or setting, incorporating all the following requirements as defined in 42 CFR 438.6(e):

(a) For members aged 21-64;

(b) As inpatient psychiatric services for a short-term stay of no more than 15 days during the period of the monthly capitation payment;

(c) The provision of inpatient psychiatric services in an IMD shall meet the requirements for in lieu of services as defined in 42 CFR 438.3(e)(2)(i) through (iii):

(A) The alternative service or setting is a medically appropriate and cost effective substitute for the covered service or setting under the state plan;

(B) The CCO must offer the option to access the state plan services and may not require a member to use the IMD as an alternative service or setting;

(C) The approved in lieu of services are authorized and identified in the CCO contract and may be offered to members at the CCO's option.

(d) For the purposes of managed care rate setting, as defined in 42 CFR 438.6(e):

(A) The state may make monthly capitation payments to CCOs;

(B) Cost of state services delivered through providers should reflect rates paid under the state plan and not in lieu of services rates.

(11) CCOs shall coordinate a member's care even when services or placements are outside the CCO service area. CCO assignment is based on the case member's residence and referred to as county of origin or jurisdiction. Temporary placements by the Authority, Department, or health services placements for services including residential placements may be located out of the service area; however, the CCO shall coordinate care while in placement and discharge planning for return to county of origin or jurisdiction. For out of area placements, an out of area exception shall be made for the member to retain the CCO enrollment in the county of origin or jurisdiction, while the member's placement is a temporary residential placement elsewhere. For program placements in Child Welfare, BRS, OYA, and PTRS, refer to OAR 410-141-3050 for program specific rules.

(12) CCOs shall develop agreements with community mental health programs regarding:

(a) The management of adults who were members upon entering the state hospital and are transitioning from the Oregon State Hospital; and

(b) Care coordination of residential services and supports for adults and children.

(13) CCOs shall coordinate with Community Emergency Service Agencies including, but not limited to, police, courts, juvenile justice, cor-

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rections, LMHAs, and CMHPs to promote an appropriate response to members experiencing a behavioral health crisis and to prevent inappropriate use of the emergency department or jails.

(14) CCOs shall accept FFS authorized services, medical, and pharmacy prior authorizations, ongoing services where a FFS prior authorization is not required, and services authorized by the Division's Medical Management Review Committee for 90 days, or until the CCO can establish a relationship with the member and develop an evidence based, medically appropriate coordinated care plan, whichever is later, except where customized equipment, services, procedures, or treatment protocol require service continuation for no less than six months.

(15) Except as provided in OAR 410-141-3050, CCOs shall coordinate patient care, including care required by temporary residential placement outside the CCO service area, or out-of-state care in instances where medically necessary specialty care is not available in Oregon:

(a) CCO enrollment shall be maintained in the county of origin with the expectation of the CCO to coordinate care with the out of area placement and local providers;

(b) The CCO shall coordinate the discharge planning when the member returns to the county of origin.

(16) CCOs shall coordinate and authorize care, including instances where the member's medically appropriate care requires services and providers outside the CCO's contracted network, in another area, out-of-state, or a unique provider specialty not otherwise contracted. The CCO shall pay the services and treatment plan as a non-participating provider pursuant to OAR 410-120-1295.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610-414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 1-2013(Temp), f. & cert. ef. 1-4-13 thru 7-2-13; DMAP 34-2013, f. & cert. ef. 6-27-13; DMAP 72-2016(Temp), f. 12-28-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 20-2017, f. 6-12-17, cert. ef. 6-29-17; DMAP 21-2017(Temp), f. 6-29-17, cert. ef. 7-1-17 thru 12-27-17

Rule Caption: Amending Prior Authorization Approval Criteria Guide

Adm. Order No.: DMAP 22-2017

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Rules Amended: 410-121-0040

Rules Repealed: 410-121-0040(T)

Subject: The Pharmaceutical Services program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services

and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated June 1, 2017, adopted and incorporated by reference and found at: <http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx>

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.330 to 414.414, 414.312 & 414.316
Stats. Implemented: 414.065, 414.334, 414.361, 414.371, 414.353 & 414.354
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13;

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Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16; DMAP 44-2015(Temp), f. 8-21-15, cert. ef. 8-25-15 thru 12-27-15; DMAP 58-2015(Temp), f. & cert. ef. 10-9-15 thru 12-27-15; DMAP 80-2015, f. 12-23-15, cert. ef. 12-27-15; DMAP 83-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 6-2016(Temp), f. 2-11-16, cert. ef. 2-12-16 thru 6-28-16; DMAP 19-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 26-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 35-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; DMAP 54-2016(Temp), f. & cert. ef. 8-26-16 thru 12-27-16; DMAP 62-2016(Temp), f. & cert. ef. 10-13-16 thru 12-27-16; DMAP 68-2016, f. & cert. ef. 12-1-16; DMAP 79-2016(Temp), f. 12-29-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 5-2017(Temp), f. & cert. ef. 2-21-17 thru 6-29-17; DMAP 10-2017(Temp), f. 3-31-17, cert. ef. 4-1-17 thru 6-29-17; DMAP 11-2017(Temp), f. 3-31-17, cert. ef. 6-1-17 thru 6-29-17; DMAP 22-2017, f. & cert. ef. 6-29-17

Rule Caption: Amending PDL January 26, 2017 DUR/P&T Action

Adm. Order No.: DMAP 23-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 6-29-17

Notice Publication Date: 6-1-2017

Rules Amended: 410-121-0030

Rules Repealed: 410-121-0030(T)

Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows for 410-121-0030:

Preferred:
Promethazine tabs, syrup and suppositories
Prochlorperazine tabs, syrup and suppositories
Metoclopramide tabs and oral solutions
Phosphoric acid/dextrose/fructose oral solutions
Depo-Provera® injection
Medroxyprogesterone acetate tabs
Micronized progesterone caps
Norethindrone acetate tabs
Loperamide
Ursodiol
Naltrexone Microspheres

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners, who are informed by the latest peer reviewed research, make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are avail-

able for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The Division notifies the pharmacy that the cost of the brand name particular drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Call Center; or

(B) Where the prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated May 1, 2017 is adopted and incorporated by reference and is found at: www.orpdl.org.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2007, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 37-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DMAP 57-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 12-27-15; DMAP 64-2015(Temp), f. & cert. ef. 11-3-15 thru 12-27-15; DMAP 66-2015(Temp), f. & cert. ef. 11-6-15 thru 12-27-15; DMAP 79-2015, f. 12-22-15, cert. ef. 12-27-15; DMAP 84-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 18-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 27-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 43-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DMAP 57-2016(Temp),

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f. 9-30-16, cert. ef. 10-1-16 thru 3-29-17; DMAP 69-2016, f. & cert. ef. 12-1-16; DMAP 80-2016(Temp), f. 12-30-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 14-2017(Temp), f. 4-28-17, cert. ef. 5-1-17 thru 6-29-17; DMAP 23-2017, f. & cert. ef. 6-29-17

Rule Caption: Align with Department of Human Services OAR Chapter 461 Rules

Adm. Order No.: DMAP 24-2017

Filed with Sec. of State: 6-29-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 6-1-2017

Rules Amended: 410-120-0006

Rules Repealed: 410-120-0006(T)

Subject: In coordination with the Department of Human Services' (Department) revision of rules established in OAR chapter 461 for all overpayment, personal injury liens, and estate administration, the Division is amending OAR 410-120-0006 to assure that the Division's rule aligns with and reflects information found in the Department's amended rules. In OAR 410-120-0006, the Division adopts and incorporates Department rules and must update OAR 410-120-0006 accordingly. The Division is amending this rule that incorporates rules established in OAR Chapter 461 for all overpayment, personal injury liens, and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-120-0006

Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedures consistent with applicable law. As outlined in OAR 943-001-0020, the Authority and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461 for all overpayment, personal injury liens and estates administration for Authority programs covered under OAR chapter 410, division 200.

(2) Any reference to OAR chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP 44-2013(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13; DMAP 52-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 55-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14; DMAP 59-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 3-31-14; DMAP 9-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 3-31-14; DMAP 18-2014, f. 3-28-14, cert. ef. 3-31-14; DMAP 41-2014, f. & cert. ef. 7-1-14; DMAP 54-2014, f. & cert. ef. 9-23-14; DMAP 12-2015(Temp), f. 3-5-15, cert. ef. 3-19-15 thru 9-14-15; DMAP 33-2015, f. 6-24-15, cert. ef. 7-1-15; DMAP 49-2015, f. 9-3-15, cert. ef. 10-1-15; DMAP 70-2015, f. 12-8-15, cert. ef. 1-1-16; DMAP 32-2016, f. 6-29-16, cert. ef. 7-1-16; DMAP 46-2016, f. 7-18-16, cert. ef. 8-1-16; DMAP 58-2016, f. 9-30-16, cert. ef. 10-1-16; DMAP 8-2017(Temp), f. & cert. ef. 3-1-17 thru 8-27-17; DMAP 24-2017, f. 6-29-17, cert. ef. 7-1-17

Rule Caption: Updates the Covered and Non-Covered Dental Services and Clarifies Timeframes for Partial Denture Replacement

Adm. Order No.: DMAP 25-2017

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Notice Publication Date: 6-1-2017

Rules Amended: 410-123-1220, 410-123-1260

Rules Repealed: 410-123-1220(T), 410-123-1260(T)

Subject: Updates the version of the Covered and Non-Covered dental services list on June 29, 2017. This rule needs to be amended promptly so that the Authority can clarify which document providers and clients should reference when they have questions about dental care coverage. Also clarifies timeframes for partial denture replacement.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-123-1220

Coverage According to the Prioritized List of Health Services

(1) This rule incorporates by reference the "Covered and Non-Covered Dental Services" document dated June 29, 2017, and located on the Health Systems Division, Medical Assistance Programs (Division) website at <http://www.oregon.gov/oha/healthplan/Pages/dental.aspx>:

(a) The "Covered and Non-Covered Dental Services" document lists coverage of Current Dental Terminology (CDT) procedure codes according to the Oregon Health Evidence Review Commission (HERC) Prioritized List of Health Services (Prioritized List) and the client's specific Oregon Health Plan benefit package;

(b) This document is subject to change if there are funding changes to the Prioritized List.

(2) Changes to services funded on the Prioritized List are effective on the date of the Prioritized List change:

(a) The Division administrative rules (chapter 410, division 123) will not reflect the most current Prioritized List changes until they have gone through the Division rule filing process;

(b) For the most current Prioritized List, refer to the HERC website at www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx;

(c) In the event of an alleged variation between a Division-listed code and a national code, the Division shall apply the national code in effect on the date of request or date of service.

(3) Refer to OAR 410-123-1260 for information about limitations on procedures funded according to the Prioritized List. Examples of limitations include frequency and client's age.

(4) The Prioritized List does not include or fund the following general categories of dental services, and the Division does not cover them for any client. Several of these services are considered elective or "cosmetic" in nature (i.e., done for the sake of appearance):

(a) Desensitization;

(b) Implant and implant services;

(c) Mastique or veneer procedure;

(d) Orthodontia (except when it is treatment for cleft palate);

(e) Overhang removal;

(f) Procedures, appliances, or restorations solely for aesthetic or cosmetic purposes;

(g) Temporomandibular joint dysfunction treatment; and

(h) Tooth bleaching.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 21-1994(Temp), f. 4-29-94, cert. ef. 5-1-94; HR 32-1994, f. & cert. ef. 11-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; HR 9-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03, cert. ef. 10-1-03; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 31-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 17-2011, f. & cert. ef. 7-12-11; DMAP 41-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 46-2011, f. 12-23-11, cert. ef. 1-1-12; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 7-2015(Temp), f. & cert. ef. 2-17-15 thru 8-15-15; DMAP 28-2015, f. & cert. ef. 5-1-15; DMAP 46-2015(Temp), f. 8-26-15, cert. ef. 10-1-15 thru 3-28-16; DMAP 65-2015, f. 11-3-15, cert. ef. 12-1-15; DMAP 20-2016(Temp), f. 5-6-16, cert. ef. 5-10-16 thru 11-5-16; DMAP 48-2016(Temp), f. & cert. ef. 7-22-16 thru 11-5-16; DMAP 61-2016, f. & cert. ef. 10-13-16; DMAP 71-2016(Temp), f. 12-28-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 25-2017, f. & cert. ef. 6-29-17

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410-123-1260

OHP Dental Benefits

This administrative rule aligns with and reflects changes to the Prioritized List of Health Services and the American Dental Association's (ADA) Code on Dental Procedures and Nomenclature (CDT Codes), as well as a restoration of benefits resulting from legislative action in 2015. Effective January 1, 2017, the Health Evidence Review Commission (HERC) added and deleted oral health procedure codes. This rule provides information on how the Oregon Health Plan will cover newly opened CDT codes and restored benefits as of October 1, 2016.

(1) GENERAL:

(a) Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

(A) Refer to Code of Federal Regulations (42 CFR 441, Subpart B) and OAR chapter 410, division 120 for definitions of the EPSDT program, eligible clients, and related services. EPSDT dental services include, but are not limited to:

- (i) Dental screening services for eligible EPSDT individuals; and
- (ii) Dental diagnosis and treatment that is indicated by screening at as early an age as necessary, needed for relief of pain and infections, restoration of teeth, and maintenance of dental health.

(B) Providers shall provide EPSDT services for eligible Division clients according to the following documents:

(i) The Dental Services Program administrative rules (OAR chapter 410, division 123), for dentally appropriate services funded on the Oregon Health Evidence Review Commission's Prioritized List of Health Services (Prioritized List); and

(ii) The "Oregon Health Plan (OHP) — Recommended Dental Periodicity Schedule," dated January 1, 2010, incorporated in rule by reference and posted on the Division website in the Dental Services Provider Guide document at www.oregon.gov/oha/healthplan/Pages/dental.aspx.

(b) Restorative, periodontal, and prosthetic treatments:

(A) Documentation shall be included in the client's charts to support the treatment. Treatments shall be consistent with the prevailing standard of care and may be limited as follows:

- (i) When prognosis is unfavorable;
- (ii) When treatment is impractical;
- (iii) A lesser-cost procedure would achieve the same ultimate result;

or

(iv) The treatment has specific limitations outlined in this rule.

(B) Prosthetic treatment, including porcelain fused to metal crowns, are limited until rampant progression of caries is arrested and a period of adequate oral hygiene and periodontal stability is demonstrated; periodontal health needs to be stable and supportive of a prosthetic.

(2) ENHANCED ORAL HEALTH SERVICES IN PRIMARY CARE SETTINGS:

(a) Topical fluoride treatment:

(A) For children under 19 years of age, topical fluoride varnish may be applied by a licensed medical practitioner during a medical visit. Providers must bill:

(i) The Division directly when the client is fee-for-service (FFS), is enrolled in a Coordinated Care Organization (CCO) that does not include integrated medical and dental services, or is enrolled in a PHP that does not include integrated medical and dental services;

(ii) The client's CCO if the client is enrolled in a CCO that includes integrated medical and dental services;

(iii) Using a professional claim format with either the appropriate Current Dental Terminology (CDT) code (D1206-Topical Fluoride Varnish) or the appropriate Current Procedural Terminology (CPT) code (99188 – Application of topical fluoride varnish by a physician or other qualified health care professional).

(B) Topical fluoride treatment from a medical practitioner counts toward the overall maximum number of fluoride treatments, as described in subsection (4) of this rule.

(b) Assessment of a patient:

(A) For children under six years of age, CDT code D0191-Assessment of a Patient is covered as an enhanced oral health service in medical settings;

(B) For reimbursement in a medical setting, D0191-Assessment of a patient must include all of the following components:

(i) Caries risk assessment using a standardized tool endorsed by Oregon Oral Health Coalition, the American Dental Association, the American Academy of Pediatric Dentistry, or the American Academy of Pediatrics;

(ii) Anticipatory guidance and counseling with the client's caregiver on good oral hygiene practices and nutrition;

(iii) Referral to a dentist in order to establish a dental home;

(iv) Documentation in medical chart of risk assessment findings and service components provided.

(C) For reimbursement, the performing provider must meet all of the following criteria:

(i) Be a physician (MD or DO), an advance practice nurse, or a licensed physician assistant; and

(ii) Hold a certificate of completion from one of the following approved training programs within the previous three years:

(I) Smiles for Life; or

(II) First Tooth through the Oregon Oral Health Coalition.

(D) For reimbursement, the medical practitioners must bill:

(i) The Division directly when the client is fee-for-service (FFS), is enrolled in a Coordinated Care Organization (CCO) that does not include integrated medical and dental services, or is enrolled in a PHP that does not include integrated medical and dental services;

(ii) The client's CCO if the client is enrolled in a CCO that includes integrated medical and dental services;

(iii) Using a professional claim format with the appropriate CDT code (D0191-Assessment of a Patient).

(E) D0191 Assessment of a Patient may be reimbursed under this subsection up to a maximum of once every 12 months;

(F) D0191 Assessment of a Patient from a medical practitioner does not count toward the maximum number of CDT code D0191-Assessment of a Patient services performed by a dental practitioner described in subsection three (3) of this rule.

(c) For tobacco cessation services provided during a medical visit, follow criteria outlined in OAR 410-130-0190.

(3) DIAGNOSTIC SERVICES:

(a) Exams:

(A) For children under 19 years of age:

(i) The Division shall reimburse exams (billed as CDT codes D0120, D0145, D0150, or D0180) a maximum of twice every 12 months with the following limitations:

(I) D0150: once every 12 months when performed by the same practitioner;

(II) D0150: twice every 12 months only when performed by different practitioners;

(III) D0180: once every 12 months.

(ii) The Division shall reimburse D0160 only once every 12 months when performed by the same practitioner.

(B) For adults 19 years of age and older, the Division shall reimburse exams (billed as CDT codes D0120, D0150, D0160, or D0180) once every 12 months;

(C) For problem focused exams (urgent or emergent problems), the Division shall reimburse D0140 for the initial exam. The Division shall reimburse D0170 for related problem-focused follow-up exams. Providers must not bill D0140 and D0170 for routine dental visits;

(D) The Division only covers oral exams performed by medical practitioners when the medical practitioner is an oral surgeon;

(E) As the American Dental Association's Current Dental Terminology (CDT) codebook specifies, the evaluation, diagnosis, and treatment planning components of the exam are the responsibility of the dentist. The Division may not reimburse dental exams when performed by a dental hygienist (with or without an expanded practice permit).

(b) Assessment of a patient (D0191):

(A) When performed by a dental practitioner, the Division shall reimburse:

(i) If performed by a dentist outside of a dental office;

(ii) If performed by a dental hygienist with an expanded practice dental hygiene permit;

(iii) Only if an exam (D0120-D0180) is not performed on the same date of service. Assessment of a patient (D0191) is included as part of an exam (D0120-D0180);

(iv) For children under 19 years of age, a maximum of twice every 12 months; and

(v) For adults age 19 and older, a maximum of once every 12 months.

(B) An assessment does not take the place of the need for oral evaluations/exams.

(c) Radiographs:

(A) The Division shall reimburse for routine radiographs once every 12 months;

(B) The Division shall reimburse bitewing radiographs for routine screening once every 12 months;

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(C) The Division shall reimburse a maximum of six radiographs for any one emergency;

(D) For clients under age six, radiographs may be billed separately every 12 months as follows:

- (i) D0220 — once;
- (ii) D0230 — a maximum of five times;
- (iii) D0270 — a maximum of twice, or D0272 once.

(E) The Division shall reimburse for panoramic (D0330) or intra-oral complete series (D0210) once every five years, but both cannot be done within the five-year period;

(F) Clients shall be a minimum of six years old for billing intra-oral complete series (D0210). The minimum standards for reimbursement of intra-oral complete series are:

(i) For clients age six through 11 — a minimum of ten periapicals and two bitewings for a total of 12 films;

(ii) For clients ages 12 and older — a minimum of ten periapicals and four bitewings for a total of 14 films.

(G) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Division shall reimburse for the complete series;

(H) Additional films may be covered if dentally or medically appropriate, e.g., fractures (Refer to OAR 410-123-1060 and 410-120-0000);

(I) If the Division determines the number of radiographs to be excessive, payment for some or all radiographs of the same tooth or area may be denied;

(J) The exception to these limitations is if the client is new to the office or clinic and the office or clinic is unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records shall be included in the client's records;

(K) Digital radiographs, if printed, shall be on photo paper to assure sufficient quality of images.

(4) PREVENTIVE SERVICES:

(a) Prophylaxis:

(A) For children under 19 years of age — Limited to twice per 12 months;

(B) For adults 19 years of age and older — Limited to once per 12 months;

(C) Additional prophylaxis benefit provisions may be available for persons with high risk oral conditions due to disease process, pregnancy, medications, or other medical treatments or conditions, severe periodontal disease, rampant caries and for persons with disabilities who cannot perform adequate daily oral health care;

(D) Are coded using the appropriate Current Dental Terminology (CDT) coding:

(i) D1110 (Prophylaxis — Adult) — Use for clients 14 years of age and older; and

(ii) D1120 (Prophylaxis — Child) — Use for clients under 14 years of age.

(b) Topical fluoride treatment:

(A) For adults 19 years of age and older — Limited to once every 12 months;

(B) For children under 19 years of age — Limited to twice every 12 months;

(C) Additional topical fluoride treatments may be available, up to a total of four treatments per client within a 12-month period, when high-risk conditions or oral health factors are clearly documented in chart notes for clients who:

(i) Have high-risk oral conditions due to disease process, medications, other medical treatments or conditions, or rampant caries;

(ii) Are pregnant;

(iii) Have physical disabilities and cannot perform adequate, daily oral health care;

(iv) Have a developmental disability or other severe cognitive impairment that cannot perform adequate, daily oral health care; or

(v) Are under seven years old with high-risk oral health factors, such as poor oral hygiene, deep pits and fissures (grooves) in teeth, severely crowded teeth, poor diet, etc.

(D) Fluoride limits include any combination of fluoride varnish (D1206) or other topical fluoride (D1208).

(c) Sealants (D1351):

(A) Are covered only for children under 16 years of age;

(B) The Division limits coverage to:

(i) Permanent molars; and

(ii) Only one sealant treatment per molar every five years, except for visible evidence of clinical failure.

(d) Tobacco cessation:

(A) For services provided during a dental visit, bill as a dental service using CDT code D1320 when the following brief counseling is provided:

(i) Ask patients about their tobacco-use status at each visit and record information in the chart;

(ii) Advise patients on their oral health conditions related to tobacco use and give direct advice to quit using tobacco and a strong personalized message to seek help; and

(iii) Refer patients who are ready to quit, utilizing internal and external resources, to complete the remaining three A's (assess, assist, arrange) of the standard intervention protocol for tobacco.

(B) The Division allows a maximum of ten services within a three-month period.

(e) Space management:

(A) The Division shall cover fixed and removable space maintainers (D1510, D1515, D1520, D1525, and D1575) only for clients under 19 years of age;

(B) The Division may not reimburse for replacement of lost or damaged removable space maintainers.

(f) Interim caries arresting medicament application (D1354):

(A) Is limited to silver diamine fluoride (SDF) application as the medicament. It does not include coverage of any other medicaments;

(B) May be billed for two applications per year;

(C) Requires that the tooth or teeth numbers be included on the claim;

(D) Shall be covered with topical application of fluoride (D1206 or D1208) when they are performed on the same date of service if D1354 is being used to treat a carious lesion and D1206 or D1208 to prevent caries;

(E) Shall be covered with an interim therapeutic restoration (D2941) or a permanent restoration and (D1354) on the same tooth, when dentally appropriate.

(5) RESTORATIVE SERVICES:

(a) Amalgam and resin-based composite restorations, direct:

(A) Resin-based composite crowns on anterior teeth (D2390) are only covered for clients under 21 years of age or who are pregnant;

(B) The Division reimburses posterior composite restorations at the same rate as amalgam restorations;

(C) The Division limits payment for replacement of posterior composite restorations to once every five years;

(D) The Division limits payment of covered restorations to the maximum restoration fee of four surfaces per tooth. Refer to the American Dental Association (ADA) CDT codebook for definitions of restorative procedures;

(E) Providers shall combine and bill multiple surface restorations as one line per tooth using the appropriate code. Providers may not bill multiple surface restorations performed on a single tooth on the same day on separate lines. For example, if tooth #30 has a buccal amalgam and a mesial-occlusal-distal (MOD) amalgam, then bill MOD, B, using code D2161 (four or more surfaces);

(F) The Division may not reimburse for an amalgam or composite restoration and a crown on the same tooth;

(G) Interim therapeutic restoration on primary dentition (D2941) is covered to restore and prevent progression of dental caries. Interim therapeutic restoration is not a definitive restoration;

(H) Reattachment of tooth fragment (D2921) is covered once in the lifetime of a tooth when there is no pulp exposure and no need for endodontic treatment;

(I) The Division reimburses for a surface not more than once in each treatment episode regardless of the number or combination of restorations;

(J) The restoration fee includes payment for occlusal adjustment and polishing of the restoration.

(b) Indirect crowns and related services:

(A) General payment policies:

(i) The fee for the crown includes payment for preparation of the gingival tissue;

(ii) The Division shall cover crowns only when:

(I) There is significant loss of clinical crown and no other restoration will restore function; and

(II) The crown-to-root ratio is 50:50 or better, and the tooth is restorable without other surgical procedures.

(iii) The Division shall cover core buildup (D2950) only when necessary to retain a cast restoration due to extensive loss of tooth structure from caries or a fracture and only when done in conjunction with a crown. Less

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than 50 percent of the tooth structure must be remaining for coverage of the core buildup.

(iv) Reimbursement of retention pins (D2951) is per tooth, not per pin.

(B) The Division shall not cover the following services:

(i) Endodontic therapy alone (with or without a post);

(ii) Aesthetics (cosmetics);

(iii) Crowns in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason.

(C) Stainless steel crowns (D2930/D2931) are allowed only for anterior primary teeth and posterior permanent or primary teeth;

(D) The Division shall cover the following only for clients under 21 years of age or who are pregnant:

(i) Prefabricated plastic crowns (D2932) are allowed only for anterior teeth, permanent or primary;

(ii) Prefabricated stainless steel crowns with resin window (D2933) are allowed only for anterior teeth, permanent or primary;

(iii) Prefabricated post and core in addition to crowns (D2954/D2957);

(iv) Permanent crowns (resin-based composite — D2710 and D2712 and porcelain fused to metal (PFM) — D2751 and D2752) as follows:

(I) Limited to teeth numbers 6–11, 22, and 27 only, if dentally appropriate;

(II) Limited to four in a seven-year period. This limitation includes any replacement crowns allowed according to (E)(i) of this rule;

(III) Only for clients at least 16 years of age; and

(IV) Rampant caries are arrested, and the client demonstrates a period of oral hygiene before prosthetics are proposed.

(v) PFM crowns (D2751 and D2752) shall also meet the following additional criteria:

(I) The dental practitioner has attempted all other dentally appropriate restoration options and documented failure of those options;

(II) Written documentation in the client's chart indicates that PFM is the only restoration option that will restore function;

(III) The dental practitioner submits radiographs to the Division for review; history, diagnosis, and treatment plan may be requested. (See OAR 410-123-1100 Services Reviewed by the Division);

(IV) The client has documented stable periodontal status with pocket depths within 1–3 millimeters. If PFM crowns are placed with pocket depths of 4 millimeters and over, documentation shall be maintained in the client's chart of the dentist's findings supporting stability and why the increased pocket depths will not adversely affect expected long-term prognosis;

(V) The crown has a favorable long-term prognosis; and

(VI) If the tooth to be crowned is a clasp/abutment tooth in partial denture, both prognosis for the crown itself and the tooth's contribution to partial denture shall have favorable expected long-term prognosis.

(E) Crown replacement:

(i) Permanent crown replacement limited to once every seven years;

(ii) All other crown replacement limited to once every five years; and

(iii) The Division may make exceptions to crown replacement limitations due to acute trauma, based on the following factors:

(I) Extent of crown damage;

(II) Extent of damage to other teeth or crowns;

(III) Extent of impaired mastication;

(IV) Tooth is restorable without other surgical procedures; and

(V) If loss of tooth would result in coverage of removable prosthetic.

(F) Crown repair (D2980) is limited to only anterior teeth.

(6) ENDODONTIC SERVICES:

(a) Endodontic therapy:

(A) Pulpal therapy on primary teeth (D3230 and D3240) is covered only for clients under 21 years of age;

(B) For permanent teeth:

(i) Anterior and bicuspid endodontic therapy (D3310 and D3320) is covered for all OHP Plus clients; and

(ii) Molar endodontic therapy (D3330):

(I) For clients through age 20, is covered only for first and second molars; and

(II) For clients age 21 and older who are pregnant, is covered only for first molars.

(C) The Division covers endodontics only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures.

(b) Endodontic retreatment and apicoectomy:

(A) The Division does not cover retreatment of a previous root canal or apicoectomy for bicuspid or molars;

(B) The Division limits either a retreatment or an apicoectomy (but not both procedures for the same tooth) to symptomatic anterior teeth when:

(i) Crown-to-root ratio is 50:50 or better;

(ii) The tooth is restorable without other surgical procedures; or

(iii) If loss of tooth would result in the need for removable prosthodontics.

(C) Retrograde filling (D3430) is covered only when done in conjunction with a covered apicoectomy of an anterior tooth.

(c) The Division does not allow separate reimbursement for open-and-drain as a palliative procedure when the root canal is completed on the same date of service or if the same practitioner or dental practitioner in the same group practice completed the procedure;

(d) The Division covers endodontics if the tooth is restorable within the OHP benefit coverage package;

(e) Apexification/recalcification procedures:

(A) The Division limits payment for apexification to a maximum of five treatments on permanent teeth only;

(B) Apexification/recalcification procedures are covered only for clients under 21 years of age or who are pregnant.

(7) PERIODONTIC SERVICES:

(a) Surgical periodontal services:

(A) Gingivectomy/Gingivoplasty (D4210 and D4211) — limited to coverage for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., Dilantin hyperplasia; and

(B) Includes six months routine postoperative care;

(C) The Division shall consider gingivectomy or gingivoplasty to allow for access for restorative procedure, per tooth (D4212) as part of the restoration and will not provide a separate reimbursement for this procedure.

(b) Non-surgical periodontal services:

(A) Periodontal scaling and root planing (D4341 and D4342):

(i) Allowed once every two years;

(ii) A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances;

(iii) Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater:

(I) D4341 is allowed for quadrants with at least four or more teeth with pockets 5 mm or greater. Single implants may now be covered by counting the implant as an additional tooth when billing D4341. The maximum number per quadrant and pocket depth requirements still apply;

(II) D4342 is allowed for quadrants with at least two teeth with pocket depths of 5 mm or greater. Single implants may now be covered by counting the implant as an additional tooth when billing D4342. The maximum number per quadrant and pocket depth requirements still apply;

(iv) Prior authorization for more frequent scaling and root planing may be requested when:

(I) Medically/dentally necessary due to periodontal disease as defined above is found during pregnancy; and

(II) Client's medical record is submitted that supports the need for increased scaling and root planing.

(B) Full mouth debridement (D4355) allowed only once every two years.

(C) (D4346) Scaling in the presence of generalized moderate or severe gingival inflammation - full mouth, after oral evaluation, allowed only once every two years.

(c) Periodontal maintenance (D4910) allowed once every six months:

(A) Limited to following periodontal therapy (surgical or non-surgical) that is documented to have occurred within the past three years;

(B) Prior authorization for more frequent periodontal maintenance may be requested when:

(i) Medically/dentally necessary, such as due to presence of periodontal disease during pregnancy; and

(ii) Client's medical record is submitted that supports the need for increased periodontal maintenance (chart notes, pocket depths and radiographs).

(d) Records shall clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;

(e) The Division may not reimburse for procedures identified by the following codes if performed on the same date of service:

(A) D1110 (Prophylaxis — adult);

(B) D1120 (Prophylaxis — child);

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(C) D4210 (Gingivectomy or gingivoplasty — four or more contiguous teeth or bounded teeth spaces per quadrant);

(D) D4211 (Gingivectomy or gingivoplasty — one to three contiguous teeth or bounded teeth spaces per quadrant);

(E) D4341 (Periodontal scaling and root planning — four or more teeth per quadrant);

(F) D4342 (Periodontal scaling and root planning — one to three teeth per quadrant);

(G) D4346 (Scaling in presence of generalized moderate to severe inflammation, full mouth after oral evaluation);

(H) D4355 (Full mouth debridement to enable comprehensive evaluation and diagnosis); and

(I) D4910 (Periodontal maintenance).

(8) REMOVABLE PROSTHODONTIC SERVICES:

(a) Clients age 16 years and older are eligible for removable resin base partial dentures (D5211-D5212) and full dentures (complete or immediate, D5110-D5140);

(b) See OAR 410-123-1000 for detail regarding billing fabricated prosthetics;

(c) The fee for the partial and full dentures includes payment for adjustments during the six-month period following delivery to clients;

(d) Resin partial dentures (D5211-D5212):

(A) The Division may not approve resin partial dentures if stainless steel crowns are used as abutments;

(B) For clients through age 20, the client shall have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;

(C) For clients age 21 and older, the client shall have one or more missing anterior teeth or six or more missing posterior teeth per arch with documentation by the provider of resulting space causing serious impairment to mastication. Third molars are not a consideration when counting missing teeth;

(D) The dental practitioner shall note the teeth to be replaced and teeth to be clasped when requesting prior authorization (PA).

(e) Replacement of removable partial or full dentures, when it cannot be made clinically serviceable by a less costly procedure (e.g., reline, rebase, repair, tooth replacement), is limited to the following:

(A) For clients at least 16 years of age, the Division shall replace:

(i) Full dentures once every ten years, only if dentally appropriate;

(ii) Partial dentures once every five years, only if dentally appropriate.

(B) The five- and ten-year limitations apply to the client regardless of the client's OHP or Dental Care Organization (DCO)/Coordinated Care Organization (CCO) enrollment status at the time the client's last denture or partial was received. For example: A client receives a partial on February 1, 2002, and becomes a FFS OHP client in 2005. The client is not eligible for a replacement partial until February 1, 2007. The client gets a replacement partial on February 3, 2007 while FFS and a year later enrolls in a DCO or CCO. The client would not be eligible for another partial until February 3, 2012, regardless of DCO, CCO, or FFS enrollment;

(C) Replacement of partial dentures with full dentures is payable five years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical, and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant replacement.

(f) The Division limits reimbursement of adjustments and repairs of dentures that are needed beyond six months after delivery of the denture as follows for clients 21 years of age and older:

(A) A maximum of four times per year for:

(i) Adjusting complete and partial dentures, per arch (D5410-D5422);

(ii) Replacing missing or broken teeth on a complete denture, each tooth (D5520);

(iii) Replacing broken tooth on a partial denture, each tooth (D5640);

(iv) Adding tooth to existing partial denture (D5650).

(B) A maximum of two times per year for:

(i) Repairing broken complete denture base (D5510);

(ii) Repairing partial resin denture base (D5610);

(iii) Repairing partial cast framework (D5620);

(iv) Repairing or replacing broken clasp (D5630);

(v) Adding clasp to existing partial denture (D5660).

(g) Replacement of all teeth and acrylic on cast metal framework (D5670, D5671):

(A) Is covered for clients age 16 and older a maximum of once every ten (10) years, per arch;

(B) Ten years or more shall have passed since the original partial denture was delivered;

(C) Is considered replacement of the partial so a new partial denture may not be reimbursed for another ten years; and

(D) Requires prior authorization as it is considered a replacement partial denture.

(h) Denture rebase procedures:

(A) The Division shall cover rebases only if a reline may not adequately solve the problem;

(B) For clients through age 20, the Division limits payment for rebase to once every three years;

(C) For clients age 21 and older:

(i) There shall be documentation of a current reline that has been done and failed; and

(ii) The Division limits payment for rebase to once every five years.

(D) The Division may make exceptions to this limitation in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical, and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant rebasing;

(i) Denture reline procedures:

(A) For clients through age 20, the Division limits payment for reline of complete or partial dentures to once every three years;

(B) For clients age 21 and older, the Division limits payment for reline of complete or partial dentures to once every five years;

(C) The Division may make exceptions to this limitation under the same conditions warranting replacement;

(D) Laboratory relines:

(i) Are not payable prior to six months after placement of an immediate denture; and

(ii) For clients through age 20, are limited to once every three years;

(iii) For clients age 21 and older, are limited to once every five years.

(j) Interim partial dentures (D5820-D5821, also referred to as "flip-pers"):

(A) Are allowed if the client has one or more anterior teeth missing; and

(B) The Division shall reimburse for replacement of interim partial dentures once every five years but only when dentally appropriate.

(k) Tissue conditioning:

(A) Is allowed once per denture unit in conjunction with immediate dentures; and

(B) Is allowed once prior to new prosthetic placement.

(9) MAXILLOFACIAL PROSTHETIC SERVICES:

(a) Fluoride gel carrier (D5986) is limited to those patients whose severity of oral disease causes the increased cleaning and fluoride treatments allowed in rule to be insufficient. The dental practitioner shall document failure of those options prior to use of the fluoride gel carrier;

(b) All other maxillofacial prosthetics (D5900-D5999) are medical services. Refer to the "Covered and Non-Covered Dental Services" document and OAR 410-123-1220:

(A) Bill for medical maxillofacial prosthetics using the professional (CMS1500, DMAP 505 or 837P) claim format:

(B) For clients receiving services through a CCO or PHP, bill medical maxillofacial prosthetics to the CCO or PHP;

(C) For clients receiving medical services through FFS, bill the Division.

(10) ORAL SURGERY SERVICES:

(a) Bill the following procedures in an accepted dental claim format using CDT codes:

(A) Procedures that are directly related to the teeth and supporting structures that are not due to a medical condition or diagnosis, including such procedures performed in an ambulatory surgical center (ASC) or an inpatient or outpatient hospital setting;

(B) Services performed in a dental office setting or an oral surgeon's office:

(i) Such services include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs, and follow-up visits;

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(ii) Refer to OAR 410-123-1160 for any PA requirements for specific procedures.

(b) Bill the following procedures using the professional claim format and the appropriate American Medical Association (AMA) CPT procedure and ICD-10 diagnosis codes:

(A) Procedures that are a result of a medical condition (i.e., fractures, cancer);

(B) Services requiring hospital dentistry that are the result of a medical condition/diagnosis (i.e., fracture, cancer).

(c) Refer to the "Covered and Non-Covered Dental Services" document to see a list of CDT procedure codes on the Prioritized List that may also have CPT medical codes. See OAR 410-123-1220. The procedures listed as "medical" on the table may be covered as medical procedures, and the table may not be all-inclusive of every dental code that has a corresponding medical code;

(d) For clients enrolled in a DCO or CCO responsible for dental services, the DCO or CCO shall pay for those services in the dental plan package;

(e) Oral surgical services performed in an ASC or an inpatient or outpatient hospital setting:

(A) Require PA;

(B) For clients enrolled in a CCO, the CCO shall pay for the facility charge and anesthesia services. For clients enrolled in a Physician Care Organization (PCO), the PCO shall pay for the outpatient facility charge (including ASCs) and anesthesia. Refer to the current Medical Surgical Services administrative rules in OAR chapter 410, division 130 for more information;

(C) If a client is enrolled in a CCO or PHP, the provider shall contact the CCO or PHP for any required authorization before the service is rendered.

(f) All codes listed as "by report" require an operative report;

(g) The Division covers payment for tooth re-implantation only in cases of traumatic avulsion where there are good indications of success;

(h) Biopsies collected are reimbursed as a dental service. Laboratory services of biopsies are reimbursed as a medical service;

(i) The Division does not cover surgical excisions of soft tissue lesions (D7410-D7415);

(j) Extractions — Includes local anesthesia and routine postoperative care, including treatment of a dry socket if done by the provider of the extraction. Dry socket is not considered a separate service;

(k) Surgical extractions:

(A) Include local anesthesia and routine post-operative care;

(B) The Division limits payment for surgical removal of impacted teeth or removal of residual tooth roots to treatment for only those teeth that have acute infection or abscess, severe tooth pain, or unusual swelling of the face or gums;

(C) The Division does not cover alveoplasty in conjunction with extractions (D7310 and D7311) separately from the extraction;

(D) The Division covers alveoplasty not in conjunction with extractions (D7320-D7321) only for clients under 21 years of age or who are pregnant.

(L) Frenulectomy/frenulotomy (D7960) and frenuloplasty (D7963):

(A) The Division covers either frenulectomy or frenuloplasty once per lifetime per arch only for clients under age 21;

(B) The Division covers maxillary labial frenulectomy only for clients age 12 through 20;

(C) The Division shall cover frenulectomy/frenuloplasty in the following situations:

(i) When the client has ankyloglossia;

(ii) When the condition is deemed to cause gingival recession; or

(iii) When the condition is deemed to cause movement of the gingival margin when the frenum is placed under tension.

(m) The Division covers excision of pericoronal gingival (D7971) only for clients under age 21 or who are pregnant.

(11) ORTHODONTIA SERVICES:

(a) The Division limits orthodontia services and extractions to eligible clients:

(A) With the ICD-10-CM diagnosis of:

(i) Cleft palate; or

(ii) Cleft palate with cleft lip; and

(B) Whose orthodontia treatment began prior to 21 years of age; or

(C) Whose surgical corrections of cleft palate or cleft lip were not completed prior to age 21.

(b) PA is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate or cleft lip shall be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record shall include diagnosis, length, and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontists evaluate orthodontia treatment for cleft palate/cleft lip as two phases. Stage one is generally the use of an activator (palatal expander), and stage two is generally the placement of fixed appliances (banding). The Division shall reimburse each phase separately;

(f) The Division shall pay for orthodontia in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist shall refund to the Division any unused amount of payment after applying the following formula: Total payment minus \$300.00 (for banding) multiplied by the percentage of treatment remaining;

(g) The Division shall use the length of the treatment plan from the original request for authorization to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment, the Division may not require a refund even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8690 — PA required.

(12) ADJUNCTIVE GENERAL AND OTHER SERVICES:

(a) Fixed partial denture sectioning (D9120) is covered only when extracting a tooth connected to a fixed prosthesis and a portion of the fixed prosthesis is to remain intact and serviceable, preventing the need for more costly treatment;

(b) Anesthesia:

(A) Only use general anesthesia or IV sedation for those clients with concurrent needs: age; physical, medical or mental status; or degree of difficulty of the procedure (D9223 and D9243);

(B) The Division reimburses providers for general anesthesia or IV sedation as follows:

(i) D9223 or D9243: For each 15-minute period, up to three and a half hours on the same day of service;

(ii) Each 15-minute period represents a quantity of one. Enter this number in the quantity column.

(C) The Division reimburses administration of Nitrous Oxide (D9230) per date of service, not by time;

(D) Oral pre-medication anesthesia for conscious sedation (D9248):

(i) Limited to clients under 13 years of age;

(ii) Limited to four times per year;

(iii) Includes payment for monitoring and Nitrous Oxide; and

(iv) Requires use of multiple agents to receive payment.

(E) Upon request, providers shall submit a copy of their permit to administer anesthesia, analgesia, and sedation to the Division;

(F) For the purpose of Title XIX and Title XXI, the Division limits payment for code D9630 to those oral medications used during a procedure and is not intended for "take home" medication.

(c) The Division limits reimbursement of house/extended care facility call (D9410) only for urgent or emergent dental visits that occur outside of a dental office. This code is not reimbursable for provision of preventive services or for services provided outside of the office for the provider or facilities' convenience;

(d) Oral devices/appliances (E0485, E0486):

(A) These may be placed or fabricated by a dentist or oral surgeon but are considered a medical service;

(B) Bill the Division, CCO, or the PHP for these codes using the professional claim format.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03, cert. ef. 10-1-03; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 12-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 18-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 31-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 17-2011, f. & cert. ef. 7-12-11; DMAP 41-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 46-2011, f. 12-23-11, cert. ef. 1-1-12; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 28-2013(Temp), f. 6-26-13, cert. ef. 7-1-13 thru 12-28-13; DMAP 68-2013, f.

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12-5-13, cert. ef. 12-23-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 10-2014(Temp), f. & cert. ef. 2-28-14 thru 8-27-14; DMAP 19-2014(Temp), f. 3-28-14, cert. ef. 4-1-14 thru 6-30-14; DMAP 36-2014, f. & cert. ef. 6-27-14; DMAP 56-2014, f. 9-26-14, cert. ef. 10-1-14; DMAP 7-2015(Temp), f. & cert. ef. 2-17-15 thru 8-15-15; DMAP 28-2015, f. & cert. ef. 5-1-15; DMAP 46-2015(Temp), f. 8-26-15, cert. ef. 10-1-15 thru 3-28-16; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 65-2015, f. 11-3-15, cert. ef. 12-1-15; DMAP 74-2015(Temp), f. 12-18-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 5-2016(Temp), f. & cert. ef. 2-9-16 thru 6-28-16; DMAP 36-2016, f. 6-30-16, cert. ef. 7-1-16; DMAP 45-2016, f. & cert. ef. 7-13-16; DMAP 71-2016(Temp), f. 12-28-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 25-2017, f. & cert. ef. 6-29-17

Rule Caption: Hospital Assessment Rate Increase

Adm. Order No.: DMAP 26-2017(Temp)

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 410-050-0861

Subject: The Division needs to amend OAR 410-050-0861, effective July 1, 2017, to change the hospital assessment rate from 5.30 percent to 6.00 percent. According to the statutes, the director of the Oregon Health Authority is authorized to impose an assessment rate that is the best estimate to generate the revenue needed to cover authorized Oregon Health Plan expenditures. The proposed change is based on client caseload forecasts and expenditures projected for the 2017-19 biennium. The Oregon Health Authority has consulted with hospital representatives on this assessment rate change, and they support the increase. This temporary rule is being filed in order to implement the rate change until a permanent rule can be filed.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-050-0861

Assessment Rate

(1) The assessment rate for the period beginning January 1, 2005, and ending June 30, 2006, is .68 percent.

(2) The assessment rate for the period beginning July 1, 2006, and ending December 31, 2007, is .82 percent.

(3) The assessment rate for the period beginning January 1, 2008, and ending June 30, 2009, is .63 percent.

(4) The assessment rate for the period of January 1, 2008 through June 30, 2009 does not apply to the period beginning July 1, 2009.

(5) The assessment rate for the period beginning July 1, 2009, and ending September 30, 2009, is .15 percent.

(6) The assessment rate for the period beginning October 1, 2009, and ending June 30, 2010, is 2.8 percent.

(7) The assessment rate for the period beginning July 1, 2010, and ending June 30, 2011, is 2.32 percent.

(8) The assessment rate for the period beginning July 1, 2011, and ending September 30, 2011, is 5.25 percent.

(9) The assessment rate for the period beginning October 1, 2011, and ending December 31, 2011, is 5.08 percent.

(10) The assessment rate for the period beginning January 1, 2012, and ending March 31, 2013, is 4.32 percent.

(11) The assessment rate for the period beginning April 1, 2013, and ending September 30, 2014, is 5.30 percent.

(12) The assessment rate for the period beginning October 1, 2014, and ending March 31, 2016, is 5.80 percent.

(13) The assessment rate for the period beginning April 1, 2016, and ending June 30, 2017, is 5.30 percent.

(14) The assessment rate for the period beginning July 1, 2017, is 6.00 percent.

Stat. Auth.: ORS 413.042

Stats. Implemented: 2015 HB 2395

Hist.: OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; OMAP 14-2006, f. 6-1-06, cert. ef. 7-1-06; DMAP 29-2007, f. 12-31-07, cert. ef. 1-1-08; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 24-2009, f. & cert. ef. 7-1-09; DMAP 25-2009(Temp), f. & cert. ef. 7-15-09 thru 1-10-10; DMAP 27-2009, f. & cert. ef. 9-1-09; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 21-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 16-2011(Temp), f. & cert. ef. 7-1-11 thru 11-1-11; DMAP 26-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 11-1-11; DMAP 31-2011, f. 10-28-11, cert. ef. 11-1-11; DMAP 50-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-30-12; DMAP 8-2012, f. 2-27-12, cert. ef. 3-1-12; DMAP 15-2013(Temp), f. & cert. ef. 4-1-13 thru 9-27-13; DMAP 41-2013, f. & cert. ef. 8-1-13; DMAP 58-2014(Temp), f. & cert. ef. 10-1-14 thru 3-29-15; DMAP 68-2014, f. & cert. ef. 12-1-14; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 15-2016(Temp), f. 3-31-16, cert. ef. 4-1-16 thru 9-27-16; DMAP 51-2016, f. 8-9-16, cert. ef. 9-1-16; DMAP 26-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

Rule Caption: Amending PDL March 23, 2017 DUR/P&T Action
Adm. Order No.: DMAP 27-2017(Temp)

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division needs to amend 410-121-0030 per the Drug Use Review (DUR) Pharmacy & Therapeutics (P&T) Committee's recommendations made during the March 23, 2017, meeting. The Authority needs to implement changes to the Preferred Drug List to ensure the safe and appropriate use of cost effective prescription drugs for the Oregon Health Plan's fee-for-service recipients.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners, who are informed by the latest peer reviewed research, make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The Division notifies the pharmacy that the cost of the brand name particular drug, after receiving discounted prices and rebates, is equal to or less than the cost of the generic version of the drug.

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(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Call Center; or

(B) Where the prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated July 1, 2017, is adopted and incorporated by reference and is found at www.orpd.org.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 - 414.414, 414.312, 414.316
Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353, 414.354

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 37-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DMAP 57-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 12-27-15; DMAP 64-2015(Temp), f. & cert. ef. 11-3-15 thru 12-27-15; DMAP 66-2015(Temp), f. & cert. ef. 11-6-15 thru 12-27-15; DMAP 79-2015, f. 12-22-15, cert. ef. 12-27-15; DMAP 84-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 18-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 27-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 43-2016(Temp), f. & cert. ef. 7-1-16 thru 12-27-16; DMAP 57-2016(Temp), f. 9-30-16, cert. ef. 10-1-16 thru 3-29-17; DMAP 69-2016, f. & cert. ef. 12-1-16; DMAP 80-2016(Temp), f. 12-30-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 14-2017(Temp), f. 4-28-17, cert. ef. 5-1-17 thru 6-29-17; DMAP 23-2017, f. & cert. ef. 6-29-17; DMAP 27-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

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Rule Caption: Amending Prior Authorization Approval Criteria Guide

Adm. Order No.: DMAP 28-2017(Temp)

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services program administrative rules (division 121) govern Division payments for services provided to certain clients. The Authority needs to amend this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/HSD/OHP/Pages/Policy-Pharmacy.aspx> based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated July 1, 2017, adopted and incorporated by reference and found at: <http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx>

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.330 to 414.414, 414.312, 414.316

Stats. Implemented: 414.065, 414.334, 414.361, 414.371, 414.353, 414.354

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995,

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f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16; DMAP 44-2015(Temp), f. 8-21-15, cert. ef. 8-25-15 thru 12-27-15; DMAP 58-2015(Temp), f. & cert. ef. 10-9-15 thru 12-27-15; DMAP 80-2015, f. 12-23-15, cert. ef. 12-27-15; DMAP 83-2015(Temp), f. 12-23-15, cert. ef. 1-1-16 thru 6-28-16; DMAP 6-2016(Temp), f. 2-11-16, cert. ef. 2-12-16 thru 6-28-16; DMAP 19-2016(Temp), f. 4-28-16, cert. ef. 5-1-16 thru 6-28-16; DMAP 26-2016, f. 6-24-16, cert. ef. 6-28-16; DMAP 35-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; DMAP 54-2016(Temp), f. & cert. ef. 8-26-16 thru 12-27-16; DMAP 62-2016(Temp), f. & cert. ef. 10-13-16 thru 12-27-16; DMAP 68-2016, f. & cert. ef. 12-1-16; DMAP 79-2016(Temp), f. 12-29-16, cert. ef. 1-1-17 thru 6-29-17; DMAP 5-2017(Temp), f. & cert. ef. 2-21-17 thru 6-29-17; DMAP 10-2017(Temp), f. 3-31-17, cert. ef. 4-1-17 thru 6-29-17; DMAP 11-2017(Temp), f. 3-31-17, cert. ef. 6-1-17 thru 6-29-17; DMAP 22-2017, f. & cert. ef. 6-29-17; DMAP 28-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

Rule Caption: Amending, Repealing Home Health Care Services Rules; Adding New Rule to Meet Medicaid Regulations 42CFR440.70

Adm. Order No.: DMAP 29-2017(Temp)

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-15-17 thru 1-10-18

Notice Publication Date:

Rules Adopted: 410-127-0045

Rules Amended: 410-127-0020, 410-127-0040, 410-127-0060, 410-127-0065, 410-127-0080, 410-127-0200

Rules Suspended: 410-127-0050

Subject: The rule revisions and new rule are intended to meet the current federal Medicaid regulations. Medicaid regulations at 42 CFR 440.70 were revised consistent with section 6407 of the Affordable Care Act of 2010 and section 504 of the Medicare Access and CHIP Reauthorization Act of 2015 to add requirements that, for home health services and certain medical equipment, a face-to-face encounter with the OHP fee-for-service client must be conducted within established timeframes. This aligns timeframes with similar regulatory requirements for Medicare home health services. Repealing OAR 410-127-0050 as copayments are no longer required.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-127-0020

Definitions

- (1) "Acquisition Cost" means the net invoice price of the item, supply, or equipment plus shipping or postage for the item.
- (2) "Assessment" means procedures by which a client's health strengths, weaknesses, problems, and needs are identified.
- (3) "Custodial Care" means provision of services and supplies that can safely be provided by non-medical or unlicensed personnel.
- (4) "Division (Division)" means the Health Systems Division within the Oregon Health Authority (Authority). The Division is responsible for coordinating medical assistance programs within the State of Oregon including the Oregon Health Plan (OHP), the State Children's Health Insurance Program (SCHIP-Title XXI), and several other programs.

(5) "Evaluation" means a systematic objective assessment of the client for the purpose of forming a plan of treatment and a judgment of the effectiveness of care and measurement of treatment progress. The evaluation of direct care and effectiveness of care plans and interventions is an ongoing activity.

(6) "Home" means a place of temporary or permanent residence used as an individual's home. This does not include a hospital, nursing facility, or intermediate care facility, but does include assisted living facilities, residential care facilities, and adult foster care homes.

(7) "Home Health Agency" means a public or private agency or organization that has been certified by Medicare as a Medicare home health agency and that is licensed by the Authority as a home health agency in Oregon and meets the capitalization requirements as outlined in the Balanced Budget Act (BBA) of 1997. Home health agency does not include:

(a) Any visiting nurse service or home health service conducted by and for those who rely upon spiritual means through prayer alone for healing in accordance with tenets and practices of a recognized church or religious denomination;

(b) Health services offered by county health departments that are not formally designated and funded as home health agencies within the individual departments;

(c) Personal care services that do not pertain to the curative, rehabilitative, or preventive aspect of nursing.

(8) "Home Health Aide" means an individual who meets the criteria for Home Health Aide defined in the Medicare Conditions of Participation 42 CFR 484.36, 42 CFR 484.80, and certified by the Oregon Board of Nursing.

(9) "Home Health Aide Services" means services of a home health aide must be provided under the direction and supervision of a registered nurse or licensed therapist familiar with the client, the client's plan of care, and the written care instructions. The focus of care shall be to provide personal care and other services under the plan of care that supports curative, rehabilitative, or preventive aspects of nursing. These services are provided only in support of skilled nursing, physical therapy, occupational therapy, or speech therapy services. These services do not include custodial care.

(10) "Home Health Services" means only the services described in the Division's Home Health Services provider guide.

(11) "Medicaid Home Health Provider" means a home health agency licensed by Health Services, Health Care Licensure and Certification certified for Medicare and enrolled with the Division as a Medicaid provider.

(12) "Medical Supplies" means supplies prescribed by a physician as a necessary part of the plan of care being provided by the home health agency.

(13) "OASIS (Outcome and Assessment Information Set)" means a client specific comprehensive assessment that identifies the client's need for home care and that meets the client's medical, nursing, rehabilitative, social, and discharge planning needs.

(14) "Occupational Therapy Services" means services provided by a registered occupational therapist or certified occupational therapy assistant supervised by a registered occupational therapist, due to the complexity of the service and client's condition. The focus of these services shall be curative, rehabilitative, or preventive and must be considered specific and effective treatments for a client's condition under accepted standards of medical practice. Teaching the client, family, and caregiver task-oriented therapeutic activities designed to restore function and independence in the activities of daily living is included in this skilled service. Occupational Therapy Licensing Board ORS 675.210–675.340 and the Uniform Terminology for Occupational Therapy established by the American Occupational Therapy Association, Inc. govern the practice of occupational therapy.

(15) "Physical Therapy Services" means services provided by a licensed physical therapist or licensed physical therapy assistant under the supervision of a licensed physical therapist, due to the inherent complexity of the service and the client's condition. The focus of these services shall be curative, rehabilitative, or preventive and must be considered specific and effective treatments for a patient's condition under accepted standards of medical practice. Teaching the client, family, and caregiver the necessary techniques, exercises, or precautions for treatment and prevention of illness or injury is included in this skilled service. Physical Therapy Licensing Board ORS 688.010 to 688.235 and Standards for Physical Therapy as well as the Standards of Ethical Conduct for the Physical Therapy Assistant established by the American Physical Therapy Association govern the practice of physical therapy. Physical therapy shall not include radiology or electrosurgery.

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(16) "Plan of Care" means written instructions describing how care is to be provided. The plan is initiated by the admitting registered nurse, physical therapist, occupational therapist, or speech therapist and certified by the prescribing physician. The plan of care must include the client's condition, rationale for the care plan including justification for the skill level of care, and the summary of care for additional certification periods. This includes but is not limited to:

- (a) All pertinent diagnoses;
- (b) Mental status;
- (c) Types of services;
- (d) Specific therapy services;
- (e) Frequency and duration of service delivery;
- (f) Supplies and equipment needed;
- (g) Prognosis;
- (h) Rehabilitation potential;
- (i) Functional limitations;
- (j) Activities permitted;
- (k) Nutritional requirements;
- (L) Medications and treatments;
- (m) Safety measures;
- (n) Discharge plans;
- (o) Teaching requirements;
- (p) Individualized, measurably objective short-term and long-term functional goals;
- (q) Other items as indicated.

(17) "Practitioner" means an individual licensed pursuant to federal and state law to engage in the provision of health care services within the scope of the practitioner's license and certification.

(18) "Responsible Unit" means the agency responsible for approving or denying payment authorization.

(19) "Skilled Nursing Services" means the client care services pertaining to the curative, restorative, or preventive aspects of nursing performed by a registered nurse or under the supervision of a registered nurse, pursuant to the plan of care established by the prescribing physician in consultation with the home health agency staff. Skilled nursing emphasizes a high level of nursing direction, observation, and skill. The focus of these services shall be the use of the nursing process to diagnose and treat human responses to actual or potential health care problems, health teaching, and health counseling. Skilled nursing services include the provision of direct client care and the teaching, delegation, and supervision of others who provide tasks of nursing care to clients, as well as phlebotomy services. Such services will comply with the Nurse Practice Act and administrative rules of the Oregon State Board of Nursing and Health Division, chapter 410 division 27, Home Health Agencies.

(20) "Speech-Language Pathology Services" means services provided by a licensed speech-language pathologist due to the inherent complexity of the service and the patient's condition. The focus of these services shall be curative, rehabilitative, or preventive and must be considered specific and effective treatment for a patient's condition under accepted standards of medical practice. Teaching the client, family, and caregiver task-oriented therapeutic activities designed to restore function and compensatory techniques to improve the level of functional communication ability is included in this skilled service. Speech-Language Pathology and Audiologist Licensing Board ORS 681.205 to 681.991 and the Standards of Ethics established by the American Speech and Hearing Association govern the practice of speech-language pathology.

(21) "Title XVIII (Medicare)" means Title XVIII of the Social Security Act.

(22) "Title XIX (Medicaid)" means Title XIX of the Social Security Act.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 411-075-0001; HR 12-1991, f. & cert. ef. 3-1-91; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 4-1998(Temp), f. & cert. ef. 2-5-98 thru 7-15-98; OMAP 24-1998, f. & cert. ef. 7-15-98; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 36-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; DMAP 33-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 29-2013, f. & cert. ef. 6-27-13; DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0040

Coverage

(1) Medically appropriate home health services may be covered on a visiting basis to eligible clients in their homes as part of a written plan of care.

(2) Home health services require a face-to-face encounter as described in OAR 410-127-0045 consistent with federal Medicaid regulations at 42 CFR 440.70.

(3) Home health services must be prescribed by a physician, and the signed order must be on file at the home health agency. The prescription must include the ICD-10-CM diagnosis code indicating the reason the home health services are requested. The orders on the plan of care must specify the type of services to be provided to the client with respect to the professional who will provide them, the nature of the individual services, specific frequency, and specific duration. The orders must clearly indicate how many times per day, each week or each month the services are to be provided. The plan of care must include the client's condition, the rationale for the care plan including justification for the required skill level of care, and the summary of care for additional certification periods.

(4) The plan of care must be reviewed and signed by the physician every two months to continue services.

(5) The following services or items are covered, if diagnoses are on the portion of the prioritized list above the line funded by the legislature:

- (a) Skilled nursing services;
- (b) Skilled nursing evaluation (includes Outcome and Assessment Information Set (OASIS) assessment);
- (c) Home health aide services;
- (d) Occupational therapy services;
- (e) Occupational therapy evaluation, which may include OASIS assessment;
- (f) Physical therapy services;
- (g) Physical therapy evaluation, which may include OASIS assessment;
- (h) Speech-language pathology services, which may include OASIS assessment;
- (i) Speech-language pathology evaluation, which may include OASIS assessment;
- (j) Medical and surgical supplies.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: PWC 682, f. 7-19-74, ef. 8-11-74; PWC 798, f. & ef. 6-1-76; AFS 8-1979, f. 3-30-79, ef. 4-1-79; Renumbered from 461-019-0400 by Chapter 784, Oregon Laws 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 411-075-0000; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; DMAP 29-2013, f. & cert. ef. 6-27-13; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15; DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0045

Face-to-Face Encounter Requirements for Home Health Services

(1) The Division requires that for the initial ordering of home health services, an in-person face-to-face encounter that is related to the primary reason the client requires the home health services must occur within not more than 90 days before or 30 days after the start of services.

(2) The face-to-face encounter shall be conducted by:

- (a) The certifying physician (MD or DO); or
- (b) An authorized non-physician practitioner (NPP); or
- (c) An attending or post-acute physician for clients admitted to home health immediately after an acute or post-acute stay.

(3) Authorized NPP's for home health services are nurse practitioners, a clinical nurse specialist working in collaboration with the physician, or a physician assistant under the supervision of a physician.

(4) If an authorized NPP performs the face-to-face encounter, they shall communicate the clinical findings to the certifying physician. Those clinical findings must be incorporated into a written or electronic document included in the client's medical record.

(5) The certifying physician shall document that the client was evaluated or treated for a condition that supports the need for the home health services ordered within no more than 90 days before or 30 days after the start of services. The certifying physician shall also document the name of the practitioner who conducted the encounter and the date of the encounter.

(6) The documentation of the face-to-face encounter must be a separate and distinct section of or an addendum to the certification and must be clearly titled, dated, and signed by the certifying physician.

(7) A face-to-face encounter must occur for certification any time a new start of care assessment is completed to initiate care for the home health services.

(8) If a dually eligible client begins home health under Medicare and transitions to Medicaid, the Medicare face-to-face encounter documentation shall meet the Medicaid face-to-face requirement.

(9) The home health agency shall maintain documentation of the qualifying face-to-face encounter and provide this documentation to the Division with the prior authorization request for services.

ADMINISTRATIVE RULES

Stat. Auth.: 411.404 & 414.065
Stats. Implemented: 414.065
Hist.: DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0050

Client Copayments

Copayments may be required for certain services. See OAR 410-120-1230 for specific details.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: OMAP 79-2002, f. 12-24-02, cert. ef. 1-1-03; Suspended by DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; Suspended by DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0060

Reimbursement and Limitations

(1) The Division reimburses home health services on a fee schedule by type of visit (see home health rates on the Authority's website at: <http://www.oregon.gov/OHA/healthplan/pages/home-health.aspx>).

(2) The Division recalculates its home health services rates every other year. The Division shall reimburse home health services at a level of 74 percent of Medicare costs reported on the audited, most recently accepted or submitted Medicare Cost Reports prior to the rebase date and pending approval from the Centers for Medicare and Medicaid Services (CMS), and, if indicated, legislative funding authority.

(3) The Division shall request the Medicare Cost Reports from home health agencies with a due date and shall recalculate potential rates based on the Medicare Cost Reports received by the requested due date. The home health agency shall submit requested cost reports by the date requested.

(4) The Division reimburses only for service that is medically appropriate.

(5) Limitations:

(a) Limits of covered services:

(A) Skilled nursing visits are limited to two visits per day with payment authorization;

(B) All therapy services are limited to one visit or evaluation per day for physical therapy, occupational therapy, or speech-language pathology services. Therapy visits require payment authorization;

(C) The Division shall authorize home health visits for clients with uterine monitoring only for medical problems that could adversely affect the pregnancy and are not related to the uterine monitoring;

(D) Medical supplies must be billed at acquisition cost, and the total of all medical supply revenue codes may not exceed \$50 per day. Only supplies that are used during the visit or the specified additional supplies used for current client/caregiver teaching or training purposes as medically appropriate are billable. Client visit notes must include documentation of supplies used during the visit or supplies provided according to the current plan of care;

(E) Durable medical equipment must be obtained by the client by prescription through a durable medical equipment provider.

(b) Not covered service:

(A) Service not medically appropriate;

(B) A service for a diagnosis that does not appear on a line of the Prioritized List of Health Services that has been funded by the Oregon Legislature (OAR 410-141-0520);

(C) Medical social worker service;

(D) Registered dietician counseling or instruction;

(E) Drug and biological;

(F) Fetal non-stress testing;

(G) Respiratory therapist service;

(H) Flu shot;

(I) Psychiatric nursing service.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: PWC 682, f. 7-19-74, ef. 8-11-74; PWC 798, f. & ef. 6-1-76; PWC 854(Temp), f. 9-30-77, ef. 10-1-77 thru 1-28-78; Renumbered from 461-019-0420 by Chapter 784, Oregon Laws 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 411-075-0010; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 77-2003, f. & cert. ef. 10-1-03; DMAP 16-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 33-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 22-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-25-12; DMAP 39-2011, f. 12-15-11, cert. ef. 1-1-12; DMAP 29-2013, f. & cert. ef. 6-27-13; DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0065

Signature Requirements

(1) Physicians shall sign for services they order. This signature shall be handwritten or electronic, and it must be in the client's medical record.

(2) The ordering physician shall ensure the authenticity of the signature.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: OMAP 38-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 33-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0080

Prior Authorization

(1) Home health providers must obtain prior authorization (PA) for services as specified in rule.

(2) Providers must request PA as follows (see the Home Health Supplemental Information booklet for contact information) and include the documentation requirements from the supplemental (e.g., face-to-face encounter, plan of care, primary diagnosis, initial assessment, evaluation, etc.):

(a) For clients enrolled in a Coordinated Care Organization (CCO) or a Prepaid Health Plan (PHP), from the CCO or the PHP;

(b) For all other clients, from the Division.

(3) For services requiring authorization, providers must contact the responsible unit for authorization within five working days following initiation or continuation of services. The FAX or postmark date on the request shall be honored as the request date. The provider shall obtain payment authorization. Authorization shall be given based on medical appropriateness and appropriate level of care, cost, and effectiveness as supported by submitted documentation. The plan of care submitted must include the client's condition, the rationale for the care plan including justification for the required skill level of care, and the summary of care for additional certification periods.

(4) Payment authorization does not guarantee reimbursement (e.g., eligibility changes, incorrect identification number, provider contract ends).

(5) For rules related to authorization of payment including retroactive eligibility, see General Rules OAR 410-120-1320.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: PWC 682, f. 7-19-74, ef. 8-11-74; PWC 798, f. & ef. 6-1-76; AFS 8-1979, f. 3-30-79, ef. 4-1-79; Renumbered from 461-019-0410 by Chapter 784, OL 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 6-1986, f. & ef. 4-24-86; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 411-075-0005; HR 12-1991, f. & cert. ef. 3-1-91; HR 30-1992(Temp), f. & cert. ef. 9-25-92; HR 2-1993, f. 2-19-93, cert. ef. 2-20-93; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 15-1999, f. & cert. ef. 4-1-99; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 91-2003, f. 12-30-03 cert. ef. 1-1-04; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 33-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 29-2013, f. & cert. ef. 6-27-13; DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

410-127-0200

Home Health Revenue Center Codes

Payment authorization is required for those services indicated by the Code PA. Following are the procedure codes to be used for billing:

(1) Medical/surgical supplies and devices:

(a) 270 — General classification;

(b) 271 — Non sterile supply;

(c) 272 — Sterile supply.

(2) Physical Therapy:

(a) 421 — Visit charge — PA;

(b) 424 — Evaluation (includes OASIS assessment) or re-evaluation.

(3) Occupational Therapy:

(a) 431 — Visit charge — PA;

(b) 434 — Evaluation or re-evaluation.

(4) Speech-language pathology:

(a) 441 — Visit charge — PA;

(b) 444 — Evaluation (includes OASIS assessment) or re-evaluation.

(5) Skilled nursing:

(a) 551 — Visit charge — PA;

(b) 559 — Other skilled nursing — evaluation (includes OASIS assessment).

(6) Home health aide — 571 — Visit charge — PA.

(7) Total charge — 001 — Total Charge.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 28-1990, f. 8-31-90, cert. ef. 9-1-90; HR 12-1991, f. & cert. ef. 3-1-91; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; DMAP 29-2017(Temp), f. 7-14-17, cert. ef. 7-15-17 thru 1-10-18

ADMINISTRATIVE RULES

Oregon Health Authority, Health Systems Division: Mental Health Services Chapter 309

Rule Caption: Rules Revisions Chapter 309, Division 19 Required to Comply with the Oregon Performance Plan

Adm. Order No.: MHS 6-2017

Filed with Sec. of State: 6-23-2017

Certified to be Effective: 6-23-17

Notice Publication Date: 6-1-2017

Rules Adopted: 309-019-0151, 309-019-0152, 309-019-0226, 309-019-0241, 309-019-0242, 309-019-0270, 309-019-0275, 309-019-0280, 309-019-0285, 309-019-0290, 309-019-0295, 309-019-0300, 309-019-0305, 309-019-0310, 309-019-0315, 309-019-0320

Rules Amended: 309-019-0100, 309-019-0105, 309-019-0110, 309-019-0115, 309-019-0120, 309-019-0125, 309-019-0130, 309-019-0135, 309-019-0140, 309-019-0145, 309-019-0150, 309-019-0155, 309-019-0160, 309-019-0165, 309-019-0170, 309-019-0175, 309-019-0180, 309-019-0185, 309-019-0190, 309-019-0195, 309-019-0200, 309-019-0205, 309-019-0210, 309-019-0215, 309-019-0220, 309-019-0225, 309-019-0230, 309-019-0235, 309-019-0240, 309-019-0245, 309-019-0248, 309-019-0250, 309-019-0255

Rules Repealed: 309-019-0105(T), 309-019-0110(T), 309-019-0115(T), 309-019-0120(T), 309-019-0125(T), 309-019-0130(T), 309-019-0135(T), 309-019-0140(T), 309-019-0145(T), 309-019-0150(T), 309-019-0151(T), 309-019-0152(T), 309-019-0155(T), 309-019-0160(T), 309-019-0165(T), 309-019-0175(T), 309-019-0180(T), 309-019-0185(T), 309-019-0215(T), 309-019-0225(T), 309-019-0226(T), 309-019-0230(T), 309-019-0235(T), 309-019-0240(T), 309-019-0241(T), 309-019-0242(T), 309-019-0245(T), 309-019-0248(T), 309-019-0250(T), 309-019-0270(T), 309-019-0275(T), 309-019-0280(T), 309-019-0285(T), 309-019-0290(T), 309-019-0295(T)

Subject: The Authority needs to amend these rules in o OAR 309 Division 019 in order to comply with the Oregon Performance Plan. The majority of the changes to OAR 309-019 were made to comply with Oregon Performance Plan for Individuals with Serious and Persistent Mental Illness with the United States Department of Justice. The Oregon Health Authority (OHA) has issued a Plan to improve mental health services for adults with serious and persistent mental illness (SPMI). This Plan is referred to as the Oregon Performance Plan. The Plan is being issued after lengthy discussions with the Civil Rights Division of the United States Department of Justice (USDOJ). In the Oregon Performance Plan, the Authority commits to quality and performance improvement measures, and to data reporting. These measures cover a broad array of subjects, including Assertive Community Treatment (ACT) services, crisis services, peer-delivered services, and supported employment services. New rules are being adopted for crisis line services in order to comply with the crisis services performance outcomes of the Oregon Performance Plan.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

309-019-0100

Purpose and Scope

(1) These rules prescribe minimum service delivery standards for services and supports provided by providers certified by the Health Systems Division (Division) of the Oregon Health Authority (Authority).

(2) In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for behavioral health treatment services and supports provided in:

(a) Outpatient Community Mental Health Services and Supports for Children and Adults;

(b) Outpatient Substance Use Disorders Treatment Services; and

(c) Outpatient Problem Gambling Treatment Services.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.640, 430.850 - 430.955, 461.549, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0105

Definitions

(1) "Abuse of an Adult" means the circumstances defined in OAR 943-045-0250 through 943-045-0370 for abuse of an adult with mental illness.

(2) "Abuse of a Child" means the circumstances defined in ORS 419B.005.

(3) "Acute Care Psychiatric Hospital" means a hospital or facility that provides 24 hours-a-day psychiatric, multi-disciplinary, inpatient or residential stabilization, care, and treatment.

(4) "Addictions and Mental Health Services and Supports" means all services and supports including but not limited to Outpatient Behavioral Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders Treatment Services, and Outpatient and Residential Problem Gambling Treatment Services.

(5) "Adolescent" means an individual from 12 through 17 years of age or those individuals determined to be developmentally appropriate for youth services.

(6) "Adult" means an individual 18 years of age or older or an emancipated minor. An individual with Medicaid eligibility who is in need of services specific to children, adolescents, or young adults in transition must be considered a child until age 21 for the purposes of these rules. Adults who are between the ages of 18 and 21 who are considered children for purposes of these rules must have all rights afforded to adults as specified in these rules.

(7) "Assertive Community Treatment (ACT)" means an evidence-based practice designed to provide comprehensive treatment and support services to individuals with serious and persistent mental illness. ACT is intended to serve individuals who have severe functional impairments and who have not responded to traditional psychiatric outpatient treatment. ACT services are provided by a single multi-disciplinary team that typically includes a psychiatrist, a nurse, and at least two case managers and are designed to meet the needs of each individual and to help keep the individual in the community and out of a structured service setting, such as residential and hospital care. ACT is characterized by the following:

(a) Low client to staff ratios;

(b) Providing services in the community rather than in the office;

(c) Shared caseloads among team members;

(d) Twenty-four hour staff availability;

(e) Direct provision of all services by the team (rather than referring individuals to other agencies); and

(f) Time-unlimited services.

(8) "Assessment" means the process of obtaining sufficient information through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(9) "ASAM Criteria" means the most current edition of the American Society of Addiction Medicine (ASAM) for the Treatment of Addictive, Substance-related, and Co-Occurring Conditions, which is a clinical guide to develop patient-centered service plans and make objective decisions about patient admission, continuing care, and transfer or discharge for individuals and is incorporated by reference in these rules.

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

(11) "Behavioral Health Treatment" means treatment for mental health, substance use disorder, and problem gambling.

(12) "Behavior Support Plan" means the individualized proactive support strategies used to support positive behavior.

(13) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neuro-developmental, and physical factors that affect behavior.

(14) "Best Practice Risk Assessment" has the meaning given that term in OAR 309-023-0110.

(15) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies; organizing, facilitating and participating in team meetings; and providing for continuity of care by creating linkages to and managing transitions between levels of care and transitions for young adults in transition to adult services.

(16) "Case Management" means the services provided to assist individuals who reside in a community setting or are transitioning to a community setting in gaining access to needed medical, social, educational, entitlement, and other applicable services.

ADMINISTRATIVE RULES

(17) “Certificate” means the document issued by the Authority that identifies and declares certification of a provider pursuant to OAR 309-008-0000. A letter accompanying issuance of the certificate shall detail the scope and approved locations of the certificate.

(18) “Chief Officer” means the Chief Health Systems Officer of the Division or designee.

(19) “Child” means an individual under the age of 18. An individual with Medicaid eligibility who is in need of services specific to children, adolescents, or young adults in transition must be considered a child until age 21 for purposes of these rules.

(20) “Clinical Supervision” means oversight by a qualified clinical supervisor of addictions and mental health services and supports provided according to these rules, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(21) “Clinical Supervisor” means an individual qualified to oversee and evaluate addictions or mental health services and supports.

(22) “Co-occurring Substance Use and Mental Health Disorders (COD)” means the existence of a diagnosis of both a substance use disorder and a mental health disorder.

(23) “Community Mental Health Program (CMHP)” means the organization of various services for individuals with a mental health diagnosis or addictive disorders operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an agreement with the Division pursuant to OAR chapter 309, division 014.

(24) “Coordinated Care Organization (CCO)” means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

(25) “Conditional Release” means placement by a court or the Psychiatric Security Review Board (PSRB) of an individual who has been found eligible under ORS 161.327 or 161.336 for supervision and treatment in a community setting.

(26) “Court” means the last convicting or ruling court unless specifically noted.

(27) “Criminal Records Check” means the Oregon Criminal Records Check and the processes and procedures required by OAR 943-007-0001 through 0501.

(28) “Crisis” means an actual or perceived urgent or emergent situation that occurs when an individual’s stability or functioning is disrupted, and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual’s mental or physical health or to prevent referral to a significantly higher level of care or death.

(29) “Crisis Intervention” has the meaning given that term in OAR 309-023-0110.

(30) “Crisis Line Services” means phone-based services that establish immediate communication links and provide supportive interventions and information for individuals in an urgent or emergent situation.

(31) “Crisis Plan” means an individualized document designed to help anticipate and prevent future crisis episodes and direct interventions in the instance of a crisis.

(32) “Cultural Awareness” means the process by which individuals and systems respond respectfully and effectively to individuals of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, gender identity, gender expression, sexual orientations, and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families, and communities and protects and preserves the dignity of each.

(33) “Culturally Specific Program” means a program designed to meet the unique service needs of a specific culture and that provides services to a majority of individuals representing that culture.

(34) “Declaration for Mental Health Treatment” means a written statement of an individual’s preferences concerning their mental health treatment. The declaration is made when the individual is able to understand and legally make decisions related to such treatment. It is honored, as clinically appropriate, in the event the individual becomes unable to make such decisions.

(35) “Diagnosis” means the principal mental health, substance use, or problem gambling diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM). The diagnosis is determined through the assessment and any examinations, tests, or consultations suggested by the assessment and is the medically appropriate reason for services.

(36) “Division” means the Health Systems Division.

(37) “DSM” means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(38) “Driving Under the Influence of Intoxicants (DUI) Substance Use Disorders Rehabilitation Program” means a program of treatment and therapeutically oriented education services for an individual who is either:

(a) A violator of ORS 813.010 (Driving Under the Influence of Intoxicants); or

(b) A defendant participating in a diversion agreement under ORS 813.200.

(39) “Emergent” means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(40) “Enhanced Care Services (ECS)” and “Enhanced Care Outreach Services (ECOS)” means intensive behavioral and rehabilitative mental health services to eligible individuals who reside in Aging and People with Disabilities (APD) licensed homes or facilities.

(41) “Entry” means the act or process of acceptance and enrollment into services regulated by this rule.

(42) “Family” means the biological or legal parents, siblings, other relatives, foster parents, legal guardians, spouse, domestic partner, caregivers, and other primary relations to the individual whether by blood, adoption, or legal or social relationships. Family also means any natural, formal, or informal support persons identified as important by the individual.

(43) “Family Support” means the provision of peer delivered services to people defined as family to the individual. It includes support to caregivers at community meetings, assistance to families in system navigation and managing multiple appointments, supportive home visits, peer support, parent mentoring and coaching, advocacy, and furthering efforts to develop natural and informal community supports.

(44) “Family Support Specialist” means an individual who meets qualification criteria under ORS 414.665 and provides supportive services to and has experience parenting a child who is a current or former consumer of mental health or addiction treatment or is facing or has faced difficulties in accessing education and health and wellness services due to a mental health or behavioral health barrier.

(45) “Gender Identity” means an individual’s self-identification of gender without regard to legal or biological identification including but not limited to individuals identifying themselves as male, female, transgender, transsexual, non-binary, and gender diverse.

(46) “Gender Expression” means the external characteristics and behaviors that are socially defined as masculine, feminine, or androgynous such as dress, mannerisms, speech patterns, and social interactions.

(47) “Geographic Service Area” means the geographic area within the county boundaries in which the CMHP operates.

(48) “Grievance” means a formal complaint submitted to a provider verbally or in writing by an individual or the individual’s representative pertaining to the denial or delivery of services and supports.

(49) “Guardian” means an individual appointed by a court of law to act as guardian of a minor or a legally incapacitated individual.

(50) “HIPAA” means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR).

(51) “Individual” means any individual being considered for or receiving services and supports regulated by these rules.

(52) “Informed Consent for Services” means that the service options, risks, and benefits have been explained to the individual and guardian, if applicable, in a manner that they comprehend, and the individual and guardian have consented to the services on or prior to the first date of service.

(53) “Intensive Outpatient Substance Use Disorders Treatment Services” means structured, nonresidential evaluation, treatment, and continued care services for individuals with substance use disorders who need a greater number of therapeutic contacts per week than are provided by traditional outpatient services. Intensive outpatient services may include but are not limited to day treatment, correctional day treatment, evening treatment, and partial hospitalization.

(54) “Intensive Outpatient Services and Supports (IOSS)” means a specialized set of comprehensive in-home and community-based supports and mental health treatment services for children that are developed by the child and family team and delivered in the most integrated setting in the community.

ADMINISTRATIVE RULES

(55) "Interdisciplinary Team (IDT)" means a group of professional and direct care staff that have primary responsibility for the development of a plan for the care and treatment of a patient.

(56) "Interim Referral and Information Services" means services provided by a substance use disorders treatment provider to individuals on a waiting list and whose services are funded by the Substance Abuse Prevention and Treatment (SAPT) Block Grant to reduce the adverse health effects of substance use, promote the health of the individual, and reduce the risk of disease transmission.

(57) "Intern" or "Student" means an individual providing paid or unpaid program services to complete a credentialed or accredited educational program recognized by the State of Oregon.

(58) "Juvenile Psychiatric Security Review Board (JPSRB)" means the entity described in ORS 161.385.

(59) "Lethal Means Counseling" means best practice research-based counseling strategies to help patients at risk for suicide and their families reduce access to lethal means, including but not limited to firearms.

(60) "Level of Care" means the range of available services provided from the most integrated setting to the most restrictive and most intensive in an inpatient setting.

(61) "Licensed Health Care Professional" means a practitioner of the healing arts acting within the scope of their practice under state law who is licensed by a recognized governing board in Oregon.

(62) "Licensed Medical Practitioner (LMP)" means an individual who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Physician licensed to practice in the State of Oregon; or

(b) Nurse practitioner licensed to practice in the State of Oregon; or

(c) Physician's assistant licensed to practice in the State of Oregon; and

(d) Whose training, experience, and competence demonstrate the ability to conduct a mental health assessment and provide medication management;

(e) For IOSS and ITS providers, LMP means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.

(63) "Linkage agreement" has the meaning given that term in OAR 309-032-0860.

(64) "Local Mental Health Authority (LMHA)" means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority comprised of two or more boards of county commissioners.

(65) "Mandatory Reporter" means any public or private official, as defined in ORS 419B.005, who comes in contact with or has reasonable cause to believe that an individual has suffered abuse or that any individual with whom the official comes in contact with has abused the individual. Pursuant to ORS 430.765, psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225 to 40.295.

(66) "Medicaid" means the federal grant-in-aid program to state governments to provide medical assistance to eligible individuals under Title XIX of the Social Security Act.

(67) "Medical Director" means a physician licensed to practice medicine in the State of Oregon and is designated by a substance use disorders treatment program to be responsible for the program's medical services, either as an employee or through a contract.

(68) "Medical Supervision" means an LMP's review and approval, at least annually, of the medical appropriateness of services and supports identified in the service plan for each individual receiving mental health services for one or more continuous years.

(69) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis, or treatment of a physical or behavioral health condition or injuries that are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(70) "Medication Assisted Treatment (MAT)" means the use of medication in combination with counseling and behavioral therapies for the treatment of substance use disorders.

(71) "Mental Health Intern" means an individual who meets qualifications for QMHA but does not have the necessary graduate degree in psychology, social work, or behavioral science field to meet the educational requirement of QMHP. The individual must:

(a) Be currently enrolled in a graduate program for a master's degree in psychology, social work, or in a behavioral science field;

(b) Have a collaborative educational agreement with the CMHP or other provider and the graduate program;

(c) Work within the scope of practice and competencies identified by the policies and procedures for credentialing of clinical staff as established by the provider; and

(d) Receive, at a minimum, weekly supervision by a qualified clinical supervisor employed by the provider of services.

(72) "Mobile Crisis Services" means mental health services for individuals in crisis provided by mental health practitioners who respond to behavioral health crises onsite at the location in the community where the crisis arises and who provide a face-to-face therapeutic response. The goal of mobile crisis services is to help an individual resolve a psychiatric crisis in the most integrated setting possible and to avoid unnecessary hospitalization, inpatient psychiatric treatment, involuntary commitment, and arrest or incarceration.

(73) "Mobile Crisis Response Time" means the time from the point when a professional decision is made that a face-to-face intervention is required to the time the actual face-to-face intervention takes place in the community.

(74) "Nursing Services" means services that are provided by a registered nurse (RN) or a licensed practical nurse (LPN) within the scope of practice as defined in OAR 851-045-0060.

(75) "Outpatient Substance Use Disorders Treatment Program" means a program that provides assessment, treatment, and rehabilitation on a regularly scheduled basis or in response to crisis for individuals with alcohol or other drug use disorders and their family members or significant others.

(76) "Outpatient Community Mental Health Services and Supports" means all outpatient mental health services and supports provided to children, youth, and adults.

(77) "Outpatient Problem Gambling Treatment Services" means all outpatient treatment services and supports provided to individuals with gambling related problems and their families.

(78) "Outreach" means the delivery of behavioral health services, referral services, and case management services in non-traditional settings including but not limited to the individual's residence, shelters, streets, jails, transitional housing sites, drop-in centers, single room occupancy hotels, child welfare settings, educational settings, or medical settings. It also means attempts made to engage or re-engage an individual in services by such means as letters or telephone calls.

(79) "Peer" means any individual supporting an individual or the individual's family member who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(80) "Peer Delivered Services" means an array of agency or community-based services and supports provided by peer support specialists and peer wellness specialists to individuals or family members with similar lived experience that are designed to support the needs of individuals and families as applicable.

(81) "Peer Support Specialist" means an individual providing peer delivered services to an individual or family member with similar life experience under the supervision of a qualified clinical supervisor and a qualified peer delivered services supervisor. A peer support specialist must be certified by the Authority's Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving addictions or mental health services;

(b) A self-identified individual in recovery from an addiction disorder who meets the abstinence requirements for recovering staff in alcohol or other drug treatment programs;

(c) A self-identified individual in recovery from problem gambling; or

(d) The family member of an individual currently or formerly receiving addictions or mental health services.

ADMINISTRATIVE RULES

(82) “Peer Support and Peer Wellness Specialist Supervision” means supervision by a certified PSS or PWS with at least one year of experience as a PSS or PWS in behavioral health services or supervision by a qualified PSS/PWS supervisor and a qualified clinical supervisor. The supports provided include guidance in the unique discipline of peer delivered services and the roles of peer support specialists and peer wellness specialists.

(83) “Peer Delivered Services Supervisor” means an individual qualified to evaluate and guide PSSs and PWSs in the delivery of peer delivered services and supports. This individual shall be a certified PSS or PWS with at least one year experience as a PSS or PWS.

(84) “Peer Wellness Specialist” means an individual who supports an individual in identifying mental health service and support needs through community outreach, assisting individuals with access to available services and resources, addressing barriers to services, and providing education and information about available resources and mental health issues in order to reduce stigmas and discrimination toward consumers of mental health services and to provide direct services to assist individuals in creating and maintaining recovery, health, and wellness. A peer wellness specialist must be certified by the Authority’s Office of Equity and Inclusion as required by OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving mental health services; or

(b) A self-identified individual in recovery from a substance use or gambling disorder who meets the abstinence requirements for recovering staff in substance use disorders or gambling treatment programs; or

(c) A family member of an individual who is a current or former recipient of addictions or mental health services.

(85) “Problem Gambling Treatment Staff” means an individual certified or licensed by a health or allied provider agency to provide problem gambling treatment services that include assessment, development of a service plan, and group and family counseling.

(86) “Program” means a particular type or level of service that is organizationally distinct.

(87) “Program Administrator” or “Program Director” means an individual with appropriate professional qualifications and experience who is designated to manage the operation of a program.

(88) “Program Staff” means an employee or individual who by contract with the program provides a service and has the applicable competencies, qualifications, or certification required to provide the service.

(89) “Provider” means an individual, organizational provider, or Community Mental Health Program as designated under ORS 430.637(1)(b) that holds a current certificate to provide outpatient behavioral health treatment or prevention services pursuant to these and other applicable service delivery rules.

(90) “Psychiatric Security Review Board (PSRB)” means the entity described in ORS 161.295 through 161.400.

(91) “Psychiatrist” means a physician licensed pursuant to ORS 677.010 to 677.228 and 677.410 to 677.450 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(92) “Psychologist” means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(93) “Publicly Funded” means financial support in part or in full with revenue generated by a local, state, or federal government.

(94) “Qualified Mental Health Associate (QMHA)” means an individual delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA or designee and specified in OAR 309-019-0125.

(95) “Qualified Mental Health Professional (QMHP)” means a LMP or any other individual meeting the minimum qualifications as authorized by the LMHA or designee and specified in OAR 309-019-0125.

(96) “Qualified Person” means an individual who is a QMHP or a QMHA and is identified by the PSRB and JPSRB in its Conditional Release Order. This individual is designated by the provider to deliver or arrange and monitor the provision of the reports and services required by the Conditional Release Order.

(97) “Quality Assessment and Performance Improvement” means the structured, internal monitoring and evaluation of services to improve processes, service delivery, and service outcomes.

(98) “Recovery” means a process of healing and transformation for an individual to achieve full human potential and personhood in leading a meaningful life in communities of their choice.

(99) “Representative” means an individual who acts on behalf of an individual at the individual’s request with respect to a grievance including

but not limited to a relative, friend, Division employee, attorney, or legal guardian.

(100) “Resilience” means the universal capacity that an individual uses to prevent, minimize, or overcome the effects of adversity. Resilience reflects an individual’s strengths as protective factors and assets for positive development.

(101) “Respite Care” means planned and emergency supports designed to provide temporary relief from care giving to maintain a stable and safe living environment. Respite care may be provided in or out of the home. Respite care includes supervision and behavior support consistent with the strategies specified in the service plan.

(102) “Safety Plan” means a best practice research-based patient directed document developed through a collaborative process in which the provider assists the patient in listing strategies for the patient to use when suicide ideation is elevated or after a suicide attempt.

(103) “Screening” means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(104) “Screening Specialist” means an individual who possesses valid certification issued by the Division to conduct DUII evaluations.

(105) “Service Plan” means a comprehensive plan for services and supports provided to or coordinated for an individual and their family, as applicable, that is reflective of the assessment and the intended outcomes of service.

(106) “Service Note” means the written record of services and supports provided, including documentation of progress toward intended outcomes consistent with the timelines stated in the service plan.

(107) “Service Record” means the written or electronic documentation regarding an individual and resulting from entry, assessment, orientation, services and supports planning, services and supports provided, and transfer.

(108) “Services” means activities and treatments described in the service plan that are intended to assist the individual’s transition to recovery from a substance use disorder, problem gambling disorder, or mental health condition and to promote resiliency and rehabilitative and functional individual and family outcomes.

(109) “Signature” means any written or electronic means of entering the name, date of authentication, and credentials of the individual providing a specific service or the individual authorizing services and supports. Signature also means any written or electronic means of entering the name and date of authentication of the individual, guardian, or any authorized representative of the individual receiving services.

(110) “Skills Training” means providing information and training to individuals and families designed to assist with the development of skills in areas including but not limited to anger management, stress reduction, conflict resolution, self-esteem, parent-child interactions, peer relations, drug and alcohol awareness, behavior support, symptom management, accessing community services, and daily living.

(111) “Substance Abuse Prevention and Treatment Block Grant” or “SAPT Block Grant” means the federal block grants for prevention and treatment of substance abuse under Public Law 102-321 (31 U.S.C. 7301-7305) and the regulations published in Title 45 Part 96 of the Code of Federal Regulations.

(112) “Substance Use Disorders” means disorders related to the taking of a drug of abuse including alcohol to the side effects of a medication and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, and includes but is not limited to substance induced psychotic disorder, mood disorder, as defined in DSM criteria.

(113) “Substance Use Disorders Treatment and Recovery Services” means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(114) “Substance Use Disorders Treatment Staff” means an individual certified or licensed by a health or allied provider agency to provide substance use disorders treatment services that include assessment, development of a service plan, and individual, group, and family counseling.

(115) “Successful DUII Completion” means that the DUII program has documented in its records that for the period of service deemed necessary by the program, the individual has:

(a) Met the completion criteria approved by the Division;

(b) Met the terms of the fee agreement between the provider and the individual; and

(c) Demonstrated 90 days of continuous abstinence prior to completion.

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(116) "Suicide Risk Assessment" means a best practice assessment supported by research to determine an individual's risk for suicide.

(117) "Supports" means activities, referrals, and supportive relationships designed to enhance the services delivered to individuals and families for the purpose of facilitating progress toward intended outcomes.

(118) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(119) "Trauma Informed Services" means services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and addictions services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(120) "Treatment" means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative procedures, experiences, and activities designed to remediate symptoms of a DSM diagnosis that are included in the service plan.

(121) "Triage" means a classification process to determine priority needs.

(122) "Urinalysis Test" means an initial test and, if positive, a confirmatory test:

(a) An initial test must include, at a minimum, a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration;

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be by a different analytical method from that of the initial test to ensure reliability and accuracy;

(c) All urinalysis tests must be performed by laboratories meeting the requirements of OAR 333-024-0305 through 0365.

(123) "Urgent" means the onset of symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual's mental or physical health or threat to safety.

(124) "Variance" means an exception from a provision of these rules granted in writing by the Division pursuant to the process regulated by OAR 309-008-1600 upon written application from the provider. Duration of a variance is determined on a case-by-case basis.

(125) "Volunteer" means an individual who provides a program service or takes part in a program service and is not a program employee and is not paid for services. The services must be non-clinical unless the individual has the required credentials to provide a clinical service.

(126) "Warm Handoff" has the meaning given that term in OAR 309-032-0860.

(127) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(128) "Wraparound" means a high fidelity model of team-based intensive care coordination for children and their families based on National Wraparound Initiative values and principles.

(129) "Young Adult in Transition" means an individual who is developmentally transitioning into independence, sometime between the ages of 14 and 25.

(130) "Youth Support Specialist" means an individual who meets qualification criteria under OAR 415-180.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0110

Provider Policies

(1) All providers must develop and implement written personnel policies and specific procedures compliant with these rules including:

(a) Personnel Qualifications and Credentialing;

(b) Mandatory abuse reporting compliant with ORS 430.735 - 430.768 and OAR 943-045-0250 through 943-045-0370;

(c) Criminal Records Checks compliant with ORS 181.533 through 181.575 and 943-007-0001 through 0501; and

(d) Fraud, waste, and abuse in federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510.

(2) All providers must develop and implement written service delivery policies and specific procedures compliant with these rules:

(a) Service delivery policies must be available to individuals and family members upon request; and

(b) Service delivery policies and procedures must include at a minimum:

(A) Fee agreements;

(B) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and state confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530;

(C) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

(D) Grievances and appeals;

(E) Individual rights;

(F) Quality assessment and performance improvement;

(G) Trauma informed service delivery consistent with the Division Trauma Informed Services Policy;

(H) Provision of culturally and linguistically appropriate services;

(I) Linkage agreements compliant with OAR 309-032-0870;

(J) Crisis prevention and response, including suicide risk assessment, safety planning, and lethal means counseling;

(K) Incident reporting; and

(L) Peer delivered services.

(3) Providers of ECS services must develop behavior support policies consistent with OAR 309-019-0155(3).

(4) The provider's policies and procedures must:

(a) Prohibit titration of medications prescribed for the treatment of opioid dependence as a condition of receiving treatment;

(b) Allow continued use of medications prescribed for opioid dependence based on individual choice and physician recommendation; and

(c) Prohibit transfer of individuals who are prescribed medication for the treatment of opioid dependence based solely on the individual's initial or continued use of the medication.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 179.505, 413.520 - 413.522, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from available services and supports that are consistent with the service plan, culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual, and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written service plan, receive services consistent with that plan and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and receive a copy of the written service plan;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50;

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs.

(g) Inspect their service record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs, including medications used to treat opioid dependence;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(L) Have religious freedom;

(m) Be free from seclusion and restraint;

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(n) Be informed at the start of services and periodically thereafter of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative assist with understanding any information presented;

(p) Be informed of suicide risk and receive best practice lethal means counseling and a safety plan, including methods for the individual, family, and guardian to mitigate risk over time;

(q) Have family and guardian involvement in service planning and delivery;

(r) Make a Declaration for Mental Health Treatment when legally an adult;

(s) File grievances, including appealing decisions resulting from the grievance;

(t) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(u) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(v) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) The provider must give to the individual and, if appropriate, the guardian a document that describes the applicable individual's rights as follows:

(a) Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) The rights and how to exercise them must be explained to the individual, and if applicable the guardian; and

(c) Individual rights must be posted in writing in a common area.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.495, 430.640, 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380-426.395, 426.490 - 426.500, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0120

Licensing and Credentialing

Program staff in the following positions must meet applicable credentialing or licensing standards, including those set forth in these rules:

(1) Substance Use Disorders Treatment Staff.

(2) Clinical Supervisors.

(3) LMPs.

(4) Medical Directors.

(5) Peer Support Specialists.

(6) Peer Wellness Specialists.

(7) Peer Delivered Services Supervisor;

(8) Problem Gambling Treatment Staff.

(9) QMHAs.

(10) QMHPs.

Stat. Auth.: ORS 430.256, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 430.010, 428.205 - 428.270, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0125

Specific Staff Qualifications and Competencies

(1) Program administrators or program directors must demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical supervisors in all programs must demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources; group, family, and individual therapy or counseling; best practices for suicide risk assessment, lethal means counseling, and safety planning; documentation and rationale for services to promote intended outcomes; and implementation of all provider policies.

(3) Clinical supervisors in mental health programs must meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting.

(4) Clinical supervisors in substance use disorders treatment programs must be certified or licensed by a health or allied provider agency as follows:

(a) For supervisors holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(A) 4000 hours of supervised experience in substance use counseling;

(B) 300 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For supervisors holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies, and the supervisor must possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of substance use disorders:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(c) Additionally, clinical supervisors in substance use disorders programs must have one of the following qualifications:

(A) Five years of paid full-time experience in the field of substance use disorders counseling; or

(B) A Bachelor's degree and four years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience; or

(C) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience.

(5) Clinical supervisors in problem gambling treatment programs must meet the requirements for clinical supervisors in either mental health or substance use disorders treatment programs and have completed ten hours of gambling specific training within two years of designation as a problem gambling services supervisor.

(6) Substance use disorders treatment staff must:

(a) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family, and other counseling techniques, program policies and procedures for service delivery and documentation, suicide risk associated with problem gambling, and identification, implementation, and coordination of services identified to facilitate intended outcomes; and

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the individual ends employment with a provider and becomes re-employed with another provider;

(c) For treatment staff holding certification in addiction counseling, qualifications for the certificate must have included at least:

(A) 750 hours of supervised experience in substance use counseling;

(B) 150 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies, and the individual must possess documentation of at least 60 contact hours of academic or continuing professional education in substance use disorders treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(7) Problem Gambling treatment staff must:

(a) Demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family, and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation, and coordination of services identified to facilitate intended outcomes;

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide problem gambling treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the individual ends employment with a provider and becomes re-employed with another provider;

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(c) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate must include at least:

(A) 500 hours of supervised experience in problem gambling counseling;

(B) 60 contact hours of education and training in problem gambling related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration must be issued by one of the following state bodies, and the individual must possess documentation of at least 60 contact hours of academic or continuing professional education in problem gambling treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(8) QMHAs must demonstrate the ability to communicate effectively; understand mental health assessment, treatment, and service terminology as well as suicide risk assessment, lethal means counseling, and safety planning; and apply each of these concepts, implement skills development strategies, and identify, implement, and coordinate the services and supports identified in a service plan. In addition, QMHAs must also meet the following minimum qualifications:

(a) Bachelor's degree in a behavioral science field; or

(b) A combination of at least three years of relevant work, education, training, or experience; or

(c) A qualified Mental Health Intern, as defined in OAR 309-019-0105.

(9) QMHPs must demonstrate the ability to conduct an assessment including identifying precipitating events; gathering histories of mental and physical health, substance use, past mental health services, and criminal justice contacts; assessing family, cultural, social, and work relationships; conducting a mental status examination; completing a DSM diagnosis; conducting best practice suicide risk assessments, lethal means counseling, and safety planning; writing and supervising the implementation of a service plan; and providing individual, family, or group therapy within the scope of their training. In addition, QMHPs must also meet the following minimum qualifications:

(a) Bachelor's degree in nursing and licensed by the State of Oregon;

(b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;

(c) Graduate degree in psychology;

(d) Graduate degree in social work;

(e) Graduate degree in recreational, art, or music therapy;

(f) Graduate degree in a behavioral science field; or

(g) A qualified Mental Health Intern, as defined in 309-019-0105.

(10) An individual with experience working in the peer profession as a peer support or peer wellness specialist shall:

(a) Demonstrate knowledge of and competent implementation of the peer delivered services discipline;

(b) Be able to support PSS and PWS in providing services and with integrity to the PDS profession.

(11) All peer support specialists and peer wellness specialists, including family and youth support and wellness specialists, shall demonstrate knowledge of the peer support discipline through certification and continuing education. They shall offer approaches to support others in their recovery or resiliency and shall also show efforts at sharing and demonstrating personal life experience and tools of self-directed recovery and resiliency.

(12) Program staff, contractors, volunteers, and interns recovering from substance use or problem gambling disorders providing treatment services or peer support services in substance use disorders treatment programs must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 1-2015(Temp), f. & cert. ef. 3-25-15 thru 9-20-15; MHS 3-2015, f. & cert. ef. 5-28-15; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0130

Personnel Documentation, Training and Supervision

(1) Providers must maintain personnel records for each program staff that contains all of the following documentation:

(a) When required, verification of a criminal record check consistent with OAR 943-007-0001 through 0501;

(b) A current job description that includes applicable competencies;

(c) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;

(d) Periodic performance appraisals;

(e) Staff orientation documentation; and

(f) Disciplinary documentation;

(g) Documentation of trainings required by this or other applicable rules; and

(h) Documentation of clinical and non-clinical supervision. Documentation shall include the date supervision took place, the amount of supervision time, and a brief description of relevant topics discussed.

(2) Providers utilizing contractors, interns, or volunteers must maintain the following documentation, as applicable:

(a) A contract or written agreement;

(b) A signed confidentiality agreement;

(c) Orientation documentation; and

(d) For subject individuals, verification of a criminal records check consistent with OAR 943-007-0001 through 0501.

(3) Providers shall ensure that program staff receives training applicable to the specific population for whom services are planned, delivered, or supervised. The program must document appropriate orientation for each program staff or individual providing services within 30 days of the hire date. At a minimum, training and orientation for all program staff must include but not be limited to:

(a) A review of crisis prevention and response procedures;

(b) A review of best practice suicide risk assessment, lethal means counseling, and safety planning;

(c) A review of emergency evacuation procedures;

(d) A review of program policies and procedures;

(e) A review of rights for individuals receiving services and supports;

(f) Mandatory abuse reporting procedures;

(g) HIPAA and Fraud, Waste and Abuse;

(h) For Enhanced Care Services, positive behavior support training; and

(i) Declaration for Mental Health Treatment.

(4) Individuals providing peer delivered services must receive supervision by a qualified clinical supervisor. PSSs and PWSs must receive either one hour per month of co-supervision by a qualified clinical supervisor and qualified PDS supervisor or one hour of supervision by a qualified PDS supervisor. Whenever possible, the PDS supervision should include the specific best practice for the population being served. The supervision must be related to the development and implementation of services as relevant to the specific discipline receiving the supervision. This requirement is subject to the availability of the following resources:

(a) Clinical supervision provided to assist program staff and volunteers to increase their skills within their discipline, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures;

(b) Documentation of two hours per month of clinical supervision for each individual supervised. The two hours must include one hour of individual face-to-face contact for each individual supervised or a proportional level of supervision for part-time program staff. Individual face-to-face contact may include real time, two-way audio visual conferencing;

(c) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of individual face-to-face contact for each individual supervised; or

(d) Documentation of weekly supervision for program staff meeting the definition of mental health intern;

(e) Documentation of one hour a month of co-supervision by a qualified clinical supervisor and a qualified PDS supervisor for peer support and peer wellness specialists or of one hour of supervision by a qualified PDS supervisor. The one hour may be done in group, individual face-to-face, two-way audiovisual or audio conferencing. There may be a proportional level of supervision for part-time program staff.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 109.675, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-

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28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0135

Entry and Assessment

(1) The program must utilize an entry procedure that at a minimum shall ensure the provision and documentation of the following:

(a) Individuals must be considered for entry without regard to race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, creed, national origin, age (except when program eligibility is restricted to children, adults, or older adults), familial status, marital status, source of income, and disability;

(b) The provider may not allow entry to individuals who are prescribed medication to treat opioid dependence;

(c) Individuals must receive services in the most timely manner feasible consistent with the presenting circumstances;

(d) Written voluntary informed consent for services must be obtained from the individual or guardian prior to the start of services. If consent is not obtained, the reason must be documented and further attempts to obtain informed consent must be made as appropriate;

(e) The provider shall develop and maintain adequate clinical records and other documentation for each individual served that demonstrates the specific supports, care, items, or services for which payment has been requested, including documentation of a suicide risk assessment, lethal means counseling, and a safety plan, as indicated;

(f) The provider must report the entry of all individuals on the mandated state data system;

(g) In accordance with ORS 179.505 and HIPAA, an authorization for the release of information must be obtained for any confidential information concerning the individual being considered for or receiving services;

(h) At the time of entry, the program must offer to the individual and guardian, if applicable, written program orientation information. The written information must be in a language understood by the individual and must include:

(A) An opportunity to complete a Declaration for Mental Health Treatment with the individual's participation and informed consent;

(B) A description of individual rights consistent with these rules;

(C) Policy concerning grievances and appeals consistent with these rules to include an example grievance form;

(D) Notice of privacy practices; and

(E) An opportunity to register to vote.

(2) Entry of individuals whose services are funded by the SAPT Block Grant must be prioritized in the following order:

(a) Women who are pregnant and using substances intravenously;

(b) Women who are pregnant;

(c) Individuals who are using substances intravenously; and

(d) Women with dependent children.

(3) Assessment:

(a) At the time of entry, an assessment must be completed, including a best practice suicide risk assessment;

(b) The assessment must be legible and completed by qualified program staff as follows:

(A) A QMHP in mental health programs. A QMHA may assist in the gathering and compiling of information to be included in the assessment;

(B) Supervisory or treatment staff in substance use disorders treatment programs; and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(c) Each assessment must include sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services;

(d) For substance use disorders services, each assessment must be consistent with the dimensions described in the ASAM and must document a diagnosis and level of care determination consistent with the DSM and ASAM;

(e) When the assessment process determines the presence of co-occurring substance use and mental health disorders or any significant risk to health and safety, all providers must document referral for further assessment, planning, and intervention from an appropriate professional, either with the same provider or with a collaborative community provider;

(f) Providers shall periodically update assessments, including suicide risk assessments, as applicable, when there are changes in clinical circumstances or risk factors for suicide; and

(g) Any individual continuing to receive mental health services for one or more continuous years must receive an annual assessment, including a suicide risk assessment by a QMHP.

(4) In addition to the requirements set forth in OAR 309-019-0135(3) and 309-019-0149(1)(a), providers certified under these rules and providing services consistent with OAR 309-019-0199(2)(a) to individuals living in residential programs licensed under chapter 309, divisions 35 and 40 may retroactively bill for medically appropriate services provided prior to the completion of the assessment and service plan if:

(a) The assessment and service plan are completed within the first 14 days of placement at the licensed residential program;

(b) The assessment, service plan, and any additional required documentation demonstrate medical necessity of the services consistent with OAR 410-172-0630(2); and

(c) All requirements of OAR 410-172-0650(f) are satisfactorily met to allow for retroactive payment.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0140

Service Plan and Service Notes

(1) In addition to any program specific service delivery requirements, the service plan must be a legible, individualized plan designed to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The service plan is included in the individual's service record and shall:

(a) Be completed prior to the start of services except as allowed under OAR 309-019-0135(4)(a)(A-C);

(b) Reflect the assessment and the level of care to be provided;

(c) Reflect the suicide risk assessment, crisis de-escalation, safety planning, and lethal means counseling, as indicated;

(d) Include the participation of the individual and family members, as applicable;

(e) Be completed and signed by qualified program staff as follows:

(A) A QMHP in mental health programs;

(B) Supervisory or treatment staff in substance use disorders treatment programs; and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(f) For mental health services, a QMHP who is also a licensed health care professional must recommend the services and supports by signing the service plan within ten business days of the start of services; and

(g) An LMP must approve the service plan at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate annual clinical oversight by documenting the designation to a specific licensed health care professional.

(2) At minimum, each service plan shall include:

(a) Treatment objectives that are:

(A) Individualized to meet the assessed needs of the individual;

(B) Measurable for the purpose of evaluating individual progress, including a baseline evaluation.

(b) The specific services and supports indicated by the assessment, including peer delivered services and addressing suicide risk, as indicated, that shall be used to meet the treatment objectives;

(c) A projected schedule for service and support delivery, including the expected frequency and duration of each type of planned therapeutic encounter and peer support services;

(d) The credentials of the personnel that will be providing each service and support; and

(e) A projected schedule for re-evaluating the service plan.

(3) Service Notes:

(a) Providers must document each service and support;

(b) A service note at a minimum must include:

(A) The specific services rendered;

(B) The specific service plan objectives being addressed by the services provided;

(C) The date, time of service, and the actual amount of time the services were rendered;

(D) The relationship of the services provided to the treatment objective described in the service plan;

(E) Documentation of the suicide risk assessment, lethal means counseling, and safety plan, as indicated;

(F) The personnel rendering the services, including their signature and credential;

(G) The setting in which the services were rendered.

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(4) Decisions to transfer individuals must be documented, including the reason for the transfer.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0145

Co-Occurring Mental Health and Substance Use Disorders (COD)

Providers approved under OAR 309-008-0000 and designated to provide services and supports for individuals diagnosed with COD must provide concurrent service and support planning and delivery for substance use disorders, gambling disorder, and mental health diagnosis, including integrated assessment addressing co-occurring behavioral health diagnoses, service plan, and service record.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0150

Outpatient Mental Health Services to Children and Adults

(1) Crisis services must be provided directly or through linkage to a local crisis services provider and must include the following:

(a) Twenty-four hours, seven days per week telephone or face-to-face screening within one hour of notification of the crisis event to determine an individual's need for immediate community mental health services; and

(b) Twenty-four hours, seven days per week capability to conduct, by or under the supervision of a QMHP, an assessment, including suicide risk assessment, resulting in a service plan that includes the crisis services necessary to assist the individual and family to stabilize and transition to the appropriate level of care.

(2) Available case management services must be provided including the following:

(a) Program staff must assist individuals in gaining access to and maintaining resources such as Social Security benefits, general assistance, food stamps, vocational rehabilitation, and housing. When needed, program staff must arrange transportation or accompany individuals to help them apply for benefits; and

(b) Referral and coordination to help individuals gain access to services and supports identified in the service plan; and

(c) Assistance with a warm handoff process, as indicated, compliant with OAR 309-032-0870;

(d) Referral and coordination to help individuals at risk of suicide and their families.

(3) When significant health and safety concerns are identified, program staff must ensure that necessary services or actions occur to address the identified health and safety needs for the individual, including services to individuals at imminent risk of suicide as determined by the suicide risk assessment.

(4) Peer Delivered Services shall be made available.

Stat. Auth.: ORS 413.042
Stats Implemented: ORS 430.630
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0151

Mobile Crisis Services

(1) By July 1, 2018, or when the CMHP is contracted to provide the service, CMHP or their designee shall provide mobile crisis services as a component of crisis services according to OAR 309-019-0150 for individuals experiencing mental health crisis within their respective geographic service area to meet the following objectives:

(a) Reduce acute psychiatric hospitalization of individuals experiencing mental health crisis; and

(b) Reduce the number of individuals with mental health diagnoses who are incarcerated as a result of mental health crisis events involving law enforcement.

(2) CMHP shall provide mobile crisis services including at a minimum but not limited to:

(a) Twenty-four hours a day, seven days a week screening to determine the need for immediate services for any individual requesting assistance or for whom assistance is requested;

(b) Within appropriate safety considerations, a face-to-face therapeutic response delivered in a public setting at locations in the community where the crisis arises including but not limited to an individual's home, schools, residential programs, nursing homes, group home settings, and hospitals to enhance community integration;

(c) Services that are generally delivered in a natural environment by or under the supervision of a QMHP, such as QMHAs and certified peer support specialists, and resulting in linkages to service and supports and a support service plan if required. Disposition of services shall maintain as the primary goal with diversion from hospitalization and incarceration through clinically appropriate community-based supports and services;

(d) Minimizing the need for transportation (frequently by law enforcement officers or emergency services) to a hospital emergency department or a community crisis site;

(e) Are not intended to be restricted to services delivered in hospitals or at residential programs;

(f) Mental health crisis assessment;

(g) Crisis intervention;

(h) Assistance with placement in crisis respite, peer respite, or residential services as defined in OAR 309-035-0100;

(i) Assistance to families and families of choice in managing suicide risk until the individual is engaged in outpatient services or when the individual is to receive services on an outpatient basis;

(j) Initiation of involuntary services if applicable;

(k) Assistance with hospital placement; and

(L) Connecting individuals with ongoing supports and services.

(3) Counties shall track and report response time. Counties shall respond to crisis events in their respective geographic service area with the following maximum response times:

(a) Counties classified as "urban" shall respond within one hour;

(b) Counties classified as "rural" shall respond within two hours;

(c) Counties classified as "frontier" shall respond within three hours;

(d) Counties classified as "rural" and "frontier" shall contact an individual experiencing a crisis event via telephone by a staff member who is trained in crisis management (such as an individual from a crisis line or a certified peer specialist) within one hour of being notified of the crisis event.

(4) By July 1, 2018, each CMHP shall establish internal policies to monitor the number of instances that mobile crisis response times exceed the maximum response times established in OAR 309-019-0151. At the time of the site certification review, a sample of mobile crisis events shall be reviewed to evaluate adherence to the maximum response times established in OAR 309-019-0151.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 413.520 - 413.522, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052, 813.200 - 813.270
Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0152

Mobile Crisis Response Reporting Requirements

(1) The CMHP shall submit electronically a written quarterly report using forms and procedures prescribed by the Authority to the Division contract administrator no later than 45 calendar days following the end of each reporting quarter:

(2) The CMHP shall track and report the number of individuals receiving a mobile crisis services contact to include the following information:

(a) Location of mobile crisis service;

(b) Disposition of the mobile crisis contact;

(c) Whether the crisis contact resulted in admission to acute care; or

(d) If the mobile crisis contact resulted in referral in mental health treatment and stabilization in a community setting.

(3) Counties shall track and report response time:

(a) Counties classified as "urban" shall respond within one hour;

(b) Counties classified as "rural" shall respond within two hours;

(c) Counties classified as "frontier" shall respond within three hours.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 430.630 & 430.634
Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0155

Enhanced Care Services (ECS) and Enhanced Care Outreach Services (ECOS)

(1) To be eligible for ECS/ECOS, an individual must:

(a) Be APD service eligible;

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(b) Meet the diagnostic criteria of severe mental illness with complex behaviors or be approved by the enhanced care services team;

(c) Require intensive community mental health services to transition to a lower level of care;

(d) Have a history of multiple APD placements due to complex behaviors; and

(e) Be currently or have been a patient at the Oregon State Hospital or have received in-patient services in an acute psychiatric unit for over 14 days and have been referred to non-enhanced APD facilities and denied admission due to severe mental illness with complex behaviors and be currently exhibiting two or more of the following: self-endangering behavior, aggressive behavior, intrusive behavior, intractable psychiatric symptoms, complex medication needs, sexually inappropriate behavior, and elopement behavior.

(2) ECS/ECOS providers must:

(a) For ECS, provide a minimum of four hours per day or additional hours as required to support the needs of the enhanced care facility, seven days per week of mental health staffing provided or arranged for by the contracted mental health provider;

(b) Coordinate interdisciplinary team meetings (IDT) to develop the service plan, review the behavior support plan, and to coordinate care planning with the Department of Human Services (Department) licensed provider staff, APD case manager, QMHP, prescriber and related professionals such as the Department licensed facility or program direct care staff, the Department licensed facility RN, and facility administrator. IDTs in ECS programs must be held weekly and at least quarterly for ECOS;

(c) Coordinate quarterly behavioral health trainings for Department-licensed providers and related program staff providing services to ECS and ECOS recipients; and

(d) Ensure the availability of consultation and crisis services staffed by a QMHP or the local CMHP available to the ECS and ECOS provider and the Department licensed facility direct care staff 24-hours per day.

(3) Behavior support services must be designed to facilitate positive alternatives to challenging behavior and to assist the individual in developing adaptive and functional living skills. Providers must:

(a) Develop and implement individual behavior support strategies based on a functional or other clinically appropriate assessment of challenging behavior;

(b) Document the behavior support strategies and measures for tracking progress as a behavior support plan in the service plan;

(c) Establish a framework that ensures individualized positive behavior support practices throughout the program and articulates a rationale consistent with the philosophies supported by the Division, including the Division's trauma-informed services policy;

(d) Obtain informed consent from the individual or guardian, if one is appointed, in the use of behavior support strategies and communicate both verbally and in writing the information to the individual or guardian, if one is appointed, in a language understood;

(e) Establish outcome-based tracking methods to measure the effectiveness of behavior support strategies in:

(A) The use of least restrictive interventions possible; and

(B) Increasing positive behavior.

(f) Require all program staff to receive quarterly mental health in-service training in evidence-based practices to promote positive behavior support and related to needs of each individual; and

(g) Review and update behavior support policies, procedures, and practices annually.

(4) Providers must develop a transition plan for each individual as part of the initial assessment process. Each individual's mental health service plan shall reflect their transition goal and the supports necessary to achieve transition.

(5) Staffing requirements include:

(a) Each ECS and ECOS program must have a minimum of one FTE QMHP for programs serving five or more individuals who is responsible for coordinating entries, transitions, and required IDT's; assuring the completion of individual assessments, mental health service, and behavior support plans; providing supervision of QMHP's and QMHA's; and coordinating services and trainings with facility staff;

(b) Each ECS and ECOS program must have psychiatric consultation available. For ECS programs serving more than ten individuals, the psychiatrist must participate.

(6) In ECS programs, the CMHP and the Department licensed provider must develop a written collaborative agreement that addresses at a minimum: risk management, census management, staff levels, training, treatment and activity programs, entry and transition procedures, a process

for reporting and evaluating critical incidents, record keeping, policy and procedure manuals, dispute resolution, and service coordination.

Stat. Auth.: ORS 161.390, 413.042, 430.640, 443.450

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0160

Psychiatric Security Review Board and Juvenile Psychiatric Security Review Board

(1) Services and supports must include all appropriate services, including peer delivered services, determined necessary to assist the individual in maintaining community placement and that are consistent with Conditional Release Orders and the Agreement to Conditional Release.

(2) Providers of PSRB and JPSRB services acting through the designated qualified individual must submit reports to the PSRB or JPSRB as follows:

(a) For individuals under the jurisdiction of the PSRB or the JPSRB, providers must take the following action upon receipt of an Order for Evaluation:

(A) Within 15 days of receipt of the Order, schedule an interview with the individual for the purpose of initiating or conducting the evaluation;

(B) Appoint a QMHP to conduct the evaluation and to provide an evaluation report to the PSRB or JPSRB;

(C) Within 30 days of the evaluation interview, submit the evaluation report to the PSRB or JPSRB responding to the questions asked in the Order for Evaluation; and

(D) If supervision by the provider is recommended, notify the PSRB or JPSRB of the name of the individual designated to serve as the individual's qualified person who shall be primarily responsible for delivering or arranging for the delivery of services and the submission of reports under these rules.

(b) Monthly reports consistent with PSRB or JPSRB reporting requirements as specified in the Conditional Release Order that summarize the individual's adherence to Conditional Release requirements and general progress; and

(c) Interim reports including immediate reports by phone, if necessary, to ensure the public or individual's safety including:

(A) At the time of any significant change in the individual's health, legal, employment, or other status that may affect compliance with Conditional Release orders;

(B) Upon noting major symptoms requiring psychiatric stabilization or hospitalization;

(C) Upon noting any other major change in the individual's service plan;

(D) Upon learning of any violations of the Conditional Release Order; and

(E) At any other time when, in the opinion of the qualified person, such an interim report is needed to assist the individual.

(3) PSRB and JPSRB providers must submit copies of all monthly reports and interim reports to both the PSRB or JPSRB and the Division.

(4) When the individual is under the jurisdiction of the PSRB or JPSRB, providers must include the following additional documentation in the service record:

(a) Monthly reports to the PSRB or JPSRB;

(b) Interim reports, as applicable;

(c) The PSRB or JPSRB initial evaluation; and

(d) A copy of the Conditional Order of Release.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 430.640, 443.450

Stats. Implemented: ORS 161.390 - 161.400, 179.505, 426.380 - 426.395, 426.490 - 426.500, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0165

Intensive Outpatient Services and Supports (IOSS) for Children

(1) IOSS services may be delivered at a clinic, facility, home, school, other provider or allied agency location, or other setting as identified by the child and family team. In addition to services specified by the service plan and the standards for outpatient mental health services, IOS services must include:

(a) Provider participation on the child and family team or wraparound team;

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(b) A documented proactive safety and crisis plan developed by the child and family team, if applicable, or the provider. The proactive safety and crisis plan must at minimum include:

(A) Strategies designed to facilitate positive alternatives to challenging behavior and to assist the individual in developing adaptive and functional living skills;

(B) Strategies to avert potential crisis without placement disruptions;

(C) Professional and natural supports to provide 24 hours, seven days per week flexible response; and

(D) Documented informed consent from the parent or guardian.

(2) IOSS providers must include the following additional documentation in the service record:

(a) Identified care coordinator and care coordination provider as well as documentation of provider participation on child and family team or wraparound team;

(b) Documented identification of strengths and needs;

(c) A summary and review of service coordination planning by the provider or by the child and family team or wraparound team when applicable; and

(d) A documented proactive safety and crisis plan including a suicide prevention plan.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0170

Outpatient Problem Gambling Treatment Services

Outpatient problem gambling treatment services include group, individual, and family treatment consistent with the following requirements:

(1) The first offered service appointment must be five business days or less from the date of request for services.

(2) Service sessions must address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior.

(3) Providers may provide telephone counseling when face-to-face contact would involve an unwise delay, as follows:

(a) The individual must be currently enrolled in the problem gambling treatment program;

(b) Phone counseling must be provided by a qualified program staff within their scope of practice;

(c) Service notes for phone counseling must follow the same criteria as face-to-face counseling and identify the session was conducted by phone and the clinical rationale for the phone session;

(d) Telephone counseling must meet HIPAA and 42 CFR standards for privacy; and

(e) There must be an agreement of informed consent for phone counseling that is discussed with the individual and documented in the individual's service record.

(4) Family counseling includes face-to-face or non-face-to-face service sessions between a program staff member delivering the service and a family member whose life has been negatively impacted by gambling:

(a) Service sessions must address the problems of the family member as they relate directly or indirectly to the problem gambling behavior; and

(b) Services to the family must be offered even if the individual identified as a problem gambler is unwilling or unavailable to accept services.

(5) Twenty-four hour crisis response must be accomplished through agreement with other crisis services, on-call program staff, or other arrangement acceptable to the Division.

(6) A financial assessment must be included in the entry process and documented in the assessment.

(7) The service plan must include a financial component consistent with the financial assessment.

(8) A risk assessment for suicide ideation must be included in the entry process and documented in the assessment as well as appropriate referrals made.

(9) The service plan must address suicidal risks if determined within the assessment process.

Stat. Auth.: ORS 161.390, 430.640, 461.549

Stats. Implemented: ORS 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 1-2015(Temp), f. & cert. ef. 3-25-15 thru 9-20-15; MHS 3-2015, f. & cert. ef. 5-28-15; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0175

Outpatient Substance Use Disorders Treatment and Recovery Services

(1) Pregnant women or other individuals using substances intravenously whose services are funded by the SAPT Block Grant must receive interim referrals and information prior to entry to reduce the adverse health effects of substance use, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim referral and informational services must include:

(a) Counseling and education about blood borne pathogens including Hepatitis, HIV, STDs, and Tuberculosis (TB); the risks of needle and paraphernalia sharing; and the likelihood of transmission to sexual partners and infants;

(b) Counseling and education about steps that can decrease the likelihood of Hepatitis, HIV, STD, and TB transmission;

(c) Referral for Hepatitis, HIV, STD, and TB testing and vaccine or care services if necessary;

(d) For pregnant women, counseling on the likelihood of blood borne pathogen transmission as well as the effects of alcohol, tobacco, and other drug use on the fetus, and referral for prenatal care; and

(2) Programs approved and designated as culturally specific programs must meet the following criteria:

(a) Serve a majority of individuals representing culturally specific populations;

(b) Maintain a current demographic and cultural profile of the community;

(c) Ensure that individuals from the identified cultural group receive effective and respectful care that is provided in a manner compatible with their cultural health beliefs, practices, and preferred language;

(d) Implement strategies to recruit, retain, and promote a diverse staff at all levels of the organization that are representative of the population being served;

(e) Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery;

(f) Ensure that a majority of the substance use disorders treatment staff be representative of the specific culture being served;

(g) Ensure that individuals are offered customer satisfaction surveys that address all areas of service and that the results of the surveys are used for quality improvement;

(h) Consider race, ethnicity, and language data in measuring customer satisfaction;

(i) Develop and implement cultural awareness policies;

(j) Ensure that data on an individual's race, ethnicity, and spoken and written language are collected in health records, integrated into the organization's management information systems, and periodically updated;

(k) Develop and maintain a governing or advisory board as follows:

(A) Have a majority representation of the culturally specific group being served;

(B) Receive training concerning the significance of culturally relevant services and supports;

(C) Meet at least quarterly; and

(D) Monitor agency quality improvement mechanisms and evaluate the ongoing effectiveness and implementation of culturally relevant services (CLAS) and supports within the organization.

(L) Maintain accessibility to culturally specific populations including:

(A) The physical location of the program must be within close proximity to the culturally specific populations;

(B) Where available, public transportation must be within close proximity to the program; and

(C) Hours of service, telephone contact, and other accessibility issues must be appropriate for the population.

(m) The physical facility where the culturally specific services are delivered must be psychologically comfortable for the group including:

(A) Materials displayed must be culturally relevant; and

(B) Mass media programming must be sensitive to cultural background.

(n) Other cultural differences must be considered and accommodated when possible, such as the need or desire to bring family members to the facility, play areas for small children, and related accommodations; and

(o) Ensure that grievance processes are culturally and linguistically sensitive and capable of identifying, preventing, and resolving cross-cultural conflicts or complaints.

Stat. Auth.: ORS 413.042, 430.640, 443.450

Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

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Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0180

Outpatient Adolescent Substance Use Disorders Treatment and Recovery Services

Programs approved to provide adolescent substance use disorders treatment services or those with adolescent-designated service funding must meet the following standards:

(1) Development of service plans and case management services must include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate.

(2) Services or appropriate referrals must include:

- (a) Family counseling;
- (b) Community and social skills training; and
- (c) Smoking cessation service.

(3) Continuing care services must be of appropriate duration and designed to maximize recovery opportunities. The services must include:

- (a) Reintegration services and coordination with family and schools;
- (b) Youth dominated self-help groups where available;
- (c) Linkage to emancipation services when appropriate;
- (d) Linkage to physical or sexual abuse counseling and support services when appropriate; and

(e) Access to peer delivered services.

Stat. Auth.: ORS 161.390, 413.042, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 430.010, 428.205 - 428.270, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0185

Outpatient Women's Substance Use Disorders Treatment and Recovery Programs

(1) Programs approved to provide women's substance use disorders treatment services or those with women-specific designated service funding must meet the following standards:

(a) The assessment must contain an evaluation that identifies and assesses needs specific to women's issues in service such as social isolation, self-reliance, parenting issues, domestic violence, women's physical health, housing, and financial considerations;

(b) The service plan must address all areas identified in the assessment and applicable service coordination details to address the identified needs;

(c) The program must provide or coordinate services and supports that meet the special access needs of women such as childcare, mental health services, and transportation as indicated; and

(d) The program must provide or coordinate the following services and supports unless clinically contraindicated:

- (A) Gender-specific services and supports;
- (B) Family services, including therapeutic services for children in the custody of women in treatment;
- (C) Reintegration with family;
- (D) Peer delivered services;
- (E) Smoking cessation;
- (F) Housing; and
- (G) Transportation.

(2) Services must include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies.

(3) The program must coordinate referral services with the following, if indicated:

(a) Agencies providing services to women who have experienced physical abuse, sexual abuse, or other types of domestic violence;

(b) Parenting training;

(c) Continuing care treatment services must be consistent with the ASAM and must include referrals to female dominated support groups where available.

(4) Programs that receive SAPT Block Grant funding must provide or coordinate the following services for pregnant women and women with dependent children, including women who are attempting to regain custody of their children:

(a) Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(b) Primary pediatric care, including immunizations for their children;

(c) Gender specific substance abuse treatment and other therapeutic interventions for women that may include but are not limited to:

(A) Relationship issues;

(B) Sexual and physical abuse;

(C) Parenting;

(D) Access to child care while the women are receiving these services; and

(E) Therapeutic interventions for children in the custody of women in treatment that may include but are not limited to:

(i) Their developmental needs;

(ii) Any issues concerning sexual and physical abuse and neglect; and

(iii) Sufficient case management and transportation to ensure that women and their children have access to services.

Stat. Auth.: ORS 161.390, 413.042, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0190

Community-Based Substance Use Treatment Programs for Individuals in the Criminal Justice System

(1) For individuals in the criminal justice system, community-based substance use treatment services and supports are for individuals who are under the supervision of a probation officer or on parole or post-prison supervision or participating in a drug treatment court program or otherwise under the direct supervision of the court.

(2) Services and supports must incorporate interventions and strategies that target criminogenic risk factors and include:

(a) Cognitive behavioral interventions;

(b) Motivational interventions;

(c) Relapse prevention; and

(d) Healthy relationships education.

(3) Providers must demonstrate coordination of services with criminal justice partners through written protocols, program staff activities, and individual record documentation.

(4) Program directors or clinical supervisors must have experience in community-based offender treatment programs and have specific training and experience applying effective, evidence-based clinical strategies and services for individuals receiving community-based substance use disorders treatment services to individuals in the criminal justice system.

(5) Within the first six months of hire, program staff must:

(a) Receive training on effective principles of evidenced-based practices for individuals with criminogenic risk factors; and

(b) Have documented knowledge, skills, and abilities demonstrating treatment strategies for individuals with criminogenic risk factors.

Stat. Auth.: ORS 161.390, 413.042, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0195

DUII Rehabilitation Programs

(1) In addition to the general standards for substance use disorders treatment programs, those programs approved to provide DUII rehabilitation services must meet the following standards:

(a) DUII rehabilitation programs must assess individuals referred for treatment by the screening specialist;

(b) Placement, continued stay, and transfer of individuals must be based on the criteria described in the ASAM PPC, subject to the following:

(A) Individuals must demonstrate continuous abstinence for a minimum of 90 days prior to completion as documented by urinalysis tests and other evidence;

(B) Only DUII rehabilitation programs may certify treatment completion;

(C) Using the criteria from the ASAM, the DUII program's assessment may indicate that the individual requires treatment in a residential program. When the individual is in residential treatment, it is the responsibility of the DUII program to:

(i) Monitor the case carefully while the individual is in residential treatment;

(ii) Provide or monitor outpatient and follow-up services when the individual is transferred from the residential program; and

(iii) Verify completion of residential treatment and follow-up outpatient treatment.

(2) A minimum of one urinalysis sample per month must be collected during the period of service, the total number deemed necessary to be determined by an individual's DUII rehabilitation program:

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(a) Using the process outlined in these rules, the samples must be tested for at least five controlled drugs, including alcohol;

(b) At least one of the samples must be collected and tested in the first two weeks of the program, and at least one must be collected and tested in the last two weeks of the program;

(c) If the first sample is positive, two or more samples must be collected and tested, including one sample within the last two weeks before completion; and

(d) Programs may use methods of testing for the presence of alcohol and other drugs in the individual's body other than urinalysis tests if they have obtained the prior review and approval of such methods by the Division.

(3) The program must report:

(a) To the Division on Division prescribed forms;

(b) To the screening specialist within 30 days from the date of the referral by the screening specialist. Subsequent reports must be provided within 30 days of completion or within ten days of the time that the individual enters noncompliant status; and

(c) To the appropriate screening specialist, case manager, court, or other agency as required when requested concerning individual cooperation, attendance, treatment progress, utilized modalities, and fee payment.

(4) The program must send a numbered Certificate of Completion to the Department of Motor Vehicles to verify the completion of convicted individuals. Payment for treatment may be considered in determining completion. A certificate of completion may not be issued until the individual:

(a) Meets the completion criteria approved by the Division;

(b) Meets the terms of the fee agreement between the provider and the individual; and

(c) Demonstrates 90 days of continuous abstinence prior to completion.

(5) The DUII rehabilitation program must maintain in the permanent service record urinalysis results and all information necessary to determine whether the program is being or has been successfully completed.

(6) Without the approval of the chief officer, no agency or individual may provide DUII rehabilitation to an individual who has also been referred by a judge to the same agency or individual for a DUII screening. Failure to comply with this rule shall be considered a violation of ORS chapter 813. If the chief officer finds such a violation, the chief officer may deny, suspend, revoke, or refuse to renew a letter of approval.

Stat. Auth.: ORS 161.390, 413.042, 430.640, 443.450

Stats. Implemented: ORS 161.390 - 161.400, 430.010, 428.205 - 428.270, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 743A.168

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0200

Medical Protocols in Outpatient Substance Use Disorders Treatment and Recovery Programs

Medical protocols must be approved by a medical director under contract with a program or written reciprocal agreement with a medical practitioner under coordinated care. The protocols must:

(1) Require a medical history be included in the assessment.

(2) Designate those medical symptoms that, when found, require further investigation, physical examinations, service, or laboratory testing.

(3) Require that individuals admitted to the program who are currently injecting or intravenously using a drug or have injected or intravenously used a drug within the past 30 days or who are at risk of withdrawal from a drug or who may be pregnant must be referred for a physical examination and appropriate lab testing within 30 days of entry to the program. This requirement may be waived by the medical director if these services have been received within the past 90 days and documentation is provided.

(4) Require pregnant women be referred for prenatal care within two weeks of entry to the program.

(5) Require that the program provide HIV and AIDS, TB, sexually transmitted disease, Hepatitis and other infectious disease information and risk assessment, including any needed referral, within 30 days of entry.

(6) Specify the steps for follow up and coordination with physical health care providers in the event the individual is found to have an infectious disease or other major medical problem.

Stat. Auth.: ORS 430.640, 443.450

Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0205

Building Requirements in Outpatient Substance Use Disorders Treatment Programs

All substance use disorders treatment programs must:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes.

(2) Maintain up-to-date documentation verifying that they meet applicable local business license, zoning, and building codes and federal, state, and local fire and safety regulations. It is the responsibility of the program to check with local government to make sure all applicable local codes have been met.

(3) Provide space for services including but not limited to intake, assessment, counseling, and telephone conversations that assure the privacy and confidentiality of individuals and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling.

(4) Provide rest rooms for individuals, visitors, and staff that are accessible to individuals with disabilities pursuant to Title II of the Americans with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received.

(5) Adopt and implement emergency policies and procedures, including an evacuation plan and emergency plan in case of fire, explosion, accident, death, or other emergency. The policies and procedures and emergency plans must be current and posted in a conspicuous area.

(6) Outpatient programs may not allow tobacco use in program facilities and on program grounds.

Stat. Auth.: ORS 413.042, 430.640, 443.450

Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 443.400 - 443.460

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0210

Quality Assessment and Performance Improvement

Providers shall develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families.

Stat. Auth.: ORS 430.640

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0215

Grievances and Appeals

(1) Any individual or parent or guardian receiving services may file a grievance with the provider, the individual's coordinated care plan, or the Division.

(2) For individuals whose services are funded by Medicaid, grievance and appeal procedures are set forth in OAR 410-141-0260 through 410-141-0266.

(3) For individuals whose services are not funded by Medicaid, providers must:

(a) Notify each individual or guardian of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians to understand and complete the grievance process and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing, and responding to grievances including specific timelines for each;

(f) Designate a program staff individual to receive and process the grievance;

(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation, and action taken in response to the grievance.

(4) The provider must have a Grievance Process Notice that must be posted in a conspicuous place stating the telephone number of:

(a) The Division;

(b) Disability Rights Oregon; and

(c) The applicable Coordinated Care Organization.

(5) In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures are completed, the individual or guardian of the individual may request an expedited review. The program administrator must review and respond in writing to

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the grievance within 48 hours of receipt of the grievance. The written response must include information about the appeal process.

(6) A grievant, witness, or staff member of a provider may not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include but is not limited to dismissal or harassment, reduction in services, wages, or benefits, or basing service or a performance review on the action.

(7) The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Individuals and their legal guardians may appeal entry, transfer, and grievance decisions as follows:

(a) If the individual or guardian is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services. The appeal must be submitted to the Division;

(b) If requested, program staff must be available to assist the individual;

(c) The Division must provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian is not satisfied with the appeal decision, they may file a second appeal in writing within ten working days of the date of the written response to the chief officer.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 179.505, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0220

Variations

(1) Requirements and standards for requesting and granting variations or exceptions are found in OAR 309-008-1600.

(2) The Division's chief officer or designee must approve or deny the request for a variation to these rules. The request must be made in writing using the Division approved variation request form and following the variation request procedure pursuant to OAR 309-008-1600.

(3) Granting a variation for one request does not set a precedent that must be followed by the Division when evaluating subsequent requests for variation.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 179.505, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0225

Definitions

(1) In addition to the definitions in OAR 309-019-0105, the definitions below apply to this and subsequent rule sections.

(2) "Collateral Contacts" means members of the individual's family or household or significant others (e.g., landlord, employer) who regularly interact with the individual and are directly affected by or have the capability of affecting their condition and are identified in the treatment plan as having a role in the individual's recovery. For the purpose of the Assertive Community Treatment (ACT) program, a collateral contact does not include contacts with other mental health service providers or individuals who are providing a paid service that would ordinarily be provided by the ACT team (e.g., meeting with a shelter staff who is assisting an ACT recipient in locating housing).

(3) "Community-Based" means services and supports that must be provided in a participant's home and surrounding community and not solely based in a traditional office-setting. ACT services may not be provided to individuals residing in an RTF or RTH licensed by the Division unless:

(a) The individual is not being provided rehabilitative services; or

(b) The individual has been identified for transition to a less intensive level of care. When identified for transition to a less intensive level of care, the individual may receive ACT services for up to six months prior to discharge from the RTH or RTF.

(4) "Competency" means one year of experience or training in the specialty area and demonstration of the specific skills or knowledge.

(5) "Competitive Integrated Employment" means full-time or part time work:

(a) At minimum wage or higher;

(b) At a rate that is not less than the customary rate paid by the employer for the same or similar work performed by other employees who

are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skill;

(c) With eligibility for the level of benefits provided to other employees;

(d) At a location where the employee interacts with other individuals who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other individuals; and

(e) That present opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(6) "Comprehensive Assessment" means the organized process of gathering and analyzing current and past information with each individual and the family and support system and other significant individuals to evaluate:

(a) Mental and functional status;

(b) Effectiveness of past treatment;

(c) Current treatment, rehabilitation, and support needs to achieve individual goals and support recovery; and,

(d) The range of individual strengths (e.g., knowledge gained from dealing with adversity, personal or professional roles, talents, personal traits) that may act as resources to the individual and the recovery planning team in pursuing goals. The results of the information gathering and analysis are used to:

(A) Establish immediate and longer-term service needs with each individual;

(B) Set goals and develop the first person directed recovery plan with each individual; and,

(C) Optimize benefits that can be derived from existing strengths and resources of the individual and family and natural support network in the community.

(7) "Co-Occurring Disorders (COD) Services" means integrated assessment and treatment for individuals who have co-occurring mental health and substance use condition.

(8) "Division Approved Reviewer" means the Division's contracted entity that is responsible for conducting ACT fidelity reviews, training, and technical assistance to support new and existing ACT programs statewide.

(9) "Fidelity" for the purposes of the ACT program means the provider is providing services that are faithful to the evidence-based practice model and obtains a satisfactory score from the Oregon Center of Excellence for ACT as part of the their regular reviews.

(10) "Fixed Point of Responsibility" means the ACT team provides virtually all needed services, rather than sending clients to different providers. If the team cannot provide a service, the team ensures that the service is provided.

(11) "Full-Time Equivalent" (FTE) means a way to measure how many full-time employees are required to provide the appropriate level of services to fulfill minimum fidelity requirements.

(12) "Hospital Discharge Planning" means a process that begins upon admission to the Oregon State Hospital (OSH) or an acute care psychiatric hospital and that is based on the presumption that with sufficient supports and services, all individuals can live in an integrated community setting. Discharge planning is developed and implemented through a person-centered planning process in which the individual has a primary role and is based on principles of self-determination. For OSH, discharge planning teams include a representative of a community mental health provider from the county where the individual is likely to transition.

(13) "Individual Placement and Support (IPS) Supported Employment Services" means individualized services that assist individuals to obtain and maintain integrated, paid, competitive employment. Supported employment services are provided in a manner that seeks to allow individuals to work the maximum number of hours consistent with their preferences, interests, and abilities and are individually planned, based on person-centered planning principles and evidence-based practices.

(14) "Individual Treatment Team (ITT)" means a group or combination of three to five ACT team staff members who together have a range of clinical and rehabilitation skills and expertise. The core members are the case manager, the psychiatrist or psychiatric nurse practitioner, one clinical or rehabilitation staff individual who backs up and shares case coordination tasks and substitutes for the service coordinator when they are not working, and a peer support and wellness specialist.

(15) "Initial Assessment and Individualized Treatment Plan" means the initial evaluation of:

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- (a) The individual's mental and functional status;
- (b) The effectiveness of past treatment; and
- (c) The current treatment, rehabilitation, and support service needs.

The results of the information gathering and analysis are used to establish the initial treatment plan to support recovery and help the individual achieve their goals.

(16) "Large ACT Team" means an ACT team serving 80 to 120 individuals.

(17) "Life Skills Training" means training that helps individuals develop skills and access resources needed to increase their capacity to be successful and satisfied in the living, working, learning, and social environments of their choice.

(18) "Medication Management" means the prescribing and administering and reviewing of medications and their side effects, including both pharmacological management as well as supports and training to the individual. For the purposes of ACT, medication management is a collaborative effort between the individual receiving services and the prescribing psychiatrist or psychiatric nurse practitioner with the ACT treatment team.

(19) "Mid-Size Act Team" means an ACT team serving between 41 and 79 individuals.

(20) "Natural Supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for individuals, including but not limited to family relationships, friendships reflecting the diversity of the neighborhood and the community, association with fellow students or employees in regular classrooms and work places, and associations developed through participation in clubs, organizations, and other civic activities.

(21) "Psychiatry Services" means the prescribing and administering and reviewing of medications and their side effects, including both pharmacological management as well as supports and training to the individual. Psychiatry services must be provided by a psychiatrist or a psychiatric nurse practitioner licensed by the Oregon Medical Board.

(22) "Single Point of Contact" (SPOC) means a designated individual in a service region that is responsible for coordinating and tracking referrals to ACT programs within their geographic service area.

(23) "Small ACT Team" means an ACT team serving between ten to 40 individuals.

(24) "Symptom Management" means to prevent or treat as early as possible the symptoms of a disease, side effects caused by treatment of a disease, and psychological, social, and spiritual problems related to a disease or its treatment.

(25) "Telepsychiatry" means the application of telemedicine to the specialty field of psychiatry. The term describes the delivery of psychiatric assessment and care through telecommunications technology, usually videoconferencing.

(26) "Time-unlimited Services" means services that are provided not on the basis of predetermined timelines but if they are medically appropriate.

(27) "Vocational Services" means employment support services that will lead to competitive integrated employment. The Division encourages the use of fidelity IPS Supported Employment for providing vocational services within the ACT program.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 430.630

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0226

Assertive Community Treatment (ACT) Overview

(1) The Substance Abuse and Mental Health Services Administration (SAMHSA) characterizes ACT as an evidence-based practice for individuals with a serious and persistent mental illness. ACT is characterized by:

- (a) A team approach;
- (b) Community based;
- (c) A small client to staff caseload, typically 10:1, to consistently provide necessary staffing diversity and coverage;
- (d) Time-unlimited services;
- (e) Flexible service delivery;
- (f) A fixed point of responsibility; and
- (g) 24/7 availability for response to psychiatric crisis.

(2) ACT services must include but are not limited to:

(a) Hospital discharge planning, including OSH and acute care psychiatric hospitals;

(b) Case management;

(c) Symptom management;

(d) Psychiatry services;

(e) Nursing services;

(f) Co-occurring substance use and mental health disorders treatment services;

(g) Individual Placement and Support (IPS) supported employment services;

(h) Life skills training; and

(i) Peer delivered services.

(3) SAMHSA characterizes a high fidelity ACT program as one that includes the following staff members:

(a) Psychiatrist or Psychiatric Nurse Practitioner;

(b) Psychiatric Nurse;

(c) Qualified Mental Health Professional (QMHP) ACT Team Supervisor;

(d) Qualified Mental Health Professional (QMHP) Mental Health Clinician;

(e) Substance Abuse Treatment Specialist;

(f) Employment Specialist;

(g) Mental Health Case Manager; and

(h) Certified Peer Support Specialist.

(4) SAMHSA characterizes high fidelity ACT programs as those that adhere to the following:

(a) Providing explicit admission criteria with an identified mission to serve a particular population using quantitative and operationally defined criteria;

(b) Managing intake rates. ACT eligible individuals are admitted to the program at a low rate to maintain a stable service environment;

(c) Maintaining full responsibility for treatment services that includes, at a minimum, the services required under OAR 309-019-0230(2)(a)-(i);

(d) Twenty-four hour responsibility for covering psychiatric crises;

(e) Involvement in hospital admissions, including OSH and acute care psychiatric hospitals;

(f) Involvement in planning for hospital discharges, including OSH and acute care psychiatric hospitals; and

(g) As long as medically appropriate, time-unlimited services.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0230

ACT Provider Qualifications

(1) In order to be eligible for Medicaid or State General Fund reimbursement, ACT services shall be provided only by those providers meeting the following minimum qualifications:

(a) The provider must hold and maintain a certificate issued under the authority established in OAR chapter 309, division 008 issued by the Division for the purpose of providing outpatient behavioral health treatment services; and

(b) The provider must hold and maintain a certificate issued by the Division under OAR 309-019-0225 through 025 for the purpose of providing ACT; and

(c) A provider certified to provide ACT services must be reviewed annually for fidelity adherence by the Division approved reviewer and achieve a minimum score of 114 on the fidelity scale. Providers may not bill Medicaid or use General Funds for the provision of ACT services unless they complete an annual fidelity review by the Division approved reviewer:

(A) The Division approved reviewer shall forward a copy of the annual fidelity review report to the Division and provide a copy of the review to the provider;

(B) The provider shall forward a copy of the annual fidelity review report to the appropriate CCO.

(2) A provider already holding a certificate of approval under OAR chapter 309, division 008 may request the addition of ACT services be added to their certificate of approval using the procedure outlined in OAR 309-008-0400 and 309-008-1000(1), in addition to application materials required in OAR chapter 309, division 008 and this rule. The provider must also submit to the Division a letter of support that indicates receipt of technical assistance and training from the Division approved ACT reviewer.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

ADMINISTRATIVE RULES

309-019-0235

Continued Fidelity Requirements

(1) In addition to the minimum requirements established in OAR 309-019-0230 to maintain an ACT provider designation on the Division issued certificate, a provider must submit to their CCO an annual fidelity review report by the Division approved reviewer with a minimum score of 114. Extension of a certification period has no bearing on the frequency or scope of fidelity reviews or re-certification reviews required under OAR chapter 309, division 008.

(2) Fidelity reviews shall be conducted utilizing the Substance Abuse and Mental Health Services ACT Toolkit Fidelity Scale, which the Division shall make available to providers electronically.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0240

Failure to Meet Fidelity Standards

(1) In addition to any plan of correction requirements issued by the Division under OAR 309-008-0800(4)(c), if a certified ACT provider does not receive a minimum score of 114 on any fidelity review, the following shall occur:

(a) Technical assistance shall be made available by the Division approved reviewer to address problem areas identified in the fidelity review;

(b) Technical assistance shall be available for a period of 90 days from the date of the fidelity review where the provider scored below the minimum established in section one of this rule;

(c) At the end of the 90 day period, a follow-up review shall be conducted by the Division approved reviewer;

(d) The provider shall forward a copy of the amended fidelity review report to the provider's CCO; and

(e) The Division approved reviewer shall forward a copy of the fidelity review report to the Division.

(2) In addition to the standards set for suspension and revocation of a certificate in OAR 309-008-1100(1) and (2), a provider of ACT services may also have their certificate of approval suspended or revoked if the 90 day re-review results in a fidelity score of less than 114.

(3) A provider who is issued a notice of intent to apply a condition, revoke, suspend, or refusal to renew its certificate under these rules shall be entitled to request a hearing in accordance with ORS Chapter 183 and OAR 309-008-1300.

Stat. Auth.: ORS 413.042, 430.256, 430.640
Stats. Implemented: ORS 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0241

Waiver of Minimum Fidelity Requirements

(1) The Division may grant a waiver of minimum ACT fidelity requirements and extend an ACT program's certification period if the waiver to the requirement would not diminish the effectiveness of the ACT model, violate the purposes of the program, or adversely affect the program participants' health and welfare:

(a) Waivers may not be granted that are inconsistent with the individual participant's rights or federal, state, or local laws and regulations;

(b) The Division shall review waivers to minimum fidelity requirements on a case-by-case basis.

(2) Waivers granted to ACT minimum fidelity requirements shall result in an extension to the ACT program's certification period. An ACT program that is a Division approved waiver period is eligible to receive Medicaid and State General Fund reimbursement for ACT services if the ACT program meets the following criteria:

(a) The ACT program must receive technical assistance from the Division approved reviewer and develop a plan to meet the minimum fidelity requirements; and

(b) The ACT program shall notify the appropriate CCO that the program is operating under the Division approved waiver of minimum fidelity requirements.

(3) The Division shall grant waivers of minimum fidelity requirements for a period that may not exceed 180 days.

(4) A waiver of minimum fidelity requirements may only be granted to ACT programs that have received a fidelity review within 12 months prior to the request.

(5) Requests for a waiver of minimum fidelity requirements shall be submitted to the Division's ACT program coordinator for approval.

Stat. Auth.: ORS 413.042, 430.256, 430.640
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0242

ACT Program Operational Standards

(1) All ACT teams must be available seven days a week, 24 hours a day by direct phone link and regularly accessible to individuals who work or are involved in other scheduled vocational or rehabilitative services during the daytime hours. ACT teams may utilize split staff assignment schedules to achieve coverage.

(2) ACT teams are primarily responsible for crisis response and for after-hour calls related to individuals they serve. The ACT team must operate continuous and direct after-hours on-call system with staff experienced in the program and skilled in crisis intervention procedures. The ACT team must have the capacity to respond rapidly to emergencies, both in person and by telephone. To ensure direct access to the ACT team, individuals must be given a phone list with the responsible ACT staff to contact after hours.

(3) Service Intensity:

(a) The ACT team must have the capacity to provide the frequency and duration of staff-to-individual contact required by each individual's service plan and their immediate needs;

(b) The ACT team must provide a minimum of 40 percent of all services in-community as demonstrated by the average in-community encounters reviewed in case record reviews;

(c) The ACT team must have the capacity to increase and decrease contacts based upon daily assessment of the individual's clinical need with a goal of maximizing independence;

(d) The team must have the capacity to provide multiple contacts to individuals in high need and a rapid response to early signs of relapse;

(e) The team must have the capacity to provide support and skills development services to individuals' natural supports and collateral contacts;

(f) Natural supports and collateral contacts may include family, friends, landlords, or employers, consistent with the service plan. Natural supports and collateral contacts are typically not supports that are paid for services;

(g) The ACT team Psychiatrist and the Psychiatric Nurse Practitioner (PNP) must have scheduling flexibility to accommodate individual needs. If the individual will not come to meet the Psychiatrist or the PNP at the ACT office, the Psychiatrist or PNP must provide services as clinically indicated for that individual in the community. Secure telepsychiatry may be used when clinically indicated;

(h) The ACT team must have the capacity to provide services via group modalities as clinically appropriate, including but not limited to individuals with substance abuse disorders and for family psychoeducation and wellness self-management services.

(4) An ACT team shall have sufficient staffing to meet the varying needs of individuals. As an all-inclusive treatment program, a variety of expertise must be represented on the team. Staffing must be clearly defined and dedicated to the operation of the team.

(5) Staffing Guidelines for ACT teams:

(a) A single ACT team may not serve more than 120 individuals unless:

(A) It is expanding for the expressed purpose of splitting into two ACT teams within a 12-month period; and

(B) It hires the appropriate staff to meet the required 1:10 staff ratio to individuals served.

(b) ACT team individual to clinical staff ratio may not exceed 10:1;

(c) ACT team staff must be comprised of individual staff members in which a portion or all of their job responsibilities are defined as providing ACT services;

(d) Other than for coverage when a staff member has a leave of absence, ACT teams may not rotate staff members into the ACT team that are not specifically assigned to the team as part of their position's job responsibilities.

(6) No individual ACT staff member shall be assigned less than .20 FTE for their role on the team unless filling the role of psychiatrist or PNP. The ACT team psychiatrist or PNP may not be assigned less than .10 FTE.

ADMINISTRATIVE RULES

(7) Maximum ACT team staffing requirements: ACT teams may not exceed the following upper staffing limits:

- (a) No more than eight individual staff members per small ACT team;
- (b) No more than 12 individual staff members per mid-size ACT team;

(c) No more than 18 individual staff members per large ACT team.

(8) ACT team staffing is multi-disciplinary. The core minimum staffing for an ACT team includes:

(a) A team leader position that shall be occupied by only one individual. The team leader is a QMHP level clinician qualified to provide direct supervision to all ACT staff except the psychiatric care provider and nurse. Pursuant to the table in OAR 309-019-0242 (13), the Team Leader FTE is dictated by the number of individuals served by the ACT team;

(b) Pursuant to the table in OAR 309-019-0242 (11), Psychiatric Care Provider (Psychiatrist or PNP) FTE is dictated by the number of individuals served by the ACT team;

(c) Pursuant to the table in OAR 309-019-0242 (11), the Nurse FTE is dictated by the number of individuals served by the ACT team;

(d) The Program Administrative Assistant FTE is not counted in the clinical staff ratio.

(9) ACT team minimum staffing must include clinical staff with the following FTE and specialized competencies:

(a) Pursuant to the table in OAR 309-019-0242 (11), the Substance Abuse Specialist FTE is dictated by the number of individuals served by the ACT team. A Substance Abuse Specialist specialized competencies must include:

- (A) Substance abuse assessment and substance abuse diagnosis;
- (B) Principles and practices of harm reduction;
- (C) Knowledge and application of motivational interviewing strategies.

(b) Pursuant to the table in OAR 309-019-0242 (11), the Employment Specialist FTE is dictated by the number of individuals served by the ACT team. An Employment Specialist specialized competencies must include:

- (A) Competence in the IPS Supported Employment fidelity model;
- (B) Vocational assessment;
- (C) Job exploration and matching to individual's interest and strengths;
- (D) Skills development related to choosing, securing, and maintaining employment.

(c) Pursuant to the table in OAR 309-019-0242 (11), the Peer Support and Wellness Specialist FTE is dictated by the number of individuals served by the ACT team.

(d) See a Certified Peer Support Specialist or Peer Wellness Specialist as described in OAR 410-180-0300 and 410-180-0380. A registry of certified Peer Support Specialist Specialists and Peer Wellness Specialists may be found at the Office of Equity and Inclusion's Traditional Health Worker's website.

(10) ACT Team Staffing Core Competencies:

(a) Upon hiring, all clinical staff on an ACT team must have experience in providing direct services related to the treatment and recovery of individuals with a serious and persistent mental illness. Staff shall be selected consistent with the ACT core operating principles and values. Clinical staff shall have demonstrated competencies in clinical documentation and motivational interviewing;

(b) All staff shall demonstrate basic core competencies in designated areas of practice, including the Assertive Community Treatment core principles, integrated mental health and substance abuse treatment, supported employment, psycho-education, and wellness self-management;

(c) All staff must receive ACT 101 training from the Division approved reviewer prior to receiving the Division provisional certification; and

(d) All professional ACT team staff must obtain the appropriate licensure to provide services in Oregon for their respective area of specialization.

(11) ACT Team Size Staff (FTE) to Individual Ratio Table: [Table not included. See ED. NOTE.]

(12) The ACT team shall conduct daily organizational staff meetings at least four days per week and regularly scheduled times per a schedule established by the team leader. These meetings shall be conducted in accordance with the following procedures:

(a) The ACT team shall maintain in writing:

(A) A roster of the individuals served in the program; and

(B) For each individual, a brief documentation of any treatment or service contacts that have occurred during the last 24 hours and a concise, behavioral description of the individual's status that day.

(b) The daily organizational staff meeting includes a review of the treatment contacts that occurred the day before and provides a systematic means for the team to assess the day-to-day progress and status of all clients;

(c) During the daily organizational staff meeting, the ACT team shall also review treatment plans as needed, plan for emergency and crisis situations, and add service contacts to the daily staff assignment schedule per the revised treatment plans.

(13) The ACT team shall conduct treatment planning meetings under the supervision of the team leader and the Psychiatrist or PNP. These treatment planning meetings shall:

(a) Convene at regularly scheduled times per a written schedule set by the team leader;

(b) Occur and be scheduled when the majority of the team members can attend, including the psychiatrist or psychiatric nurse practitioner, team leader, and all members of the treatment team;

(c) Require individual staff members to present and systematically review and integrate an individual's information into a holistic analysis and prioritize problems; and

(d) Occur with sufficient frequency and duration to make it possible for all staff to:

- (A) Be familiar with each individual and their goals and aspirations;
- (B) Participate in the ongoing assessment and reformulation of problems;

(C) Problem-solve treatment strategies and rehabilitation options;

(D) Participate with the individual and the treatment team in the development and the revision of the treatment plan; and

(E) Fully understand the treatment plan rationale in order to carry out each individual's plan.

(14) ACT Assessment and Individualized Treatment Planning:

(a) An initial assessment and treatment plan is completed upon each individual's admission to the ACT program; and

(b) Individualized treatment plans for ACT team-served individuals must be updated at least every six months.

(15) Service Note Content:

(a) More than one intervention, activity, or goal may be reported in one service note, if applicable;

(b) ACT team staff must complete a service note for each contact or intervention provided to an individual. Each service note must include all of the following:

- (A) Individual's name;
- (B) Medicaid identification number or client identification number;
- (C) Date of service provision;
- (D) Name of service provided;
- (E) Type of contact;
- (F) Place of service;
- (G) Purpose of the contact as it relates to the goals on the individual's treatment plan;

(H) Description of the intervention provided. Documentation of the intervention must accurately reflect substance abuse related treatment for the duration of time indicated;

(I) Amount of time spent performing the intervention;

(J) Assessment of the effectiveness of the intervention and the individual's progress towards the individual's goal;

(K) Signature and credentials or job title of the staff member who provided the service; and

(L) Each service note page must be identified with the beneficiary's name and client identification number.

(c) Documentation of discharge or transition to lower levels of care must include all of the following:

(A) The reasons for discharge or transition as stated by both the individual and the ACT team;

(B) The individual's biopsychosocial status at discharge or transition;

(C) A written final evaluation summary of the individual's progress toward the goals set forth in the person-centered treatment plan;

(D) A plan for follow-up treatment, developed in conjunction with the individual; and

(E) The signatures of the individual, the team leader, and the psychiatrist or PNP.

[Ed Note: Tables referenced are available from the Agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

ADMINISTRATIVE RULES

309-019-0245

Admission Criteria

(1) Participants must meet the medically appropriate standard as designated in OAR 309-019-0105. Participants who are medically appropriate must have the following characteristics:

(a) Participants diagnosed with severe and persistent mental illness as listed in the Diagnostic and Statistical Manual, Fifth Edition (DSM V) of the American Psychiatric Association that seriously impair their functioning in community living. Priority is given to people with schizophrenia, other psychotic disorders (e.g., schizoaffective disorder), and bipolar disorder because these illnesses more often cause long-term psychiatric disability;

(b) Individuals with a primary diagnosis of a substance use disorder or intellectual developmental disabilities or borderline personality disorder or traumatic brain injury or an autism spectrum disorder are not the intended recipients of ACT and may not be referred to ACT if they do not have a co-occurring, qualifying psychiatric disorder;

(c) Participants with other psychiatric illnesses are eligible dependent on the level of the long-term disability;

(d) Participants with significant functional impairments as demonstrated by at least one of the following conditions:

(A) Significant difficulty consistently performing the range of practical daily living tasks required for basic adult functioning in the community (e.g., caring for personal business affairs; obtaining medical, legal, and housing services; recognizing and avoiding common dangers or hazards to self and possessions; meeting nutritional needs; maintaining personal hygiene) or persistent or recurrent difficulty performing daily living tasks except with significant support or assistance from others such as friends, family, or relatives;

(B) Significant difficulty maintaining consistent employment at a self-sustaining level or significant difficulty consistently carrying out the homemaker role (e.g., household meal preparation, washing clothes, budgeting, or child-care tasks and responsibilities);

(C) Significant difficulty maintaining a safe living situation (e.g., repeated evictions or loss of housing).

(e) Participants with one or more of the following problems, which are indicators of continuous high service needs (e.g., greater than eight hours per month):

(A) High use of acute care psychiatric hospitals or emergency departments for psychiatric reasons, including psychiatric emergency services as defined in OAR 309-023-0110 (e.g., two or more readmissions in a six month period);

(B) Intractable (e.g., persistent or very recurrent) severe major symptoms, affective, psychotic, suicidal);

(C) Coexisting substance abuse disorder of significant duration (e.g., greater than six months);

(D) High risk or recent history of criminal justice involvement (e.g., arrest, incarceration);

(E) Significant difficulty meeting basic survival needs, residing in substandard housing, homelessness, or imminent risk of becoming homeless;

(F) Residing in an inpatient or supervised community residence in the community where ACT services are available, but clinically assessed to be able to live in a more independent living situation if intensive services are provided or requiring a residential or institutional placement if more intensive services are not available;

(G) Difficulty effectively utilizing traditional office-based outpatient services.

(2) The ACT program provides community-based, long-term or time-unlimited services and is not intended to be in and of itself a transitional program.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168
Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0248

Admission Process

(1) A comprehensive assessment as described in OAR 309-019-0105(6) that demonstrates medical appropriateness must be completed prior to the provision of this service. If a substantially equivalent assessment is available that reflects current level of functioning and contains standards consistent with OAR 309-019-0135 to include sufficient information and documentation to justify the presence of a diagnosis that is the med-

ically appropriate reason for services, the equivalent assessment may be used to determine admission eligibility for the program.

(2) Admission to ACT is managed through a referral process that is coordinated by a designated single point of contact (SPOC) that represents the Coordinated Care Organization's (CCO) or the Community Mental Health Program's (CMHP) geographical service area:

(a) The designated single point of contact shall accept referrals and verify the required documentation supports and the referral for services when an approximate, reasonable date of admission to the ACT program is anticipated;

(b) The Authority shall work with the CCOs and the CMHPs to identify regional SPOCs;

(c) The Authority shall work with the CCOs and the CMHPs to identify a process where referrals can be received and tracked.

(3) An admission decision by the designated SPOC must be completed and reported to the Division within seven business days of receiving the referral. To accomplish this, the SPOC must be fully informed as to the current capacity of ACT programs within the SPOC's geographic service area at all times.

(4) All referrals for ACT services must be submitted through the designated regional SPOC, regardless of the origin of the referral when an approximate, reasonable date of admission to the ACT program is anticipated. The designated regional SPOC shall accept and evaluate referrals from mental health outpatient programs, residential treatment facilities or homes, families or individuals, and other referring sources.

(5) Given the severity of mental illness and functional impairment of individuals who qualify for ACT-level services, the final decision to admit a referral rests with the provider. Any referral to a provider shall therefore present a full picture of the individual by means of the supporting medical documentation attached to the Universal ACT Referral and Tracking Form and include an approximate date the referred individual will be able to enroll in an ACT program. A tentative admission decision and an agreement to screen by the ACT services provider must be completed within five business days of receiving the referral:

(a) The individual's decision not to take psychiatric medication is not a sufficient reason for denying admission to an ACT program;

(b) ACT capacity in a geographic regional service area is not a sufficient reason for not providing ACT services to an ACT eligible individual. If an individual who is ACT eligible cannot be served due to capacity, the SPOC must provide the individual with the option of being added to a waiting list until such time as the ACT eligible individual may be admitted to a certified ACT program:

(A) The ACT eligible individual who is not accepted into an ACT program due to capacity shall be offered alternative community-based rehabilitative services as described in the Oregon Medicaid State Plan that includes evidence-based practices to the extent possible;

(B) Alternative rehabilitative services shall be made available to the individual:

(i) Until the individual is admitted into an ACT program;

(ii) Alternative rehabilitative services are medically appropriate and meet the individual's treatment goals; or

(iii) The individual refuses alternative medically appropriate rehabilitative services.

(6) Upon the decision to admit an individual to the ACT program, the Authority's Universal ACT Referral and Tracking Form shall be updated to include:

(a) A tentative admission is indicated;

(b) When an admission is not indicated, notation shall be made of the following:

(A) The reasons for not admitting;

(B) The disposition of the case; and

(C) Any referrals or recommendations made to the referring agency, as appropriate.

(7) Individuals who meet admission criteria and are not admitted to an ACT program due to program capacity may elect to be placed on a waiting list. The waiting list will be maintained by the appropriate regional SPOC. The Authority shall monitor each regional waiting list until sufficient ACT program capacity is developed to meet the needs of the ACT eligible population.

(8) In addition, if an individual is denied ACT services and has met the admission criteria set forth in OAR 309-019-0245, the individual who is denied services or their guardian may appeal the decision by filing a grievance in the manner set forth in OAR 309-008-1500.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640
Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

ADMINISTRATIVE RULES

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0250

Transition to Less Intensive Services and Discharge

(1) Transition to less intensive services shall occur when the individual no longer requires ACT level of care and is no longer medically appropriate for ACT services.

(2) This transition shall occur when individuals receiving ACT:

(a) Have successfully reached individually established goals for transition;

(b) Have successfully demonstrated an ability to function in all major role areas including but not limited to work, social, and self-care without ongoing assistance from the ACT provider;

(c) Requests discharge or declines or refuses services;

(d) Moves outside of the geographic area of the ACT program's responsibility. In such cases, the ACT team shall arrange for transfer of mental health service responsibility to an ACT provider or another provider wherever the individual is moving. The ACT team shall maintain contact with the individual until this service is implemented.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0255

Reporting Requirements

(1) Providers certified by the Division to provide ACT shall submit quarterly outcome reports using forms and procedures prescribed by the Division.

(2) Providers shall submit quarterly outcome reports within 45 days following the end of each subject quarter to the Division or the Division reviewer. Each quarterly report shall provide the following information:

(a) Individuals served:

(A) Individuals who are homeless at any point during a quarter;

(B) Individuals with safe stable housing for six months;

(C) Individuals using emergency departments during each quarter for a mental health reason;

(D) Individuals hospitalized in OSH or in an acute psychiatric facility during each quarter;

(E) Individuals hospitalized in an acute care psychiatric facility during each quarter;

(F) Individuals in jail at any point during each quarter;

(G) Individuals receiving supported employment services during each quarter;

(H) Individuals who are employed in competitive integrated employment, as defined above;

(I) Individuals receiving ACT services that are not enrolled in Medicaid.

(b) Referrals and Outcomes:

(A) Number of referrals received during each quarter;

(B) Number of individuals accepted during each quarter;

(C) Number of individuals admitted during each quarter; and

(D) Number of individuals denied during each quarter and the reason for each denial.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 430.640

Stats. Implemented: ORS 161.390 - 161.400, 428.205 - 428.270, 430.010, 430.205 - 430.210, 430.254 - 430.640, 430.850 - 430.955, 743A.168

Hist.: MHS 11-2016(Temp), f. 6-29-16, cert. ef. 7-1-16 thru 12-27-16; MHS 18-2016, f. 11-28-16, cert. ef. 11-30-16; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0270

Definitions

(1) Competitive Integrated Employment" means full-time or part time work:

(a) At minimum wage or higher rate that is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skill with eligibility for the level of benefits provided to other employees;

(b) At a location where the employee interacts with other individuals who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other individuals;

(c) As appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(2) "Division Approved Reviewer" means the Oregon Supported Employment Center for Excellence (OSECE). OSECE is the Division's contracted entity responsible for conducting IPS Supported Employment fidelity reviews, training, and technical assistance to support new and existing IPS Supported Employment programs statewide.

(3) "Fidelity" for the purposes of the IPS Supported Employment program means the provider is providing services that are faithful to the evidence-based practice model and obtains a satisfactory score from the Oregon Supported Employment Center for Excellence for IPS Supported Employment as part of the their regular reviews.

(4) "Vocational Services" for the purposes of the ACT program in Oregon means employment support services that will lead to competitive integrated employment. The Division specifies the use of fidelity IPS Supported Employment for providing vocational services within the ACT program, as described in OAR 309-019-0225 - 309-019-0255.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0275

Individual Placement and Support (IPS) Supported Employment Overview

(1) Supported employment is an evidence-based practice for individuals with serious mental illness.

(2) Supported employment is characterized by:

(a) Emphasis on competitive employment;

(b) Every individual interested in work is eligible for services regardless of symptoms, substance use disorders, treatment decisions, or any other issue;

(c) Employment services are integrated with mental health treatment;

(d) Individuals have access to personalized benefits planning;

(e) Job search begins soon after an individual expresses interest in working; and

(f) Client preferences for jobs and preferences for service delivery are honored;

(g) Employment specialists systematically visit employers who are selected based on job seeker preferences to learn about their business needs and hiring preferences;

(h) Job supports are individualized and continue for as long as each worker wants and needs the support.

(3) Supported employment services include but are not limited to:

(a) Job development;

(b) Supervision and job training;

(c) On-the-job visitation;

(d) Consultation with the employer;

(e) Job coaching;

(f) Counseling;

(g) Skills training; and

(h) Transportation.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0280

Supported Employment Providers

(1) To be eligible for Medicaid or State General Fund reimbursement, supported employment services shall be provided only by those providers meeting the following minimum qualifications:

(a) The provider must hold and maintain a current certificate under OAR chapter 309, division 008 issued by the Division for the purpose of providing behavioral health treatment services; and

(b) A provider certified to provide supported employment services must be reviewed annually for fidelity adherence by the Division approved reviewer and achieve a minimum score of 100 on the fidelity scale. Providers may not bill Medicaid or use general funds unless they are subject to an annual fidelity review by the Division approved reviewer:

(A) The Division approved reviewer shall forward a copy of the annual fidelity review report to the Division and provide a copy of the review to the provider;

(B) The provider shall forward a copy of the annual fidelity review report to the appropriate CCO.

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(2) To be eligible for Medicaid reimbursement, supported employment services must be provided by a certified supported employment provider.

(3) A provider holding a certificate of approval under OAR chapter 309, division 008 may request the addition of IPS supported employment services to their certificate of approval via the procedure outlined in OAR 309-008-0400 and 309-008-1000(1):

(a) In addition to application materials required in OAR chapter 309, division 008, and this rule, the provider must also submit to the Division a letter of support that indicates receipt of technical assistance and training from the Division approved supported employment reviewer;

(b) New providers of IPS supported employment services must submit a letter to the Division that indicates the intention to implement a high-fidelity IPS supported employment program.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0285

Continued Fidelity Requirements

(1) In addition to the minimum requirements established in OAR 309-019-0275 to maintain an IPS supported employment provider designation on the Division issued certificate, a provider must submit to their CCO an annual fidelity review report by the Division approved reviewer with a minimum score of 100 of 125.

(2) Providers certified to provide IPS supported employment services that achieve a fidelity score of 100 or better when reviewed by the Division approved supported employment reviewer are certified for 12 months.

(3) Fidelity reviews shall be conducted utilizing the Substance Abuse and Mental Health Services Supported Employment Fidelity Scale, which shall be made available to providers electronically.

(4) Providers shall cooperate with the Division approved supported employment reviewer for the purpose of improving supported employment services.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0290

Failure to Meet Fidelity Standards

(1) In addition to any plan of correction requirements issued by the Division under 309-008-0800(4)(c), if a provider certified under these rules to provide supported employment services does not receive a minimum score of 100 on a fidelity review, the following shall occur:

(a) Technical assistance shall be made available by the Division approved reviewer for a period of 90 days to address problem areas identified in the fidelity review;

(b) At the end of the 90-day period, a follow-up review shall be conducted by the Division approved reviewer; and

(c) The provider shall forward a copy of the amended fidelity review report to the provider's CCO;

(d) The Division approved reviewer shall forward a copy of the fidelity review report to the Division.

(2) In addition to the standards set for suspension and revocation of a certificate in OAR 309-008-1100(1) and (2), a provider of supported employment services may also have their certificate of approval suspended or revoked if the 90-day re-review results in a fidelity score of less than 100.

(3) A provider who is issued a notice of intent to apply a condition, revoke, suspend, or refusal to renew its certificate may request a hearing in accordance with ORS Chapter 183 and OAR 309-008-1300.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0295

Reporting Requirements

(1) Providers of supported employment services shall submit quarterly outcome reports using forms and procedures prescribed by the Division within 45 days following the end of each subject quarter to the Division or the Division approved reviewer.

(2) Each quarterly report shall provide the following information:

(a) All individuals who received supported employment in the reporting quarter;

(b) Individuals who received supported employment services who are employed in competitive integrated employment; and

(c) Individuals who discontinued receiving supported employment services and are employed in competitive integrated employment; and

(d) Individuals who received supported employment services as a part of the Assertive Community Treatment program.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 430.630

Hist.: MHS 26-2016(Temp), f. 12-27-16, cert. ef. 12-28-16 thru 6-23-17; MHS 1-2017(Temp), f. 1-17-17, cert. ef. 1-18-17 thru 7-16-17; MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0300

Crisis Line Service Requirements

(1) Crisis line services must be provided directly or through linkages to a crisis line services provider 24/7.

(2) Crisis line services shall include but is not limited to:

(a) 24/7 accessibility to a QMHP;

(b) 24/7 bi-lingual or interpreter availability;

(c) 24/7 telephone screening to determine the need for immediate intervention;

(d) 24/7 linkage to emergency service providers, including first responders and mobile crisis services;

(e) Best practice risk assessment, including suicide risk assessment;

(f) Suicide intervention and prevention;

(g) Lethal means counseling and safety planning for individuals at risk for suicide;

(h) Crisis intervention;

(i) Crisis plan development;

(j) Triage;

(k) Providing information regarding services and resources in the community; and

(L) Procedures for de-escalation for calls from suicidal individuals.

Stat. Auth.: ORS 413.042 & 430.640

Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646

Hist.: MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0305

Provider Standards

(1) Crisis line services providers must develop and implement written policies and procedures to address provider standards.

(2) Provider standards shall include but is not limited to:

(a) Training curriculum and ongoing education programs to meet training requirements;

(b) Coordination with other treatment providers including mobile crisis services and other crisis line services providers to support seamless transitions of care;

(c) Linkages to emergency services providers including first responders to address imminent risks and to support seamless transitions of care;

(d) De-escalation procedures;

(e) Follow-up procedures when indicated and appropriate;

(f) Documentation;

(g) Code of ethics; and

(h) Security of information protocols.

Stat. Auth.: ORS 413.042 & 430.640

Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646

Hist.: MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0310

Minimum Staffing Requirements

(1) At least one QMHP must be available by phone or face-to-face 24/7 for consultation.

(2) At least one QMHP shall provide regular clinical supervision to staff.

Stat. Auth.: ORS 413.042 & 430.640

Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646

Hist.: MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0315

Training Requirements

(1) Staff training curriculum shall include but is not limited to:

(a) Triage protocol;

(b) Referral resources;

(c) Crisis plan development;

(d) Screening for a Declaration for Mental Health Treatment.

(2) Staff training curriculum shall include best practices for the following:

(a) Risk assessment, including suicide risk assessment;

(b) Suicide intervention and prevention;

(c) Safety planning;

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- (d) Lethal means counseling;
 - (e) De-escalation methods;
 - (f) Crisis intervention;
 - (g) Recovery support, including peer delivered services;
 - (h) Trauma informed care; and
 - (i) Cultural awareness.
- Stat. Auth.: ORS 413.042 & 430.640
Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646
Hist.: MHS 6-2017, f. & cert. ef. 6-23-17

309-019-0320

Documentation requirements

- (1) Documentation of calls shall include but is not limited to:
 - (a) Summary of presenting concern, assessment of risk factors, interventions, evaluation of interventions, the plan for the management and resolution of the crisis or emergency situation reported, referrals to other services, and collaboration that occurred with emergency services providers or other treatment providers, when appropriate;
 - (b) If a suicide risk assessment was completed;
 - (c) Summary of safety planning and lethal means counseling, as appropriate.
- (2) A log or report of all contacts with the provider, including the name of each caller, when available, the crisis line worker, and the time and duration of the call shall be maintained for quality assurance review and ongoing staff supervision.

Stat. Auth.: ORS 413.042 & 430.640
Stats Implemented: ORS 430.630, 430.640, 430.644 - 430.646
Hist.: MHS 6-2017, f. & cert. ef. 6-23-17

Rule Caption: Intensive and Emergency Psychiatric Interventions for Children and Adolescents

Adm. Order No.: MHS 7-2017

Filed with Sec. of State: 6-23-2017

Certified to be Effective: 6-23-17

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Rules Adopted: 309-022-0192

Rules Amended: 309-022-0105, 309-022-0110, 309-022-0115, 309-022-0125, 309-022-0130, 309-022-0140, 309-022-0155, 309-022-0160, 309-022-0175, 309-022-0180

Rules Repealed: 309-022-0105(T), 309-022-0110(T), 309-022-0115(T), 309-022-0125(T), 309-022-0130(T), 309-022-0140(T), 309-022-0155(T), 309-022-0160(T), 309-022-0175(T), 309-022-0180(T), 309-022-0192(T)

Subject: The rules need to prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Health Systems Division (Division) of the Oregon Health Authority. These rules standardize the acceptable use of intensive and emergency services for children and adolescents, the qualification of those who authorize and implement such services, the related documentation, and other details that best ensure the safety of the children who require such services.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

309-022-0105

Definitions

- (1) "Abuse of a child" means the circumstances defined in ORS 419B.005.
- (2) "Health Systems Services and Supports" means all services and supports including but not limited to Outpatient Community Mental Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders Treatment Services, and Outpatient and Residential Problem Gambling Treatment Services.
- (3) "Adolescent" means an individual from 12 through 17 years of age, or those individuals who are determined to be developmentally appropriate for youth services.
- (4) "Assessment" means the process of obtaining sufficient information through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.
- (5) "Authority" means the Oregon Health Authority.
- (6) "Behavioral Health" means mental health, mental illness, addictive health, and addiction disorders.
- (7) "Behavior Support Plan" means the individualized proactive support strategies that are used to support positive behavior.

(8) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neuro-developmental, and physical factors that affect behavior.

(9) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies; organizing, facilitating and participating in team meetings; and providing for continuity of care by creating linkages to and managing transitions between levels of care and transitions for young adults in transition to adult services.

(10) "Certificate" means the document or documents issued by the Division that identify and declare certification of a provider pursuant to OAR 309-008-0100 to 309-008-1600. A letter accompanying issuance of the certificate will detail the scope and approved service delivery locations of the certificate.

(11) "Chemical Restraint" means the administration of medication for the acute management of potentially harmful behavior. Chemical restraint is prohibited in the services regulated by these rules.

(12) "Chief Officer" means the Chief Health Systems Officer of the Oregon Health Authority or designee.

(13) "Child" means an individual under the age of 18. An individual with Medicaid eligibility who is in need of services specific to children, adolescents, or young adults in transition shall be considered a child until age 21 for purposes of these rules.

(14) "Children's Emergency Safety Intervention Specialist (CESIS)" means a Qualified Mental Health Professional (QMHP) licensed to order, monitor, and evaluate the use of seclusion and restraint in accredited and certified facilities providing intensive mental health treatment services to individuals less than 21 years of age.

(15) "Clinical Supervision" means oversight by a qualified clinical supervisor of addictions and mental health services and supports provided according to this rule, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(16) "Clinical Supervisor" means an individual qualified to oversee and evaluate addictions or mental health services and supports.

(17) "Community Mental Health Program" (CMHP) means an entity that is responsible for planning and delivery of services for individuals with substance use or mental illness diagnoses, operated in a specific geographic area of the state under an intergovernmental agreement or a direct contract with the Division.

(18) "Co-occurring Disorder" means the existence of both a substance use disorder and a mental health disorder.

(19) "Coordinated Care Organization (CCO)" means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization's members.

(20) "Community Mental Health Program (CMHP)" means the organization of various services for individuals with a mental health diagnosis or addictive disorders, operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an agreement with the Division pursuant to OAR 309-014-0000.

(21) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 943-007-0001 through 943-007-0501.

(22) "Crisis" means either an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health or to prevent referral to a significantly higher level of care.

(23) "Cultural Competence" means the process by which people and systems respond respectfully and effectively to individuals of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientations and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families, and communities and protects and preserves the dignity of each.

(24) "Declaration for Mental Health Treatment" means a written statement of an individual's preferences concerning his or her mental health treatment. The declaration is made when the individual is able to understand and legally make decisions related to such treatment. It is honored, as clinically appropriate, in the event the individual becomes unable to make such decisions.

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(25) “Diagnosis” means the principal mental health, substance use, or problem gambling diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM). The diagnosis is determined through the assessment and any examinations, tests, or consultations suggested by the assessment and are the medically appropriate reason for services.

(26) “Division” means the Health Systems Division.

(27) “DSM” means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(28) “Emergency Safety Intervention” means the use of seclusion or personal restraint under OAR 309-022-0175 as an immediate response to an unanticipated threat of violence or injury to an individual or others.

(29) “Emergency Safety Intervention Training” means a Division approved course that includes an identified instructor, a specific number of face-to-face instruction hours, a component to assess competency of the course materials, and an established curriculum including the following:

(a) Prevention of emergency safety situations using positive behavior support strategies identified in the individual’s behavior support plan;

(b) Strategies to safely manage emergency safety situations; and

(c) De-escalation and debriefing.

(30) “Emergency Safety Situation” means an unanticipated behavior that places the individual or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined above.

(31) “Emergent” means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(32) “Entry” means the act or process of acceptance and enrollment into services regulated by this rule.

(33) “Family” means the biological or legal parents, siblings, other relatives, foster parents, legal guardians, spouse, domestic partner, caregivers, and other primary relations to the individual whether by blood, adoption, or legal or social relationships. Family also means any natural, formal or informal support persons identified as important by the individual.

(34) “Family Support” means the provision of peer delivered services to individuals defined as family to the individual. It includes support to caregivers at community meetings, assistance to families in system navigation and managing multiple appointments, supportive home visits, peer support, parent mentoring and coaching, advocacy, and furthering efforts to develop natural and informal community supports.

(35) “Family Support Specialist” means an individual who meets qualification criteria under OAR chapter 410 division 180 and provides peer delivered services to a family member who has experience parenting a child who is a current or former consumer of mental health or addiction treatment or is facing or has faced difficulties in accessing education, health, and wellness services due to a mental health or behavioral health barrier.

(36) “Gender Identity” means an individual’s self-identification of gender without regard to legal or biological identification, including but not limited to individuals identifying themselves as male, female, transgender, and transsexual.

(37) “Gender Presentation” means the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns, and social interactions.

(38) “Grievance” means a formal complaint submitted to a provider verbally or in writing by an individual or the individual’s chosen representative pertaining to the denial or delivery of services and supports.

(39) “Guardian” means an individual appointed by a court of law to act as guardian of a minor or a legally incapacitated individual.

(40) “HIPAA” means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR).

(41) “Individual” means any person being considered for or receiving services and supports regulated by these rules.

(42) “Informed Consent for Services” means that the service options, risks, and benefits have been explained to the individual and guardian, if applicable, in a manner that they comprehend, and the individual and guardian have consented to the services on or prior to the first date of service.

(43) “Intensive Outpatient Services and Supports (IOSS)” means a specialized set of comprehensive in-home and community-based supports and mental health treatment services for children that are developed by the child and family team and delivered in the most integrated setting in the community.

(44) “Intensive Treatment Services (ITS)” means the range of services in the system of care comprised of Psychiatric Residential Treatment Facilities (PRTF) and Psychiatric Day Treatment Services (PDTs), or other services as determined by the Division, that provide active psychiatric treatment for children with severe emotional disorders and their families.

(45) “Interdisciplinary Team” means the group of people designated to advise in the planning and provision of services and supports to individuals receiving ITS services and may include multiple disciplines or agencies. For Psychiatric Residential Treatment Facilities (PRTF), the composition of the interdisciplinary team shall be consistent with the requirements of 42 CFR Part 441.156.

(46) “Intern” or “Student” means a person who provides a paid or unpaid program service to complete a credentialed or accredited educational program recognized by the state of Oregon.

(47) “Juvenile Psychiatric Security Review Board (JPSRB)” means the entity described in ORS 161.385.

(48) “Level of Care” means the range of available services provided from the most integrated setting to the most restrictive and most intensive in an inpatient setting.

(49) “Licensed Health Care Professional” means a practitioner of the healing arts, acting within the scope of his or her practice under state law who is licensed by a recognized governing board in Oregon.

(50) “Licensed Medical Practitioner (LMP)” means an individual who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Physician licensed to practice in the State of Oregon; or

(b) Nurse practitioner licensed to practice in the State of Oregon; or

(c) Physician’s assistant licensed to practice in the State of Oregon;

and

(d) Whose training, experience, and competence demonstrate the ability to conduct a mental health assessment and provide medication management.

(e) For IOSS and ITS providers, LMP means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.

(51) “Local Mental Health Authority (LMHA)” means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority comprised of two or more boards of county commissioners.

(52) “Mandatory Reporter” means any public or private official, as defined in ORS 419B.005(3), who comes in contact with or has reasonable cause to believe that an individual has suffered abuse or that any person with whom the official comes in contact with has abused the individual. Pursuant to 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 40.295.

(53) “Mechanical restraint” means any device attached or adjacent to the resident’s body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. Mechanical restraint is prohibited in the services regulated by these rules.

(54) “Medicaid” means the federal grant-in-aid program to state governments to provide medical assistance to eligible persons, under Title XIX of the Social Security Act.

(55) “Medical Supervision” means an LMP’s review and approval, at least annually, of the medical appropriateness of services and supports identified in the service plan for each individual receiving mental health services for one or more continuous years.

(56) “Medically Appropriate” means services and medical supplies required for prevention, diagnosis, or treatment of a physical or behavioral health condition or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

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(57) “Mental Health Intern” means an individual who meets qualifications for QMHA but does not have the necessary graduate degree in psychology, social work, or a behavioral science field to meet the educational requirement of QMHP. The individual shall:

(a) Be currently enrolled in a graduate program for a master’s degree in psychology, social work, or in a behavioral science field;

(b) Have a collaborative educational agreement with the CMHP or other provider and the graduate program;

(c) Work within the scope of their practice and competencies identified by the policies and procedures for credentialing of clinical staff as established by the provider; and

(d) Receive, at minimum, weekly supervision by a qualified clinical supervisor employed by the provider of services.

(58) “Outreach” means the delivery of behavioral health services, referral services, and case management services in non-traditional settings including but not limited to the individual’s residence, shelters, streets, jails, transitional housing sites, drop-in centers, single room occupancy hotels, child welfare settings, educational settings, or medical settings. It also refers to attempts made to engage or re-engage an individual in services by such means as letters or telephone calls.

(59) “Peer” means any individual supporting an individual or a family member who has similar life experience, either as a current or former recipient of addictions or mental health services or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(60) “Peer Delivered Services” means an array of agency or community-based services and supports provided by peer wellness specialists and peer support specialists to individuals or family members with similar lived experience that are designed to support the needs of individuals and families as applicable.

(61) “Peer Support Specialist” means an individual providing peer delivered services to an individual or family member with similar life experience, under the supervision of a qualified clinical supervisor. A peer support specialist shall complete a Division approved training program as required in OAR 410-180-0300 to 0380 and be:

(a) A self-identified individual currently or formerly receiving mental health services; or

(b) A self-identified individual in recovery from a substance use or gambling disorder who meets the abstinence requirements for recovering staff in substance use disorders or gambling treatment programs.

(62) “Personal Restraint” means the application of physical force without the use of any device for the purpose of restraining the free movement of an individual’s body to protect the individual or others from immediate harm. Personal restraint does not include briefly holding without undue force an individual to calm or comfort him or her or holding an individual’s hand to safely escort him or her from one area to another. Personal restraint may be used only in approved ITS programs as an emergency safety intervention under OAR 309-022-0175.

(63) “Program” means a particular type or level of service that is organizationally distinct.

(64) “Program Administrator” or “Program Director” means an individual with appropriate professional qualifications and experience who is designated to manage the operation of a program.

(65) “Program Staff” means an employee or individual who by contract with the program provides a service and has the applicable competencies, qualifications, or certification required in these rules to provide the service.

(66) “Provider” means an individual, organizational provider as defined in ORS 430.637(1)(b), tribal organization, or CMHP that holds a current certificate listed in OAR 309-008-0100(2) to provide behavioral health treatment services pursuant to these and applicable service delivery rules.

(67) “Psychiatrist” means a physician licensed pursuant to ORS 677.010 to 677.228 and 677.410 to 677.450 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(68) “Psychiatric Day Treatment Services (PDTS)” means the comprehensive, interdisciplinary, non-residential, community-based program certified under these rules consisting of psychiatric treatment, family treatment, and therapeutic activities integrated with an accredited education program.

(69) “Psychiatric Residential Treatment Facility (PRTF)” means facilities that are structured residential treatment environments with daily 24-hour supervision and active psychiatric treatment including Psychiatric Residential Treatment Services (PRTS), Secure Children’s Inpatient

Treatment Programs (SCIP), Secure Adolescent Inpatient Treatment Programs (SAIP), and Sub-acute Psychiatric Treatment for children who require active treatment for a diagnosed mental health condition in a 24-hour residential setting.

(70) “Psychiatric Residential Treatment Services (PRTS)” means services delivered in a PRTF that include 24-hour supervision for children who have serious psychiatric, emotional, or acute mental health conditions that require intensive therapeutic counseling and activity and intensive staff supervision, support, and assistance.

(71) “Psychologist” means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(72) “Publicly Funded” means financial support, in part or in full, with revenue generated by a local, state, or federal government.

(73) “Qualified Mental Health Associate (QMHA)” means an individual delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA or designee and specified in OAR 309-022-0125.

(74) “Qualified Mental Health Professional (QMHP)” means a LMP or any other individual meeting the minimum qualifications as authorized by the LMHA or designee and specified in OAR 309-022-0125.

(75) “Quality Assessment and Performance Improvement” means the structured, internal monitoring and evaluation of services to improve processes, service delivery, and service outcomes.

(76) “Recovery” means a process of healing and transformation for an individual to achieve full human potential and personhood in leading a meaningful life in communities of his or her choice.

(77) “Reportable Incident” means a serious incident involving an individual in an ITS program that shall be reported in writing to the Division within 24 hours of the incident, including but not limited to serious injury or illness, act of physical aggression that results in injury, suspected abuse or neglect, involvement of law enforcement or emergency services, or any other serious incident that presents a risk to health and safety.

(78) “Representative” means an individual who acts on behalf of an individual at the individual’s request with respect to a grievance, including but not limited to a relative, friend, employee of the Division, attorney, or legal guardian.

(79) “Resilience” means the universal capacity that an individual uses to prevent, minimize, or overcome the effects of adversity. Resilience reflects an individual’s strengths as protective factors and assets for positive development.

(80) “Respite Care” means planned and emergency supports designed to provide temporary relief from care giving to maintain a stable and safe living environment. Respite care may be provided in or out of the home. Respite care includes supervision and behavior support consistent with the strategies specified in the service plan.

(81) “Screening” means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(82) “Seclusion” means the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving. Seclusion may be used only in approved ITS programs as an emergency safety intervention specified in OAR 309-022-0175.

(83) “Secure Children’s Inpatient Programs (SCIP) and Secure Adolescent Inpatient Programs (SAIP)” means ITS programs that are designed to provide inpatient psychiatric stabilization and treatment services to children up to age 14 for SCIP services and individuals under the age of 21 for SAIP services who require a secure intensive treatment setting.

(84) “Service Plan” means a comprehensive plan for services and supports provided to or coordinated for an individual and his or her family that is reflective of the assessment and the intended outcomes of service.

(85) “Service Note” means the written record of services and supports provided, including documentation of progress toward intended outcomes consistent with the timelines stated in the service plan.

(86) “Service Record” means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orientation, services and supports planning, services and supports provided, and transfer.

(87) “Services” means those activities and treatments described in the service plan that are intended to assist the individual’s transition to recovery from a substance use disorder, problem gambling disorder, or mental health condition and to promote resiliency and rehabilitative and functional individual and family outcomes.

(88) “Signature” means any written or electronic means of entering the name, date of authentication, and credentials of the individual provid-

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ing a specific service or the individual authorizing services and supports. Signature also means any written or electronic means of entering the name and date of authentication of the individual receiving services, the guardian of the individual receiving services, or any authorized representative of the individual receiving services.

(89) "Skills Training" means providing information and training to individuals and families designed to assist with the development of skills in areas including but not limited to anger management, stress reduction, conflict resolution, self-esteem, parent-child interactions, peer relations, drug and alcohol awareness, behavior support, symptom management, accessing community services, and daily living.

(90) "Sub-Acute Psychiatric Care" means services that are provided by nationally accredited providers to children who need 24-hour intensive mental health services and supports provided in a secure setting to assess, evaluate, stabilize, or resolve the symptoms of an acute episode that occurred as the result of a diagnosed mental health condition.

(91) "Supports" means activities, referrals, and supportive relationships designed to enhance the services delivered to individuals and families for the purpose of facilitating progress toward intended outcomes.

(92) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(93) "Trauma Informed Services" means services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and addictions services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(94) "Treatment" means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative procedures, experiences, and activities designed to remediate symptoms of a DSM diagnosis that are included in the service plan.

(95) "Urgent" means the onset of symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual's mental or physical health or threat to safety.

(96) "Variance" means an exception from a provision of these rules, granted in writing by the Division upon written application from the provider. Duration of a variance is determined on a case-by-case basis.

(97) "Volunteer" means an individual who provides a program service or who takes part in a program service and who is not an employee of the program and is not paid for services. The services must be non-clinical unless the individual has the required credentials to provide a clinical service.

(98) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(99) "Wraparound" means a high fidelity process of team based intensive care coordination for children and their families based on National Wraparound Initiative values and principles.

(100) "Young Adult in Transition" means an individual who is developmentally transitioning into independence, sometime between the ages of 14 and 25.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390-161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 9-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; MHS 21-2016, f. & cert. ef. 12-1-16; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0110

Provider Policies

(1) All providers shall develop and implement written personnel policies and procedures compliant with these rules, including:

- (a) Personnel qualifications and credentialing;
- (b) Mandatory abuse reporting, compliant with ORS 430.735-430.768 and OAR 943-045-0250 through 943-045-0370;
- (c) Criminal records checks, compliant with ORS 181.533 through 181.575 and 943-007-0001 through 0501; and
- (d) Fraud, waste, and abuse in federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510.

(2) All providers shall develop and implement written policies and procedures consistent with these rules:

- (a) Policies shall be available to individuals and family members upon request; and
- (b) Service delivery policies and procedures shall include at a minimum:

- (A) Fee agreements;
- (B) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and state confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530;
- (C) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

- (D) Grievances and appeals;
- (E) Individual rights;
- (F) Quality assessment and performance improvement;
- (G) Crisis and suicide prevention and response;
- (H) Incident reporting;
- (I) Family involvement;
- (J) Trauma-informed service delivery consistent with the AMH Trauma Informed Services Policy;
- (K) Provision of culturally and linguistically appropriate services; and
- (L) Peer delivered services

(3) In addition to the personnel and service delivery policies required of all providers, residential program providers shall develop and implement written policies and procedures for the following:

- (a) Medical protocols and medical emergencies;
- (b) Medication administration, storage and disposal;
- (c) General safety, suicide risk assessment, and emergency procedures;
- (d) Emergency safety interventions in ITS programs; and
- (e) Behavior support policies consistent with OAR 309-022-0165.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

- (a) Choose from available services and supports those that are consistent with the service plan, culturally competent, provided in the most integrated setting in the community, and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual, and that provide for the greatest degree of independence;
- (b) Be treated with dignity and respect;
- (c) Have access to peer delivered services;
- (d) Participate in the development of a written service plan, receive services consistent with that plan, and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and receive a copy of the written service plan;
- (e) Have all services explained, including expected outcomes and possible risks;
- (f) Confidentiality and the right to consent disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2, and 45 CFR Part 205.50;
- (g) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

- (A) Under age 18 and legally married;
- (B) Age 16 or older and legally emancipated by the court; or
- (C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs.

- (h) Inspect their service record in accordance with ORS 179.505;
- (i) Refuse participation in experimentation;
- (j) Receive medication specific to the individual's diagnosed clinical needs;
- (k) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;
- (L) Be free from abuse or neglect and be able to report any incident of abuse or neglect without being subject to retaliation;
- (m) Have religious freedom;
- (n) Be free from seclusion and restraint, except as set forth in OAR 309-021-0175;
- (o) Be informed at the start of services and periodically thereafter of the rights guaranteed by this rule;
- (p) Be informed of the policies and procedures, service agreements, and fees applicable to the services provided and to have a custodial parent,

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guardian, or representative assist with understanding any information presented;

(q) Have family and guardian involvement in service planning and delivery;

(r) Make a declaration for mental health treatment when legally an adult;

(s) File grievances, including appealing decisions resulting from the grievance;

(t) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(u) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(v) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) In addition to the rights set forth in section (1) of this rule, every individual receiving residential services has the right to:

(a) A safe, secure, and sanitary living environment;

(b) A humane service environment that affords reasonable protection from harm, reasonable privacy, and daily access to fresh air and the outdoors;

(c) Keep and use personal clothing and belongings, and have an adequate amount of private, secure storage space. Reasonable restriction of the time and place of use of certain classes of property may be implemented if necessary to prevent the individual or others from harm, provided that notice of this restriction is given to individuals and their families, if applicable, upon entry to the program, documented, and reviewed periodically;

(d) Express sexual orientation, gender identity, and gender presentation;

(e) Have access to and participate in social, religious, and community activities;

(f) Private and uncensored communications by mail, telephone, and visitation, subject to the following restrictions:

(A) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm shall be specified in reasonable detail, and any restriction of the right to communicate shall be no broader than necessary to prevent this harm; and

(B) The individual and his or her guardian, if applicable, shall be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider.

(g) Communicate privately with public or private rights protection programs or rights advocates, clergy, and legal or medical professionals;

(h) Have access to and receive available and applicable educational services in the most integrated setting in the community;

(i) Participate regularly in indoor and outdoor recreation;

(j) Not be required to perform labor;

(k) Have access to adequate food and shelter; and

(L) A reasonable accommodation if due to a disability the housing and services are not sufficiently accessible.

(3) The provider shall give to the individual and, if appropriate, the guardian a document that describes the applicable individual's rights as follows:

(a) Information given to the individual shall be in written form or upon request in an alternative format or language appropriate to the individual's need;

(b) Rights and how to exercise them shall be explained to the individual and if appropriate to her or his guardian; and

(c) Individual rights shall be posted in writing in a common area.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0125

Specific Staff Qualifications and Competencies

(1) Program administrators or program directors shall demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff

performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical supervisors in all programs shall demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, and utilization of community resources; group, family and individual therapy or counseling; and documentation and rationale for services to promote intended outcomes and implementation of all provider policies.

(3) Clinical supervisors in mental health programs shall meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting.

(4) QMHAs shall demonstrate the ability to communicate effectively; understand mental health assessment, treatment, and service terminology and apply each of these concepts; implement skills development strategies; and identify, implement, and coordinate the services and supports identified in a service plan. QMHAs shall meet the following minimum qualifications:

(a) Bachelor's degree in a behavioral science field; or

(b) A combination of at least three years of relevant work, education, training, or experience; or

(c) A qualified mental health intern, as defined in OAR 309-022-0105.

(5) QMHPs shall demonstrate the ability to conduct an assessment, including identifying precipitating events, gathering histories of mental and physical health, substance use, past mental health services, and criminal justice contacts; assessing family, cultural, social, and work relationships; and conducting a mental status examination, completing a DSM diagnosis, writing and supervising the implementation of a service plan; and providing individual, family, or group therapy within the scope of their training. QMHPs shall meet the following minimum qualifications:

(a) Bachelor's degree in nursing and licensed by the State of Oregon;

(b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;

(c) Graduate degree in psychology;

(d) Graduate degree in social work;

(e) Graduate degree in recreational, art, or music therapy;

(f) Graduate degree in a behavioral science field;

(g) A qualified mental health intern, as defined in OAR 309-022-0105.

(6) Peer support specialists shall be qualified as defined in OAR 410-0180-0312 and demonstrate knowledge of approaches to support others in recovery and resiliency and demonstrate efforts at self-directed recovery.

Stat. Auth.: ORS 161.390, 413.042, 426.490 - 426.500, 428.205 - 428.270, 430.256, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0130

Documentation, Training and Supervision

(1) Providers shall maintain personnel records for each program staff that contains all of the following documentation:

(a) An employment application;

(b) Verification of a criminal record check consistent with OAR 943-007-0001 through 0501;

(c) A current job description that includes applicable competencies;

(d) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;

(e) Periodic performance appraisals;

(f) Staff orientation and development activities;

(g) Program staff incident reports;

(h) Disciplinary documentation;

(i) Reference checks;

(j) Emergency contact information; and

(k) Documentation of a tuberculosis screening pursuant to OAR 333-071-0057.

(2) Providers shall maintain the following documentation for contractors, interns, or volunteers, as applicable:

(a) A contract or written agreement, if applicable;

(b) A signed confidentiality agreement;

(c) Service-specific orientation documentation; and

(d) Verification of a criminal records check consistent with OAR 943-007-0001 through 0501.

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(3) Providers shall ensure that program staff receive training applicable to the specific population for whom services are planned or delivered to include the following minimum orientation training within 30 days of the hire date:

- (a) A review of individual crisis response procedures;
- (b) A review of emergency procedures;
- (c) A review of program policies and procedures;
- (d) A review of rights for individuals receiving services and supports;
- (e) Mandatory abuse reporting procedures;
- (f) Positive behavior support training consistent with OAR 309-022-0165.

(4) Individuals providing services to individuals in accordance with these rules shall receive supervision related to the development, implementation, and outcome of services by a qualified clinical supervisor:

(a) Clinical supervision shall be provided to assist program staff and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures, including:

(A) Documentation of clinical supervision for QMHP staff of no less than two hours per month. The two hours shall include one hour of face-to-face contact for each individual supervised or a proportional level of supervision for part-time QMHP staff. Face-to-face contact may include real time, two-way audio visual conferencing; or

(B) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of face-to-face contact for each individual supervised.

(b) Documentation of clinical supervision for each QMHA staff supervised of no less than two hours per month. The two hours shall include one hour of face-to-face contact for each individual supervised related to direct care responsibilities or a proportional level of supervision for part-time QMHA staff. Face-to-face contact may include real time, two-way audio visual conferencing. Clinical supervision of a QMHA may be conducted by a lead QMHA staff;

(c) Documentation of weekly supervision for program staff meeting the definition of mental health intern. Documentation shall include:

- (A) The date supervision took place;
- (B) The amount of supervision time;

(C) A brief description of relevant topics discussed.

Stat. Auth.: ORS 161.390, 413.042, 426.490 - 426.500, 428.205 - 428.270, 430.256, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0140

Service Planning and Coordination

(1) The provider shall deliver or coordinate for each individual appropriate services and supports to collaboratively facilitate intended service outcomes as identified by the individual and family:

(a) Qualified program staff shall facilitate a planning process, resulting in a service plan that reflects the assessment;

(b) A service plan shall be completed prior to the start of services;

(c) A licensed health care professional shall recommend the services and supports by signing the service plan;

(d) Individuals and family members shall be invited to participate in the development of the service plan;

(e) Providers shall fully inform the individual and guardian when applicable of the proposed services and supports in developmentally and culturally appropriate language, obtain informed consent for all proposed services, offer peer delivered services, and give the individual and guardian a written copy of the service plan;

(f) Providers shall collaborate with community partners to coordinate or deliver services and supports identified in the service plan;

(g) Providers shall collaborate to exchange information with any applicable physical health care providers for the individual to promote regular and adequate health care.

(2) The service plan shall be a written, individualized plan to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The service plan is included in the individual's service records and shall:

- (a) Be completed prior to the start of services;
- (b) Reflect the assessment and the level of care to be provided;
- (c) Include the participation of the individual and family members;
- (d) Be completed by a QMHP;

(e) A QMHP who is also a licensed health care professional shall recommend the services and supports by signing the Service plan within ten business days of the start of services; and

(f) An LMP shall approve the service plan at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate annual clinical oversight by documenting the designation to a specific licensed health care professional.

(3) At minimum, each service plan shall include:

(a) Individualized treatment objectives;

(b) The specific services and supports that will be used to meet the treatment objectives;

(c) Measurable and observable outcomes;

(d) A projected schedule for service delivery, including the expected frequency and duration of each type of planned therapeutic session or encounter;

(e) The type of personnel that will be furnishing the services; and

(f) Proactive safety and crisis planning;

(g) A behavior support plan consistent with OAR 309-022-0165; and

(h) The interdisciplinary team shall conduct a review of progress and transfer criteria at least every 30 days from the date of entry and shall document the member's present, progress, and changes made. For Psychiatric Day Treatment Services, the review shall be conducted every 30 days, and the LMP shall participate in the review at least every 90 days.

(4) Providers shall document each service and support using service notes. A service note, at minimum, shall include:

(a) The specific services rendered;

(b) The date, time of service, and the actual amount of time the services were rendered;

(c) Who rendered the services;

(d) The setting in which the services were rendered;

(e) The relationship of the services to the treatment regimen described in the service plan; and

(f) Periodic updates describing the individual's progress toward the treatment objectives; and

(g) Any decisions to transfer an individual from service.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0155

General Staffing Requirements

(1) ITS providers shall have the clinical leadership and sufficient QMHP, QMHA, and other program staff to meet the 24-hour, seven days per week treatment needs of children and shall establish policies, procedures, and contracts to assure:

(a) Availability of psychiatric services to meet the following requirements:

(A) Provision of medical oversight of the clinical aspects of care in nationally accredited sub-acute and psychiatric residential treatment facilities and provide 24-hour, seven days per week psychiatric on-call coverage, or consult on clinical care and treatment in psychiatric day treatment; and

(B) Assessment of each child's medication and treatment needs, prescribe medicine or otherwise assure that case management and consultation services are provided to obtain prescriptions, and prescribe therapeutic modalities to achieve the child's service plan goals.

(b) There shall be at least one program staff who has completed First Aid and CPR training on duty at all times.

(2) Residential ITS providers shall ensure overnight program staff will visually monitor clients at specified intervals as per agency policy during sleeping hours for signs of life. This includes monitoring for breathing and movement.

(3) ITS providers shall ensure that the following services and supports are available and accessible through direct service, contract, or by referral:

(a) Active psychiatric treatment and education services shall be functionally integrated in a therapeutic environment designed to reflect and promote achievement of the intended outcomes of each child's service plan;

(b) Continuity of the child's education when treatment services interrupt the child's day to day educational environment;

(c) Family therapy provided by a QMHP. The family therapist to child ratio shall be at least one family therapist for each 12 children;

(d) Psychiatric services;

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(e) Individual, group, and family therapies provided by a QMHP. There shall be no less than one family therapist available for each 12 children;

- (f) Medication evaluation, management, and monitoring;
- (g) Pre-vocational or vocational rehabilitation;
- (h) Therapies supporting speech, language, and hearing rehabilitation;
- (i) Individual and group psychosocial skills development;
- (j) Activity and recreational therapies;
- (k) Nutrition;
- (L) Physical health care services or coordination;
- (m) Recreational and social activities consistent with individual strengths and interests;

- (n) Educational services coordination and advocacy; and
- (o) Behavior support services consistent with OAR 309-022-0165.
Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0160

Program Specific Requirements

In addition to the general requirements for all ITS providers listed in OAR 309-022-0150 and 0155, the following requirements for facilities and programs shall be met:

- (1) Psychiatric Residential Treatment Facilities (PRTF):

(a) Children must either have or be screened for an Individual Education Plan, Personal Education Plan, or an Individual Family Service Plan;

(b) PRTFs shall maintain one or more linkages with acute care hospitals or CCOs to coordinate necessary inpatient care;

(c) Psychiatric residential clinical care and treatment shall be under the direction of a psychiatrist and delivered by an interdisciplinary team of board-certified or board-eligible child and adolescent psychiatrists, registered nurses, psychologists, other qualified mental health professionals, and other relevant program staff. A psychiatrist shall be available to the unit 24-hours per day, seven days per week; and

(d) PRTFs shall be staffed at a clinical staffing ratio of not less than one program staff for three children during the day and evening shifts at all times. At least one program staff for every three program staff members during the day and evening shifts shall be a QMHP or QMHA. For overnight program staff there shall be a staffing ratio of at least one program staff for six children at all times for each program unit. At least one of the overnight program staff shall be a QMHA. For units that by this ratio have only one overnight program staff, there shall be additional program staff immediately available within the facility or on the premises. At least one QMHP shall be on site or on call at all times. At least one program staff with designated clinical leadership responsibilities shall be on site at all times.

(2) Programs providing PRTS shall meet the requirements for PRTF's listed in section (1)(a).

(3) Programs providing SCIP and SAIP services shall meet the requirements for PRTFs listed in section (1). They shall also establish policies and practices to meet the following:

(a) The staffing model shall allow for the child's frequent contact with the child psychiatrist a minimum of one hour per week;

(b) Psychiatric nursing staff shall be provided in the program 24 hours per day;

(c) A psychologist, psychiatric social worker, rehabilitation therapist, and psychologist with documented training in forensic evaluations shall be available 24 hours per day as appropriate; and

(d) Program staff with specialized training in SCIP or SAIP shall be available 24 hours per day;

(e) The program shall provide all medically appropriate psychiatric services necessary to meet the child's psychiatric care needs;

(f) The program shall provide secure psychiatric treatment services in a manner that ensures public safety to youth who are under the care and custody of the Oregon Youth Authority, court ordered for the purpose of psychiatric evaluation, or admitted by the authority of the JPSRB; and

(g) The program may not rely on external entities such as law enforcement or acute hospital care to assist in the management of the SCIP or SAIP setting.

(4) In addition to the services provided as indicated by the assessment and specified in the service plan, Sub-Acute Psychiatric Care providers shall:

(a) Provide psychiatric nursing staffing at least 16 hours per day;

(b) Provide nursing supervision and monitoring and psychiatric supervision at least once per week; and

(c) Work actively with the child and family team and multi-disciplinary community partners to plan for the long-term emotional, behavioral, physical, and social needs of the child to be met in the most integrated setting in the community.

(5) Psychiatric Day Treatment Services (PDTs):

(a) PDTs shall be provided to children who remain at home with a parent, guardian, or foster parent by qualified mental health professionals and qualified mental health associates in consultation with a psychiatrist;

(b) An education program shall be provided, and children must either have or be screened for an Individual Education Plan, Personal Education Plan, or Individual Family Service Plan; and

(c) Psychiatric Day Treatment programs shall be staffed at a clinical staffing ratio of at least one QMHP or QMHA for three children.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0175

Restraint and Seclusion

(1) Providers shall meet the following general conditions of personal restraint and seclusion:

(a) Personal restraint and seclusion shall only be used in an emergency safety situation to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others in situations such as the occurrence of or serious threat of violence, personal injury, or attempted suicide;

(b) Any use of personal restraint or seclusion must respect the dignity and civil rights of the individual;

(c) The use of personal restraint or seclusion shall be directly related to the immediate risk related to the behavior of the individual and may not be used as punishment, discipline, or for the convenience of staff;

(d) Personal restraint or seclusion shall only be used for the length of time necessary for the individual to resume self-control and prevent harm to the individual or others, even if the order for seclusion or personal restraint has not expired, and shall under no circumstances exceed four hours for individuals ages 18 to 21, two hours for individuals ages 9 to 17, or one hour for individuals under age 9;

(e) An order for personal restraint or seclusion may not be written as a standing order or on an as needed basis;

(f) Personal restraint and seclusion may not be used simultaneously;

(g) Providers shall notify the individual's parent or guardian of any incident of seclusion or personal restraint as soon as possible;

(h) If incidents of personal restraint or seclusion used with an individual cumulatively exceed five interventions over a period of five days, or a single episode of one hour within 24 hours, the psychiatrist or designee shall convene by phone or in person program staff with designated clinical leadership responsibilities to:

(A) Discuss the emergency safety situation that required the intervention, including the precipitating factors that led up to the intervention and any alternative strategies that might have prevented the use of the personal restraint or seclusion;

(B) Discuss the procedures, if any, to be implemented to prevent any recurrence of the use of personal restraint or seclusion;

(C) Discuss the outcome of the intervention including any injuries that may have resulted; and

(D) Review the individual's service plan, making the necessary revisions, and document the discussion and any resulting changes to the individual's service plan in the service record.

(2) Personal Restraint:

(a) Each personal restraint shall require an immediate documented order by a physician, licensed practitioner, or a licensed CESIS;

(b) The order shall include:

(A) Name of the individual authorized to order the personal restraint;

(B) Date and time the order was obtained; and

(C) Length of time for which the intervention was authorized.

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(c) Each personal restraint shall be conducted by program staff that have completed and use Division-approved crisis intervention training. If in the event of an emergency, a non-Division approved crisis intervention technique is used, the provider's on-call administrator shall immediately review the intervention and document the review in an incident report to be provided to the Division within 24 hours;

(d) At least one program staff trained in the use of emergency safety interventions shall be physically present, continually assessing and monitoring the physical and psychological well-being of the individual and the safe use of the personal restraint throughout the duration of the personal restraint;

(e) Within one hour of the initiation of a personal restraint, a psychiatrist, licensed practitioner, or CESIS shall conduct a face-to-face assessment of the physical and psychological well-being of the individual;

(f) A designated program staff with clinical leadership responsibilities shall review all personal restraint documentation prior to the end of the shift in which the intervention occurred; and

(g) Each incident of personal restraint shall be documented in the service record. The documentation shall specify:

(A) Behavior support strategies and less restrictive interventions attempted prior to the personal restraint;

(B) Required authorization;

(C) Events precipitating the personal restraint;

(D) Length of time the personal restraint was used;

(E) Assessment of appropriateness of the personal restraint based on threat of harm to self or others;

(F) Assessment of physical injury; and

(G) Individual's response to the emergency safety intervention.

(3) Providers shall be certified by the Division for the use of seclusion:

(a) Authorization for seclusion shall be obtained by a psychiatrist, licensed practitioner, or CESIS prior to or immediately after the initiation of seclusion. Written orders for seclusion shall be completed for each instance of seclusion and shall include:

(A) Name of the person authorized to order seclusion;

(B) Date and time the order was obtained; and

(C) Length of time for which the intervention was authorized.

(b) Program staff trained in the use of emergency safety interventions shall be physically present continually assessing and monitoring the physical and psychological well-being of the individual throughout the duration of the seclusion;

(c) Visual monitoring of the individual in seclusion shall occur continuously and be documented at least every fifteen minutes or more often as clinically indicated;

(d) Within one hour of the initiation of seclusion, a psychiatrist or CESIS shall conduct a face-to-face assessment of the physical and psychological well-being of the individual;

(e) The individual shall have regular meals, bathing, and use of the bathroom during seclusion, and the provision of these shall be documented in the service record; and

(f) Each incident of seclusion shall be documented in the service record. The documentation shall specify:

(A) The behavior support strategies and less restrictive interventions attempted prior to the use of seclusion;

(B) The required authorization for the use of seclusion;

(C) The events precipitating the use of seclusion;

(D) The length of time seclusion was used;

(E) An assessment of the appropriateness of seclusion based on threat of harm to self or others;

(F) An assessment of physical injury to the individual, if any; and

(G) The individual's response to the emergency safety intervention.

(4) Any room specifically designated for the use of seclusion or time out shall be approved by the Division: If the use of seclusion occurs in a room with a locking door, the program shall be authorized by the Division for this purpose and shall meet the following requirements:

(a) A facility or program seeking authorization for the use of seclusion shall submit a written application to the Division;

(b) The application shall include a comprehensive plan for the need and use of seclusion of children in the program and copies of the facility's policies and procedures for the utilization and monitoring of seclusion, including a statistical analysis of the facility's actual use of seclusion, physical space, staff training, staff authorization, record keeping, and quality assessment practices;

(c) The Division shall review the application and, after a determination that the written application is complete and satisfies all applicable

requirements, shall provide for a review of the facility by authorized Division staff;

(d) The Division shall have access to all records including service records, the physical plant of the facility, the employees of the facility, the professional credentials and training records for all program staff, and shall have the opportunity to fully observe the treatment and seclusion practices employed by the facility;

(e) After the review, the chief officer shall approve or disapprove the facility's application and upon approval shall certify the facility based on the determination of the facility's compliance with all applicable requirements for the seclusion of children;

(f) If disapproved, the facility shall be provided with specific recommendations and have the right of appeal to the Division; and

(g) Certification of a facility shall be effective for a maximum of three years and may be renewed thereafter upon approval of a renewal application.

(5) An ITS provider seeking certification shall have available at least one room that meets the following specifications and structural and physical requirements for seclusion:

(a) The room shall be of adequate size to permit three adults to move freely and allow for one adult to lie down. Any newly constructed room shall be no less than 64 square feet;

(b) The room may not be isolated from regular program staff of the facility and shall be equipped with adequate locking devices on all doors and windows;

(c) The door shall open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside;

(d) The room shall contain no protruding, exposed, or sharp objects;

(e) The room shall contain no furniture. A fireproof mattress or mat shall be available for comfort;

(f) Any windows shall be made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass shall be protected by adequate climb-proof screening;

(g) There may be no exposed pipes or electrical wiring in the room. Electrical outlets shall be permanently capped or covered with a metal shield secured by tamper-proof screws. Ceiling and wall lights shall be recessed and covered with safety glass or unbreakable plastic. Any cover, cap, or shield shall be secured by tamper-proof screws;

(h) The room shall meet State Fire Marshal fire, safety, and health standards. If sprinklers are installed, they shall be recessed and covered with fine mesh screening. If pop-down type, sprinklers shall have break-away strength of under 80 pounds. In lieu of sprinklers, combined smoke and heat detectors shall be used with similar protective design or installation;

(i) The room shall be ventilated, kept at a temperature no less than 64°F and no more than 85°F. Heating and cooling vents shall be secure and out of reach;

(j) The room shall be designed and equipped in a manner that would not allow a child to climb off the floor;

(k) Walls, floor, and ceiling shall be solidly and smoothly constructed to be cleaned easily and have no rough or jagged portions; and

(L) Adequate and safe bathrooms shall be available.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 28.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 9-2016(Temp), f. 6-28-16, cert. ef. 7-1-16 thru 12-27-16; MHS 21-2016, f. & cert. ef. 12-1-16; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0180

Transfer and Continuity of Care

(1) Providers shall meet the following requirements for planned transfer:

(a) Decisions to transfer individuals shall be documented in a transfer summary. The documentation shall include the reason for the transfer;

(b) Planned transfers shall be consistent with the transfer criteria established by the interdisciplinary team and documented in the service plan.

(c) Providers may not transfer services unless the interdisciplinary team in consultation with the child's parent or guardian and the next provider agree that the child requires a more or less restrictive level of care; and

(d) If the determination is made to admit the child to acute care, the provider may not transfer services during the acute care stay unless the interdisciplinary team in consultation with the child's parent or guardian

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and the next provider agree that the child requires a more or less restrictive level of care following the acute care stay.

(2) Prior to transfer, providers shall:

(a) Coordinate and provide appropriate referrals for medical care and medication management. The transferring provider shall assist the individual to identify the medical provider who will provide continuing care and arrange an initial appointment with that provider;

(b) Coordinate recovery and ongoing support services for individuals and their families including identifying resources and facilitating linkage to other service systems necessary to sustain recovery including peer delivered services;

(c) Complete a transfer summary;

(d) When services are transferred due to the absence of the individual, the provider shall document outreach efforts made to re-engage the individual or document the reason why such efforts were not made;

(e) If the individual is under the jurisdiction of the PSRB or JPSRB, the provider shall notify the PSRB or JPSRB immediately and provide a copy of the transfer summary within 30 days;

(f) The provider shall report all instances of transfer on the mandated state data system; and

(g) At a minimum, the provider's interdisciplinary team shall:

(A) Integrate transfer planning into ongoing treatment planning and documentation from the time of entry and specify the transfer criteria that shall indicate resolution of the symptoms and behaviors that justified the entry;

(B) Review and, if needed, modify the transfer criteria in the service plan every 30 days;

(C) Notify the child's parent or guardian and the provider to which the child shall be transitioned of the anticipated transfer dates at the time of entry and when the service plan is changed;

(D) Include the parent or guardian peer support when requested by the parent or guardian and provider to which the child shall be transitioned in transfer planning and reflect their needs and desires to the extent clinically indicated;

(E) Finalize the transition plan prior to transfer and identify in the plan the continuum of services and the type and frequency of follow-up contacts recommended by the provider to assist in the child's successful transition to the next appropriate level of care;

(F) Assure that appropriate medical care and medication management shall be provided to individuals who leave through a planned transfer. The last service provider's interdisciplinary team shall identify the medical personnel who will provide continuing care and shall arrange an initial appointment with that provider;

(G) Coordinate appropriate education services with applicable school district personnel; and

(H) Give a written transition plan to the child's parent or guardian and the next provider if applicable on the date of transfer.

(3) A Transfer summary shall include the following:

(a) The date and reason for the transfer;

(b) A summary statement that describes the effectiveness of services in assisting the individual and his or her family to achieve intended outcomes identified in the service plan;

(c) Where appropriate, a plan for personal wellness and resilience, including relapse prevention safety and suicide prevention planning; and

(d) Identification of resources to assist the individual and family including peer delivered services, if applicable, in accessing recovery and resiliency services and supports;

(e) If the transfer is to services with another provider, all documentation contained in the service record requested by the receiving provider shall be furnished, compliant with applicable confidentiality policies and procedures within 14 days of receipt of a written request for the documentation;

(f) A complete transfer summary shall be sent to the receiving provider within 30 days of the transfer.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.45

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14; MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

309-022-0192

Variance

(1) Requirements and standards for requesting and granting variances or exceptions are found in OAR 309-008-1600.

(2) The chief officer of the Division shall approve or deny the request for a variance. The variance shall be made in writing using the Division approved variance request form and following the variance request procedure set forth in OAR 309-008-1600.

(3) Granting a variance for one request does not set a precedent that must be followed by the Division when evaluating subsequent requests for variance.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 428.205 - 428.270, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168

Hist.: MHS 27-2016(Temp), f. & cert. ef. 12-29-16 thru 6-26-17; MHS 7-2017, f. & cert. ef. 6-23-17

Rule Caption: Rules Revisions Required to Comply with the Oregon Performance Plan

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Subject: The Authority needs to amend OAR 309, division 32 in order to comply with the Oregon Performance Plan

Rules Coordinator: Sandy Cafourek—(503) 945-6430

309-032-0311

Definitions

(1) "Co-Occurring Disorders" (COD) means the existence of at least one diagnosis of a substance use disorder and one diagnosis of a serious mental illness.

(2) "Community Mental Health Program" (CMHP) means an entity that is responsible for planning and delivery of services for individuals with substance use or mental illness diagnoses operated in a specific geographic area of the state under an intergovernmental agreement or a direct contract with the Health Systems Division (Division).

(3) "Division" means the Health Systems Division (Division) of the Oregon Health Authority (OHA).

(4) "Eligible Individual" means an individual who, as defined in these rules:

(a) Is homeless or at imminent risk of becoming homeless; and

(b) Has or is reasonably assumed to have a serious mental illness;

(c) May also have a co-occurring substance use disorder.

(5) "Enrolled" means an eligible individual who:

(a) Receives services supported at least partially with PATH funds; and

(b) Has an individual service record that indicates enrollment in the PATH program.

(6) "Homeless Individual" means an individual who:

(a) Lacks housing without regard to whether the individual is a member of a family and whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

(b) Is a resident in transitional housing that carries time limits.

(7) "Individual" means an individual potentially eligible for or who has been enrolled to receive services described in these rules.

(8) "Individual Service and Support Plan" (ISSP) means a comprehensive plan for services and supports provided to or coordinated for an eligible individual that is reflective of the intended outcomes of service.

(9) "Imminent Risk of Homelessness" means that an individual is:

(a) Living in a doubled-up living arrangement where the individual's name is not on the lease;

(b) Living in a condemned building without a place to move;

(c) In arrears in their rent or utility payments;

(d) Subject to a potential eviction notice without a place to move; or

(e) Being discharged from a health care or criminal justice institution without a place to live.

(10) "Individual Service Record" means the written or electronic documentation regarding an enrolled individual that summarizes the services and supports provided from point of entry to service conclusion.

(11) "Literally Homeless Individual" means an individual who lacks housing without regard to whether the individual is a member of a family, including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations.

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(12) "Local Mental Health Authority" (LMHA) means one of the following entities:

(a) The Board of County Commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional LMHA comprised of two or more boards of county commissioners.

(13) "Outreach" means the process of bringing individuals into treatment who do not access traditional services.

(14) "Person with serious mental illness" has the meaning given that term in OAR 309-036-0105.

(15) "Projects for Assistance in Transition from Homelessness" (PATH) means the Formula Grants, 42 U.S.C. 290cc-21 to 290-cc-35.

(16) "Qualified Mental Health Professional" (QMHP) means any person who meets one of the following minimum qualifications as authorized by the LMHA or designee:

(a) A Licensed Medical Practitioner;

(b) A graduate degree in psychology, social work, or recreational, art, or music therapy;

(c) A graduate degree in a behavioral science field;

(d) A bachelor's degree in occupational therapy and licensed by the State or Oregon; or

(e) A bachelor's degree in nursing and licensed by the State of Oregon.

(17) "Secretary" means the Secretary of the U.S. Department of Health and Human Services.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.630 & 430.640

Hist.: MHS 7-2011, f. & cert. ef. 9-26-11; MHS 9-2011(Temp), f. & cert. ef. 11-22-11 thru 5-18-12; MHS 2-2012, f. & cert. ef. 2-9-12; MHS 8-2017, f. & cert. ef. 6-23-17

309-032-0850

Purpose

These rules prescribe standards and procedures for regional acute care psychiatric services for adults.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.630 & 430.640

Hist. MHD 8-1994, f. & cert. ef. 11-28-94; MHS 22-2016, f. & cert. ef. 12-1-16; MHS 8-2017, f. & cert. ef. 6-23-17

309-032-0860

Definitions

As used in these rules:

(1) "Adult" means an individual age 18 years or older.

(2) "Certificate" means the document issued by the Division that identifies and declares certification of a provider pursuant to OAR 309-008-0100 to 309-008-1600. A letter accompanying issuance of the certificate shall detail the certificate's scope and approved service delivery locations.

(3) "Clinical Record" means a separate file established and maintained under these rules for each patient.

(4) "Community Mental Health Program" or "CMHP" means the organization of all services for individuals with mental or emotional disturbances, substance use problems, and developmental disabilities, operated by or contractually affiliated with a local mental health authority and operated in a specific geographic area of the state under an omnibus contract with the Division.

(5) "Council" means an organization of individuals with a mission statement and by-laws, comprised of representatives of the regional acute care psychiatric service, state hospital, community mental health programs served, consumers, and family members. The Council is advisory to the regional acute care facility for adults.

(6) "Diagnosis" means a DSM diagnosis determined through the mental health assessment and any examinations, laboratory, medical or psychological tests, procedures, or consultations suggested by the assessment.

(7) "Division" means the Health Systems Division of the Oregon Health Authority.

(8) "DSM" means the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American Psychiatric Association.

(9) "Goal" means the broad aspirations or outcomes toward which the patient is striving and toward which all services are intended to assist the patient.

(10) "Guardian" means an individual appointed by a court of law to act as a guardian of a legally incapacitated person.

(11) "Independent Medical Practitioner" means a medically trained individual licensed to practice independently in the State of Oregon and has one of the following degrees: MD (Medical Doctor), DO (Doctor of Osteopathy), or NP (Nurse Practitioner).

(12) "Legally Incapacitated" means having been found by a court of law under ORS 126.103 or 426.295 to be unable, without assistance, to properly manage or take care of one's personal affairs.

(13) "Linkage Agreement" means a written agreement between regional acute care psychiatric facilities and other entities involved in patient care that includes, but is not limited to, CCOs, CMHPs, and state hospitals that describes the roles and responsibilities each entity assumes in order to assure that the goals of the regional acute care psychiatric services are achieved.

(14) "Medical Director" means a board eligible psychiatrist who oversees the patient care program. The medical director shall have the final authority concerning inpatient medical care including admissions, continuing care, and discharges.

(15) "Medical History" means a review of the patient's current and past state of health as reported by the patient or other reliable sources, including, but not limited to:

(a) History of any significant illnesses, injuries, allergies, or drug sensitivities; and

(b) History of any significant medical treatments, including hospitalizations and major medical procedures.

(16) "Mental Health Assessment" means a process in which the individual's need for mental health services is determined through evaluation of the individual's strengths, goals, needs, and current level of functioning.

(17) "Mental Status Examination" means an overall assessment of an individual's mental functioning that includes descriptions of appearance, behavior, speech, and mood, and affect suicidal or homicidal ideation, thought processes and content, and perceptual difficulties including hallucinations and delusions. Cognitive abilities are also assessed and include orientation, memory, concentration, general knowledge, abstraction abilities, judgment, and insight.

(18) "Objective" means an interim level of progress or a component step the specification of which is necessary or helpful in moving toward a goal.

(19) "OPRCS" means the Oregon Patient/Resident Care System. OPRCS is a Division operated, on-line computerized information system that accepts, stores, and returns information about patients from state operated institutions and other designated inpatient services.

(20) "Patient" means an individual who is receiving care and treatment in a regional acute care psychiatric service.

(21) "Person Committed to the Division" means a patient committed under ORS 161.327 or 426.130.

(22) "Person with Serious and Persistent Mental Illness (SPMI)" means, for the purposes of a warm handoff, an individual age 18 or older who meets the current DSM diagnostic criteria for at least one of the following conditions as a primary diagnosis:

(a) Schizophrenia and other psychotic disorders;

(b) Major depressive disorder;

(c) Bipolar disorder;

(d) Anxiety disorders, limited to OCD and PTSD;

(e) Schizotypal personality disorder;

(f) Borderline personality disorder.

(g) The applicable ICD 9 & 10 codes for SPMI diagnoses can be found at <https://www.oregon.gov/oha/HPA/CSI-BHP/Pages/Oregon-Performance-Plan.aspx>.

(23) "Program Administrator" means an individual with appropriate professional qualifications and experience appointed by the governing body to manage the operation of the regional acute care psychiatric services.

(24) "Psychiatrist" means a physician licensed pursuant to ORS 677.010 to 677.492 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(25) "Qualified Mental Health Professional" or "QMHP" means an individual who is one of the following:

(a) Psychiatrist or physician licensed to practice in the State of Oregon; an individual with a graduate degree in psychology, social work, or other mental health related field; a registered nurse with a graduate degree in psychiatric nursing licensed in the State of Oregon; an individual with registration as an occupational therapist; an individual with a graduate degree in recreational therapy; or

(b) Any other individual whose education, experience, and competence have been documented by the CMHP director or designee as able to

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identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts; assess family, social, and work relationships; conduct a mental status assessment; document a DSM diagnosis; write and supervise a rehabilitation plan; and provide individual, family, or group therapy.

(26) "Regional Acute Care Psychiatric Service" or "Service" means a Division funded service provided under contract with the Division or county and operated in cooperation with a regional or local council.

(27) "Supervisor" means an individual with two years of experience as a qualified mental health professional and who, in accordance with OAR 309-032-0870, reviews the services provided to patients by qualified individuals.

(28) "Telehealth" means a technological solution that provides two-way, video-like communication on a secure line.

(29) "Treatment Plan" means an individualized, written plan defining specific rehabilitation objectives and proposed service interventions derived from the patient's mental health assessment.

(30) "Warm Handoff" means the process of transferring a patient from one provider to another prior to discharge from an acute care psychiatric hospital that involves face-to-face meetings with the patient, either in person or through the use of telehealth, and that coordinates the transfer of responsibility for the patient's ongoing care and continuing treatment and services. A warm handoff shall be offered to individuals with SPMI, defined in OAR 309-032-0860(22), as part of the discharge planning process.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.630 & 430.640

Hist. MHD 8-1994, f. & cert. ef. 11-28-94; MHS 22-2016, f. & cert. ef. 12-1-16; MHS 8-2017, f. & cert. ef. 6-23-17

309-032-0870

Standards for Approval of Regional Acute Care Psychiatric Service

(1) The facility in which a regional acute care psychiatric service is provided shall maintain state certificates and licenses as required by Oregon law for the health, safety, and welfare of the individuals served. Non-hospital facilities shall be licensed by the Division as required by ORS 443.410. Non-hospital facilities shall be certified by the Division as required by OAR 309-008-0100 to 1600. The facility shall also be approved under OAR 309-033-0530 (Approval of Hospitals and Nonhospital Facilities that Provide Services to Committed Persons and to Persons in Custody or on Diversion) and OAR 309-033-0540 (Administrative Requirements for Hospitals and Nonhospital Facilities Approved to Provide Services to Persons in Custody, Psychiatric Hold or Certified for 14 Days of Intensive Treatment).

(2) A regional acute care psychiatric service shall include 24-hours a day psychiatric, multi-disciplinary, inpatient or residential stabilization care and treatment for adults ages 18 and older with severe psychiatric disabilities in a designated region of the state. For the purpose of these rules, a state hospital is not a regional acute care psychiatric service. The goal of a regional acute care service is the stabilization, control, and amelioration of acute dysfunctional symptoms or behaviors that result in the earliest possible return of the individual to a less restrictive environment.

(3) A regional acute care psychiatric service shall maintain clinical records as follows:

(a) Except as otherwise applicable, clinical records are confidential as set forth in ORS 179.505 and 192.502 and any other applicable state or federal law. For the purposes of disclosure from non-medical individual records, both the general prohibition against disclosure of "information of a personal nature" and limitations to the prohibition in ORS 192.502 shall apply;

(b) Clinical records shall be secured, safeguarded, stored, and retained in accordance with OAR 166-030-1015;

(c) Clinical record entries required by these rules shall be signed by the staff providing the service and making the entry. Each signature shall include the individual's academic degree or professional status and the date signed.

(4) The clinical record shall contain:

(a) Identifying demographic information including, if available, who to contact in an emergency and the names of individuals who encompass the support system of the patient;

(b) Consent to release information and explanation of fee policies. At the time of admission, staff shall present the patient with forms for obtaining consent so that information may be shared with family and others. An explanation of fee policies shall also be provided in written form at the earliest time possible. The patient shall be asked to sign each. If the patient is

unwilling or unable to sign, staff shall record that the patient is unable or unwilling to do so;

(c) An admitting mental health assessment shall be completed by or under the supervision of an independent medical practitioner with supervised training or experience in a mental health related setting within 24 hours of admission. The admitting mental health assessment shall include a description of the presenting problem, a mental status examination, an initial DSM diagnosis, and an assessment of the resources currently available to the individual. The assessment shall result in a plan for the initial services to be provided. The admitting mental health assessment shall also include documentation that a medical history and physical examination of the individual has been performed within 24 hours after admission by a physician, physician assistant, or nurse practitioner. If the independent medical practitioner believes a new medical history and physical examination are not necessary and if within 30 days of admission a complete physical history has been recorded and a complete physical examination has been performed, the signed report of the history and examination may be placed in the clinical record and may be considered to constitute an appropriate physical health assessment;

(d) A psycho-social assessment shall be completed for each patient within 72 hours of admission. If the patient stays less than 72 hours, a psycho-social assessment need not be written. The assessment must be completed by a qualified mental health professional or supervisor. The assessment does not need to be a single document but shall include the following elements:

(A) A description of events precipitating admission and any goals of the patient in seeking or entering services;

(B) When relevant to the patient's service needs, historical information including: a current Declaration for Mental Health Treatment; mental health history; medical history; substance use history; developmental history; social history including family and interpersonal history; sexual and other abuse history; educational, vocational, and employment history; and legal history;

(C) An identification of the patient's need for assistance in maintaining financial support, employment, housing, and other support needs;

(D) Recommendations for discharge planning and any additional services, interventions, additional examinations, tests, and evaluations that are needed;

(E) A copy of the patient's Declaration for Mental Health Treatment if the patient elected to complete or provided one.

(e) A treatment plan individually developed with the patient from the findings of the admitting mental health assessment and psycho-social assessment must be completed by a QMHP or supervisor within 72 hours of the person's admission. The plan must be written at a level of specificity that will permit its subsequent implementation to be efficiently monitored and reviewed. The recorded plan shall contain the following components:

(A) The rehabilitation and other goals, including those articulated by the patient;

(B) Specific objectives, including discharge objectives and the measurable or observable criteria for determining when each objective is attained;

(C) Specific services to be used to achieve each objective;

(D) The projected frequency and duration of services;

(E) Identification of the QMHP or supervisor assigned to the patient who is responsible for coordinating services;

(F) The signature of the patient indicating they have participated in the development of the plan to the degree possible. If the patient is unwilling or unable to sign the plan, staff shall record on the plan that the patient is unable or unwilling to do so;

(G) The plan must be reviewed weekly and updated with the participation of the patient when needed to reflect significant changes in the patient's status and when significant new goals are identified;

(H) The patient's anticipated continuing care needs, including need for housing, and for individuals with SPMI, the coordination needs for a warm handoff process.

(f) Progress notes shall document observations, treatment rendered, response to treatment, changes in the patient's condition, and other significant information relating to the patient. All entries involving subjective interpretation of the patient's progress shall be supplemented by a description of the actual behavior observed;

(g) Reports of medication administration, medical treatments, and diagnostic procedures;

(h) Telephone communications about the patient, releases of information, and reports from other sources;

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- (i) The record shall contain medical and mental health advance directives or note that the patient has been provided this information;
- (j) The record shall contain documentation that the patient has been provided information on patient rights, grievance procedure, and abuse reporting;
- (k) The record shall contain documentation including physician's orders and reasons for all restraint and seclusion episodes;
- (L) The discharge planning process shall begin at the time of admission with the participation of the patient and, when indicated, the family, guardian, or family of choice, and shall include, but is not limited to:
 - (A) An assessment of continuing care needs, including prescribed medications, behavioral and primary health care needs, and housing needs;
 - (B) Consultation with the individual's CCO to address continuing care needs upon discharge, when applicable, and;
 - (C) Planning a follow-up visit with a community mental health provider within seven days of the anticipated discharge date.
- (m) A warm handoff shall be offered to individuals with SPMI as part of the discharge planning process that involves a face-to-face meeting, either in person or through the use of telehealth, and includes either:
 - (A) A community provider, the patient, and if possible hospital staff, or;
 - (B) A transitional team, the patient, and if possible hospital staff to support the patient, to serve as a bridge between hospital staff and a community provider, and to ensure the patient connects with a community provider.
- (n) The discharge plan shall be based on the patient's treatment goals, clinical needs, and informed choice and shall include the results of the admitting mental health assessment, DSM diagnoses, summary of the course of treatment including prescribed medications, final assessment of the individual's condition, a summary of continuing care needs including prescribed medications, behavioral and primary health care needs, and housing needs. Documentation to support linkages to timely and appropriate community services upon discharge shall be detailed in the discharge plan including, but not limited to:
 - (A) The plan to address the patient's need for immediate housing upon discharge, when applicable, including notifying the patient's community provider regarding the need for housing; and
 - (B) The plan to address the patient's need for a follow-up visit with a community mental health provider within seven days of the anticipated discharge date;
 - (C) For individuals with SPMI, the discharge plan shall also include:
 - (i) Whether a warm handoff occurred and the community provider or transitional team involved in the warm handoff process, when applicable; or
 - (ii) Whether the patient declined a warm handoff.
 - (5) The regional acute care psychiatric service shall supply the Division, using the Division's on-line OPRCS via computer and modem, information about individuals admitted to and discharged from the service. The information shall include the patient's name, DSM diagnosis, admission date, discharge date, legal status, Medicaid eligibility, Medicaid Prime Number, and various patient demographics. The information shall be entered on the day of admission and updated on the day of discharge.
 - (6) The regional acute care psychiatric service shall:
 - (a) Have sufficient appropriately qualified professional, administrative, and support staff to assess and address the identified clinical needs of individuals served, provide needed services, and coordinate the services provided;
 - (b) Designate a program administrator to oversee the administration of the services and carry out these rules;
 - (c) Designate a medical director to oversee the patient care program. The medical director shall have the final authority concerning inpatient medical care including admissions, continuing care, and discharges;
 - (d) Designate an individual responsible for maintaining, controlling, and supervising medical records and be responsible for maintaining the quality of clinical records;
 - (e) Designate an individual responsible for the development, implementation, and monitoring of a written safety management plan and program who shall keep records of identified concerns and problems and actions taken to resolve them;
 - (f) Designate an individual responsible for the development, implementation, and monitoring of a written infection control plan and program who shall keep records of identified concerns and problems and action taken to resolve them;
 - (g) Designate or contract with a licensed pharmacist to be responsible for the development of pharmacy policies and procedures and to assure that

- the service adheres to standards of practice and applicable state and federal laws and regulations;
- (h) Maintain a schedule of unit staffing that shall be readily available to the Division for a period of at least the three previous years;
- (i) Have on duty at least one registered nurse at all times;
- (j) Maintain a personnel file for each patient care staff that includes a written job description; the minimum level of education or training required for the position; copies of applicable licenses, certifications, or degrees granted; annual performance appraisals; a biennial, individualized staff development plan signed by the staff; documentation of CPR training; documentation of annual training and certification in managing aggressive behavior, including seclusion and restraint; and other staff development and skill training received;
- (k) A physician shall be available, at least on-call, at all times.
- (7) The regional acute care psychiatric service shall have a policy and procedure manual. The policy and procedure manual must be made available to any individual upon request. The manual shall describe:
 - (a) The following policies and procedures:
 - (A) Governance and management, including a table of organization describing the agency structure and lines of authority, a plan for professional services, and a plan for financial management and accountability;
 - (B) Procedures for the management of disasters, fire, and other emergencies;
 - (C) Policies and procedures required under OAR 309-033-0700 through 0740, Standards for the Approval of Community Hospitals and Nonhospital Facilities to Provide Seclusion and Restraint to Committed Persons and to Persons in Custody or on Diversion, addressing seclusion and restraint;
 - (D) Patient rights, including informed consent, access to records, and grievance procedures. The manual shall assure rights guaranteed by ORS 426.380 to 426.395 for committed persons and ORS 430.205 to 430.210 for those not committed. The grievance procedure shall be in writing and include written responses, time limits for responses, use of a neutral party, and a method of appeal. Programs shall post copies of the rights and grievance procedures in places accessible to all individuals. Programs shall provide written copies of the rights and grievance procedures upon request;
 - (E) Abuse reporting for mentally ill or developmentally disabled as required by ORS 430.731 through 430.768;
 - (F) Clinical record content and management policies and procedures, including the requirements of these rules;
 - (G) Psychiatric, medical, and dental emergency services policies and procedures;
 - (H) Pharmacy services policies and procedures approved by a licensed pharmacist;
 - (I) Quality assessment and improvement processes;
 - (J) Procedures for documenting privileges granted by the service in personnel records or other records;
 - (K) Policies and procedures for transfer of patients to other hospitals.
 - (b) The following policies and procedures, developed and amended in consultation with the council:
 - (A) Patient admission and discharge criteria. Unless the service has a policy and procedure recommended by the council and approved by the Division, the service shall only admit individuals age 18 and older;
 - (B) Quality assessment and improvement processes relating to regional admissions and discharges;
 - (C) Patient admission, discharge, and aftercare planning, including scheduling and planning for transportation of patients to the service by the referring county and from the service to the county of residence;
 - (D) Procedures for admission and discharge of geropsychiatric patients and individuals with physical disabilities, including designation of a county or regional geropsychiatric liaison staff member;
 - (E) Linkage agreements with entities involved in patient care; (F) Medical and emergency care procedures approved by the Division;
 - (G) Criteria for accepting pre-admission medical screening;
 - (H) Billing and collecting reimbursement from patients and third-party payers.
 - (8) The service shall have an adequate number of hold rooms, but at least one holding room, and hold a current Certificate of Approval to hold and treat individuals alleged to be mentally ill under OAR 309-033-0500 through 0560, (Approval of Hospital and Nonhospital Facilities that Provide Services to Committed Persons or to Persons in Custody or on Diversion).
 - (9) The facility in which a service is operated shall comply with all applicable federal rules and regulations.

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(10) If the facility in which the regional acute care psychiatric service is operated is not in a general hospital, it shall have a letter of agreement with a general hospital for both emergency and medical care that shall be renewed every two years.

(11) The regional acute care psychiatric service shall have an ongoing quality assessment and improvement program to objectively and systematically monitor and evaluate the quality of care provided to patients served, pursue opportunities to improve care, and correct identified problems. The program shall include:

(a) Policies and procedures that describe the quality assessment and improvement program's objectives, organization, scope, and mechanisms for improving services;

(b) A written annual plan to monitor and evaluate services. The written plan shall result in reports of findings, conclusions, and recommendations. Reports shall address:

(A) The care of patients served, including admission and discharge planning;

(B) Resource utilization, including the appropriateness and clinical necessity of admissions and continued stay, services provided, staffing levels, space, and support services;

(C) Quality and content of clinical records;

(D) Medication usage, including records, adverse reactions, and medication errors;

(E) Accidents, injuries, safety of patients, and safety hazards; and

(F) Uses of seclusion and restraint;

(G) An annual needs assessment survey of individuals that have received services.

(c) A report to the governing board and council, at least annually, addressing:

(A) Findings and conclusions from studies;

(B) Recommendations, action taken, and results of the action taken; and

(C) An assessment of the effectiveness of the quality assessment and improvement program, including a review of the program's objectives, scope, organization and effectiveness.

(12) The regional acute care psychiatric service shall have a council to ensure appropriate and effective care and treatment. The council shall meet to assess and collaboratively plan for improving care and treatment to patients, including patient transitions into and out of the service.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.630 & 430.640

Hist. MHD 8-1994, f. & cert. ef. 11-28-94; MHS 22-2016, f. & cert. ef. 12-1-16; MHS 8-2017, f. & cert. ef. 6-23-17

309-032-0890

Variances

(1) The Division may grant variances to a regional acute care psychiatric service if implementation of the proposed alternative services, methods, concepts, or procedures would result in services or systems that meet or exceed the standards in these rules.

(2) Application for a variance to these or other applicable rules shall be obtained pursuant to the process governed by OAR 309-008-1600.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.630 & 430.640

Hist. MHD 8-1994, f. & cert. ef. 11-28-94; MHS 22-2016, f. & cert. ef. 12-1-16; MHS 8-2017, f. & cert. ef. 6-23-17

Rule Caption: Rules Revisions Required to Comply with Federal 1915(i) Home and Community-based Regulations

Adm. Order No.: MHS 9-2017

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Rules Adopted: 309-040-0307, 309-040-0393, 309-040-0394

Rules Amended: 309-040-0300, 309-040-0305, 309-040-0310, 309-040-0315, 309-040-0320, 309-040-0325, 309-040-0330, 309-040-0335, 309-040-0340, 309-040-0345, 309-040-0350, 309-040-0355, 309-040-0360, 309-040-0365, 309-040-0370, 309-040-0375, 309-040-0380, 309-040-0385, 309-040-0390, 309-040-0395, 309-040-0400, 309-040-0405, 309-040-0410, 309-040-0415, 309-040-0420, 309-040-0425, 309-040-0430, 309-040-0435, 309-040-0440, 309-040-0445, 309-040-0450, 309-040-0455

Subject: Under Oregon Revised Statutes 413.042 and 413.450, the Authority licenses and has authority to regulate mental health treatment providers, including adult foster homes for adults with mental

or emotional health disorders. The Authority's administrative rules set the minimum standards for providing services in licensed settings and describe the process by which the Authority regulates the service providers.

The rules provide updated procedural detail regarding federal regulation requirements, as issued by the Centers for Medicare and Medicaid Services (CMS) for 1915(i) Home and Community-Based Services (HCBS). The purpose of these updated regulations is to ensure individuals receive HCBS in settings that are integrated in and support full access to the greater community. The rules also provides clarification of current and appropriate behavioral health terminology, in particular, the use of "adults with mental or emotional disorders" rather than adults with "mental illness."

The amendments are necessary to provide clarification for the Authority and the providers of HCBS practices and procedures regarding each individual's federal rights under HCBS.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

309-040-0300

Purpose and Scope

(1) These rules prescribe care and service standards by which the Health Systems Division (Division) of the Oregon Health Authority (Authority) licenses community-based Adult Foster Homes (AFHs) for adults with mental or emotional disorders. The care and services standards are designed to promote the individual's right to independence, choice, and decision making while providing a safe, secure, homelike environment. The provider shall address the individual's needs in a manner that enables the individual to function at the highest level of independence possible:

(a) These rules incorporate and implement the requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services for home and community-based services authorized under section 1915(i) of the Social Security Act;

(b) These rules establish requirements to ensure individuals receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving these services consistent with the standards set out in OAR chapter 411, division 4.

(2) These rules apply to adult foster homes providing services to five or fewer adults with mental or emotional disorders, regardless of whether the provider receives public funds.

Stat. Auth.: ORS 413.042, 413.032, 413.085

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0000, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 11-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 4-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0305

Definitions

As used in these rules, the following definitions apply:

(1) "Abuse" includes but is not limited to the following:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of an AFH or community program, or provider, or other caregiver and the individual. For all other situations, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the individual;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual.

(2) "Abuse Investigation and Protective Services" means an investigation and any subsequent services or supports necessary to prevent further abuse as required by ORS 430.745 to 430.765 and OAR 943-045-0000, or any other rules established by the Division applicable to allegations of abuse of individuals residing at an AFH licensed by the Division.

(3) "Activities of Daily Living (ADL)" means those individual skills necessary for an individual's continued well-being including eating and nutrition, dressing, personal hygiene, mobility, and toileting.

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(4) "Administration of Medication" means administration of medicine or a medical treatment to an individual as prescribed by a Licensed Medical Practitioner.

(5) "Adult Foster Home (AFH)" means any home licensed by the Health Systems Division of the Authority in which residential care is provided to five or fewer individuals who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825. If an adult family member of the provider receives care, they shall be included as one of the individuals within the total license capacity of the AFH. An AFH or individual that advertises, including word-of-mouth advertising, to provide room, board, and care and services for adults is considered an AFH. For the purpose of these rules, an AFH does not include facilities referenced in 443.715.

(6) "Aid to Physical Functioning" means any special equipment ordered for an individual by a Licensed Medical Professional (LMP) or other qualified health care professional that maintains or enhances the individual's physical functioning.

(7) "Applicant" means any individual or entity that makes an application for a license that is also the owner of the business.

(8) "Assessment" means an evaluation of an individual and the individual's level of functioning completed by a qualified provider and provides the basis for the development of the individual's residential care plan and person-centered service plan.

(9) "Authority" means the Oregon Health Authority or designee.

(10) "Behavioral Interventions" means interventions that modify the individual's behavior or the individual's environment.

(11) "Bill of Rights" means civil, legal, or human rights afforded to those individuals residing in an AFH that are in accord with those rights afforded to all other U.S. citizens, including but not limited to those rights delineated in the AFH Bill of Rights as outlined in OAR 309-040-0410.

(12) "Board of Nursing Rules" means the standards for Registered Nurse Teaching and Delegation and assignments to Unlicensed Persons according to the statutes and rule of the Oregon State Board of Nursing, chapter 851, division 47 and ORS 678.010 to 678.445.

(13) "Care" means the provision of but is not limited to services of room, board, services and assistance with ADLs, such as assistance with bathing, dressing, grooming, eating, money management, recreational activities, and medication management. Care also means services that promote maximum individual independence and enhance quality of life.

(14) "Caregiver" means the provider, resident managers, or substitute caregivers who provide services to an individual.

(15) "Case Manager" means an individual employed by a local, regional, or state allied agency approved by the Division to provide case management services and assist in the development of the personal care plan. Case manager's evaluate the appropriateness of services in relation to the consumer's assessed need and review the residential care plan every 180 days.

(16) "CMS" means the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

(17) "Community Mental Health Program (CMHP)" means the organization of all services for individuals with mental or emotional disturbances, drug abuse problems, and alcoholism and alcohol abuse problems operated by or contractually affiliated with a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(18) "Compensation" means payments made by or on behalf of an individual to a provider in exchange for room and board, care and services, including services described in the individual's residential care plan and person-centered service plan

(19) "Complaint Investigation" means an investigation of any allegation that a provider has taken action, or inaction, that is perceived as contrary to law, rule, or policy but does not meet the criteria for an abuse investigation.

(20) "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.

(21) "Contested Case Hearing" means a hearing resulting in a directed or recommended action. The hearing is held at the request of the provider or the Division in response to an action, sanction, or notice of finding issued by the Division that would result in the loss of license of the provider or other sanctions that would adversely affect the license of the provider. The hearing group is composed of:

- (a) The provider and if the provider chooses, the provider's attorney;
- (b) The Division as represented by the Attorney General's Office; and
- (c) The Office of Administration Hearings Administrative Law Judge.

(22) "Contract" means a written agreement between a provider and the Division to provide room and board, care and services for compensation for individuals of a licensed AFH.

(23) "Controlled Substance" means any drug classified as schedules one through five under the Federal Controlled Substance Act.

(24) "Criminal History Check (CHC)" means the Oregon Criminal History Check and when required, a National Criminal History check and or a State-Specific Criminal History check, and the processes and procedures required by the rules OAR 943-007-0001 through 943-007-0501 (Criminal History Checks).

(25) "Day Care" means care and services in an AFH for an individual who is not an individual of the AFH. Children under the age of five living in the AFH are included in the licensed capacity of the home.

(26) "Declaration for Mental Health Treatment" means a document that states the individual's preferences or instructions regarding mental health treatment as defined by ORS 127.700 through 127.737.

(27) "Designated Representative" means:

(a) Any adult who is not the individual's paid provider, who:

(A) The individual has authorized to serve as his or her representative;

or

(B) The individual's legal representative is authorized to serve as the individual's representative.

(b) The power to act as a designated representative is valid until the individual or the individual's legal representative modifies the authorization and notifies the Division of the modification, the individual or the individual's representative notifies the provider that the designated representative is no longer authorized to act the individual's behalf, or there is a change in the legal authority upon which the designation was based. Notice shall include the individual's or the representative's signature as appropriate;

(c) An individual or the individual's legal representative is not required to appoint a designated representative; and

(d) For the purposes of these rules, the term individual shall be considered to include the individual's designated representative.

(28) "Director" means the Director of the Oregon Health Authority or designee.

(29) "Discharge Summary" means a document that describes the conclusion of the planned course of services described in the individual's residential care plan and person-centered service plan, regardless of outcome or attainment of goals described in the individual's individualized personal care plan. In addition, the discharge summary addresses individual's monies, financial assets and monies, medication and personal belongings at time of discharge.

(30) "Division" means the Health Systems Division of the Oregon Health Authority or designee.

(31) "Division Staff" means an employee of the Division, the Division's designee, or the designee of the local Community Mental Health Program.

(32) "Employee" means an individual employed by a licensed AFH and who receives wages, a salary, or is otherwise paid by the AFH for providing the service. The term also includes employees of other providers delivering direct services to an individual.

(33) "Exempt Area" means a county agency that provides similar programs for licensing and inspection of AFH's that the Director finds equal to or superior to the requirements of ORS 443.705 to 443.825 and that has entered into an agreement with the Division to license, inspect, and collect fees according to the provisions of 443.705 to 443.825.

(34) "Family Member" means a husband or wife, natural parent, child, sibling, adopted child, domestic partner, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(35) "HCB" means Home and Community Based.

(36) "Home" means the Adult Foster Home (AFH) and as indicated by the context of its use may refer to the one or more buildings and adjacent grounds on contiguous properties used in the operation of the AFH.

(37) "Home and Community-Based Services" or "HCBS" means Home and Community-Based Services as defined in OAR chapter 411, division 4. HCBS are services provided in the individual's home or community.

(38) "Home-like" means an environment that promotes the dignity, security, and comfort of individuals through the provision of personalized care and services and encourages independence, choice, and decision-making by the individuals.

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(39) "House Rules" means the written standards governing house activities developed by the provider and approved by the Division. These standards may not conflict with the AFH Bill of Rights or other individual rights set out by these rules.

(40) "Incident Report" means a written description and account of any occurrence including but not limited to any injury, accident, acts of physical aggression, use of physical restraints, medication error, or any unusual incident involving an individual, the home, or provider.

(41) "Individual" means any individual being considered for placement or currently residing in a licensed home receiving residential, HCBS and other services regulated by these rules on a 24-hour basis except as excluded under ORS 443.400.

(42) "Individual Care Services" means services prescribed by a physician or other designated individual in accordance with the individual's plan of treatment. The services are provided by a caregiver that is qualified to provide the service and is not a member of the individual's immediate family. For those AFH individuals who are Medicaid eligible, personal care services are funded under Medicaid.

(43) "Individually-Based Limitation" means a limitation to the qualities outlined in OAR 309-040-0393(1)(a) through (g), due to health and safety risks. An individually-based limitation is based on a specific assessed need and implemented only with the informed consent of the individual or the individual's legal representative as outlined in 309-040-0393.

(44) "Informed Consent" means:

(a) Options, risks, and benefits of the services outlined in these rules have been explained to an individual and, in a manner that the individual comprehends; and

(b) The individual consents to a person-centered service plan of action, including any individually-based limitations to the rules, prior to implementation of the initial or updated person-centered service plan or any individually-based limitation.

(45) "Initial Residential Care Plan (IRCP)" means a written document developed for an individual, within 24 hours of admission to the home, the addressed the care and services to be provided for the individual during the first 30 days or less until the residential care plan can be developed.

(46) "Legal Representative" means an individual who has the legal authority to act for an individual and only within the scope and limits to the authority as designated by the court or other agreement. A legal representative may include the following:

(a) For an individual under the age of 18, the parent, unless a court appoints another person or agency to act as the guardian; or

(b) For an individual 18 years of age or older, a guardian appointed by a court order or an agent legally designated as the health care representative.

(c) For purposes of these rules, the term individual shall be considered to include the individual's legal representative.

(47) "Level One AFH" means an AFH licensed by the Division to provide care and services to individuals with severe and persistent mental illness, who may also have limited medical conditions.

(48) "License" means a document issued by the Division to applicants who are determined by the Division to be in substantial compliance with these rules.

(49) "Licensed Medical Practitioner (LMP)" means any individual who meets the following minimum qualifications as documented by the CMHP or designee and holds at least one of the following educational degrees and a valid license:

(a) Physician licensed to practice in the State of Oregon; or

(b) Nurse practitioner licensed to practice in the State of Oregon.

(50) "Licensee" means the individual or entity to whom a license is issued and whose name is on the license.

(51) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a community mental health program, or in the case of a Native American reservation, the tribal council, or if the county declines to operate or contract for all or part of a community mental health program, the board of directors of a public or private corporation that directly contracts with the Division to operate a CMHP for that county.

(52) "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 the adult has suffered abuse, or that any individual with whom the official contact while acting in an official capacity, has abused the 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 40.225 to 40.295.

(53) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any individual.

(54) "Mental or Emotional Disturbances (MED)" means a disorder of emotional reactions, thought processes, or behavior that results in substantial subjective distress or impaired perceptions of reality or impaired ability to control or appreciate the consequences of the person's behavior and constitutes a substantial impairment of the individual's social, educational, or economic functioning. Medical diagnosis and classification shall be consistent with the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-V). As used in these rules, this term is functionally equivalent to "serious and persistent mental illness."

(55) "Mistreatment" means the following behaviors, displayed by an employee, program staff, caregiver, provider or volunteer of an AFH when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm;

(b) "Financial Exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual;

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out;

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual;

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to their room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short-term basis when an individual's presence would pose a risk to health or safety to themselves or others;

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. 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 individual's well-being;

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule;

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments;

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "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 an individual;

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard;

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) "Wrongful Restraint" means any use of a physical or chemical restraint except for the following:

(A) An act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730; or

(B) A physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming themselves or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(56) "National Criminal History Check" means obtaining and reviewing criminal history outside Oregon's borders. This information may be obtained from the Federal Bureau of Investigation through the use of fin-

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gerprint cards and from other criminal information resources in accordance with OAR 943-007-0001 through 943-007-0501 (Criminal History Checks).

(57) "Neglect" means an action or inaction that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.

(58) "Nurse Practitioner" means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

(59) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are delegated under specified conditions by a registered nurse to individuals other than licensed nursing personnel, which is governed by ORS chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(60) "Nursing Delegation" means that a registered nurse authorizes an unlicensed individual to perform special tasks for individuals in select situations and indicates that authorization in writing. The delegation process includes nursing assessment of an individual in a specific situation, evaluation of the ability of the unlicensed person, teaching the task, and ensuring supervision.

(61) "Person-Centered Service Plan" means written documentation that includes 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.

(62) "Person-Centered Service Plan Coordinator" means the individual, which may be a case manager, service coordinator, personal agent, and other individual designated by the Division to provide person-centered service planning for and with individuals.

(63) "Practice of Registered Nursing" means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching, and supervising care that promotes the person's optimum health and independence.

(64) "Program Staff" means an employee or individual who by contract with an AFH provides a service to an individual.

(65) "Provider" means a qualified individual or an organizational entity operated by or contractually affiliated with a community mental health program or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an AFH.

(66) "Psychiatric Security Review Board (PSRB)" means the Board consisting of five members appointed by the Governor and subject to confirmation by the Senate under Section Four, Article 111 of the Oregon Constitution and described in ORS 161.295 through 161.400.

(67) "Registered Nurse" means an individual licensed and registered to practice nursing by the State of Oregon Board of Nursing in accordance with ORS Chapter 678 and OAR Chapter 851.

(68) "Related" means the following relationships: spouse, domestic partner, natural parent, child sibling, adopted child, adopted parent, step-parent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(69) "Relative" means any individual identified as a family member.

(70) "Representative" means both "Designated Representative" and "Legal Representative" as defined in these rules unless otherwise stated.

(71) "Residency Agreement" means the written, legally enforceable agreement between a provider and an individual when the individual receives services from the provider.

(72) "Resident Manager" means an employee of the provider who is approved by the Division to live in the AFH and is responsible for the care and services of individuals on a day-to-day basis.

(73) "Residential Care" means the provision of room, board, and services that assist the individual in activities of daily living such as assistance with bathing, dressing, grooming, eating, medication management, money management, or recreation. Residential care includes 24-hour supervision; being aware of the individual's general whereabouts; monitoring the activities of the individual while on the premises of the AFH to ensure the individual's health, safety, and welfare; providing social and recreational activities; and assistance with money management as requested.

(74) "Residential Care Plan (RCP)" means a written plan outlining the care and services to be provided to an individual. The RCP is based upon the review of current assessment, referral, observations, individual

preference, and input from members of the residential care plan team. The plan identifies the care, services, activities, and opportunities to be provided by the caregiver to promote the individual's recovery and independence.

(75) "Residential Care Plan Team (RCP Team)" means a group composed of the individual, the case manager or other designated representative, CMHP representative, the provider, resident manager, and others needed including the individual's legal guardian, representatives of all current service providers, advocates or others determined appropriate by the individual receiving services. If the individual is unable or does not express a preference, other appropriate team membership shall be determined by the RCP team members.

(76) "Residents' Bill of Rights" means the AFH residents have the rights set forth in ORS 443.739.

(77) "Respite Care" means the provision of room, board, care, and services in an AFH for a period of up to 14 days. Respite care for individuals shall be counted in the total licensed capacity of the home. Respite care is not crisis respite care.

(78) "Restraints" means any physical hold, device, or chemical substance that restricts or is meant to restrict the movement or normal functioning of an individual.

(79) "Room and Board" means the provision of meals, a place to sleep, laundry, and housekeeping.

(80) "Seclusion" means the involuntary confinement of an individual to a room or area where the individual is physically prevented from leaving.

(81) "Self-Administration of Medication" means the act of an individual placing a medication in or on the individual's own body. The individual identifies the medication and the times and manners of administration and placed the medication internally or externally on the individual's own body without assistance.

(82) "Self-Preservation" means in relation to fire and life safety the ability of individuals to respond to an alarm without additional cues and be able to reach a point of safety without assistance.

(83) "Services" means those activities that are intended to help the individual develop appropriate skills to increase or maintain their level of functioning and independence. Services include coordination and consultation with other service providers or entities to assure the individual's access to necessary medical care, treatment, or services identified in the individual's personal care plan.

(84) "Substitute Caregiver" means any individual meeting the qualifications of a caregiver who provides care and services in an AFH under the Division's jurisdiction in the absence of the provider or resident manager. An individual may not be a substitute caregiver.

(85) "Unit" means the bedroom and other space of an individual residing in an AFH as agreed to in the residency agreement. Unit includes the following:

- (a) Private single occupancy spaces; and
- (b) Shared units with roommates as allowed by these rules.

(86) "Unusual Incident" means those incidents involving acts of physical aggression, serious illnesses or accidents, any injury or illness of an individual requiring a non-routine visit to a health care practitioner, suicide attempts, death of an individual, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

(87) "Variance" means an exception from a regulation or provision of these rules granted in writing by the Division upon written application from the provider.

(88) "Volunteer" means a person who provides a service or who takes part in a service provided to individuals receiving services in an AFH or other provider, and who is not a paid employee of the AFH or other provider. The services shall be non-clinical unless the person has the required credentials to provide a clinical service.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042; 413.032

Stats. Implemented: ORS 426.072 & 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0005, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 11-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 4-2012, f. 5-3-12, cert. ef. 5-4-12; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0307

Required Home-like Qualities

This rule becomes effective July 1, 2016, and is enforceable as described in OAR 309-040-0315(7).

- (1) Each AFH shall have all of the following:

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(a) The home shall be integrated in and supports the same degree of access to the greater community as people not receiving HCBS, including opportunities for an individual to:

(A) Seek employment and work in competitive integrated employment settings;

(B) Engage in greater community life;

(C) Control personal resources; and

(D) Receive services in the greater community.

(b) The individual selects the AFH from among available setting options, including non-disability specific settings and an option for a private unit in a residential setting. The setting options must be:

(A) Identified and documented in the individual's person-centered service plan;

(B) Based on the individual's needs and preferences; and

(C) Based on the individual's available resources for room and board.

(c) The AFH shall ensure individual rights of privacy, dignity, respect, and freedom from coercion and restraint;

(d) The AFH shall optimize, but not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact;

(e) The AFH shall facilitate individual choice regarding services and supports and who provides the services and supports.

(2) The provider shall maintain the AFH as follows:

(a) The home shall be physically accessible to each individual;

(b) The provider shall provide the individual with a unit of specific physical place that the individual may own, rent, or occupy under a legally enforceable residency agreement;

(c) The provider shall provide and include in the residency agreement that the individual has, at a minimum, the same responsibilities and protections from an eviction that a tenant has under the landlord-tenant law of the State of Oregon and other applicable laws or rules of the county, city, or other designated entity. For a setting in which landlord-tenant laws do not apply, the residency agreement shall provide substantially equivalent protections for the individual and address eviction and appeal processes. The eviction and appeal processes shall be substantially equivalent to the processes provided under landlord-tenant laws;

(d) The provider shall ensure that each individual has privacy in their own unit;

(e) The provider shall maintain units with entrance doors lockable by the individual and ensure that only the individual, the individual's roommate, and only appropriate staff, as described in the individual's person-centered service plan, have keys to access the unit;

(f) The provider shall ensure that individuals sharing units have a choice of roommates;

(g) The provider shall provide that individuals have the freedom to decorate and furnish their unit as agreed to within the Residency Agreement;

(h) The provider shall permit each individual to have visitors of their choosing at any time;

(i) The provider shall ensure each individual has the freedom and support to control their own schedule and activities;

(j) The provider shall ensure each individual has the freedom and support to have access to food at any time.

(3) The provider shall take reasonable steps to ensure that the program maintains the qualities identified in this rule. Failure to take reasonable steps may include, but is not limited to, failure to:

(a) Maintain a copy of the person-centered service plan at the home;

(b) Cooperate or provide necessary information to the person-centered service plan coordinator; or

(c) Attend or schedule a person-centered planning meeting when necessary.

(4) When a provider is unable to ensure the qualities as outlined in section (2)(d) through (2)(j) of this rule due to threats to the health and safety of the individual or others, the provider may seek an individually-based limitation with the individual's consent through the process outlined in OAR 309-040-0393. The provider may not apply an individually-based limitation until the limitation is approved and documented as required by OAR 309-040-0393.

Stat. Auth.: ORS 413.042, 413.032

Stats. Implemented: ORS 413.085, 443.705 - 443.825

Hist.: MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0310

License Required

(1) License Required. In accordance with ORS 443.725, every provider of Adult Foster Care shall be licensed by the Division before opening or operating an AFH.

(a) The provider shall live in the home that is to be licensed or hire a resident manager to live in the home.

(b) There must be a provider, resident manager, or substitute caregiver on duty 24 hours per day in an AFH under the jurisdiction of the Division.

(2) Placement. An AFH may not accept placement of an individual without first being licensed by the Division.

(3) Unlicensed AFH. No individual shall be placed in an AFH that is not licensed.

(4) Criminal History Check Requirements. Providers, resident managers, substitute caregivers, volunteers, and occupants over the age of 16, excluding individuals, shall have documentation of an approved criminal history background check in accordance with ORS 181A.200, 443.735 and OAR 943-007-0001 through 0501.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0010, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0315

License Application and Fees

(1) A completed, written application shall be submitted by the applicant on forms supplied by the Division. The application is not complete until all information is received by the Division. Incomplete applications are void 60 days after initial receipt by the Division.

(2) An applicant shall submit a separate application for each location operated as an AFH.

(3) The application shall include the following:

(a) The maximum capacity requested and a written statement describing family members needing care, individuals who receive respite care, individuals who receive day care, or individuals who receive room and board;

(b) A written statement from an LMP regarding the mental and physical ability of the applicant to provide care to individuals and to operate the AFH. If the applicant employs a resident manager, the applicant shall provide a written statement from a physician or a LMP regarding the mental and physical ability of the resident manager to operate the AFH and to provide care to individuals;

(c) A completed financial information form provided by the Division. The applicant shall demonstrate to the Division the applicant's financial ability and the resources necessary to operate the AFH. Financial ability shall include but is not limited to providing the Division with a list of unsatisfied judgments, pending litigation, and unpaid taxes and notifying the Division regarding whether the applicant is in bankruptcy. If the applicant is unable to demonstrate the financial ability and resources required, the Division may require the applicant to furnish a financial guarantee as a condition of initial licensure in accordance with ORS 443.735(3)(e);

(d) A completed Facility Provider Enrollment Application;

(e) A signed letter of support from the Local Mental Health Authority or designee for the applicant to be licensed to operate the AFH;

(f) Documentation of a Criminal History Check approval in accordance with OAR 943-007-0001 through 0501 for the provider, the resident manager, caregivers, volunteers and other occupants over the age of 16, excluding individuals, and other persons as defined in ORS 443.735;

(g) A floor plan of the AFH showing the location and size of rooms, exits, secondary emergency egress, smoke detectors and fire extinguishers, and evidence of compliance with facility safety requirements as outlined in OAR 309-040-0370;

(h) A completed AFH Self-Inspection Guide; and

(i) Each application must be accompanied by a fee of \$20 per bed requested for license.

(4) The Division shall determine compliance with these rules based on receipt of the completed application material and fees, a review of information submitted, an investigation of information submitted, an inspection of the AFH, and interviews with the provider determined by the Division and other individuals as identified by the Division.

(5) The applicant may withdraw the application at any time during the application process by notifying the Division in writing.

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(6) An applicant whose license has been revoked or voluntarily surrendered, following a receipt of Notice of Intent to Revoke or Notice of Intent of Non-Renewal from the Division, or whose application has been denied by the Division for reasons relating to but not limited to criminal convictions, civil proceedings against the applicant, or substantiated allegations of abuse by the applicant, may not be permitted to submit an application for one year from the date that the revocation, surrender, or denial is made final. A longer period may be specified in the order revoking or denying the license.

(7) Enforcement of Home and Community-Based Required Qualities:

(a) An AFH licensed on or after July 1, 2016, shall be in full compliance with all requirements under these rules at the time of initial licensure;

(b) An AFH licensed prior to July 1, 2016, shall come into compliance with applicable rules as follows:

(A) All AFH's shall be in full compliance with all applicable rules no later than January 1, 2017;

(B) For those rules designated by the Division to become effective July 1, 2016, the provider must make measurable progress towards compliance with those rules. The Division may not issue sanctions or penalties for failure to meet those rules effective July 1, 2016, or those obligations imposed by OAR chapter 411, division 4, until January 1, 2017, if the provider demonstrates measurable progress towards compliance.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0015, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0320

Classification of AFHs

(1) The Division licenses Level 1 AFHs. Level 1 AFHs provide care and services to individuals with severe and persistent mental illness who may also have limited medical conditions.

(2) A Level 1 AFH license may be issued by the Division based upon a determination that an AFH is in substantial compliance with these rules and a review of the qualifications of the provider and the resident manager if applicable, and is in compliance with the OAR 309-040-0300 through 0455 and has met the training requirements set forth in OAR 309-040-0335.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0011, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0325

Capacity

(1) The Division shall determine the number of individuals permitted to reside in an AFH based on the ability of the caregiver to meet the care needs of the individuals, the fire safety standards, and compliance with the physical structure standards of these rules. Determination of maximum licensed capacity shall include consideration of total household composition including children. Sleeping requirements for children are:

(a) Sleeping arrangements for children in care shall be safe and appropriate, based on the child's age, gender, special needs, behavior, and history of abuse and neglect;

(b) Each child in care shall have a safe and adequate bed in which to sleep.

(2) Limiting Capacity. The following limits apply:

(a) The number of individuals is limited to five;

(b) Respite care individuals are included in the licensed capacity of five;

(c) Day care individuals are included in the licensed capacity of five;

(d) Adult family members of the provider or resident manager who need care are included in the licensed capacity of five; and,

(e) Child family members of the provider or resident manager who need care may be included in the licensed capacity of five.

(3) If the number of individuals who receive care exceeds the ability of the provider to meet the care, health, life, and safety needs of the individuals, the Division may reduce the AFH licensed capacity.

(4) The Division may place conditions, restrictions, or limitations on the AFH license as necessary to maintain the health, life, and safety of the individual.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0012, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0330

Zoning for Adult Foster Homes

(1) An AFH is a residential use of property for zoning purposes. Under ORS 197.665, an AFH is a permitted use in any residential zone that allows a single family dwelling and in any commercial zone that allows a single family dwelling.

(2) No city or county may impose any zoning requirement on the establishment and maintenance of an AFH in residential or commercial zones that is more restrictive than that imposed on a single-family dwelling in the same zone.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 6-1986, f. & cert. ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0100, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0335

Training Requirements for Providers, Resident Managers, and Substitute Caregivers

(1) All providers, resident managers, and substitute caregivers shall satisfactorily meet all educational requirements established by the Division. Providers and staff may not provide care to any individual prior to acquiring education or supervised training designed to impart the basic knowledge and skills necessary to maintain the health, safety, and welfare of the individual. Required course work and necessary skills may include, but are not limited to, physical caregiving; screening for care and service needs; appropriate behavior towards individuals with physical, cognitive, and emotional disabilities; emergency procedures; medication management; personal care products; food preparation; home environment and safety procedures; residents' rights; issues related to architectural accessibility; and mandatory abuse reporting.

(2) The provider, resident manager, and substitute caregivers shall be able to understand and communicate in oral and written English in accordance with ORS 443.730.

(3) Training for all providers, resident managers, and substitute caregivers shall comply with ORS 443.738. The provider shall satisfactorily pass any testing requirements established by the Division before being licensed or becoming a resident manager or substitute caregiver. The test shall be completed by the caregiver without the help of any other individual. The provider, resident manager, and substitute caregiver shall have the ability to, but not be limited to, understand and respond appropriately to emergency situations, changes in medical conditions, physicians' orders and professional instructions, nutritional needs, and individuals' preferences and conflicts.

(4) The Division may make exceptions to the training requirements for individuals appropriately licensed medical care professionals in Oregon or who possess sufficient education, training, or experience to warrant an exception. The Division may not make any exceptions to the testing requirements.

(5) In accordance with ORS 443.738, the Division may permit a person who has not completed the training or passed the required test to act as a resident manager until the training and testing are completed or for 60 days, whichever is shorter, if the Division determines that an unexpected and urgent staffing need exists. The provider shall notify the Division of the situation and demonstrate that the provider is unable to find a qualified resident manager, that the individual meets the requirements for a substitute caregiver for the AFH, and that the provider shall provide adequate supervision.

(6) The provider or resident manager shall maintain current documentation of the training and testing of substitute caregivers including but not limited to:

(a) Documentation of criminal history check in compliance with OAR 943-007-0001 through 0501;

(b) Documentation that a substitute caregiver has successfully completed the training required by the Division;

(c) Documentation that the provider has trained the caregiver to meet the routine and emergency needs of the individuals;

(d) Documentation that the provider has oriented the caregiver to the individuals in the AFH, their care needs and skills training, personal care plan, and the physical characteristics of the AFH.

(7) The Division shall require a minimum of twelve hours of training annually directly related to the care and services for individuals with mental illness. The provider, resident manager, and substitute caregiver of an AFH must complete required training and document the training in the provider, resident manager, and substitute caregiver's training records. The

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training is in addition to any orientation that is attended by applicants prior to licensing and shall include, but is not limited to:

- (a) Understanding and recognizing severe and persistent mental illness;
 - (b) Mandatory abuse reporting;
 - (c) Medication management, dispensing, and documentation;
 - (d) Incident report writing;
 - (e) Individual rights;
 - (f) AFH emergency planning;
 - (g) Fire safety;
 - (h) Complaints and grievances; and
 - (i) Cardiopulmonary Resuscitation (CPR) and First Aid.
- (8) The Division may require the provider, resident manager, or substitute caregiver to obtain additional training, whether or not the twelve-hour annual training requirement has already been met.
- (9) Providers, resident managers, or substitute caregivers who perform delegated or assigned nursing care services as part of the residential care plan shall receive training and appropriate monitoring from a registered nurse on performance and delivery of those services.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0030, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0340

Issuance of a License

(1) Applicants shall be in substantial compliance with these rules ORS 443.705 through 443.825 before the Division shall issue a license if cited deficiencies are not corrected within time frames specified by the Division, the application may be denied. The license shall include but is not limited to the name of the applicant, name of the AFH, address of the home to which the license applies, the maximum number of individuals, resident manager if applicable, conditions, if applicable, license number, payment received, effective date and expiration date, and the signature of the assistant administrator of the Division. The license shall be visibly posted in the AFH and available for inspection at all times.

(2) The Division may attach conditions to the license that limit, restrict, or specify other criteria for operation of the AFH. Conditions to a license may include but are not limited to care of a specifically identified individual. The conditions shall be posted with the license in the AFH and be available for inspection at all times.

(3) Each provider shall report promptly to the Division any significant changes to information supplied in the application or subsequent correspondence. Changes include but are not limited to changes in the AFH name, owner entity, resident manager, telephone number, or mailing address, and staffing changes if those changes are significant or impact the health, safety, or well-being of individuals.

(4) When an AFH is sold, the prospective new owner shall apply for a license in accordance with OAR 309-040-0315 if the new owner intends to operate an AFH.

(5) An AFH license is not transferable or applicable to any location or individuals other than those specified on the license.

(6) A license is valid for one year from the effective date on the license unless sooner revoked or suspended.

(7) Applicants shall be in substantial compliance with these rules before a license is issued. If cited deficiencies are not corrected within the time frames specified by the Division, the license shall be denied.

(8) The Division may not issue an initial license unless:

(a) The applicant and the AFH are in compliance with ORS 443.705 to 443.825 and the rules of the Division;

(b) The Division has completed an inspection of the AFH. If cited deficiencies are not corrected within the time frames specified by the Division, the application shall be denied;

(c) The Division has received an approved criminal history records check on the applicant, resident manager, substitute caregiver, and any occupant (other than an individual) 16 years of age or older or is identified in ORS 443.735 and who will be residing in or employed by the AFH, as identified in OAR chapter 943 division 007 and any other rules established by the Division.

(9) The applicant shall demonstrate to the Division the financial ability and resources necessary to operate the AFH. The demonstration of financial ability shall include, but is not limited to, providing the Division with a list of any unsatisfied judgments, pending litigation and unpaid taxes, and notifying the Division regarding whether the applicant is

in bankruptcy. If the applicant is unable to demonstrate the financial ability and resources required in this section, the Division may require the applicant to furnish a financial guarantee as a condition of initial licensure.

(10) If a resident manager leaves during the period of the license, the provider shall notify the Division immediately and identify a plan for providing care to the individuals. The provider shall submit a completed resident manager application on forms supplied by the Division that include a copy of the documentation of criminal history background check and approval in accordance with OAR chapter 943, division 007, a physician statement, and payment of a \$10 fee. If the original plan includes changing the resident manager during the license renewal process, the \$10 is not applicable.

(11) Upon receipt of the completed resident manager application and Division approval, a revised license may be issued in accordance with ORS 443.738(1) through (4).

(12) Notwithstanding any other provision of ORS 443.735, 443.725, or 443.738, the Division may issue a 60-day provisional license to a qualified individual if the Division determines that an emergency situation exists after being notified that the licensed provider of an AFH is no longer overseeing operation of the AFH.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0020, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0345

Renewal

(1) The provider shall submit a completed renewal application and the required fee at least 165 days prior to the expiration date of the license. If the renewal application is not received by the Division within the time period described, the provider shall request the application from the Division or the County Mental Health partner. If the completed renewal application and fee are not submitted prior to the expiration date, the AFH shall be treated as an unlicensed home subject to civil penalties.

(2) The renewal application must include the same information and fee as required for a new application, except that a physician's statement and financial information form are not required if the Division can reasonably assume this information has not changed.

(3) The Division may require the applicant to submit a current, within six months, physician's statement and a current, within six months, criminal history check if investigation by the Division for license renewal indicates that it is necessary.

(4) The Division shall investigate any information in the renewal application and shall conduct an inspection of the AFH.

(5) The provider shall be given a formal written report from the inspection citing any deficiencies and a time frame for correction that does not exceed 30 days from the date of the inspection report unless otherwise noted in the inspection report.

(6) The AFH provider shall correct cited deficiencies prior to issuing a renewed license. If cited deficiencies are not corrected within the time frame specified by the Division, the renewal application shall be denied and administrative sanctions may be imposed.

(7) The Division may not renew a license unless:

(a) The applicant and the AFH are in compliance with ORS 443.705 to 443.825 and these rules;

(b) The Division has completed an inspection of the AFH;

(c) The Division has completed a criminal records check, as required by ORS 181.536 through 181.537, 443.735 and OAR chapter 943, division 007, on the applicant and any occupant, other than an individual, 16 years of age or older or is identified in ORS 443.735(5)(a)(b), (6)(a)(b)(c) and who will shall be residing in or employed by or otherwise acting as a provider, resident manager, substitute caregiver, or volunteer for the AFH provider.

(8) The provider, resident manager, substitute caregiver, or volunteer or individual residing in the AFH may continue to work or reside in the home pending the national criminal records check provided that the Oregon criminal record check was clear and no convictions were self-disclosed in accordance with OAR chapter 943, division 007.

(9) A criminal records check shall be completed for the applicant and any occupant, other than an individual, 16 years of age or older who shall be residing in or employed by or otherwise acting as a provider, resident manager, substitute caregiver, or volunteer for the AFH provider if the Division believes there is reason to justify a new criminal history check in accordance with OAR chapter 943, division 007.

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(10) An AFH provider seeking initial licensing or that has been in operation for less than 24 months has the burden of proof to establish compliance with ORS 443.705 to 443.825 and the Division rules.

(11) The burden of proof shall be upon the Division to establish compliance with ORS 443.705 to 443.825 and the Division rules if an AFH provider is seeking renewal of a license and has been in continuous operation for more than 24 months.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0025, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0350

Variance

(1) A provider or applicant may apply to the Division for a variance from a provision of these rules. The provider shall provide justification that a variance does not jeopardize the health, life, or safety of the individuals and would not violate or compromise an applicable ORS.

(2) The Division may not grant a variance from a regulation or provision of these rules pertaining to the license capacity of the AFH; inspections of the AFH; civil, legal, and human rights; and inspection of the public files. The Division may not grant a variance related to fire and life safety without prior consultation with the local fire authority or designee.

(3) A provider or applicant may apply to the Division for a variance specific to each individual under ORS 443.725, subject to the following requirements:

(a) The variance is effective only for the specific individual who has been assessed and meets the safety requirements prescribed by the Division. This assessment shall become part of the individual's RCP;

(b) A variance allowing a specific individual to be in the AFH alone may not exceed four hours in a 24-hour period;

(c) No variance allows a provider to leave an individual alone in the AFH between the hours of 11 p.m. to 6 a.m.; and

(d) Twenty-four hour per day care shall continue for any individual that does not qualify to be in the AFH alone.

(4) Variances shall be granted or denied in writing. All variances granted shall be reviewed with each license renewal under OAR 309-040-0345. A variance granted to one AFH provider or a variance granted regarding a specific individual does not constitute a precedent for any other AFH provider, applicant, or individual.

(5) The AFH provider or applicant may appeal the denial of a variance request by submitting a request for reconsideration in writing to the Division. The Division shall make a decision on the appeal within 30 days of receipt of the appeal. The decision of the Division shall be final.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0035, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 2-2007(Temp), f. & cert. ef. 5-4-07 thru 10-31-07; MHS 12-2007, f. & cert. ef. 8-31-07; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0355

Contracts

(1) Providers who care for public assistance individuals must enter into a contract with the Division and comply with Division rules governing reimbursement for services and refunds.

(2) Providers who care for private paying individuals must enter into a signed contract with the individual or person paying for care. This contract shall include, but is not limited to, an RCP, a schedule of rates, conditions under which the rates may be changed, and the AFH's policy on refunds at the time of hospitalization, death, discharge, or voluntary move.

(3) The provider shall provide a 30-day prior written notification to private pay individuals of increases, additions, and other modifications to the rates. Unless the change is due to a medical emergency resulting in a greater level of care, in which case the provider shall give notice within ten days of the change.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0040, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0360

Qualifications for AFH Providers, Resident Managers, and Other Caregivers

(1) An AFH provider must meet the following qualifications:

(a) Be at least 21 years of age;

(b) Live in the AFH to be licensed, unless an approved resident manager lives in the AFH;

(c) Provide evidence satisfactory to the Division regarding experience, training, knowledge, interest, and concern in providing care to persons with severe and persistent mental illness. Evidence may include, but is not limited to the following:

(A) Certified nurse's aide training;

(B) Nursing home, hospital, or institutional work experience;

(C) Licensed practical nurse or registered nurse training and experience;

(D) Division approved training;

(E) Experience in caring for individuals with severe and persistent mental illness at home; and

(F) Home management skills.

(d) Possess the physical health and mental health determined necessary by the Division to provide 24-hour care for adults who are mentally ill. Applicants shall have a statement from a physician on a Division approved form that they are physically and mentally capable of providing care;

(e) Undergo a criminal history check in accordance with OAR chapter 943 division 007 and be found eligible for licensure by the Division. The Division shall evaluate and verify information regarding criminal history;

(f) Provide evidence of sufficient financial resources to operate an AFH for at least two months, unless the application is for renewal of an AFH that is already in operation. A credit reference check may be required;

(g) Be literate and capable of understanding written and oral orders and communicating with individuals, physicians, case managers, and appropriate others and be able to respond appropriately to emergency situations at all times;

(h) If transporting individuals by motorized conveyance, shall have a current driver's license in compliance with the Department of Motor Vehicles laws and vehicle insurance as required by the State of Oregon.

(2) The resident manager shall meet the provider qualifications listed in section (1)(a) through (h) of this rule. A resident manager applicant may work in the home pending outcome of the national criminal history check, if the Oregon criminal history check was clear and no convictions were self-disclosed on the criminal record authorization.

(3) Substitute caregivers left in charge of an individual for any period of time shall have access to individual records and meet the following qualifications:

(a) Be at least 18 years of age;

(b) Be subject to a criminal history check. A substitute caregiver may work in the home pending outcome of the national criminal history check providing the Oregon criminal history check was clear and no convictions were self-disclosed on the criminal record authorization;

(c) Be able to communicate orally and in writing with individuals, physicians, case managers, and appropriate others;

(d) Know fire safety and emergency procedures;

(e) Have a clear understanding of job responsibilities, have knowledge of RCPs, and be able to provide the care specified for each individual;

(f) Be able to meet the requirements of a resident manager when left in charge of an AFH for 30 days or longer;

(g) Not be an individual; and

(h) If transporting individuals by motorized conveyance, shall have a current driver's license in compliance with Department of Motor Vehicles laws and vehicle insurance as required by the State of Oregon.

(4) The provider may not hire or continue to employ a resident manager or substitute caregiver who does not meet the requirements of this rule.

(5) A provider shall supervise and train resident managers and substitute caregivers and monitor their general conduct when acting within the scope of their employment or duties.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0045, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0365

Facility Standards

(1) In order to qualify for or maintain a license, an AFH shall meet the following provisions:

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(a) Demonstrate compliance with Oregon Structural Specialty Code (OSSC) and Oregon Fire Code; and

(b) Maintain up-to-date documentation verifying they meet applicable local business license, zoning, and building and housing codes and state and local fire and safety regulations. It is the duty of the provider to check with local government to be sure all applicable local codes have been met;

(c) For AFH's established on or after October 1, 2004, meet all applicable state building, mechanical, and housing codes for fire and life safety. The AFH shall be inspected for fire safety by an inspector designated by the Division using the recommended standards established by the State Fire Marshal for facilities housing one to five persons. Refer to Appendix I of the Oregon Fire Code, the Oregon Residential Specialty Code, and the Oregon Structural Specialty Code. When deemed necessary by the Division, a request for fire inspection shall be made to the State Fire Marshal;

(d) The building and furnishings shall be clean and in good repair and grounds shall be maintained. Walls, ceilings, and floors shall be of such character to permit frequent washing, cleaning, or painting. There shall be no accumulation of garbage, debris, rubbish, or offensive odors;

(e) Stairways shall be provided with handrails. A functioning light shall be provided in each room, stairway, and exit way; incandescent light bulbs shall be protected with appropriate covers. Yard and exterior steps shall be accessible to individuals;

(f) The heating system shall be in working order. Areas of the AFH used by individuals shall be maintained at no less than 68 degrees Fahrenheit during the day and 60 degrees Fahrenheit during sleeping hours. During times of extreme summer heat, the provider shall make a reasonable effort to make the individuals comfortable using available ventilation or fans;

(g) There shall be at least 150 square feet of common space and sufficient comfortable furniture in the AFH to accommodate the recreational and socialization needs of the occupants at one time. Common space shall not be located in the basement or garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space is required if wheelchairs are to be accommodated;

(h) Pools and hot tubs shall be equipped with sufficient safety barriers or devices to prevent accidental injury in accordance with Section R116 of the Oregon Residential Specialty Code.

(2) Any accessibility improvements made to accommodate an identified individual shall be in accordance with the specific needs of the individual and comply with Chapter 11 of the building code.

(3) An AFH shall have an accessible outdoor area that shall be made available to individuals.

(4) Storage of a reasonable size for an individual's belongings beyond that of the individual's unit shall be made available:

(a) All yard maintenance equipment shall be maintained in a locked storage if such equipment poses a safety threat;

(b) A locked storage area for individual medications separate from food, laundry, and toxic or hazardous materials shall be made accessible to all caregivers. For individuals who are self-medicating, the provider shall make a secured locked box available to assure the safety of all occupants of the home;

(c) A locked storage area separate from food and medications shall be designated when there are toxic or hazardous materials on the premises.

(5) All equipment shall be clean and in good repair, provide individual privacy, and shall have but is not limited to, the following:

(a) A finished interior, a mirror, an operable window or other means of ventilation, and a window covering;

(b) Tubs or showers, toilets and sinks. A sink shall be located near each toilet. A toilet and sink shall be provided on each floor where rooms of non-ambulatory individuals or individuals with limited mobility are located. There shall be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;

(c) Hot and cold water in sufficient supply to meet the needs of individuals for personal hygiene. Hot water temperature sources for bathing areas shall not exceed 120 degrees Fahrenheit;

(d) Shower enclosures with nonporous surfaces. Glass shower doors shall be tempered safety glass. Shower curtains shall be clean and in good condition. Non-slip floor surfaces shall be provided in tubs and showers;

(e) Grab bars for toilets, tubs, or showers for safety as required by an individual's disability;

(f) The AFH may not be designed to allow an individual or employee to walk through another individual's bedroom to get to a bathroom. Individuals shall have barrier-free access to toilet and bathing facilities with appropriate fixtures.

(g) If there are non-ambulatory individuals, alternative arrangements shall be appropriate to meet the non-ambulatory individual's needs for maintaining good personal hygiene.

(h) Individuals shall have appropriate racks or hooks for drying bath linens.

(6) All furniture and furnishings shall be clean and in good repair. Units for all household occupants shall have been constructed as a bedroom when the home was built or remodeled under permit; be finished, with walls or partitions of standard construction that go from floor to ceiling, and a door which opens directly to a hallway or common use room without passage through another unit or common bathroom; be adequately ventilated, heated, and lighted with at least one operable window that meets fire egress regulations. (See Section R310 Emergency Escape and Rescue Openings in the Oregon Residential Specialty Code.) All units shall include a minimum of 70 square feet of usable floor space for each individual or 120 square feet for two individuals, have no more than two persons per room, and allow for a minimum of three feet between beds. In addition, the provider shall ensure that:

(a) Each unit has a lockable entrance door for the individual's privacy:

(A) The locking device shall release with a single-action lever on the inside of the unit and open to a hall or common-use room;

(B) The provider shall provide each individual with a personalized key that operates only the door to his or her unit door from the corridor side;

(C) The provider shall maintain a master key to access all of the units that is quickly available to the provider or resident manager and documented in the individual's person-centered service plan;

(D) The provider may not disable or remove a lock to a unit without first obtaining consent from the individual through the individually-based limitations process outlined in OAR 309-040-0393; and

(E) Section (6) is effective July 1, 2016, and enforceable as described in OAR 309-040-0315(7).

(b) Providers, resident managers, or their family members may not sleep in areas designated as living areas or share units with individuals;

(c) In determining maximum capacity, consideration shall be given to whether children over the age of five have a bedroom separate from their parents;

(d) Units shall be on ground level for individuals who are non-ambulatory or have impaired mobility;

(e) Individual units shall be in close enough proximity to alert the provider or resident manager to night time needs or emergencies or be equipped with a call bell or intercom.

(7) AFH's established on or after October 1, 2004, shall meet all applicable state building, residential, fire, mechanical, and housing codes for fire and life safety. The AFH shall be inspected for fire safety by an inspector designated by the Division using the recommended standards established by the State Fire Marshal for facilities housing one to five individuals. Refer to Appendix I of the Oregon Fire Code, the Oregon Residential Specialty Code, and the Oregon Structural Specialty Code. When deemed necessary by the Division, a request for fire inspection shall be made to the State Fire Marshal.

(8) Special hazards such as the following:

(a) Flammable and combustible liquids and hazardous materials shall be safely and properly stored in original, properly labeled containers, or safety containers and secured to prevent tampering by individuals or others. Firearms on the premises of an AFH shall be stored in a locked cabinet. The firearms cabinet shall be located in an area of the home that is not readily accessible to individuals, and all ammunition shall be stored in a separate, locked location;

(b) Smoking regulations shall be adopted to allow smoking only in designated areas. Smoking shall be prohibited in sleeping rooms and upon upholstered crevasse furniture. Ashtrays of noncombustible material and safe design shall be provided in areas where smoking is permitted;

(c) Cleaning supplies, poisons, and insecticides shall be properly stored in original, properly labeled containers in a safe area away from food, preparation and storage of food, dining areas, and medications.

(9) All furniture and furnishings shall be clean and in good repair. There shall be at least 150 square feet of common space and sufficient comfortable furniture in the AFH to accommodate the recreational and socialization needs of the occupants at one time. Common space may not be located in the basement or garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space shall be required if wheelchairs are to be accommodated.

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(10) All equipment shall be clean and in good repair. Laundry facilities shall be separate from food preparation and other individual use areas. The provider shall maintain the following:

(a) Locked storage area for chemicals that pose a safety threat to individuals or family members;

(b) Sufficient, separate storage and handling space to ensure that clean laundry is not contaminated by soiled laundry;

(c) Outlets, venting, and water hookups according to State Building Code requirements; and

(d) Washing machines shall have a minimum rinse temperature of 140 degrees Fahrenheit.

(11) All equipment shall be clean and in good repair. The provider shall maintain an area for dry storage, not subject to freezing, in cabinets or a separate pantry with a minimum of one week's supply of staple foods. The provider shall maintain the following:

(a) Sufficient refrigeration space maintained at 45 degrees Fahrenheit or less and freezer space maintained at 0 degree Fahrenheit or less for a minimum of two days' supply of perishable foods;

(b) A dishwasher with a minimum final rinse of 140 degrees Fahrenheit;

(c) Smooth, nonabsorbent and cleanable counters for food preparation and serving;

(d) Appropriate storage for dishes and cooking utensils designed to be free from potential contamination;

(e) Stove and oven equipment for cooking and baking needs;

(f) Storage for a mop and other cleaning tools and supplies used for food preparation, dining, and adjacent areas. Such cleaning tools shall be maintained separately from those used to clean other parts of the home; and

(g) Dining Space where meals are served shall be provided to seat all individuals at the same seating.

(12) Details and Finishes:

(a) The building and furnishings shall be clean and in good repair, and grounds shall be maintained. Walls, ceilings, and floors shall be of such character to permit frequent washing, cleaning, or painting;

(b) Locks used on doors to individuals' units shall be in good repair with an interactive lock to release with operation of the inside door handle and be master keyed from the corridor side and comply with the requirements established by OAR 309-040-0365(6)(a) and its subsections. Exit doors may not have locks that prevent evacuation except as permitted by Section 1008.1.8 of the building code. An exterior door alarm or other acceptable system may be provided for security purposes and alert the provider when individuals or others enter or exit the home.

(c) Handrails. Handrails shall be secured on all stairways.

(13) The heating system shall be in working order:

(a) Areas of the AFH used by individuals shall be maintained at no less than 68 degrees Fahrenheit during daytime hours and no less than 60 degrees Fahrenheit during sleeping hours. During times of extreme summer heat, the provider shall make reasonable effort to make the residents comfortable using available ventilation or fans;

(b) All toilets and shower rooms shall be ventilated by a mechanical exhaust system or operable window;

(c) Design and installation of fireplaces, furnaces and wood stoves shall meet standards of the Oregon Mechanical and Residential Specialty Code and have annual inspections to assure no safety hazard exists;

(d) Hot water temperatures shall be maintained within a range of 110¼ to 120 degrees Fahrenheit. Hot water temperatures for washing machines and dishwashers shall be at least 140 degrees Fahrenheit.

(14) All electrical systems shall meet the standards of the Oregon Electrical Specialty Code in effect on the date of installation, and all electrical devices shall be properly wired and in good repair:

(a) When not fully grounded, GFI-type receptacles or circuit breakers as an acceptable alternative may protect circuits in individual areas;

(b) Circuit breakers or non-interchangeable circuit-breaker-type fuses in fuse boxes shall be used to protect all electrical circuits;

(c) A sufficient supply of electrical outlets shall be provided to meet individual and staff needs without the use of extension cords or outlet expander devices;

(d) A functioning light shall be provided in each room, stairway, and exit way. Lighting Fixtures shall be provided in each individual bedroom and bathroom with a light switch near the entry door and in other areas as required to meet task illumination needs;

(e) Incandescent light bulbs shall be protected with appropriate covers.

(15) All plumbing shall meet the Oregon Plumbing Specialty Code in effect on the date of installation, and all plumbing fixtures shall be properly installed and in good repair.

(16) Pools, hot tubs, and ponds shall be equipped with sufficient safety barriers or devices to prevent accidental injury in accordance with Section R116 of the Oregon Residential Specialty Code.

(17) Telephones:

(a) A telephone shall be available and accessible 24 hours a day for individuals' use for incoming and outgoing calls in the AFH;

(b) Emergency telephone numbers for the local CMHP, Police, Fire, Medical, Poison Control, provider, and other emergencies shall be posted by the individuals' telephone. The posting shall include the name, address, and telephone number of the AFH, telephone numbers for making complaints or a report of alleged abuse to the local CMHP, the Division, the Office of Adult Abuse Prevention and Investigations and the Oregon Advocacy Center;

(c) AFH telephone numbers shall be listed in the local telephone directory;

(d) The provider may establish reasonable rules governing telephone use to ensure equal access by all individuals. Each individual or guardian (as applicable) shall be responsible for payment of long distance phone bills where calls were initiated by the individual, unless otherwise mutually agreed arrangements have been made.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Sections (8)-(10) renumbered to 309-040-0052; MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0050, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0370

Safety

(1) The provider shall train all program staff in staff safety procedures prior to beginning their first regular shift. All individuals shall be trained in individual safety procedures as soon as possible during their first 72 hours of residency.

(2) Emergency Procedures:

(a) An emergency evacuation procedure shall be developed, posted, and rehearsed with occupants. A record shall be maintained of evacuation drills. Drills shall be scheduled at different times of the day and on different days of the week with different locations designated as the origin of the fire for drill purposes:

(A) Drills shall be held at least once every 30 days;

(B) One drill practice shall be held at least once every 90 days during individual's nighttime sleeping hours between 10 p.m. and 6a.m. Fire drill records shall be maintained for three years and include date, time for full evacuation, safety equipment checked (to include fire extinguishers, smoke detectors, secondary egress points, flashlights, and furnace filters), comments on the drill results, and names of individuals requiring assistance for evacuation;

(b) The residential care plan must document that within 24 hours of arrival, each new individual has received an orientation to basic safety and has been shown how to respond to a fire alarm and how to exit from the AFH in an emergency;

(c) The provider shall demonstrate the ability to evacuate all individuals from the facility within three minutes. If there are problems in demonstrating this evacuation time, the Division may apply conditions to the license that include, but may not be limited to, reduction of individuals under care, additional staffing, increased fire protection, or revocation of the license;

(d) The provider shall provide to the Division, maintain as current, and post a floor plan on each floor containing room sizes, location of each individual's bed, fire exits, resident manager or provider's sleeping room, smoke detectors, fire extinguishers and escape routes. A copy of this drawing shall be submitted with the application and updated to reflect any change;

(e) There shall be at least one plug-in rechargeable flashlight available for emergency lighting in a readily accessible area on each floor including a basement.

(3) A written disaster plan shall be developed to cover such emergencies and disasters as fires, explosions, missing persons, accidents, earthquakes, and floods. The plan shall be posted by the phone and immediately available to the employees. The plan shall specify temporary and long-range habitable shelter where staff and individuals shall reside if the AFH becomes uninhabitable.

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(4) Non-toxic cleaning supplies shall be used whenever available. Poisonous and other toxic materials shall be properly labeled and stored in locked areas distinct and apart from all food and medications.

(5) Evacuation capability categories are based upon the ability of the individuals and staff as a group to evacuate the facility or relocate from a point of occupancy to a point of safety:

(a) Documentation of an individual's ability to safely evacuate from the facility shall be maintained in the individual's personal care plan;

(b) Individuals experiencing difficulty with evacuating in a timely manner shall be provided assistance from staff and offered environmental and other accommodations, as practical. Under these circumstances, the provider shall consider increasing staff levels, changing staff assignments, offering to change the individual's room assignment, arranging for special equipment, and taking other actions that may assist the individual;

(c) Individuals who still cannot evacuate the home safely in the allowable period of time of three minutes must be assisted with transferring to another program with an evacuation capability designation consistent with the individual's documented evacuation capability;

(d) Written evacuation records shall be retained for at least three years. Records shall include documentation made at the time of the drill, specifying the date and time of the drill, the location designated as the origin of the fire for drill purposes, the names of all individuals and staff present, the amount of time required to evacuate, notes of any difficulties experienced, and the signature of the staff person conducting the drill.

(6) All stairways, halls, doorways, passageways, and exits from rooms and from the home shall be unobstructed.

(7) At least one 2A-10BC rated fire extinguisher shall be in a visible and readily accessible location on each floor, including basements, and shall be inspected at least once a year by a qualified worker that is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing shall be completed by a qualified agency properly trained and equipped for this purpose;

(8) Approved smoke detector systems or smoke alarms shall be installed according to Oregon Residential Specialty Code and Oregon Fire Code requirements. These alarms shall be tested during each evacuation drill. The provider shall provide approved signal devices for individuals with disabilities who do not respond to the standard auditory alarms. All of these devices shall be inspected and maintained in accordance with the requirements of the State Fire Marshal or local agency having jurisdiction. Ceiling placement of smoke alarms or detectors is recommended. Alarms shall be equipped with a device that warns of low battery when battery operated. All smoke detectors and alarms shall be maintained in functional condition;

(9) Special hazards:

(a) Flammable and combustible liquids and hazardous materials shall be safely and properly stored in original, properly labeled containers or safety containers, and secured to prevent tampering by individuals and vandals. Firearms on the premises of an AFH must be stored in a locked cabinet. The firearms cabinet shall be located in an area of the home that is not readily accessible to clients, and all ammunition must be stored in a separate, locked location;

(b) Smoking regulations shall be adopted to allow smoking only in designated areas. Smoking shall be prohibited in sleeping rooms and upon upholstered crevasse furniture. Ashtrays of noncombustible material and safe design shall be provided in areas where smoking is permitted;

(c) Cleaning supplies, poisons, and insecticides shall be properly stored in original, properly labeled containers in a safe area away from food, preparation and storage of food, dining areas, and medications.

(10) Sprinkler systems, if used, shall be installed in compliance with the Oregon Structural Specialty Code and Oregon Fire Code and maintained in accordance with rules adopted by the State Fire Marshal.

(11) First aid supplies shall be readily accessible to staff. All supplies shall be properly labeled.

(12) Portable heaters are a recognized safety hazard and may not be used, except as approved by the State Fire Marshal, or authorized representative.

(13) A safety plan shall be developed and implemented to identify and prevent the occurrence of hazards. Hazards may include, but are not limited to, dangerous substances, sharp objects, unprotected electrical outlets, use of extension cords or other special plug-in adapters, slippery floors or stairs, exposed heating devices, broken glass, inadequate water temperatures, overstuffed furniture in smoking areas, unsafe ashtrays and ash disposal, and other potential fire hazards.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0375

Sanitation

(1) The water supply in the home shall meet the requirements of the current Authority rules governing domestic water supplies:

(a) A municipal water supply shall be utilized if available;

(b) When the home is not served by an approved municipal water system, and the home qualifies as a public water system according to OAR 333-061-0020(94) Authority rules for public water systems, then the provider shall comply with the OAR chapter 333. These include requirements that the drinking water be tested for total coliform bacteria at least quarterly and nitrate at least annually and reported to the Division. For adverse test results, these rules require that repeat samples and corrective action be taken to assure compliance with water quality standards. Public notice shall be given whenever a violation of the water quality standards occurs, and records of water testing shall be retained according to Division requirements.

(2) All floors, walls, ceilings, windows, furniture, and equipment shall be kept in good repair, clean, neat, and orderly.

(3) Each bathtub, shower, lavatory, and toilet shall be kept clean, in good repair, and regularly sanitized.

(4) Kitchen sinks may not be used for the disposal of cleaning wastewater.

(5) Soiled linens and clothing shall be stored in an area or container separate from kitchens, dining areas, clean linens, clothing, and food.

(6) All necessary measures shall be taken to prevent rodents and insects from entering the home. Should pests be found in the home, appropriate action shall be taken to eliminate them.

(7) The grounds of the facility shall be kept orderly and reasonably free of litter, unused articles, and refuse.

(8) Garbage and refuse receptacles shall be clean, durable, watertight, insect and rodent proof, and shall be kept covered with tight-fitting lids. All garbage and solid waste shall be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.

(9) All sewage and liquid wastes shall be disposed of in accordance with the Plumbing Code to a municipal sewage system where such facilities are available. If a municipal sewage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in compliance with the current rules of the Department of Environmental Quality. Sewage lines and septic tanks or other non-municipal sewage disposal systems, where applicable, shall be maintained in good working order.

(10) Biohazard waste shall be disposed of in compliance with the rules of the Department of Environmental Quality.

(11) Precautions shall be taken to prevent the spread of infectious or communicable diseases as defined by the Centers for Disease Control and to minimize or eliminate exposure to known health hazards:

(a) In accordance with OAR 437-002-0368 through 2226 of the Oregon Occupational Safety and Health Code, program staff shall employ universal precautions whereby all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, and other blood borne pathogens;

(b) Bathroom facilities shall be equipped with an adequate supply of toilet paper, soap, and towels.

(12) If pets or other household animals exist at the home, sanitation practices shall be implemented to prevent health hazards:

(a) These animals shall be vaccinated in accordance with the recommendations of a licensed veterinarian. Proof of such vaccinations shall be maintained on the premises;

(b) Animals not confined in enclosures shall be under control and maintained in a manner that does not adversely impact individuals or others.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0380

Individual Furnishings

(1) Bedrooms and Units:

(a) Bedrooms for all household occupants and units for individuals shall have been constructed as a bedroom when the home was built or remodeled under permit; be finished with walls or partitions of standard construction that go from floor to ceiling and a door that opens directly to

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a hallway or common use room without passage through another bedroom or unit or common bathroom; be adequately ventilated, heated and lighted with at least one operable window that meets the requirements of Section R310 of the Oregon Residential Specialty Code; have at least 70 square feet of usable floor space for each individual or 120 square feet for two individuals and have no more than two individuals per room;

(b) Providers, resident managers, or their family members may not sleep in areas designated as living areas, or share bedrooms or units with individuals;

(c) There shall be an individual bed for each individual consisting of a mattress in good condition and springs at least 36 inches wide. Cots, roll-away, bunks, trundles, couches, and folding beds may not be used for individuals. Each bed shall have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Sheets and pillowcases shall be laundered at least weekly, and more often if necessary. Waterproof mattress covers shall be used for incontinent individuals. Day care individuals may not use individual beds;

(d) Each unit shall have sufficient separate, private dresser and closet space for each individual's clothing and personal effects, including hygiene and grooming supplies. Individuals shall be allowed to keep and use reasonable amounts of personal belongings and to have private, secure storage space. Drapes or shades for windows shall be in good condition and provide privacy for individuals;

(e) Units shall be on ground level for individuals who are non-ambulatory or have impaired mobility;

(f) Units shall be in close enough proximity to the provider to alert the provider to night time needs or emergencies or be equipped with a call bell or intercom.

(2) Each individual shall be assisted in obtaining personal hygiene items in accordance with individual needs. Items shall be stored in a clean and sanitary manner and may be purchased with the individual's personal allowance. Personal hygiene items include, but are not limited to, a comb or hairbrush, a toothbrush, toothpaste, menstrual supplies (if needed), towels, and washcloths.

(3) Sufficient supplies of soap, shampoo, and toilet paper for all individuals shall be provided.

(4) An adequate supply of furniture for individual use in the living room, dining room, and other common areas shall be maintained in good condition.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0385

Food Services

(1) Three nutritious meals shall be served daily at times consistent with those in the community. Meals shall be planned and served in accordance with the recommended dietary allowances found in the United States Department of Agriculture Food Guide Pyramid or as directed by a prescriber. Consideration shall be given to cultural and ethnic backgrounds of individuals in food preparation.

(2) An order from an LMP must be obtained for each individual who for health reasons is on a modified or special diet. These diets shall be planned in consultation with the individual.

(3) Menus shall be prepared at least one week in advance and provide a sufficient variety of foods served in adequate amounts for each individual at each meal and adjusted for seasonal changes. Records of menus as served shall be filed and maintained in the AFH for three years. Individual preferences and requests shall be considered in menu planning. Religious and vegetarian preferences must be reasonably accommodated.

(4) Meals shall be prepared and served in the facility where the individuals live. Payment for meals eaten away from the AFH for the convenience of the provider (e.g. restaurants, senior meal sites) shall be paid for by the provider. Meals and snacks as part of an individual recreational outing shall be paid for by the individual. Food preparation areas shall be clean, free of obnoxious odors, and in good repair.

(5) The provider shall maintain adequate supplies of staple foods for a minimum of one week and perishable foods for a minimum of two days at the setting. An emergency supply of potable water shall be available such that the provider maintains seven gallons of water per individual.

(6) Food shall be stored, prepared, and served in accordance with the Authority's Food Sanitation Rules:

(a) All working refrigerators and freezers shall have a thermometer in working order;

(b) Food storage areas and equipment shall be such that food is protected from dirt and contamination and maintained at proper temperatures to prevent spoilage.

(7) Equipment shall be maintained in a safe and sanitary manner. Utensils, dishes, and glassware shall be maintained in a sufficient number to accommodate the licensed capacity of the AFHs. Utensils, dishes, and glassware shall be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with sanitation cycle is recommended.

(8) The provider shall support the individual's right to access food at any time. The provider may only apply an individually-based limitation when there is a threat to the health and safety of an individual or others, and the provider complies with the requirements outlined in OAR 309-040-0393. This section is effective July 1, 2016, and enforceable as described in OAR 309-040-0315(7).

(9) If an individual misses a meal at a scheduled time, an alternative meal shall be made available.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17

309-040-0390

Standards and Practices for Care and Services

(1) There shall be a provider, resident manager, or substitute caregiver on duty 24 hours per day in an AFH in accordance with ORS 443.725(3).

(2) Medications and Prescriber's Orders:

(a) There shall be a copy of a medication, treatment, or therapy order signed by a physician, nurse practitioner, or other licensed prescriber in the individual's file for the use of any medications, including over the counter medications, treatments, and other therapies.

(b) A provider, resident manager, or substitute caregiver shall dispense medications, treatments, and therapies as prescribed by a physician, nurse practitioner, or other licensed prescriber. Changes to orders for the dispensing and administration of medication or treatment may not be made without a written order from a physician, nurse practitioner, or other licensed prescriber. A copy of the medication, treatment, or therapy order shall be maintained in the individual's record. The provider, resident manager, or substitute caregiver shall promptly notify the individual's case manager of any request for a change in individual's orders for medications, treatments, or therapies;

(c) Each individual's medications shall be clearly labeled with the pharmacist's label or the manufacturer's originally labeled container and kept in a locked location. The provider or provider's family medication shall be stored in a separate locked location. All medication for pets or other animals shall be stored in a separate locked location. Unused, outdated, or recalled medications may not be kept in the AFH and shall be disposed in a manner to prevent diversion into the possession of people other than for whom it was prescribed. The provider shall document disposal of all unused, outdated, and or recalled medication on individuals' drug disposal forms;

(d) Medications may not be mixed together in another container prior to administration except as packaged by the pharmacy or by physician order;

(e) A written medication administration record (MAR) for each individual shall be kept of all medications administered by the program staff to that individual, including over the counter medications. The MAR shall indicate name of medication, dosage and frequency of administration, route or method, dates and times given, and be immediately initialed by the caregiver dispensing using only blue or black indelible ink. Treatments, therapies, and special diets shall be immediately documented on the medication administration record including times given, type of treatment or therapy, and initials of the caregiver giving it using only blue or black indelible ink. The medication administration record shall have a legible signature for each set of initials using only blue or black indelible ink;

(f) The MAR shall include documentation of any known allergy or adverse reactions to a medication and documentation and an explanation of why a PRN medication was administered and the results of such administration;

(g) For any individual who is self-administering medication, the individual's record shall include the following documentation:

(A) That the individual has been trained for self-administering of prescribed medication or treatment or that the prescriber has provided documentation that training for the individual is unnecessary;

(B) That the individual is able to manage his or her own medication regimen, and the provider shall keep medications stored in an area that is inaccessible to others and locked;

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(C) Of retraining when there is a change in dosage, medication, and time of delivery;

(D) Of review of self-administration of medication as part of the residential care plan process; and

(E) Of a current prescriber order for self-administration of medication.

(h) Injections may be self-administered by the individual or administered by a relative of the individual, a currently licensed registered nurse, a licensed practical nurse under registered nurse supervision, or providers who have been trained and are monitored by a physician or delegated by a registered nurse in accordance with administrative rules of the Board of Nursing chapter 851, division 047. Documentation regarding the training or delegation shall be maintained in the individual's record;

(3) Nursing tasks may be delegated by a registered nurse to providers and other caregivers only in accordance with administrative rules of the Board of Nursing chapter 851, division 47. This includes but is not limited to the following conditions:

(a) The registered nurse has assessed the individual's condition to determine there is not a significant risk to the individual if the provider or other caregiver performs the task;

(b) The registered nurse has determined the provider or other caregiver is capable of performing the task;

(c) The registered nurse has taught the provider or caregiver how to do the task;

(d) The provider or caregiver has satisfactorily demonstrated to the registered nurse the ability to perform the task safely and accurately;

(e) The registered nurse provides written instructions for the provider or caregiver to use as a reference;

(f) The provider or caregiver has been instructed that the task is delegated for this specific person only and is not transferable to other individuals or taught to other care providers;

(g) The registered nurse has determined the frequency for monitoring the provider or caregiver's delivery of the delegated task; and

(h) The registered nurse has documented a residential care plan for the individual including delegated procedures, frequency of registered nurse follow-up visits, and signature and license number of the registered nurse doing the delegating.

(4) The initial residential care plan shall be developed within 24 hours of admission to the AFH.

(5) This section and its subsections are effective July 1, 2016 and enforceable as described in OAR 309-040-0315(7):

(a) During the initial 30 calendar days following the individual's admission to the AFH, the provider shall continue to assess and document the individual's preferences and care needs. The provider shall complete and document the assessment and care plan in an RCP within 30 days after admission unless the individual is admitted to the AFH for crisis-respite services;

(b) An RCP is an individualized plan intended to implement and document the provider's delivery of services as well as any individualized limitations contained within the person-centered service plan and identifies the goals to be accomplished through those services. The RCP shall describe the individual's needs, preferences, capabilities, and what assistance the individual requires for various tasks;

(c) The provider shall develop the RCP based upon the findings of the individual assessment with participation of the individual and through collaboration with the individual's primary mental health treatment provider and the person-centered service plan coordinator. With consent of the individual, family members, representatives from involved agencies, and others with an interest in the individual's circumstances may be invited to participate in the development of the RCP. The provider shall have proper prior authorization from the individual or the individual's representative prior to such contact;

(d) The RCP shall adequately consider and facilitate the implementation of the individual's person-centered service plan by addressing the following:

(A) Address the implementation and provision of services by the provider consistent with the obligations imposed by the person-centered service plan;

(B) Identify the individual's service needs, desired outcomes, and service strategies to advance all areas identified in the person-centered service plan, the individual's physical and medical needs, medication regimen, self-care, social-emotional adjustment, behavioral concerns, independent living capability and community navigation, as well as any other area of concern or the other goals set by the individual;

(e) The RCP shall be signed by the individual, the provider, or the provider's designee, and others, as appropriate, to indicate mutual agreement with the course of services outlined in the plan;

(f) The provider shall review and update each individual's RCP every six months and when an individual's condition changes. The review shall be documented in the individual's record at the time of the review and include the date of the review and the provider's signature. If an RCP contains many changes and becomes less legible, the provider shall write a new care plan;

(g) The provider shall attach the RCP to the person-centered service plan.

(6) A person-centered service plan shall be completed in the following circumstances:

(a) A person-centered service plan coordinator under contract with the Division shall complete a person-centered service plan with each individual pursuant to OAR 411-004-0030. The provider shall make a good faith effort to implement and complete all elements the provider is responsible for implementing as identified in the person-centered service plan;

(b) The person-centered service plan coordinator documents the person-centered service plan on behalf of the individual and provides the necessary information and supports to ensure the individual directs the person-centered service planning process to the maximum extent possible;

(c) The person-centered service plan shall be developed by the individual and, as applicable, the legal or designated representative of the individual, and the person-centered service plan coordinator. Others may be included only at the invitation of the individual and, as applicable, the individual's representative;

(d) To avoid conflict of interest, the person-centered service plan may not be developed by the provider for individuals receiving Medicaid. The Division may grant exceptions when it determines that the provider is the only willing and qualified entity to provide case management and develop the person-centered service plan in a specific geographic area;

(e) For private pay individuals, a person-centered service plan may be developed by the individual, or, as applicable, the legal or designated representative of the individual, and others chosen by the individual. Providers shall assist private pay individuals in developing person-centered service plans when no alternative resources are available. Private pay individuals are not required to have a written person-centered service plan.

(7) A person-centered service plan shall be developed through a person-centered service planning process. The person-centered service planning process includes the following:

(a) Is driven by the individual;

(b) Includes people chosen by the individual;

(c) Provides necessary information and supports to ensure the individual directs the process to the maximum extent possible and is enabled to make informed choices and decisions;

(d) Is timely, responsive to changing needs, occurs at times and locations convenient to the individual, and is reviewed at least annually;

(e) Reflects the cultural considerations of the individual;

(f) Uses language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual and, as applicable, the individual's representative;

(g) Includes strategies for resolving disagreement within the process, including clear conflict of interest guidelines for all planning participants, such as:

(A) Discussing the concerns of the individual and determining acceptable solutions;

(B) Supporting the individual in arranging and conducting a person-centered service planning meeting;

(C) Utilizing any available greater community conflict resolution resources;

(D) Referring concerns to the Office of the Long-Term Care Ombudsman; or

(E) For Medicaid recipients, following existing, program-specific grievance processes.

(h) Offers choices to the individual regarding the services and supports the individual receives and from whom, and records the alternative HCB settings that were considered by the individual;

(i) Provides a method for the individual to request updates to the person-centered service plan for the individual;

(j) Is conducted to reflect what is important to the individual to ensure delivery of services in a manner reflecting personal preferences and ensuring health and welfare;

(k) Identifies the strengths and preferences, service and support needs, goals, and desired outcomes of the individual;

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- (L) Includes any services that are self-directed, if applicable;
- (m) Includes, but is not limited to, individually identified goals and preferences related to relationships, greater community participation, employment, income and savings, healthcare and wellness, and education;
- (n) Includes risk factors and plans to minimize any identified risk factors; and
- (o) Results in a person-centered service plan documented by the person-centered services plan coordinator, signed by the individual, participants in the person-centered service planning process, and all individuals responsible for the implementation of the person-centered service plan, including the provider, as described below in section (8)(a)(O) of this rule. The person-centered service plan is distributed to the individual, and other people involved in the person-centered service plan as described below in section (8)(d) of this rule.
- (8) Required Contents of person-centered service plan:
 - (a) When the provider is required to develop the person-centered service plan, the provider shall ensure that the plan includes the following:
 - (A) HCBS and setting options based on the needs and preferences of the individual, and for residential settings, the available resources of the individual for room and board;
 - (B) The HCBS and settings are chosen by the individual and are integrated in and support full access to the greater community;
 - (C) Opportunities to seek employment and work in competitive integrated employment settings for those individuals who desire to work. If the individual wishes to pursue employment, a non-disability specific setting option shall be presented and documented in the person-centered service plan;
 - (D) Opportunities to engage in greater community life, control personal resources, and receive services in the greater community to the same degree of access as people not receiving HCBS;
 - (E) The strengths and preferences of the individual;
 - (F) The service and support needs of the individual;
 - (G) The goals and desired outcomes of the individual;
 - (H) The providers of services and supports, including unpaid supports provided voluntarily;
 - (I) Risk factors and measures in place to minimize risk;
 - (J) Individualized backup plans and strategies, when needed;
 - (K) People who are important in supporting the individual;
 - (L) The person responsible for monitoring the person-centered service plan;
 - (M) Language, format, and presentation methods appropriate for effective communication according to the needs and abilities of the individual receiving services;
 - (N) The written informed consent of the individual;
 - (O) Signatures of the individual, participants in the person-centered service planning process, and all people and providers responsible for the implementation of the person-centered service plan as described below in subsection (c) of this section;
 - (P) Self-directed supports; and
 - (Q) Provisions to prevent unnecessary or inappropriate services and supports.
 - (b) When the provider is not required to develop the person-centered service plan but provides services to the individual, the provider shall provide relevant information and provide necessary support for the person-centered service plan coordinator or other persons developing the plan to fulfill the characteristics described in part (a) of this section;
 - (c) The individual decides on the level of information in the person-centered service plan that is shared with providers. To effectively provide services, providers shall have access to the portion of the person-centered service plan that the provider is responsible for implementing;
 - (d) The person-centered service plan is distributed to the individual and other people involved in the person-centered service plan as described above in subsection (c) of this section;
 - (e) The person-centered service plan shall justify and document any individually-based limitation to be applied as outlined in OAR 309-040-0393 when an individual's rights under OAR 309-040-0410(2)(b) through (i) may not be met due to threats to the health and safety of the individual or others;
 - (f) The person-centered service plan shall be reviewed and revised:
 - (A) At the request of the individual;
 - (B) When the circumstances or needs of the individual change; or
 - (C) Upon reassessment of functional needs as required every 12 months.
 - (9) Because it may not be possible to assemble complete records and develop a person-centered service plan during the crisis-respite individual's

short stay, the provider is not required to develop a person-centered service plan under these rules, but shall, at a minimum, develop an initial care plan as required by section (7) of these rules to identify service needs, desired outcomes, and service strategies to resolve the crisis or address the individual's other needs that caused the need for crisis-respite services. In addition, the provider shall provide relevant information and provide necessary support for the person-centered service plan coordinator as described in section (11)(b) of this rule.

(10) The provider shall develop an individual record for each individual. The provider shall keep the individual record current and available on the premises for each individual admitted to the AFH. The provider shall maintain an individual record consistent with the following requirements:

- (a) The record shall include:
 - (A) The individual's name, previous address, date of entry into AFH, date of birth, sex, marital status, religious preference, preferred hospital, Medicaid or Medicare numbers where applicable, guardianship status, and;
 - (B) The name, address, and telephone number of:
 - (i) The individual's legal representative, designated representative, family, advocate, or other significant person;
 - (ii) The individual's preferred primary health provider, designated back up health care provider or clinic;
 - (iii) The individual's preferred dentist;
 - (iv) The individual's day program or employer, if any;
 - (v) The individual's case manager; and
 - (vi) Other agency representatives providing services to the individual.
 - (C) Individual records shall be available to the Authority conducting inspections or investigations as well as to the individual or the individual's representative;
 - (D) Original individual records shall be kept for a period of three years after discharge when an individual no longer resides in the AFH;
 - (E) In all other matters pertaining to confidential records and release of information, providers shall comply with ORS 179.505.
- (b) Medical Information:
 - (A) History of physical, emotional and medical problems, accidents, illnesses or mental status that may be pertinent to current care;
 - (B) Current orders for medications, treatments, therapies, use of restraints, special diets and any known food or medication allergies;
 - (C) Completed medication administration records from the license review period;
 - (D) Name and claim number of medical insurance, and any pertinent medical information such as hospitalizations, accidents, immunization records including previous TB tests, incidents or injuries affecting the health, safety or emotional well-being of any individual.
- (c) Individual Account Record:
 - (A) Individual's Income Sources;
 - (B) Refer to individual's residential care plan with supporting documentation from the income sources to be maintained in the individual's individual record;
 - (C) The individual or the individual's representative shall agree to specific costs for room and board and services within the pre-set limits of the state contract. A copy shall be given to the individual, the individual's representative, and the original in the individual's individual record;
 - (D) Individual's record of discretionary funds.
 - (d) If an individual maintains custody and control of his or her discretionary funds, then no accounting record is required;
 - (e) If a designee of the AFH maintains custody and control of an individual's discretionary fund, a signed and dated account and balance sheet shall be maintained with supporting documentation for expenditures \$10 and greater. The AFH designee shall have specific written permission to manage an individual's discretionary fund;
 - (f) The provider shall maintain a copy of the written house rules with documentation that the provider discussed the house rules with the individual;
 - (g) A written incident report of any unusual incidents relating to the AFH including but not limited to individual care. The incident report shall include how and when the incident occurred, who was involved, what action was taken by staff, and the outcome to the individual. In compliance with HIPAA rules, only the individual's name may be used in the incident report. Separate reports shall be written for each individual involved in an incident. A copy of the incident report shall be submitted to the CMHP within five working days of the incident. The original shall be placed in the individual's individual record.
 - (h) Any other information or correspondence pertaining to the individual;

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(i) Progress notes shall be maintained within each individual's record and document significant information relating to all aspects of the individual's functioning and progress toward desired outcomes as identified in the individual's personal care plan. A progress note shall be entered in the individual's record at least once each month.

(11) Residents' Bill of Rights:

(a) The provider shall guarantee the Residents' Bill of Rights as described in ORS 443.739. The provider shall post a copy of the Residents' Bill of Rights in a location that is accessible to individuals, individuals' representatives, parents, guardians, and advocates. The provider shall give a copy of the Residents' Bill of Rights to each individual, individuals' representative, parent, guardian, and advocate along with a description of how to exercise these rights;

(b) The provider shall explain and document in the individual's file that a copy of the Residents' Bill of Rights was given to each individual at admission and is posted in a conspicuous place including the name and phone number of the office to call to report complaints.

(12) Providers, resident managers, or substitute caregivers may not use physical restraints for individuals receiving personal care services authorized or funded through the Division.

(13) The provider shall:

(a) Conspicuously post the State license and Abuse and Complaint poster where it can be seen by individuals;

(b) Cooperate with Division personnel or designee in complaint investigation procedures, abuse investigations, and protective services, planning for individual care, application procedures, and other necessary activities, and allow access of Division personnel to the AFH, its individuals, and all records;

(c) Give care and services, as appropriate to the age and condition of the individual and as identified on the RCP. The provider shall ensure that physicians' orders and those of other medical professionals are followed and that the individual's physicians and other medical professionals are informed of changes in health status or if the individual refuses care;

(d) House Rules:

(A) The provider shall develop reasonable written house rules regarding hours, visitors, use of tobacco and alcohol, meal times, use of telephones and kitchen, monthly charges and services to be provided and policies on refunds in case of departure, hospitalization, or death;

(B) The provider shall discuss house rules with the individual and families at the time of arrival and be posted in a conspicuous place in the facility. The provider shall maintain written documentation in the individual record that the provider discussed the house rules with the individual along with a copy of the house rules;

(C) House rules are subject to review and approval by the Division and may not violate individual's rights as stated in ORS 430.210;

(D) House rules may not restrict or limit the individual rights under OAR 309-040-0410(2). This subsection is effective July 1, 2016, and enforceable according to 309-040-0315(7).

(e) In the provider's absence, the provider shall have a resident manager or substitute caregiver on the premises to provide care and services to individuals. For absences greater than 72 consecutive hours, the CMHP shall be notified of the name of the substitute caregiver for the provider or resident manager;

(f) A provider, resident manager, or substitute caregiver shall be present in the home at all times;

(g) Allow and encourage individuals to exercise all civil and human rights accorded to other citizens;

(h) Not allow or tolerate physical, sexual, or emotional abuse or punishment, or exploitation, or neglect of individuals;

(i) Provide care and services as agreed to in the RCP;

(j) Keep information related to individuals confidential as required under ORS 179.050;

(k) Ensure that the number of individuals requiring nursing care does not exceed the provider's capability as determined by the Division or CMHP;

(L) Not admit individuals who are clients of Aging and People with Disabilities without the express permission of the Division;

(m) Notify the Division prior to a closure and give individuals, the individuals' representative, families, and CMHP staff 30 days written notice of the planned change except in circumstances where undue delay might jeopardize the health, safety, or well-being of individuals, providers, or caregivers. If a provider has more than one AFH, an individual may not be shifted from one AFH to another without the same period of notice unless prior approval is given and agreement obtained from individuals, family members, and CMHP;

(n) Exercise reasonable precautions against any conditions that could threaten the health, safety, or welfare of individuals;

(o) Immediately notify the appropriate RCP Team members (in particular the CMHP representative and family or guardian) if: the individual has a significant change in medical status; the individual has an unexplained or unanticipated absence from the AFH; the provider becomes aware of alleged or actual abuse of the individual; the individual has a major behavioral incident, accident, illness, hospitalization; the individual contacts or is contacted by the police; or the individual dies, and follow-up with an incident report.

(14) The provider shall write an incident report for any unusual incident and forward a copy of the incident report to the CMHP within five working days of the incident. Any incident that is the result of or suspected of being abuse shall be reported to the Office of Investigations and Training within 24 hours of occurrence.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Renumbered from 309-040-0050(8)-(10); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; MHD 7-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 4-2002, f. 2-26-02, cert. ef. 2-27-02; Renumbered from 309-040-0052, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0393

Individually-Based Limitations

This rule becomes effective on July 1, 2016, and enforceable according to OAR 309-040-0315(7).

(1) When the home-like qualities described below create a threat to the health and safety of an individual or others, a provider may seek to apply individually-based limitation through the process described in this rule. A provider may not otherwise limit the following home-like qualities without a valid individually-based limitation:

(a) The freedom and support to access food at any time;

(b) Have visitors of the individual's choosing at any time;

(c) Have a unit entrance door that is lockable by the individual with only appropriate program staff having access;

(d) Choose a roommate when sharing a unit;

(e) Furnish and decorate the individual's unit as agreed to in the Residency Agreement;

(f) The freedom and support to control the individual's schedule and activities; and

(g) Privacy in the individual's unit.

(2) Minimum Requirements for Applying Individually-Based Limitation: A provider may only apply an individually-based limitation if:

(a) The quality threatens the health or safety of the individual or others;

(b) The individually-based limitation is supported by a specific assessed need;

(d) The individual consents;

(e) The limitation is directly proportionate to the specific assessed need; and

(f) The individually-based limitation will not cause harm to the individual.

(3) The provider shall demonstrate and document that the individually-based limitation meets the requirements of section (2) of this rule and that the conditions described below exist in the person-centered service plan. The provider shall submit and sign a provider-created form that includes the following:

(a) The specific and individualized assessed need justifying the individually-based limitation;

(b) The positive interventions and supports used prior to consideration of any individually-based limitation;

(c) Documentation that the provider or other entities have tried other less intrusive methods 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;

(g) The informed consent of the individual, including any discrepancy between the wishes of the individual and the consent of the legal representative; and

(h) An assurance that the interventions and support do not cause harm to the individual.

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(4) The provider shall:

(a) Maintain a copy of the completed and signed form documenting the consent to the individually-based limitation described in section (3) of this rule. The form shall be signed by the individual.

(b) Regularly collect and review the ongoing effectiveness of and the continued need for the individually-based limitation; and

(c) Request review of the individually-based limitation by the person-centered service plan coordinator when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed, but no less than annually.

(5) The qualities and obligations described in sections (1)(b)-(g) do not apply to an individual receiving crisis-respite services, and a provider is not required to seek an individually-based limitation for such an individual to comply with these rules.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17

309-040-0394

Residency Agreement

This rule become effective July 1, 2016, and is enforceable as described in OAR 309-040-0315(7).

(1) The provider shall enter into a written residency agreement with each individual or the individual's representative residing at the AFH consistent with the following:

(a) The written residency agreement shall be signed by the provider and the individual or the individual's representative prior to or at the time of admission;

(b) The provider shall provide a copy of the signed agreement to the individual or the individual's representative and shall retain the original signed agreement within the individual's individual record;

(c) The provider shall give written notice to an individual and the individual's representative at least 30 calendar days prior to any general rate increases, additions, or other modifications of the rates; and

(d) The provider shall update residency agreements at least annually and also when social security rates change or an individual's finances change such that the amount paid for room and board changes.

(2) The residency agreement shall include, but is not limited to, the following:

(a) The room and board rate describing the estimated public and private pay portions of the rate:

(A) Where an individual's social security or other funding is not active at the time of admission to the program, the program shall prepare the room and board agreement based upon the estimated benefit to be received by the individual; and

(B) If, when funding is later activated, actual income of the individual varies from the estimated income noted on the residency agreement, the agreement shall be updated and re-signed by all the applicable parties.

(b) Services and supports to be provided in exchange for payment of the room and board rate;

(c) Conditions under which the provider may change the rates;

(d) The provider's refund policy in instances of an individual's hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move from the home;

(e) A statement indicating that the individual is not liable for damages considered normal wear and tear;

(f) The provider's policies on voluntary moves and whether or not the provider requires written notification of a non-Medicaid individual's intent to not return;

(g) The potential reasons for involuntary termination of residency in compliance with this rule and individual's rights regarding the eviction and appeal process as outlined in OAR 309-040-0410;

(h) Any policies the provider may have on the use of alcohol, cannabis, and illegal drugs of abuse;

(i) Smoking policies in compliance with the Tobacco Freedom Policy established by the Division;

(j) Policy addressing pet and service animals. The provider may not restrict animals that provide assistance or perform tasks for the benefit of an individual with a disability. Such animals are often referred to as service animals, assistance animals, support animals, therapy animals, companion animals, or emotional support animals.

(k) Policy regarding the presence and use of legal medical and recreational marijuana at the home;

(L) Schedule of meal times. The provider may not schedule meals with more than a 14-hour span between the evening meal and the following morning's meal consistent with OAR 411-050-0645);

(m) Policy regarding refunds for individuals eligible for Medicaid services, including prorating partial months, and if the room and board is refundable;

(n) Any house rules or social covenants required by the provider that may be included in the agreement or as an addendum;

(o) Statement informing the individual of the freedoms authorized by 42 CFR 441.301(c)(2)(xiii) & 42 CFR 441.530(a)(1)(vi)(F), which may not be limited without the informed, written consent of the individual and include the right to:

(A) Live under a legally enforceable agreement with protections substantially equivalent to landlord-tenant laws;

(B) The freedom and support to access food at any time;

(C) To have visitors of the individual's choosing at any time;

(D) Have a lockable door in the individual's unit that may be locked by the individual;

(E) Choose a roommate when sharing a unit;

(F) Furnish and decorate the individual's unit according to the Residency Agreement;

(G) The freedom and support to control the individual's schedule and activities; and

(H) Privacy in the individual's unit.

(3) The provider may not propose or enter into a residency agreement that:

(a) Charges or asks for application fees, refundable deposits, or non-refundable deposits;

(b) Includes any illegal or unenforceable provision or asks or requires the individual to waive any of the individual's rights or the licensee's liability for negligence; or

(c) Conflicts with individual rights or these rules.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0395

Standards for Admission, Transfers, Respite, Discharges, and Closures

(1) Each individual referred for placement in an AFH may select and choose from available service settings.

(2) A provider may only admit an individual with a referral from, or the prior written approval of the CMHP or the Division. At the time of the referral, a provider shall be given complete information about the case history of the individual as it relates to behavior, skill level, medical status, or other relevant information. The provider may deny admission of any individual if the provider believes the individual cannot be managed effectively in the AFH, or for any other reason not specifically prohibited by this rule. AFHs may not be used as a site for foster care for children, adults from other agencies, or any type of shelter or day care without the written approval of the CMHP or the Division.

(3) Transfers:

(a) An individual may not be transferred by a provider to another AFH or moved out of the AFH without 30 days advance written notice to the individual, the individual's representative, guardian, or conservator, and the CMHP;

(b) The written notice shall state the reasons for the transfer as provided in ORS 443.739(18) and OAR 411-088-0070 and the individual's right to a hearing as provided in ORS 443.738(11)(b);

(c) Except where undue delay might jeopardize the health, safety, or well-being of the individual or other individuals, a provider shall only transfer an individual for the following reasons:

(A) Behavior that poses a significant danger to the individual or others;

(B) Failure to make payment for care;

(C) The AFH has had its license revoked, not renewed, or voluntarily surrendered; or

(D) The individual's care needs exceed the ability of the provider.

(d) Individuals who object to the transfer shall be given the opportunity for a hearing as provided in ORS 443.738(11)(b) and OAR 411-088-0080. Participants may include the individual, and at the individual's request, the provider, a family member, and a CMHP staff member.

(4) Providers may not exceed the licensed capacity of the AFH. However, respite care of no longer than two weeks duration may be provided an individual if the addition of the respite individual does not cause the total number of residents to exceed five. Thus, a provider may exceed the licensed number of residents by one respite individual for two weeks or

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less if approved by the CMHP or the Division, and if the total number of residents does not exceed five.

(5) Discharge:

(a) A provider may only discharge an individual for the reasons stated in section (3) of this rule. The provider shall give at least 30 days written notice to an individual and the Division before termination of residency, except where undue delay might jeopardize the health, safety, or well-being of the individual or others;

(b) The provider shall promptly notify the CMHP or Division if an individual gives notice or plans to leave the AFH or if an individual abruptly leaves.

(6) Providers shall notify the Division prior to a voluntary closure of an AFH and give individuals, families, and the CMHP 30 days' written notice, except in circumstances where undue delay might jeopardize the health, safety, or well-being of an individual, provider, or caregiver. If a provider has more than one AFH, an individual cannot be shifted from one house to another house without the same period of notice unless prior approval is given and agreement obtained from individuals, family members, and the CMHP.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Former sections (3)(a)-(c) renumbered to 309-040-0057; MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; MHD 7-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 4-2002, f. 2-26-02, cert. ef. 2-27-02; Renumbered from 309-040-0055, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17

309-040-0400

Inspections

(1) The Division shall conduct an inspection of an AFH:

(a) Prior to issuance of a license;

(b) Upon receipt of an oral or written complaint of violations that threaten the health, safety, or welfare of individuals; or

(c) Anytime the Division has probable cause to believe that an AFH has violated a regulation or provision of these rules or is operating without a license.

(2) The Division or CMHP may conduct inspections of an AFH:

(a) Anytime such inspections are authorized by these rules and any other time the Division or CMHP considers it necessary to determine if an AFH is in compliance with these rules or with conditions placed upon the license;

(b) To determine if cited deficiencies have been corrected; and

(c) For the purpose of monitoring of the individuals' care.

(3) State or local fire inspectors shall be permitted access to enter and inspect the AFH regarding fire safety upon request of the Division or CMHP.

(4) The Division and CMHP shall have full access to examine AFH records and accounts, including individual records and accounts, and to inspect the physical premises, including the buildings, grounds, equipment, and any vehicles.

(5) The Division or CMHP staff shall be permitted to interview the provider, resident manager, caregiver, and individuals. Interviews are confidential conducted in private and are confidential except as considered public record under ORS 430.763.

(6) Providers shall authorize resident managers and substitute caregivers to permit entrance by the Division or CMHP staff for the purpose of inspection and investigation.

(7) The Division or CMHP staff shall conduct inspections with or without advance notice to the provider, staff, or an individual of the AFH. The Division or CMHP may not give advance notice of any inspection if notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these rules.

(8) If the Division or CMHP staff is not permitted access or inspection, a search warrant may be obtained.

(9) The inspector shall respect the private possessions and living area of individuals, providers, and caregivers while conducting an inspection.

(10) Completed reports on inspections, except for confidential information, shall be available to the public upon written request to the Division or CMHP during business hours.

(11) For individuals receiving services authorized or funded by the Division, the Division shall investigate allegations of abuse as defined in ORS 430.735 to 430.765.

(12) When abuse or death of an individual has occurred and a law enforcement agency or the Division or its designee has determined to initiate an investigation, the provider may not conduct an internal investigation without prior authorization from the Division. For the purposes of

this section, an internal investigation is defined as conducting interviews of the alleged victim, witness, the alleged perpetrator, or any other persons who may have knowledge of the facts of the abuse allegation or related circumstances; reviewing evidence relevant to the abuse allegation, other than the initial report; or any other actions beyond the initial actions of determining:

(a) If there is reasonable cause to believe that abuse has occurred; or

(b) If the alleged victim is in danger or in need of immediate protective services; or

(c) If there is reason to believe that a crime has been committed; or

(d) What, if any, immediate personnel actions must be taken.

(13) The Division or its designee shall complete an abuse investigation and protective services report in accordance with OAR 943-045-0250 through 0370.

(14) When the provider has been notified of the completion of the abuse investigation, a provider may conduct an investigation without Division approval to determine if any other personnel actions are necessary.

(15) Upon completion of the investigation report according to OAR 943-045-0320, the sections of the report that are public records and not exempt from disclosure under the public records law shall be provided to the appropriate provider. The provider shall implement the actions necessary within the deadlines listed to prevent further abuse as stated in the report.

(16) A provider may not retaliate against any person who reports in good faith suspected abuse or against the individual with respect to the report.

(17) In accordance with ORS 430.755 any provider who retaliates against any person because of a report of suspected abuse or neglect may be liable according to 430.755, in a private action to that person for actual damages and, in addition, a penalty in accordance with 443.775(10) notwithstanding any other remedy provided by law. The authority of the director to impose civil penalties and the factors to be considered shall be in accordance with 443.790.

(18) In accordance with OAR 943-045-0340 Adverse Action, any adverse action creates a presumption of retaliation if taken within 90 days of a report of abuse. For purposes of this section, "adverse action" means any action taken by a community facility, community program, or person involved in a report against the person making the report or against the adult because of the report and includes but is not limited to the following:

(a) Discharge or transfer from the AFH except for clinical reasons;

(b) Discharge from or 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.

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0060, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17

309-040-0405

Procedures for Correction of Violations

(1) At any time after receipt of a notice of violations or an inspection report, the licensee or the Division may request a conference in writing. The conference shall be scheduled within ten days of a request by either party. The purpose of the conference is to discuss the violations stated in the notice of violation and to provide information to the licensee to assist the licensee in complying with the requirements of the rules. The written request by a licensee or the Division for a conference shall not extend any previously established time limit for correction.

(2) The licensee shall notify the Division of correction of violations in writing no later than the date specified in the notice of violation.

(3) If, after inspection of the AFH, the violations have not been corrected by the date specified in the notice of violation or if the Division has not received a report of compliance, the Division may institute one or more of the following actions:

(a) Imposition of an administrative sanction that may include revocation, suspension, placement of conditions on the license, or non-renewal of a license as deemed appropriate by the Division;

(b) Filing of a criminal complaint.

(4) If an individual is in serious and immediate danger, the license may be immediately suspended or revoked and arrangements made to move the individual.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 443.705 - 443.825
Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0070, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0410

Residents' Bill of Rights, Complaints, and Grievances

(1) Residents' Bill of Rights:

(a) The provider shall guarantee Residents' Bill of Rights as described in ORS 443.739 and help residents exercise them;

(b) The provider shall post the Residents' Bill of Rights in a location that is prominent and accessible to individuals, individuals' representatives, parents, guardians, and advocates. The posted rights shall include the telephone number of the office to call to report complaints;

(c) The provider shall give a copy of the Residents' Bill of Rights to each individual, individuals' representatives, parents, guardians, and advocates along with a description of how to exercise these rights;

(d) Upon admission to the AFH:

(A) The provider shall explain the Residents' Bill of Rights to each individual and to individuals' representatives, parents, guardians, and advocates; and

(B) The provider shall document in the individual's file that a copy of the Residents' Bill of Rights is given to each individual and to individuals' representatives, parents, guardians, and advocates.

(e) The Residents' Bill of Rights state that each resident has the right to:

(A) Be treated as an adult with respect and dignity;

(B) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote and be informed of all house rules;

(C) Receive appropriate care and services and prompt medical care as needed. Be informed of the individual's medical condition and the right to consent to or refuse treatment;

(D) Adequate personal privacy and privacy to associate and communicate privately with any individual of choice, such as family members, friends, advocates, and legal, social service, and medical professionals; send and receive personal mail unopened; engage in telephone conversations; and have medical and personal information kept confidential;

(E) Have access to and participate in activities of social, religious, and community groups;

(F) Be able to keep and use a reasonable amount of personal clothing and belongings and to have a reasonable amount of private, secure storage space.

(G) Be free of discrimination in regard to race, color, national origin, sex, religion, sexual orientation, or disability;

(H) Manage financial affairs unless legally restricted. Be free from financial exploitation. The provider may not charge or ask for application fees or nonrefundable deposits and may not solicit, accept, or receive money or property from an individual other than the amount agreed to for services;

(I) A safe and secure environment;

(J) Written notices prior to rate increases and evictions;

(K) A written agreement regarding services to be provided and agreed upon rates;

(L) Voice suggestions, complaints, or grievances without fear of retaliation;

(M) Freedom from training, treatment, chemical or physical restraints except as agreed to in writing in an individual's RCP. Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;

(N) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to residents in an age appropriate manner;

(O) An opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(P) Freedom from punishment. Behavior intervention programs shall be approved in writing on the individual's RCP;

(Q) Freedom from abuse and neglect;

(R) The opportunity to contribute to the maintenance and normal activities of the household;

(S) Access and opportunity to interact with persons with or without disabilities;

(T) The right not to be transferred or moved out of the AFH without 30 days' advance written notice and an opportunity for a hearing as described in ORS 443.738 and OAR 411-088-0080. A provider may transfer or discharge an individual only for medical reasons including a medical emergency described in ORS 443.738, or for the welfare of the individual or other residents, or for nonpayment; and

(U) Utilize advance directives. Advance directives shall be explained to each individual upon admission. If the individual does not already have any advance directive or directives, he or she shall be given an opportunity to complete them. If any advance directives are completed by the individual, the provider shall document these directives in the individual's record; if the individual declines to file any advance directives, this declination shall be documented in the individual's record;

(V) As used in this section, the term "advance directive" has the meaning given under ORS 127.505, and includes the "Declaration for Mental Health Treatment" under ORS 127.700 through 127.737.

(2) Additional Rights for Individuals:

(a) Live under a legally enforceable residency agreement in compliance with protections substantially equivalent to landlord-tenant laws as described in this rule;

(b) Have visitors of the individual's choosing at any time and the freedom to visit with guests within the common areas of the program and the individual's sleeping room;

(c) The freedom and support to control one's own schedule and activities including but not limited to: Accessing the community without restriction;

(d) Access to community resources including recreation, religious services, agency services, employment and day programs, unless such access is legally restricted;

(e) Have a lockable door in the individual's bedroom that may be locked by the individual;

(f) Choose a roommate when sharing a bedroom;

(g) Furnish and decorate the individual's bedroom according to the residency agreement;

(h) The freedom and support to control the individual's schedule and activities;

(i) Privacy in the individual's bedroom;

(j) Section (2) of these rules and its subsections are effective July 1, 2016, and enforceable as described in OAR 309-040-0315(7).

(3) The qualities and obligations described in section 3(b)(c)(d)(e)(h) of this rule do not apply to an individual receiving crisis-respite services, and a provider need not seek an individually-based limitation for such an individual to comply with these rules.

(4) The provider shall actively work to support and ensure each individual's rights described in this rule are not limited or infringed upon by the provider or an AFH caregiver, except where expressly allowed under these rules.

(5) Any person who believes these rules have been violated may file a complaint with the Division or CMHP. The Division or CMHP may investigate any complaint or grievance regarding the AFH.

(6) The Division or CMHP shall furnish each AFH with a Complaint and Grievance Notice that the provider shall post in a conspicuous place stating the telephone number of the Division and the CMHP and the procedure for making complaints or grievances.

(7) A copy of all AFH complaints or grievances shall be maintained by the Division. All complaints or grievances and actions taken on the complaint or grievance, indexed by the name of the provider, shall:

(a) Be placed into the public file at the Division. Information regarding the investigation of the complaint or grievance may not be filed in the public file until the investigation has been completed;

(b) Protect the privacy of the complainant or grievant and the individual; and

(c) Treat the names of the witnesses as confidential information.

(8) Providers who acquire substantiated complaints or grievances pertaining to the health, safety, or welfare of individuals may have their licenses suspended, revoked, or not renewed or may have conditions placed on the license.

(9) The AFH provider, resident manager, or caregiver may not retaliate in any way against any individual after a complaint or grievance has been filed with the Division. Retaliation may include, but is not limited to the following:

(a) Increasing charges or threatening to increase charges;

(b) Decreasing or threatening to decrease services, rights, or privileges;

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(c) Threatening to increase charges or decrease services, rights, or privileges;

(d) Taking or threatening to take any action to coerce or compel the individual to leave the AFH; or

(e) Abusing, harassing, or threatening to abuse or harass an individual in any manner.

(10) A complainant, grievant, witness, or caregiver of an AFH may not be subject to retaliation by a provider or resident manager or substitute caregiver for making a report or being interviewed about a complaint or being a witness. Retaliation may include, but is not limited to, caregiver dismissal or harassment or restriction of access to either the AFH or an individual.

(11) The complainant has immunity from any civil or criminal liability with respect to the making or content of a complaint or grievance made in good faith.

(12) Any individual may inspect and receive a photocopy of the public complaint files, including protective services files, maintained by the Division upon written request subject to the Division's procedures, ORS 192.410 through 192.505, and photocopy charges for public record requests.

Stat. Auth.: ORS 443.735

Stats. Implemented: ORS 127.700 - 127.737 & 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0065, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 4-2009(Temp), f. & cert. ef. 8-6-09 thru 2-2-10; MHS 1-2010, f. & cert. ef. 1-29-10; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0415

Administrative Sanctions and Conditions

(1) An administrative sanction may be imposed for non-compliance with these rules. An administrative sanction includes one or more of the following actions:

(a) Attachment of conditions to a license;

(b) Civil penalties;

(c) Denial, suspension, revocation, or non-renewal of license.

(2) If the Division imposes an administrative sanction, it shall serve a Notice of Intent of the administrative sanction upon the licensee personally or by certified mail.

(3) The notice of administrative sanction shall state the following:

(a) Each sanction imposed;

(b) A short and plain statement of each condition or act that constitutes a violation;

(c) Each statute or rule allegedly violated;

(d) A statement of the licensee's right to a contested case hearing;

(e) A statement of the authority and jurisdiction under which the hearing is to be held;

(f) A statement that the Division files on the subject of the contested case automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(g) A statement that the notice becomes a final order upon default if the licensee fails to request a hearing within the specified time.

(4) If an administrative sanction is imposed for reason other than abuse, neglect, or exploitation, a hearing shall precede it if the licensee requests the hearing in writing within 60 days after receipt of the notice pursuant to ORS Chapter 183.

(5) If a licensee fails to request in writing a hearing within 60 days, the Notice of Administrative Sanction shall become a Final Order of the Division by default.

(6) The Division may immediately suspend, revoke, or not renew a license for a substantiated finding of abuse, neglect, or exploitation of an individual. The licensee may submit a request in writing for a contested case hearing within 60 days of the notice of intent of suspension, revocation, or non-renewal.

(7) When a license is denied, suspended, revoked, or not renewed, the Division shall work with the CMHP to arrange for individuals to move for their protection.

(8) Conditions may be attached to a license upon a finding that:

(a) Information on the application or initial inspection requires a condition to protect the health and safety of individuals, pending further action by the Division;

(b) There exists a threat to the health, safety, and welfare of an individual, pending further action by the Division or Division designee;

(c) There is reliable evidence of abuse of an adult, pending further action by the Division;

(d) The AFH is not being operated in compliance with these rules, pending further action by the Division; or

(e) The provider is licensed to care for a specific individual only, and further placements may not be made to the AFH.

(9) Conditions that may be imposed on a licensee include but are not limited to the following:

(a) Restricting the maximum capacity of the AFH;

(b) Restricting the number and impairment level of individuals allowed based upon the capacity of the caregivers to meet the health and safety needs of all residents;

(c) Requiring an additional caregiver or caregiver qualifications;

(d) Requiring additional training of caregivers;

(e) Requiring additional documentation as deemed necessary by the Division;

(f) Restricting a provider from opening an additional AFH; or

(g) Suspending admissions to the AFH.

(10) The provider shall be notified in writing of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS Chapter 183.

(11) In addition to, or in lieu of, a contested case hearing, a provider may request in writing a review by the Division administrator or designee of conditions imposed by the Division or CMHP. The review does not diminish the provider's right to a hearing or extend the time period to request a hearing.

(12) Conditions may be imposed for the extent of the license period (one year), extended to the next license period, or limited to some other shorter period of time as deemed necessary by the Division. If the conditions correspond to the licensing period, the reasons for the conditions shall be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the conditions shall be indicated on the attachment to the license.

(13) Hearing rights are in accordance with ORS 183.411 to 183.550.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0075, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0420

Denial, Suspension, Revocation or Non-renewal of License

(1) Cautative Action. The Division may deny, suspend, revoke, or refuse to renew a license where it finds:

(a) There has been substantial failure to comply with these rules or when there is substantial non-compliance with local codes and ordinances or any other state or federal law or rule applicable to the health and safety of individuals in an AFH; or

(b) The applicant or provider has been convicted of one or more crimes described in the Criminal Record Check:

(A) The applicant or provider has had a certificate or license to operate a foster home or residential care facility denied, suspended, revoked, or refused to be renewed in this or any other state or county within three years preceding the present action if the denial, suspension, revocation, or refusal to renew was due in any part to abuse of an adult, creating a threat to the individuals, or failure to possess physical health, mental health, or good personal character;

(B) If the denial, suspension, revocation, or refusal to renew occurred more than three years from the present action, the applicant or provider is required to establish to the Division by clear and convincing evidence of the ability and fitness to operate an AFH. If the applicant or provider does not meet this burden, then the Division may deny, suspend, revoke, or refuse to renew the license;

(C) The applicant or provider is associated with a person whose license for a foster home or residential care facility was denied, suspended, revoked, or refused to be renewed due to abuse of an adult or failure to possess physical health, mental health, or good personal character within three years preceding the present action, unless the applicant or provider can demonstrate to the Division by clear and convincing evidence that the person does not pose a threat to the individuals;

(D) For purposes of this subsection, an applicant or provider is "associated with" a person as described above, if the applicant or provider:

(i) Resides with the person;

(ii) Employs the person in the AFH;

(iii) Receives financial backing from the person for the benefit of the AFH;

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(iv) Receives managerial assistance from the person for the benefit of the AFH; or

(v) Allows the person to have access to the AFH.

(E) For purposes of this section only, "present action" means the date of the notice of denial, suspension, revocation, or refusal to renew.

(2) The Division may deny, suspend, revoke, or refuse to renew an AFH license if the applicant or provider:

(a) Submits fraudulent or untrue information to the Division;

(b) Has a history of or demonstrates financial insolvency, such as filing for bankruptcy, foreclosure, eviction due to failure to pay rent, or termination of utility services due to failure to pay bills;

(c) Has a prior denial, suspension, revocation, or refusal to renew a certificate or license to operate a foster home or residential care facility in this or any other state or county;

(d) Has threatened the health, safety, or welfare of any individual;

(e) Has a substantiated finding of abuse of an adult;

(f) Has a medical or psychiatric problem, which interferes with the ability to provide care;

(g) Refuses to allow access and inspection;

(h) Fails to comply with a final order of the Division to correct a violation of the rules for which an administrative sanction has been imposed; or

(i) Fails to comply with a final order of the Division imposing an administrative sanction;

(j) Fails to report knowledge of the illegal actions of or disclose the known criminal history of a provider, resident manager, substitute caregiver, or volunteer of the AFH.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0090, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0425

Removal of Residents

(1) The Division may order the removal of individuals from an AFH to an alternative placement on the following grounds:

(a) When a violation of these rules is not corrected after time limit specified in notice;

(b) There is a violation of an individual's rights;

(c) The number of individuals currently in the AFH exceeds the maximum licensed capacity of the AFH;

(d) The AFH is operating without a license; or

(e) There is evidence of abuse of an adult that presents a serious and immediate danger to individuals.

(2) The CMHP shall provide the individual assistance in locating and visiting alternative placements, if needed, and has the right to contest the move as provided in ORS 443.738(11)(b) and OAR 411-088-0080.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92), Renumbered from 309-040-0085; MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; MHD 7-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 4-2002, f. 2-26-02, cert. ef. 2-27-02; Renumbered from 309-040-0092, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0430

Conditions

(1) Attachment to License. Conditions may be attached to a license upon a finding that:

(a) Information on the application or initial inspection requires a condition to protect the health and safety of individuals;

(b) There exists a threat to the health, safety, and welfare of an individual;

(c) There is reliable evidence of abuse of an adult;

(d) The AFH is not being operated in compliance with these rules; or

(e) The provider is licensed to care for a specific individual only and further placements may not be made to the AFH.

(2) The provider shall be notified in writing of any conditions imposed, the reason for the conditions, and be given an opportunity to request a hearing under ORS Chapter 183.

(3) In addition to, or in lieu of, a contested case hearing, a provider may request in writing a review by the Division administrator or designee of conditions imposed by the Division or CMHP. The review does not diminish the provider's right to a hearing or extend the time period to request a hearing.

(4) Conditions may be imposed for the extent of the license period (one year), extended to the next license period or limited to some other shorter period of time as deemed necessary by the Division. If the conditions correspond to the licensing period, the reasons for the conditions may be considered at the time of renewal to determine if the conditions are still appropriate. The effective date and expiration date of the conditions shall be indicated on the attachment to the license.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0093, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0435

Criminal Penalties

(1) Operating an AFH without a license is punishable as a Class C misdemeanor.

(2) Refusing to allow any of the following is punishable as a Class B misdemeanor:

(a) Division access to the AFH for inspection or investigation;

(b) Division access to individuals in order to interview individuals privately or to review records; or

(c) State and local fire inspector access to the AFH regarding fire safety.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0095, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0440

Civil Penalties

(1) Civil penalties for other than substantiated allegations of abuse shall not exceed \$100 per violation with a maximum of \$250 and may be assessed for violation of these rules with the exception of substantiated abuse findings.

(2) Civil penalties of a maximum of \$1000 per occurrence may be assessed for each substantiated abuse finding.

(3) In addition to any other liability or penalty, the Division may impose a penalty for any of the following:

(a) Operating an AFH without a license;

(b) Exceeding the number of residents identified on the license;

(c) The provider fails to achieve satisfactory compliance with the requirements of these rules within the time specified or fails to maintain such compliance;

(d) The AFH is unable to provide an adequate level of care to individuals;

(e) There is retaliation or discrimination against an individual, the individual's representative, family, employee, or any other person for making a complaint against the AFH;

(f) The provider fails to cooperate with the Division, physician, registered nurse, or other health care professional in carrying out an individual's care plan; or

(g) Other violations are found on two consecutive inspections of an AFH after a reasonable amount of time has been allowed for the elimination of the violations.

(4) Any civil penalty imposed under this section shall become due and payable when the provider incurring the penalty receives a notice in writing from the Division. The notice shall be sent by registered or certified mail and includes the following:

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

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

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

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

(5) The provider to whom the notice is addressed shall have 60 days from the date of the notice of intent in which to make written application for a hearing.

(6) All hearings shall be conducted according to the applicable provisions of ORS Chapter 183.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0097, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

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309-040-0445

Public Information

(1) The Division shall maintain current information on all licensed AFHs and make that information available to prospective individuals, individuals' representatives, their families, and other interested members of the public.

(2) The information shall include the following:

- (a) The location of the AFH;
- (b) A brief description of the physical characteristics of the home;
- (c) The name and mailing address of the provider;
- (d) The license classification of the home and the date the provider was first licensed to operate that home;

(e) The date of the last inspection, the name and telephone number of the office that performed the inspection, and a summary of the findings;

(f) Copies of all complaint investigations involving the home, together with the findings of and actions taken by the Division;

(g) Any license conditions, suspensions, denials, revocations, civil penalties, exceptions or other actions taken by the department involving the home; and

(h) Whether care is provided primarily by the licensed provider, a resident manager, or other arrangement.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0098, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0450

Adjustment, Suspension or Termination of Payment

(1) The Division or CMHP may adjust, suspend, or terminate payment to a provider when any of the following conditions occur:

(a) The provider's AFH license is revoked, suspended, or terminated;

(b) Upon a finding that the provider is failing to deliver any service as agreed to in the RCP; or

(c) When funding, laws, regulations, or the Division or CMHP priorities change such that funding is no longer available, redirected to other purposes, or reduced;

(d) The individual's service needs change;

(e) The individual is absent without providing notice to the provider for five or more consecutive days;

(f) The individual is determined to be ineligible for services;

(g) The individual moves, with or without notice, from the AFH; the provider shall be paid only through the last day of the individual's occupancy.

(2) The Division or CMHP is under no obligation to maintain the AFH at its licensed capacity or to provide payments to potential providers.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0055(3)(a)-(c); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0057, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

309-040-0455

Enjoinment of AFH Operation

The Division may commence an action to enjoin the operation of an AFH pursuant to ORS 443.775(5):

(1) When an AFH is operated without a valid license; or

(2) After notice of revocation, non-renewal, or suspension has been given, a reasonable time for placement of individuals in other facilities has been allowed, and such placement has not been accomplished.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 443.705 - 443.825

Hist.: MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0099, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 14-2016(Temp), f. 9-6-16, cert. ef. 9-7-16 thru 3-3-17; MHS 3-2017(Temp), f. 3-3-17, cert. ef. 3-4-17 thru 8-30-17; MHS 9-2017, f. 6-29-17, cert. ef. 7-1-17

Oregon Housing and Community Services Department Chapter 813

Rule Caption: The rules implement the Elderly Rental Assistance Program.

Adm. Order No.: OHCS 4-2017(Temp)

Filed with Sec. of State: 6-20-2017

Certified to be Effective: 6-20-17 thru 12-16-17

Notice Publication Date:

Rules Adopted: 813-053-0000, 813-053-0010, 813-053-0020, 813-053-0030, 813-053-0040, 813-053-0050, 813-053-0060, 813-053-0070, 813-053-0080, 813-053-0090

Subject: These rules implement the Elderly Rental Assistance Program. The program provides funding for local homeless programs to assist very-low-income homeless persons or those persons who are risk of becoming homeless and unstably housed, where a household member is 58 years or older.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-053-0000

Purpose and Objectives

OAR chapter 813, division 053, is promulgated to accomplish the general purposes of ORS 458.505, 458.600 to 458.650, and particularly 458.375, and 458.377. ORS 458.505 identifies the community action agency network as the delivery system for federal antipoverty programs in Oregon. ORS 458.650 designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Elderly Rental Assistance program authorized under ORS 458.375 and 458.377 is one such antipoverty program subject to department administration and has as its purpose the funding of local homeless programs to assist very-low-income homeless persons or those persons who are at risk of becoming homeless and unstably housed, where a household member is 58 years or older.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0010

Definitions

All words and terms that are used in OAR chapter 813, division 053 are defined in the Act, and in 813-005-0005 and 813-005-0015 and below. As used in OAR chapter 813, division 053, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Assistant director" means the department's assistant director for the housing stabilization programs.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(4) "Conditional" means subject to relevant conditions subsequent, including but not limited to continued department authority and funding capacity as well as subgrantee agency, to the satisfaction of the department, satisfying the terms of its funding application, maintaining legal standing as a CAA, timely satisfying relevant program requirements, and executing and recording (if required) relevant documents.

(5) "Department" or "OHCS" means the Housing and Community Services Department for the state of Oregon.

(6) "Director" means the department director as appointed by the governor.

(7) "Elderly household" means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit, where at least one member of the household is age 58 or older.

(8) "Fund" means the Elderly Rental Assistance Fund created within the State Treasury, separate and distinct from the General Fund.

(9) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agency in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(10) "Funding application" means the subgrantee agency's application to the department for a program grant.

(11) "HMIS" means the Homeless Management Information System.

(12) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence or is unstably housed in accordance with department categorical definitions. Categorical definitions are contained in the program manual.

(13) "Household income" means the total household income from all sources before taxes. Income under this definition may be reduced by deductions allowed by the department in compliance with program require-

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ments. Income does not include assets or funds over which the applicant or household has no control.

(14) “HUD” means the U.S. Department of Housing and Urban Development.

(15) “Program” or “ERA” means the Elderly Rental Assistance program administered by the department pursuant to this division and other applicable law.

(16) “Program manual” or “manual” means the Elderly Rental Assistance Program Operations Manual, effective as of May 16, 2017 and as amended from time to time, incorporated herein by this reference. The manual may be accessed online on the department’s website.

(17) “Program requirements” means all funding agreement terms and conditions (including work plan objectives), applicable federal statutes and regulations, applicable State statutes, applicable OHCS and other administrative rules, manuals, and orders (including deficiency notices), as well as applicable local codes, ordinances, and resolutions (including all of the foregoing as amended from time to time).

(18) “Program services” means allowable services for transitional housing, supportive in-home services, rapid re-housing, homelessness prevention, data collection, and case management and housing stabilization services, as defined in the department program manual and eligible for funding under the program.

(19) “Self-sufficiency” means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition and health care, and accessing needed services.

(20) “Service area” means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(21) “Subcontractor” or “subrecipient” means a nonprofit corporation established under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015, contracting with a subgrantee agency to provide program services.

(22) “Subgrantee agency” or “agency” means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235 or a local government as defined in ORS 197.015 with whom the department has contracted to administer program services at the local level..

(23) “Sufficiency” means that the quantity, thoroughness and quality of performance is satisfactory to the department, including but not limited to providing relevant information in a manner and to a degree for the department to assess appropriately subgrantee agency’s compliance with relevant program requirements such as the provision of services consistent with the terms of the funding agreement, state plan and other appropriate standards, goals and requirements established by the department.

(24) “Work plan” or “plan” means the subgrantee agency’s plan for use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

(25) “Very-low income household” means a household with an annual household income that is fifty (50) percent or less of the area median income based on HUD determined guidelines, adjusted for family size.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0020 Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of OAR 813-053-0010(21) to provide program services in the subgrantee agency’s service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible elderly households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a writ-

ten agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible elderly households within the service area to the extent of available funding and to prevent duplication of services.

(6)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency’s proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(7) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the program manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 and 458.650
Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0030 Client Eligibility

(1) Program services shall be available to very-low income elderly households where at least one member of the household is age 58 or older and the household 1) meets the definition of homeless in accordance with department categorical definitions and 2) is otherwise eligible. Categorical definitions are contained in the program manual.

(2) A subgrantee agency may consider an elderly household’s self-declaration or referral of an elderly household from local, state or federal human service agencies if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) Members of the elderly household must be Oregon residents.
Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0040 Use of Funds

Program funds will be used for homeless services within the allowable program components and activities as further defined in the funding agreement and program manual.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0050 Funding Application

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department’s requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department or disapproval by the department.

(2) A subgrantee agency’s funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local or regional continuum of care, local service providers, advocates, clients, businesses, churches, citizens, governments, and other interested stakeholders.

(3) A subgrantee agency’s funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application, the department in its sole discretion, may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

ADMINISTRATIVE RULES

813-053-0060

Reporting and Recordkeeping

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department and otherwise consistent with program requirements, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department and otherwise consistent with program requirements, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the basis for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with all required reports, data, and financial statements by department determined submission deadlines including:

(a) Program reports detailing the progress made toward meeting program performance measures and service delivery objective(s), and

(b) Fiscal reports detailing administrative and program costs.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives' access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records for a minimum of five (5) years, or such longer period as may be required by program requirements, including applicable law and state records retention requirements, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department and consistent with program requirements including, as appropriate, through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0070

Compliance Monitoring; Remedies

(1) The department will conduct reviews, audits and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to verify compliance with program requirements. Subgrantee agencies and their subcontractors will cooperate fully with the department in its compliance monitoring.

(2) Subgrantee agencies shall require by contract and monitor their subcontractors' compliance with all program requirements including, but not limited to, recordkeeping and retention of records and department compliance monitoring and enforcement.

(3)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may notify a subgrantee agency of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiency or deficiencies that must be corrected.

(c) The department may require the subgrantee to correct any deficiencies in a manner and timeframe satisfactory to the department and may offer training and technical assistance to the subgrantee.

(d) The department, at its discretion, may offer the subgrantee agency assistance in the development of a corrective action plan. If a corrective action plan is allowed, the department will review and issue a decision on whether to approve or disapprove.

(4) The department will provide adequate notice and opportunity for administrative review prior to a remedial action that terminates organizational eligibility for program funding for cause.

(5) Requests for administrative review must be addressed to the assistant director unless otherwise allowed in writing by the department.

(6) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0080

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review under this section in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to, review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

813-053-0090

Review by Subgrantee

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 4-2017(Temp), f. & cert. ef. 6-20-17 thru 12-16-17

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Rule Caption: Amends the Local Innovation and Fast Track (LIFT) program loan satisfaction terms.

ADMINISTRATIVE RULES

Adm. Order No.: OHCS 5-2017(Temp)

Filed with Sec. of State: 7-13-2017

Certified to be Effective: 7-13-17 thru 1-7-18

Notice Publication Date:

Rules Amended: 813-135-0040

Subject: Updates the loan satisfaction terms for the Local Innovation and Fast Track (LIFT) housing program. The program's objective is to expand the state's supply of affordable housing for low income households. The program will assist and encourage the development of affordable housing units for low-income households through the allocation of proceeds from Article XI-Q General Obligation bonds.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-135-0040

Allocation of Bond Proceeds

(1) The department may, to the extent of its authority, allocate bond proceeds to projects selected for funding by the Housing Stability Council.

(2) The department shall allocate the funds in compliance with the requirements of the Oregon Constitution, Article XI-Q, ORS 456.559(1)(f) and the rules of this division. Applications will be solicited during specified periods within the department's Notice of Funding Availability (NOFA). The department may also select from a pool of qualified applicants, or such other process the department deems appropriate.

(3) The department may choose whether or not to allocate all funds available.

(4) The obligation to repay the LIFT Loan principal shall be satisfied upon repayment in full at maturity. In the alternative, and at the election of the borrower at any time after the initial affordability period, such obligation may be:

(a) Satisfied upon the borrower executing (and where OHCS deems necessary, recording) agreements

(A) Subjecting the qualified property to an additional affordability period equivalent to the initial level of affordability; and

(B) Ensuring that the equity of the LIFT Loan continues to benefit the qualified project;

(b) Extended beyond the initial maturity date on the condition that

(A) Substantially equivalent (as determined by OHCS) affordability is maintained through the extended affordability date; and

(B) The equity of the LIFT Loan continues to benefit the qualified project. At the request of the borrower, OHCS also may consider a combination of LIFT Loan repayment, affordability preservation, and loan extension in proportion to the previously identified options.

(5) LIFT Loans may be prepaid as long as affordability is ensured in a manner satisfactory to OHCS. Examples include:

- Loan fully repaid at maturity
- Loan satisfied by a 30 year affordability extension where the LIFT equity is used to rehabilitate the qualified project.
- Loan terms extended for an additional 20 or 30-year affordability term
- Loan prepaid at year 15 with continued affordability ensured for the entirety of the initial affordability term

Stat. Auth.: ORS 456.515 – 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: OHCS 9-2016(Temp), f. & cert. ef. 9-12-16 thru 3-10-17; OHCS 1-2017, f. & cert. ef. 3-9-17; OHCS 5-2017(Temp), f. & cert. ef. 7-13-17 thru 1-7-18

Oregon Liquor Control Commission Chapter 845

Rule Caption: The amendments enable processors to use shared kitchen space to make edible or topical products.

Adm. Order No.: OLCC 6-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 6-30-17

Notice Publication Date: 5-1-2017

Rules Adopted: 845-025-3255

Rules Amended: 845-025-3250

Subject: Staff has discovered that many processors do not own a commercial kitchen to produce their products. Instead, as is common in the catering industry, many edible/concentrate makers rent commercial kitchen space or share space with another processor to save on costs. Existing rules allow for this practice for processors with an edible endorsement. However, existing rules do not contemplate that many edible makers also produce their own infused edible products (i.e. butter, oil & tinctures), which requires a concentrate endorse-

ment. Staff is proposing to expand the rule to allow processors who operate under this rule to also produce certain concentrates for use in their edible or topical products.

In December the Commission temporarily amended and adopted the proposed rules. Staff has carried this rulemaking package through the rulemaking process and is making these rules permanent.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-025-3250

Cannabinoid Edible Processor Requirements

(1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, division 21, division 24, division 25, with the exception of OAR 603-025-0020(17) and division 28.

(2) A cannabinoid edible processor may not:

(a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;

(b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;

(c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or

(d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was processed by a licensee in a food establishment licensed by the ODA in compliance with the applicable provisions of OAR chapter 603, division 21, division 24, division 25, with the exception of OAR 603-025-0020(17), and division 28.

(3) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.

Stat. Auth.: ORS 475B.025 & 475B.090

Stats. Implemented: ORS 475B.090 & 475B.135

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 24-2016(Temp), f. 12-30-16, cert. ef. 1-1-17 thru 6-29-17; OLCC 6-2017, f. & cert. ef. 6-30-17

845-025-3255

Alternating Proprietors

(1) A cannabinoid edible or topical processor may share a food establishment, as defined in ORS 616.695, with another cannabinoid edible or topical processor, or a cannabinoid concentrate processor who qualifies under this rule, if:

(a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food establishment and has been approved by the Commission:

(A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple processor licensees does not create an increased compliance risk.

(B) A processor licensee may only change the schedule with prior written approval from the Commission.

(b) In addition to the applicable requirements of OAR 845-025-1410, each licensee must designate a separate area to secure any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. The designated area must only be accessible to the licensee. If a cannabinoid processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.

(2) A food establishment used by a processor licensee is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.

(3) In order to qualify to share a food establishment under this rule:

(a) Concentrates manufactured under this rule must be used in the production of the processor's cannabinoid edibles or topicals; and

(b) Concentrates manufactured under this rule may not be transferred to another licensee.

(4) A processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

(5) Violation of this rule is a Category I violation.

Stat. Auth.: ORS 475B.025 & 475B.090

Stats. Implemented: ORS 475B.090 & 475B.135

Hist.: OLCC 24-2016(Temp), f. 12-30-16, cert. ef. 1-1-17 thru 6-29-17; OLCC 6-2017, f. & cert. ef. 6-30-17

ADMINISTRATIVE RULES

Rule Caption: The amendments align the rule with the Oregon Department of Agriculture's Marijuana Compliance Assistance Program.

Adm. Order No.: OLCC 7-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 6-30-17

Notice Publication Date: 5-1-2017

Rules Amended: 845-025-2070

Subject: This past January the Commission temporarily amended 845-025-2070 to align the rule with the Oregon Department of Agriculture's Marijuana Compliance Assistance Program. This program allows marijuana producers who participate in the program to accept responsibility for potential illegal pesticide applications. A producer that accepts responsibility will receive a notice of warning from the Oregon Liquor Control Commission for their first violation instead of a Category I violation. Any subsequent violations would result in a Category I violation, as the Assistance program is only available to first time violators.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-025-2070

Pesticides, Fertilizers and Agricultural Chemicals

(1) Pesticides. A producer may only use pesticides in accordance with ORS Chapter 634 and OAR 603, division 57.

(2) Fertilizers, Soil Amendments, Growing Media. A producer may only use fertilizer, agricultural amendments, agricultural minerals and lime products in accordance with ORS Chapter 633.

(3) A producer may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell.

(4) In addition to other records required by these rules, a producer must maintain, at all times and on the licensed premises:

(a) The material safety data sheet (MSDS) for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana;

(b) The original label or a copy thereof for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana; and

(c) A log of all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana. The log must include:

(A) The information required to be documented by a pesticide operator in ORS 634.146; and

(B) The unique identification tag number of the cultivation batch or individual mature marijuana plant to which the product was applied, or if applied to all plants on the licensed premises a statement to that effect.

(5) A producer may maintain the records required under this rule in electronic or written form. If electronic, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after harvest of any marijuana on which documented products were used. If written, a producer shall ensure that the records are legible and complete, shall keep them in a safe and secure location, and shall retain the records for no less than two years after harvest of any marijuana on which documented products were used.

(6) A producer must make the records required under this rule immediately available during an premises inspection by a Commission regulatory specialist. If the Commission requests copies of the records at any time other than during a premises inspection, a producer shall produce the records upon request.

(7) A violation of sections (1) to (4) of this rule is a Category I violation and could result in license revocation.

(8) Notwithstanding (7) of this rule, if a licensee accepts responsibility for an illegal pesticide application through Department of Agriculture's Marijuana Compliance Assistance Program and successfully completes the program, the licensee will receive a notice of warning for their first violation. Any subsequent violations are Category I violations.

(9) A failure to keep complete records as required by this rule is a Category III violation. A failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.

Stat. Auth.: ORS 475B.025 & 475B.070

Stats. Implemented: ORS 475B.070 & 475B.160

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16; OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16; OLCC 23-2016(Temp), f. 12-30-16, cert. ef. 1-1-17 thru 6-29-17; OLCC 7-2017, f. & cert. ef. 6-30-17

Rule Caption: The rule enables marijuana licensees to hold promotional events, as provided for in SB 1057.

Adm. Order No.: OLCC 8-2017(Temp)

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Adopted: 845-025-1335

Subject: Oregon Senate Bill 1057 (2017) was recently passed by the Oregon Legislature. This bill contains an emergency clause which means the bill is effective day the Governor signed the bill into law, May 30, 2017. Specifically, Section 17 of SB 1057 allows businesses licensed by the Oregon Liquor Control Commission (OLCC) under ORS 475B.010 to 475B.395 to transport marijuana items to and exhibit marijuana items at a trade show or similar event if: the marijuana items are tracked using the Cannabis Tracking System, the marijuana items are returned to the licensed premises immediately following the conclusion of the event, and the licensee complies with any other requirements imposed by the OLCC by rule or order.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-025-1335

Marijuana Promotional Events

Oregon House Bill 1057 (2017), section 17 allows businesses licensed by the Oregon Liquor Control Commission (OLCC) under ORS 475B.010 to 475B.395 to transport marijuana items to and exhibit marijuana items at a trade show or similar event. This rule sets the qualifications and requirements for promotional events.

(1) Definitions.

(a) "Event organizer" means a person licensed under ORS 475B.010 to 475B.395 who submits a promotional event application and serves as the primary contact with the Commission.

(b) "Participating licensee" means a person licensed under ORS 475B.010 to 475B.395 who has been named as a participant in a promotional event application.

(c) "Promotional event" means an event at which marijuana items are displayed pursuant to the requirements of this rule.

(2) Eligibility. Only the holder of a license issued under ORS 475B.010 to 475B.395 may display marijuana items at a promotional event.

(3) Event organizer's responsibilities.

(a) One participating licensee listed on the application must be identified as the event organizer. Participating licensees and the event organizer may be charged with any violations of this rule.

(b) Event Organizers must:

(a) Receive approval from the Commission prior to the event date that specifies all approved participating licensees;

(b) Update and maintain the application;

(c) Verify that all participating licensees' manifests and accurately reflect the marijuana items that are transported to the promotional event;

(d) Maintain a log of participating licensees' attendance;

(e) Keep copy of the approved application at the event; and

(f) Must be present during the event at all times.

(4) Promotional events may not be held:

(a) At a location licensed under ORS 475B.010 to 475B.395 or 475B.560; or

(b) In a city or county that has adopted an ordinance to prohibit recreational marijuana businesses.

(5) Promotional events may be held at a location that holds a license under ORS 471, as long as no consumption of alcohol occurs within the area(s) approved to hold the marijuana promotional event.

(6) Approved promotional events allow participating licensees to display:

(a) Whole living marijuana plants from the inventory of the participating licensee; and

(b) Marijuana items from the inventory of the participating licensee.

(7) An event organizer or participating licensee may not:

(a) Display any marijuana items not in the participating licensee's inventory;

(b) Display any industrial hemp or products derived from industrial hemp, as defined by ORS 571.300;

(c) Sell, transfer or distribute any marijuana items at the promotional event;

(d) Distribute any samples of marijuana items; or

(e) Allow consumption or use of alcohol or marijuana items of any kind.

ADMINISTRATIVE RULES

(8) Transportation and Possession.

(a) Participating licensees may not transport nor possess more than the following amounts to or at the promotional event:

- (A) 8 ounces of usable marijuana;
- (B) 4 mature whole living marijuana plants;
- (C) 10 immature plants;
- (D) 500 seeds, tracked by count in CTS;
- (E) 16 ounces of cannabinoid products in solid form; or
- (F) 72 ounces of cannabinoid products in liquid form.

(b) All participating licensees must immediately return all marijuana items to their licensed premises after the conclusion of the event.

(9) Promotional event CTS requirements.

(a) All marijuana items must be tracked and tagged pursuant to CTS rule requirements.

(b) Each marijuana item is required to have the item's associated UID tag affixed to the item or package;

(c) All participating licensees must generate a printed transport manifest in CTS that accompanies all marijuana items for the duration of the promotional event that contains the following information:

(A) The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items;

(B) Product name and quantities (by weight or unit) of each marijuana item contained in each transport, along with the UIDs for every item;

(C) The date of transport and approximate time of departure;

(D) Date and estimated time when the marijuana items will return to the licensed premises at the conclusion of the promotional event; and

(E) Delivery vehicle make and model and license plate number.

(d) Failure to properly track marijuana items as required in this subsection is a Category III violation. An intentional violation of this rule is a Category I violation and may result in license revocation.

(10) The Commission may limit approval of any application to a single day or to any consecutive number of days, not to exceed sixteen days.

(11) Application Requirements.

(a) The Commission may refuse to process any application that is not made in writing at least 28 days before the date of the event in a form and manner prescribed by the Commission.

(b) The Commission may only accept one application per promotional event.

(c) The Commission may require additional forms, documents, or information as part of the application.

(d) The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate and process the application.

(12) The application for a promotional event under this rule shall include:

(a) The names of all participating licensees;

(b) A description of the amount and types of marijuana items proposed to be transported and displayed at the promotional event;

(c) A written control plan that the Commission determines:

(A) Adequately manages the event to prevent unlawful activity and violations; and

(B) Prevents any person under 21 years to be admitted to the areas where marijuana or marijuana items are present at the event.

(d) The names of the individuals to be employed by the licensee to manage events on the promotional event premises and their worker permit numbers issued under OAR 845-025-5500;

(e) Identification of the premises or area proposed for the promotional event;

(f) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall, minor control plan and proposed hours of operation; and

(g) A statement signed by every participating licensee indicating that the licensee has read and agrees to follow the final approved control plan.

(13) The Commission may deny any application for a promotional event that does not meet the requirements of this rule.

(14) The Commission may deny, cancel or restrict an application for a promotional event for any reason for which the Commission may deny, cancel or restrict a regular license or if the Commission, in its discretion, determines that promotional event presents a risk to public health and safety.

(15) The Commission may deny or restrict an application for a promotional event if any participating licensee has been found to have violat-

ed ORS 475B.010 to 475B.395 or any rules adopted there under in the past 24 months.

(16) When the Commission approves a written control plan required under this rule, the licensee(s) must follow that written plan. Failure to follow that written plan is a Category III violation. An intentional violation of this rule is a Category I violation and may result in license revocation.

(17) The Commission may immediately revoke authority of any participating licensee to participate in the promotional event if the Commission has reasonable grounds to believe continued operation of the event presents a risk to public health and safety.

Stat. Auth.: ORS 475B.025 & 2017 SB 1057, Sec. 17 & 18

Stats. Implemented: 2017 SB 1057, Sec. 17 & 18

Hist.: OLCC 8-2017(Temp), f. 6-30-17, cert. ef. 7-1-17 thru 12-27-17

Rule Caption: The repeal removes the requirement for licensees to affix a label to each tap handle.

Adm. Order No.: OLCC 9-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 4-1-2017

Rules Repealed: 845-006-0443

Subject: 845-006-0443 requires licensees selling malt beverages, via a draft system, to affix a label to each tap handle. As the brewing industry has evolved in Oregon, tap houses, breweries and other use multiple methods to list the current malt beverages on tap. This includes the use of spreadsheets, chalk boards and even LED monitors that track how much malt beverage is left in each keg.

Rules Coordinator: Bryant Haley—(503) 872-5136

Rule Caption: The amendments repeal the prohibition on advertising price reductions on alcoholic beverages outside the premises.

Adm. Order No.: OLCC 10-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 4-1-2017

Rules Amended: 845-007-0020

Subject: Previously, the Commission has restricted licensees from advertising price reductions for alcohol sold for on-premises consumption, often referred to as happy hour. This restriction has proven difficult to enforce, as non-licensees can freely publish this information via multiple platforms (e.g. print & social media). The amendments remove the price reduction prohibitions while maintaining prohibitions on advertising that could encourage excessive or rapid consumption.

Rules Coordinator: Bryant Haley—(503) 872-5136

845-007-0020

Restrictions

(1) The Commission prohibits advertising if it contains:

(a) False or misleading information;

(b) Claims that the alcoholic beverage has curative or therapeutic effects;

(c) Claims that any government agency endorses or supports the alcoholic beverage;

(d) The requirement of purchasing an alcoholic beverage in order to receive a prize or merchandise unless the manufacturer or wholesaler donates the prize or merchandise to a charitable cause or community non-profit entity;

(e) Material so appealing to minors that it encourages them to purchase, possess, or drink alcoholic beverages;

(f) A person displayed drinking an alcoholic beverage;

(g) Material that encourages the use of an alcoholic beverage because of its intoxicating effect;

(h) Statements or illustrations that an alcoholic beverage causes athletic or artistic success;

(i) Material that encourages excessive or rapid consumption.

(2) The Commission prohibits any advertising of the promotional practices that are prohibited under OAR 845-006-0345(10).

(3) Outside the licensed premises, the Commission prohibits advertising of an alcoholic beverage for on-premises consumption where the expressed or implied meaning is that a customer, in order to receive a reduced price, would be required to purchase more than one drink at a time,

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such as “two for the price of one”, “buy one — get one free”, or “two for \$_____”.

(4) Advertising is considered “outside the licensed premises” if the advertising is visible or audible from the outside, including advertising on a website or on a telephone answering machine recording. Responding via email or telephone to a question from a member of the public is not considered advertising and thus is allowed.

(5) The Commission prohibits advertising that violates OAR 845-015-0175 (Advertising by a Retail Sales Agent).

(6) The Commission prohibits manufacturers and wholesalers from giving retailers point-of-sale items and advertising that the financial assistance laws prohibit (ORS 471.398 and 471.400 and OAR 845-013-0050).

Stat. Auth.: ORS 471.471.030 & 471.730(1) & (5)
Stats. Implemented: ORS 471.730(7)

Hist.: LCC 56, f. 10-20-76, ef. 12-1-76; Renumbered from 845-010-0096; LCC 7-1985, f. 7-30-85, ef. 9-1-85; OLCC 16-1989, f. 12-14-89, cert. ef. 1-1-90; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 4-2010, f. 4-19-10, cert. ef. 5-1-10; OLCC 10-2017, f. 6-30-17, cert. ef. 7-1-17

Oregon Medical Board
Chapter 847

Rule Caption: Physician Assistants prescribing buprenorphine for medication-assisted opioid dependency treatment

Adm. Order No.: OMB 5-2017

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-14-17

Notice Publication Date: 5-1-2017

Rules Amended: 847-050-0041

Subject: The rule amendment allows a physician assistant to prescribe and dispense buprenorphine for medication-assisted opioid dependency treatment (MAT) if the PA is authorized to prescribe Schedule III-V medication, holds a DEA buprenorphine waiver, is authorized to dispense if the PA will dispense buprenorphine, has a supervising physician whose practice includes buprenorphine for MAT, and the practice agreement includes buprenorphine as a delegated medical service.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-050-0041

Prescribing and Dispensing Privileges

(1) An Oregon grandfathered physician assistant may issue written, electronic or oral prescriptions for Schedule III-V medications, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has passed a specialty examination approved by the Board prior to July 12, 1984, and the following conditions are met:

(a) The Oregon grandfathered physician assistant has passed the Physician Assistant National Certifying Examination (PANCE); and

(b) The Oregon grandfathered physician assistant has documented adequate education or experience in pharmacology commensurate with the practice agreement or Board-approved practice description.

(2) A physician assistant may issue written, electronic or oral prescriptions for Schedule III-V medications, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has met the requirements of OAR 847-050-0020(1).

(3) A physician assistant may issue written or electronic prescriptions or emergency oral prescriptions followed by a written authorization for Schedule II medications if the requirements in (1) or (2) are fulfilled and if the following conditions are met:

(a) A statement regarding Schedule II controlled substances prescription privileges is included in the practice agreement or Board-approved practice description. The Schedule II controlled substances prescription privileges of a physician assistant are limited by the practice agreement or Board-approved practice description and may be restricted further by the supervising physician at any time.

(b) The physician assistant is currently certified by the National Commission for the Certification of Physician Assistants (NCCPA) and must complete all required continuing medical education coursework.

(4) A physician assistant may prescribe and dispense buprenorphine for medication-assisted treatment for opioid dependency if the requirements in (1) or (2) are fulfilled and the following conditions are met:

(a) The physician assistant has obtained a buprenorphine waiver from the Drug Enforcement Administration;

(b) The physician assistant has been granted dispensing authority if the physician assistant will dispense buprenorphine;

(c) The scope of practice of the physician assistant's supervising physician includes use of buprenorphine for medication-assisted treatment for opioid dependency;

(d) The physician assistant's practice agreement includes use of buprenorphine for medication-assisted treatment for opioid dependency as a delegated medical service; and

(e) The physician assistant complies with all federal and state requirements for recordkeeping specific to buprenorphine treatment.

(5) All prescriptions given whether written, electronic, or oral must include the name, office address, and telephone number of the supervising physician and the name of the physician assistant. The prescription must also bear the name of the patient and the date on which the prescription was written. The physician assistant must sign the prescription and the signature must be followed by the letters “P.A.” Also the physician assistant's Federal Drug Enforcement Administration number must be shown on prescriptions for controlled substances.

(6) A supervising physician or primary supervising physician of a supervising physician organization may apply to the Board for a physician assistant to dispense drugs specified by the supervising physician or supervising physician organization.

(a) The physician assistant must have prescribing privileges and be in good standing with the Board and the NCCPA to qualify for dispensing authority. The physician assistant may dispense Schedule II medications only if the physician assistant has been delegated Schedule II prescription privileges by the supervising physician.

(b) If the facility where the physician assistant will dispense medications serves population groups federally designated as underserved, geographic areas federally designated as health professional shortage areas or medically underserved areas, or areas designated as medically disadvantaged and in need of primary health care providers as designated by the State, the application must include:

(A) Location of the practice site;

(B) Accessibility to the nearest pharmacy; and

(C) Medical necessity for dispensing.

(c) If the facility where the physician assistant will be dispensing medications is not in one of the designated areas or populations described in subsection (5)(b) of this rule:

(A) The physician assistant may not dispense Schedule I through IV controlled substances;

(B) The physician assistant must complete a drug dispensing training program jointly developed by the Oregon Medical Board and the State Board of Pharmacy; and

(C) The supervising physician or primary supervising physician of a supervising physician organization must submit to the Board:

(i) A plan for drug delivery and control;

(ii) An annual report on the physician assistant's use of dispensing authority;

(iii) A list of the drugs or classes of drugs the physician assistant will dispense; and

(iv) A list of all facilities where the physician assistant will dispense and documentation that each of these facilities has been registered with the State Board of Pharmacy as a supervising physician dispensing outlet.

(7) A physician assistant with dispensing authority must:

(a) Dispense medications personally;

(b) Dispense only medications that are pre-packaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS 689, and the physician assistant must maintain records of receipt and dispensing; and

(c) Register with the Drug Enforcement Administration and maintain a controlled substances log as required in OAR 847-015-0015.

(8) Distribution of samples, without charge, is not dispensing under this rule. Administering drugs in the facility is not dispensing under this rule. Distribution of samples and administration of drugs must be documented in the patient record. Documentation must include the name of the drug, the dose, the quantity distributed or administered, and the directions for use if applicable.

(9) A supervising physician or primary supervising physician of a supervising physician organization for a physician assistant who is applying for dispensing authority must be registered with the Oregon Medical Board as a dispensing physician.

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(10) Failure to comply with any subsection of this rule is a violation of the ORS Chapter 677 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Other Authority: 21 U.S.C. 823 as amended by the Comprehensive Addiction and Recovery Act of 2016

Stats. Implemented: ORS 677.190, 677.205, 677.265, 677.470, 677.515 & 677.545

Hist.: ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 6-1982, f. & ef. 10-27-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 16-1987, f. & ef. 8-3-87; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1994, f. & cert. ef. 1-24-94; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 8-2004, f. & cert. ef. 4-22-04; BME 3-2005, f. & cert. ef. 1-27-05; BME 6-2006, f. & cert. ef. 2-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Temporary Suspended by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 16-2012(Temp), f. 5-8-12, cert. ef. 6-1-12 thru 11-28-12; OMB 34-2012(Temp), f. 11-8-12, cert. e. 11-28-12 thru 5-27-13; OMB 3-2013, f. & cert. ef. 1-11-13; OMB 5-2017, f. & cert. ef. 7-14-17

Rule Caption: EMRs may control hemorrhage and move patients; AEMTs may perform intraosseous infusions with lidocaine

Adm. Order No.: OMB 6-2017

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-14-17

Notice Publication Date: 5-1-2017

Rules Amended: 847-035-0030

Subject: The rule amendment (1) adds “hemorrhage control” to the EMR scope of practice, which will allow use of multiple modalities such as tourniquets and bandages; (2) adds “emergency moves for endangered patients” to the EMR scope of practice; (3) allows intraosseous infusions to be performed by AEMTs for all patients, not just pediatric patients; and (4) moves intraosseous infusion of lidocaine from anesthetic from the EMT-Intermediate scope of practice to the AEMT scope of practice.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-035-0030

Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for emergency medical services providers. Emergency medical services providers may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to “emergency care” as defined in OAR 847-035-0001.

(2) The scope of practice for emergency medical services providers is the maximum functions which may be assigned to an emergency medical services provider by a Board-approved supervising physician. The scope of practice is not a set of statewide standing orders, protocols, or curriculum.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual emergency medical services provider may be requested by the Board or Authority and must be furnished upon request.

(5) An emergency medical services provider, including an Emergency Medical Responder, may not function without assigned standing orders issued by a Board-approved supervising physician.

(6) An emergency medical services provider, acting through standing orders, must respect the patient’s wishes including life-sustaining treatments. Physician-supervised emergency medical services providers must request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) Whenever possible, medications should be prepared by the emergency medical services provider who will administer the medication to the patient.

(8) An Emergency Medical Responder may:

(a) Conduct primary and secondary patient examinations;

(b) Take and record vital signs;

(c) Utilize noninvasive diagnostic devices in accordance with manufacturer’s recommendation;

(d) Open and maintain an airway by positioning the patient’s head;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for musculoskeletal injuries;

(g) Provide hemorrhage control;

(h) Provide emergency moves for endangered patients;

(i) Assist with prehospital childbirth;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior emergency medical services provider with the transporting ambulance;

(k) Administer medical oxygen;

(L) Maintain an open airway through the use of:

(A) A nasopharyngeal airway device;

(B) A noncuffed oropharyngeal airway device;

(C) A pharyngeal suctioning device;

(m) Operate a bag mask ventilation device with reservoir;

(n) Provide care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia;

(o) Prepare and administer aspirin by mouth for suspected myocardial infarction (MI) in patients with no known history of allergy to aspirin or recent gastrointestinal bleed;

(p) Prepare and administer epinephrine by automatic injection device for anaphylaxis;

(q) Prepare and administer naloxone via intranasal device or auto-injector for suspected opioid overdose; and

(r) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the Emergency Medical Responder:

(A) Has successfully completed an Authority-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Authority; and

(s) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician.

(9) An Emergency Medical Technician (EMT) may:

(a) Perform all procedures that an Emergency Medical Responder may perform;

(b) Ventilate with a non-invasive positive pressure delivery device;

(c) Insert a supraglottic airway device to facilitate ventilation through the glottic opening by displacing tissue and sealing of the laryngeal area;

(d) Perform tracheobronchial tube suctioning;

(e) Provide care for suspected shock;

(f) Provide care for suspected medical emergencies, including:

(A) Obtain a capillary blood specimen for blood glucose monitoring;

(B) Prepare and administer epinephrine by subcutaneous injection, intramuscular injection, or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Prepare and administer albuterol treatments for known asthmatic and chronic obstructive pulmonary disease (COPD) patients suffering from suspected bronchospasm.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Assist the on-scene Advanced EMT, EMT-Intermediate, or Paramedic by:

(A) Assembling and priming IV fluid administration sets; and

(B) Opening, assembling and uncapping preloaded medication syringes and vials;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient’s personal physician and that are in the possession of the patient at the time the EMT is summoned to assist that patient;

(L) In the event of a release of organophosphate agents, the EMT who has completed Authority-approved training may prepare and administer atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Authority and adopted by the supervising physician; and

(m) In the event of a declared Mass Casualty Incident (MCI) as defined in the local Mass Casualty Incident plan, monitor patients who have isotonic intravenous fluids flowing.

(10) An Advanced Emergency Medical Technician (AEMT) may:

(a) Perform all procedures that an EMT may perform;

(b) Initiate and maintain peripheral intravenous (I.V.) lines;

(c) Initiate saline or similar locks;

(d) Obtain peripheral venous blood specimens;

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- (e) Initiate and maintain an intraosseous infusion (in the pediatric patient); and
- (f) Prepare and administer the following medications under specific written protocols authorized by the supervising physician or direct orders from a licensed physician:
 - (A) Analgesics for acute pain: nitrous oxide.
 - (B) Anaphylaxis: epinephrine;
 - (C) Antihypoglycemics:
 - (i) Hypertonic glucose;
 - (ii) Glucagon;
 - (D) Intraosseous infusion anesthetic: Lidocaine;
 - (E) Nebulized bronchodilators:
 - (i) Albuterol;
 - (ii) Ipratropium bromide;
 - (F) Vasodilators: nitroglycerine;
 - (G) Naloxone; and
 - (H) Physiologic isotonic crystalloid solution.
- (11) An EMT-Intermediate may:
 - (a) Perform all procedures that an Advanced EMT may perform;
 - (b) Prepare and administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:
 - (A) Vasoconstrictors:
 - (i) Epinephrine;
 - (ii) Vasopressin;
 - (B) Antiarrhythmics:
 - (i) Atropine sulfate;
 - (ii) Lidocaine;
 - (iii) Amiodarone;
 - (C) Analgesics for acute pain:
 - (i) Morphine;
 - (ii) Nalbuphine Hydrochloride;
 - (iii) Ketorolac tromethamine;
 - (iv) Fentanyl;
 - (D) Antihistamine: Diphenhydramine;
 - (E) Diuretic: Furosemide;
 - (F) Anti-Emetic: Ondansetron;
 - (c) Prepare and administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;
 - (d) Prepare and administer immunizations for seasonal and pandemic influenza vaccinations according to the CDC Advisory Committee on Immunization Practices (ACIP), and/or the Oregon State Public Health Officer's recommended immunization guidelines as directed by the agency's supervising physician's standing order;
 - (e) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort;
 - (f) Prepare and administer routine or emergency immunizations and tuberculosis skin testing, as part of an EMS Agency's occupational health program, to the EMT-Intermediate's EMS agency personnel, under the supervising physician's standing order;
 - (g) Insert an orogastric tube;
 - (h) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;
 - (i) Perform electrocardiographic rhythm interpretation; and
 - (j) Perform cardiac defibrillation with a manual defibrillator.
 - (12) A Paramedic may:
 - (a) Perform all procedures that an EMT-Intermediate may perform;
 - (b) Initiate and maintain mechanical ventilation during transport if formally trained on the particular equipment and if acting under written protocols specific to the particular equipment;
 - (c) Initiate the following airway management techniques:
 - (A) Endotracheal intubation;
 - (B) Cricothyrotomy; and
 - (C) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway;
 - (d) Initiate a nasogastric tube;
 - (e) Provide advanced life support in the resuscitation of patients in cardiac arrest;
 - (f) Perform emergency cardioversion in the compromised patient;

- (g) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;
- (h) Perform electrocardiographic interpretation;
- (i) Initiate needle thoracostomy for tension pneumothorax in a pre-hospital setting;
- (j) Obtain peripheral arterial blood specimens under specific written protocols authorized by the supervising physician;
- (k) Access indwelling catheters and implanted central IV ports for fluid and medication administration;
- (L) Initiate and maintain urinary catheters; and
- (m) Prepare and initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09; BME 18-2009, f. & cert. ef. 10-23-09; BME 22-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & cert. ef. 1-26-10; BME 8-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 12-2010, f. & cert. ef. 7-26-10; BME 18-2010, f. & cert. ef. 10-25-10; OMB 1-2011, f. & cert. ef. 2-11-11; OMB 5-2011, f. & cert. ef. 4-8-11; OMB 8-2011, f. & cert. ef. 4-25-11; OMB 15-2012, f. & cert. ef. 4-17-12; OMB 30-2012, f. & cert. ef. 10-22-12; OMB 11-2013, f. & cert. ef. 4-5-13; OMB 14-2014, f. & cert. ef. 10-8-14; OMB 5-2015, f. & cert. ef. 4-3-15; OMB 11-2015, f. & cert. ef. 10-13-15; OMB 2-2017, f. & cert. ef. 1-6-17; OMB 6-2017, f. & cert. ef. 7-14-17

Rule Caption: Delegation of Authority to Board Chair during a Declared Emergency

Adm. Order No.: OMB 7-2017

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-14-17

Notice Publication Date: 5-1-2017

Rules Amended: 847-003-0100

Subject: The rule amendment clarifies that the Board Chair may exercise authority vested in the Board in the event of an emergency.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-003-0100

Declared Emergency — Delegation of Authority

(1) An emergency under this rule exists when:

(a) A State of Emergency or a Public Health Emergency has been declared by the Governor of Oregon under ORS 401.165 or 433.441 through 433.452; or

(b) The provisions of any relevant rules in Chapter 847 Oregon Administrative Rules have been suspended by the Governor under the authority of ORS 401.168(2); or

(c) A signatory to the Pacific Northwest Emergency Management Arrangement (the states of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory) has requested assistance during a civil emergency as authorized in ORS 402.250; or

(d) The President of the United States or another federal official has declared a public health emergency; or

(e) The Governor has authorized the Public Health Director to take the actions described in ORS 431.264.

(2) When an emergency exists as defined above, any authority vested in the Board may be exercised by the Board Chair, the Executive Director, any person acting as Executive Director in the Executive Director's absence or incapacity, or any person the Executive Director designates to make such decisions on the Executive Director's behalf.

Stat. Auth.: ORS 401.168, 402.105, 433.441 & 677.265

Stats. Implemented: ORS 401.165 & 677.265

Hist.: OMB 19-2012, f. & cert. ef. 8-3-12; OMB 7-2017, f. & cert. ef. 7-14-17

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Oregon State Treasury Chapter 170

Rule Caption: Modifies language related to enrollment in the Oregon Retirement Savings Program.

Adm. Order No.: OST 5-2017(Temp)

Filed with Sec. of State: 6-22-2017

Certified to be Effective: 6-22-17 thru 12-18-17

Notice Publication Date:

Rules Amended: 170-080-0015

Subject: The temporary rule inserts language to clarify the following: if an Employee has not established an IRA after notice and an opportunity to opt out of the Program, an IRA will be established for such Employee pursuant to directives and procedures established by the Board.

Rules Coordinator: Kimberly Olson—(503) 378-3562

170-080-0015

Employer Registration and Enrollment

(1) Registration

(a) On or before the Registration Date, each Employer shall register with the Program or file a Certificate of Exemption.

(b) The Registration Date for an Employer shall be as follows:

(A) An Employer employing one hundred (100) or more Employees: November 15, 2017

(B) An Employer employing at least fifty (50) but no more than ninety-nine (99) Employees: May 15, 2018

(C) An Employer employing at least twenty (20) but no more than forty-nine (49) Employees: December 15, 2018

(D) An Employer employing at least ten (10) but no more than nineteen (19) Employees: May 15, 2019

(E) An Employer employing at least five (5) but no more than nine (9) Employees: November 15, 2019

(F) An Employer employing four (4) or fewer Employees: May 15, 2020

(c) In determining the Number of Employees for purposes of this section, Employers shall use data as submitted on the most recently filed Oregon Quarterly Tax Report (Form OQ): Number of covered workers for Unemployment Insurance. Employers with no Employees reported on Form OQ: Number of covered workers for Unemployment Insurance will have a Registration Date of May 15, 2020.

(d) To register with the Program, a Facilitating Employer shall use the internet portal established by the Program Administrator to provide the following information:

(A) Employer name and assumed business name, if any;

(B) Employer Identification Numbers (Federal Employer Identification Number and Business Identification Number);

(C) Employer mailing address;

(D) Name, title, telephone number and email address of an individual designated by the Employer as the Program's point of contact;

(E) Number of Employees; and

(F) Any other information reasonably required by the Program for the purposes of administering the Program.

(e) New Employers: the Registration Date for an Employer who first meets the definition of Employer after July 1, 2017, shall be the later of:

(A) The date specified in subsection (2) above, or

(B) 90 days after the Employer first meets the definition of Employer.

(f) The Initial Enrollment Date for each Facilitating Employer shall be a date that is not more than 60 days after the Employer's required Registration Date.

(g) A Facilitating Employer who lacks access to the internet may register with the Program by alternate means established by the Program Administrator, but no earlier than 30 days in advance of the Facilitating Employer's required Registration Date.

(2) Enrollment

(a) On or before the Initial Enrollment Date, and on or before the Enrollment Date for each subsequently hired Employee, a Facilitating Employer shall enroll its Employees using the Program Administrator's internet portal or other means of data transmittal specified and validated by the Program Administrator. For each Employee, the Facilitating Employer shall provide the following information:

(A) Full legal name;

(B) Social security number or taxpayer ID number;

(C) Date of birth;

(D) Mailing address;

(E) Employee's designated email address; and

(F) Any other information reasonably required by the Program for the purposes of administering the Program.

(b) In order to allow for Employees to establish an IRA through an automatic enrollment process, the Board shall establish procedures with the Plan Administrator for the execution or adoption of such documents as are necessary or appropriate to establish an IRA for such Employee. If the Employee has not established an IRA after notice and an opportunity to opt out has been sent to the Employee using the contact information on file with the Program, an IRA will be established for such Employee pursuant to directives and procedures established by the Board.

Stat. Auth.: ORS 178.200-178.245

Stats. Implemented: ORS 178.200-178.245

Hist.: OST 3-2017, f. & cert. ef. 4-19-17; OST 5-2017(Temp), f. & cert. ef. 6-22-17 thru 12-18-17

Psychiatric Security Review Board Chapter 859

Rule Caption: Repeal of redundant PSRB rule: OAR 859-020-0020.

Adm. Order No.: PSRB 1-2017

Filed with Sec. of State: 7-2-2017

Certified to be Effective: 7-2-17

Notice Publication Date: 6-1-2017

Rules Repealed: 859-020-0020

Subject: Repeal OAR 589-020-0020.

Rules Coordinator: Sid Moore—(503) 229-5032

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Rules Regarding Community Solar Projects.

Adm. Order No.: PUC 6-2017

Filed with Sec. of State: 6-30-2017

Certified to be Effective: 6-30-17

Notice Publication Date: 5-1-2017

Rules Adopted: 860-088-0005, 860-088-0010, 860-088-0020, 860-088-0030, 860-088-0040, 860-088-0050, 860-088-0060, 860-088-0070, 860-088-0080, 860-088-0090, 860-088-0100, 860-088-0110, 860-088-0120, 860-088-0130, 860-088-0140, 860-088-0150, 860-088-0160, 860-088-0170, 860-088-0180, 860-088-0190

Subject: In accordance with Oregon Laws 2016, Chapter 28, Section 22 (2016 SB 1547), these rules establish a community solar program, which will be supplemented and further developed in future PUC proceedings

Rules Coordinator: Diane Davis—(503) 378-4372

860-088-0005

Scope and Applicability of Community Solar Program Rules

(1) OAR 860-088-0005 through 860-088-0190 establish rules governing implementation of a community solar program under Oregon Laws 2016, chapter 28, section 22.

(2) Upon request or its own motion, the Commission may waive any of the Division 088 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Stat. Auth.: OL 2016, ch. 28, sec. 22

Stats. Implemented: OL 2016, ch. 28, sec. 22

Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0010

Definitions

For purposes of this Division:

(1) "Community Solar Program" is the program for the procurement of electricity by electric companies from community solar projects.

(2) "Low-Income Facilitator" is the entity responsible for the duties set forth in OAR 860-088-0030.

(3) "Electric company" has the meaning given that term in ORS 757.600.

(4) "Low-income residential customer" means a retail residential customer of an electric company whose annual income is at or below the threshold set by Commission order for the Community Solar Program.

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(5) "Nameplate capacity" means the maximum rated output of a solar photovoltaic energy system, measured by the rated output of system inverters at 50 degrees Celsius and adjusted for any transformer step-up losses.

(6) "Owner" means a retail customer of an electric company who has an ownership interest in a project, such as direct ownership of one or more solar panels or shared ownership of the infrastructure of the project. Owner is defined at the site address level.

(7) "Participant" means either a subscriber or owner.

(8) "Program Administrator" means a third-party directed by the Commission to administer the Community Solar Program.

(9) "Program Implementation Manual" means the set of guidelines and requirements for implementing the Community Solar Program adopted by the Commission.

(10) "Project" means a community solar project as defined in Oregon Laws 2016, chapter 28, section 22(1)(a).

(11) "Project Manager" has the meaning given that term in Oregon Laws 2016, chapter 28, section 22(1)(d).

(12) "Retail customer" means a customer who is a direct customer of the electric company and is the end user of electricity for specific purposes, such as heating, lighting, or operating equipment.

(13) "Service territory" means the geographic area within which an electric company provides electricity to retail customers.

(14) "Solar photovoltaic energy system" has the meaning given that term in Oregon Laws 2016, chapter 28, section 22(1)(e).

(15) "Subscriber" means a retail customer of an electric company who enters into a contractual agreement of 10 or more years for part of a project that results in bill credits being applied to that customer's electricity bill. Subscriber is defined at the site address level.

Stat. Auth.: OL 2016, ch. 28, sec. 22

Stats. Implemented: OL 2016, ch. 28, sec. 22

Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0020

Program Administrator

(1) The Commission will use a competitive bidding process to select a Program Administrator to administer the Community Solar Program.

(2) The duties of the Program Administrator include:

(a) Developing jointly with Commission Staff a Program Implementation Manual;

(b) Developing a budget and reporting actual expenditures and carry-over to the Commission;

(c) Managing the performance of the Low-Income Facilitator and coordinating with the Low-Income Facilitator to meet any low-income capacity requirements;

(d) Registering Project Managers;

(e) Reviewing applications for project pre-certification and certification;

(f) Confirming participant eligibility in the Community Solar Program;

(g) Facilitating the exchange of customer electricity account information between electric companies and Project Managers;

(h) Establishing and maintaining a publicly-available queue of pre-certified projects in a manner that protects commercially sensitive or confidential information;

(i) Coordinating participants' monthly bill crediting and conveying bill credit information to electric companies and Project Managers;

(j) Providing to electric companies participant ownership or subscription payment information obtained from Project Managers;

(k) Receiving from electric companies monies collected from participants, allocating monies, and maintaining monthly reports of receipts and allocations to submit to the Commission upon request;

(l) Monitoring Project Managers' compliance with the standard of conduct set forth in the Program Implementation Manual and notifying the Commission of any compliance deficiency;

(m) Facilitating data exchange among electric companies, Project Managers, and the Commission;

(n) Managing data related to the Community Solar Program as set forth in the Program Implementation Manual, including implementing best practices for data security and privacy; and

(o) Performing other duties assigned by the Commission or set forth in the Program Implementation Manual.

Stat. Auth.: OL 2016, ch. 28, sec. 22

Stats. Implemented: OL 2016, ch. 28, sec. 22

Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0030

Low-Income Facilitator

(1) The Commission will use a competitive bidding process to select a Low-Income Facilitator. The Commission may allow the Program Administrator to fulfill the duties of this position or subcontract for this position.

(2) The Low-Income Facilitator reports to the Program Administrator. The duties of the Low-Income Facilitator include:

(a) Serving as a liaison among low-income residential customers and affiliated organizations and Project Managers to help meet any low-income capacity requirements;

(b) Developing guidelines, protocols, and materials for engaging low-income residential customers and affiliated organizations;

(c) Upon request, providing information to assist the Commission's policy development related to low-income capacity requirements;

(d) Implementing best practices for data security and privacy; and

(e) Other duties assigned by the Program Administrator, the Commission, or set forth in the Program Implementation Manual.

Stat. Auth.: OL 2016, ch. 28, sec. 22

Stats. Implemented: OL 2016, ch. 28, sec. 22

Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0040

Project Pre-Certification

(1) The Project Manager must submit an application for project pre-certification to the Program Administrator.

(2) An application for pre-certification must include:

(a) Documentation of Project Manager registration;

(b) A detailed description of the project including location, nameplate capacity, performance characteristics, and plan for project end of useful life;

(c) Permitting requirements and status of compliance;

(d) All documentation relevant to the interconnection process as provided in OAR chapter 860, division 82;

(e) Participant acquisition approach;

(f) Proposed marketing materials;

(g) Proposed forms and standard contracts for ownership interests and subscriptions;

(h) Plan for meeting applicable low-income capacity requirements;

(i) Payment of any applicable application fees; and

(j) Other information or documentation as set forth in the Program Implementation Manual.

(3) The Program Administrator reviews applications for pre-certification in the order received to determine compliance with applicable requirements and presents applications to the Commission for pre-certification. The Program Administrator must notify the Project Manager of any deficiencies and allow reasonable time for remedy.

(4) Once the Commission pre-certifies a project, the Project Manager may execute contracts with participants for ownership or subscription interests.

(5) A project remains pre-certified for a period of 18 months, unless granted an extension by Commission order. If not certified within this period, the project forfeits its place in the queue of pre-certified projects. The Project Manager must submit a new application for pre-certification to be considered for participation in the Community Solar Program.

(6) The Project Manager must seek Commission approval of any modification to a pre-certified project relating to project elements set forth in the Program Implementation Manual. An amendment will not extend the 18-month period. The Program Implementation Manual will prescribe the form and manner of amendment submission and approval.

Stat. Auth.: OL 2016, ch. 28, sec. 22

Stats. Implemented: OL 2016, ch. 28, sec. 22

Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0050

Project Certification

(1) The Project Manager of a pre-certified project must submit an application for project certification to the Program Administrator.

(2) The Commission will certify a project that demonstrates:

(a) Ownership of, or subscription to, at least 50 percent of the project nameplate capacity;

(b) Ownership or subscription by at least five different participants;

(c) Compliance with applicable low-income capacity requirements;

(d) Commission approval of modification to pre-certified project as required in OAR 860 088-0040(6), if applicable; and

(e) Satisfaction of any other condition identified by the Commission at the time of pre certification.

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(3) The Program Administrator reviews applications for certification in the order received for compliance with applicable requirements and presents applications to the Commission for certification. The Program Administrator must notify the Project Manager of any deficiencies and allow reasonable time for remedy.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0060

Program Capacity Restrictions

(1) "Program capacity tier" means the amount of total program capacity eligible for projects participating in an electric company's service territory.

(2) The initial program capacity tier for each electric company is equal to 2.5 percent of the electric company's 2016 system peak.

(3) The Commission may establish successive program capacity tiers.

(a) In determining whether to set a successive tier, the Commission may consider all aspects of the Community Solar Program.

(b) A successive program capacity tier may not be established until any low-income capacity requirements are successfully energized and the corresponding projects are serving qualifying participants.

(4) Once a project is pre-certified, the nameplate capacity of the project is counted towards the program capacity tier of the electric company in whose service territory the project is located. The nameplate capacity of the project will be removed from the electric company's program capacity tier in the event that the Project Manager notifies the Program Administrator that the project will be removed from the Community Solar Program or the project is otherwise not certified within the time period allowed in OAR 860-088-0040(5).

(5) A project may not be pre-certified if the addition of the project will exceed the electric company's current program capacity tier. The Program Administrator will create a queue of applications for pre-certification received after the program capacity tier has been met. If a successive program capacity tier is established, applications in the queue will be processed in the order received.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0070

Project Siting and Requirements

(1) To participate in the Community Solar Program, a project must:

(a) Be located within the Oregon service territory of an electric company; and

(b) Have a nameplate capacity of three megawatts or less.

(2) "Co-location" means two or more projects that exhibit characteristics of a single development, such as common ownership structure, an umbrella sale arrangement, revenue-sharing arrangements, or common debt or equity financing. Projects are not considered co located solely because the same person provides tax equity financing for the projects. Co location of projects is not permitted within a five-mile radius unless:

(a) The aggregate nameplate capacity of the co-located projects is three megawatts or less; or

(b) The co-located projects are all sited within a single municipality or urban area as defined in the Program Implementation Manual.

(3) Multiple solar photovoltaic energy systems that are aggregated into one project must all be located within a single electric company's service territory.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0080

Customer and Low-Income Capacity Requirements

(1) At least 50 percent of the nameplate capacity of each project must be allocated exclusively for ownership or subscription by residential and small commercial customers. This is inclusive of the low-income capacity requirement in section (2) of this rule.

(2) At least 10 percent of the total generating capacity of the Community Solar Program must be allocated exclusively for use by low-income residential customers. The respective bill credits associated with this allocation must be linked to discrete low-income residential customers.

(3) A Project Manager must submit a plan with the application for project pre-certification describing how the project will satisfy applicable low-income capacity requirements and outline how the Project Manager will work with the Low-Income Facilitator on outreach efforts.

(4) The Commission may establish by order a funding mechanism to facilitate participation of low-income residential customers.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0090

Participant Eligibility and Limitations

(1) Subject to the conditions in this rule, a retail electricity customer of an electric company may acquire an ownership interest in, or subscribe to, one or more projects that are located in the service territory of the electric company serving the retail electricity customer.

(2) A participant's ownership interest in, or subscription to, a project may not exceed the retail electricity customer's average annual consumption of electricity in the service territory in which the project is located.

(3) A single participant's ownership interest in, or subscription to, a project may not exceed a 40 percent interest in the project.

(4) With respect to projects certified during the initial program capacity tiers:

(a) A participant, and its affiliates as defined in the Program Implementation Manual, may own or subscribe up to a total of four megawatts across multiple projects; and

(b) A participant may own or subscribe up to a total of two megawatts across multiple projects.

(5) For any successive program capacity tier established by the Commission, participation limitations will be set forth in the order adopting the successive tier.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0100

Consumer Protection Provisions

(1) All contracts between Project Managers and participants must contain provisions to protect customers, including terms and conditions regarding:

(a) Contract portability and transferability;

(b) Transparency of costs, risks, and benefits;

(c) Cancellation penalties;

(d) Explanation of one-time and on-going fees;

(e) Early termination;

(f) Explanation of concept of renewable energy credits;

(g) Data privacy and security;

(h) Responsibilities of the Program Administrator, electric company, and Commission;

(i) Notifications regarding project status and performance; and

(j) Other requirements set forth in the Program Implementation Manual.

(2) Prior to executing a contract with a participant, the Project Manager must provide the participant a Commission-approved checklist that discloses the charges, terms and conditions of service, the process for dispute resolution, and other items set forth in the Program Implementation Manual.

(3) Marketing materials must contain a Commission-approved disclaimer explaining that participation in the Community Solar Program is for the purpose of offsetting participants' energy usage with electricity generated by certified projects.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0110

Dispute Resolution

(1) Any complaints related to the Community Solar Program received by an electric company, the Low-Income Facilitator, the Program Administrator, or the Commission are to be referred initially to the applicable Project Manager for resolution.

(2) The Project Manager must investigate each complaint and provide a written response to the complainant.

(3) If the Project Manager is unable to resolve the complaint, the complainant may request that the complaint be escalated to the Program Administrator. If the Program Administrator is unable to resolve the complaint, the Program Administrator must notify the complainant of the right to contact the Commission's Consumer Services Section to request assistance in resolving the dispute or to obtain information about filing a formal complaint under ORS 756.500.

(4) The Project Manager must compile and submit to the Program Administrator an annual report of complaints received over the past 12-

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month period. This report must include a description of each complaint, the parties to the complaint, and the resolution of the complaint.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0120

Obligations of Electric Companies

(1) Upon request from the Program Administrator, an electric company must provide customer electricity account information to the Program Administrator for the purpose of appropriately sizing an ownership interest or subscription in a project. Customer information may not be disclosed to the Program Administrator without consent from the customer.

(2) An electric company must credit participants of a certified project with bill credits as provided in OAR 860-088-0170. The application of the credit may appear on the participants' account in a subsequent billing period due to the time required to calculate the credit and transfer information between entities. The electric company will apply the credit to the participant's account within 30 days of receiving the bill credit information from the Program Administrator.

(3) Each electric company, in conjunction with the Program Administrator, must develop and obtain Commission approval of an on-bill payment model that allows for multiple ownership and subscription configurations to assess and remit on a participant's electricity bill:

(a) Ownership or subscription fees owed by the participant to the Project Manager. An electric company may only remit fees to a Project Manager once a project has been certified;

(b) Fees owed by the participant to fund the Program Administrator and Low-Income Facilitator; and

(c) Additional fees collectible from participants imposed by Commission order.

(4) An electric company must obtain Commission approval of any applicable tariffs required by these rules, including the rate recovery of any expenditure for project development and administration if the electric company is acting as Project Manager.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0130

Obligations of Project Managers

(1) The Project Manager must register with the Program Administrator.

(2) The Project Manager must comply with the standard of conduct established by Commission order. Upon notice of a potential compliance deficiency, the Project Manager will be afforded the opportunity to meet with Commission Staff and the Program Administrator to work toward a resolution. If the compliance deficiency is not resolved, the Commission may direct the Program Administrator to withhold payments to the Project Manager and take other action as permitted by rule, statute, or contract.

(3) For the collection of ownership or subscription fees owed to the Project Manager, the Project Manager must use the Commission-approved on-bill payment method described in OAR 860-088-0120(3).

(a) The Project Manager may use a modified on-bill payment method if agreed to by the Program Administrator and the electric company.

(b) The Project Manager may request approval of an alternative fee collection method for ownership or subscription configurations incompatible with the available on-bill payment methods.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0140

Sale and Purchase of Unsold and Unsubscribed Generation

(1) Upon project certification, the project's remaining unsold and unsubscribed generation is eligible for sale subject to the following requirements:

(a) Upon request, an electric company must enter into a 20-year power purchase agreement with a pre-certified project to purchase the project's unsold and unsubscribed generation on an "as available" basis subject to the requirements of the Public Utility Regulatory Policy Act (PURPA) and ORS 758.505, et. seq.;

(b) If the electric company is the Project Manager, the electric company may seek Commission approval to recover from all ratepayers the "as available" rate for the project's unsold and unsubscribed generation; and

(c) Renewable energy certificates associated with generation sold under section (1)(a) of this rule at the "as available" rate will not transfer to

the electric company unless otherwise agreed by the Project Manager and electric company.

(2) The value of any project generation that is not sold to or subscribed by participants, sold to an electric company under a power purchase agreement, or sold on another basis must be donated to the electric company whose service territory encompasses the project at the "as available" rate and used by the electric company to assist low-income residential customers' participation in the Community Solar Program.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0150

Renewable Portfolio Standards and Renewable Energy Certificates

(1) Megawatt hours of electricity associated with participant ownership interests or subscriptions will be deducted from the amount of electricity sold by the electric company to retail electricity consumers for purposes of calculating the electric company's renewable portfolio standard under ORS 469A.052.

(2) All claims to environmental, economic, and social benefits associated with megawatt hours of electricity associated with participant ownership interests or subscriptions, including any renewable energy certificates, must remain with the participants.

(3) Registration with the Western Renewable Energy Generation Information System (WREGIS) is required. For any project that is 360 kilowatts in aggregate size or less, the Project Manager may request with its application for project pre-certification a waiver from the requirement to register with WREGIS.

(4) If a project is registered with WREGIS, the Project Manager must:

(a) Maintain sub-accounts associated with the renewable energy certificates owned by participants and retire those renewable energy certificates annually on behalf of participants;

(b) Report annually to the Commission the retirement of renewable energy certificates on behalf of participants; and

(c) Report annually to the Commission the sale of any renewable energy certificates generated by the project sold as of a result of a contract for the unsold or unsubscribed portion of project generation. The report must include adequate information for the Commission to verify that any renewable energy certificates owned by participants were not sold.

(5) If a project is granted a waiver from the requirement to register with WREGIS, the Project Manager must:

(a) Disclose in the contracting documents with participants that the project will not create and retire renewable energy certificates on their behalf; and

(b) Provide an attestation at the time of project pre-certification that all renewable energy attributes associated with megawatt hours of electricity associated with participant ownership interests or subscriptions are being claimed solely by project participants.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0160

Community Solar Program Funding

(1) Start-up costs incurred during the development or modification of the Community Solar Program are recoverable in electric company rates. These costs, which must be reviewed and approved by Commission order, include:

(a) Costs associated with the Program Administrator and Low-Income Facilitator; and

(b) Each electric company's prudently-incurred start-up costs associated with implementing the Community Solar Program. These costs include, but are not limited to, costs associated with customer account information transfer and on-bill crediting and payment, but exclude any costs associated with the electric company developing a project.

(2) On-going costs of the Community Solar Program, including costs associated with the Program Administrator and the Low-Income Facilitator, are collected from participants.

(a) Each project is responsible for its appropriate share of on-going costs, as allocated in the Program Implementation Manual or otherwise determined by Commission order.

(b) If the Program Administrator or Low-Income Facilitator receives funds in excess of actual costs, the excess funds may be accrued and applied to offset future costs.

(c) If the Program Administrator or Low-Income Facilitator receives inadequate funds to continue performing its duties, the Commission may

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suspend further pre-certification of projects until the funding shortfall is resolved.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0170

Bill Crediting

(1) For purposes of this rule:

(a) "Bill credit rate" is an amount used to calculate a participant's monthly bill credit. Unless otherwise determined by Commission order, the bill credit rate for a project will be based on the resource value of solar applicable to that project at the time of pre-certification and will apply for a term no less than the term of any power purchase agreement entered into pursuant to OAR 860-088-0140(1)(a).

(b) "Carry-over generation" means the kilowatt-hours of a participant's proportional share of project generation in a monthly billing period that exceeds the participant's energy usage during that monthly billing period.

(c) "Differential credit" means the difference between the retail rate multiplied by the participant's eligible generation, and the bill credit rate multiplied by the payable generation. (Retail rate x participant's eligible generation) – (bill credit rate x participant's eligible generation).

(d) "Eligible generation" means the kilowatt-hours of project generation for which a participant may receive a monthly bill credit. In a monthly billing period, this eligible generation is the portion of the participant's proportional share of project generation that is equal to or less than the participant's energy usage during the period in which the generation occurred.

(e) "Energy usage" means a participant's volumetric energy consumption as reflected on the participant's electricity bill.

(f) "Excess generation" means the portion of a participant's proportional share of project generation that exceeds the participant's energy usage in a monthly billing period.

(2) A participant's monthly bill credit is calculated by:

(a) Multiplying the participant's eligible generation for the monthly billing period by the bill credit rate; and

(b) Adjusting this amount to account for:

(A) Eligible carry-over generation, which is the portion of the participant's accrued carry-over generation that when added to participant's eligible generation does not exceed the participant's energy usage for the monthly billing period; and

(B) Accrued differential credit, which is value that accrues to the participant when the bill credit rate exceeds the volumetric retail rate.

(3) The monthly bill credit provided to a participant may not exceed the participant's total volumetric charges for the monthly billing period. The portion of a participant's differential credit that exceeds the participant's total monthly volumetric charges may be accrued and used to adjust the participant's monthly bill credit in future billing periods.

(4) A participant's excess generation at the end of the annual billing cycle must be donated to the low-income programs of the electric company serving the participant. Unless the electric company and the Project Manager agree otherwise, the annual billing cycle begins on the first day of the April billing month and ends at the close of the March billing month. If the electric company and the Project Manager agree to an alternative billing cycle, the electric company must inform the Program Administrator in writing of the alternative billing cycle within 30 calendar days of the participant's execution of a contract with the Project Manager.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0180

Community Solar Program Evaluation

(1) Commission Staff will periodically conduct a public workshop with the Program Administrator and Low-Income Facilitator to solicit comment from interested persons on the status of the Community Solar Program.

(2) Commission Staff will periodically present a report to the Commission based on input from these public workshops and other relevant information, that:

(a) Describes the status of implementation of the Community Solar Program;

(b) Evaluates use of additional mechanisms to incent participation and project development; and

(c) Considers, at a minimum, adjustments or modifications to:

(A) Program capacity restrictions,

(B) Project siting and size requirements,

(C) Low-income capacity requirements,

(D) Participation restrictions,

(E) Data reporting and management practices,

(F) Consumer protection provisions, and

(G) The responsibilities of the Program Administrator and Low-Income Facilitator.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

860-088-0190

Program Implementation Manual

(1) A Program Implementation Manual will be developed jointly by the Program Administrator and Commission Staff through a public process and adopted by Commission order.

(2) The Program Implementation Manual will describe and inform the roles of the Program Administrator, the Low-Income Facilitator, and Commission Staff in implementing the Community Solar Program.

(3) The Commission may, upon request or on its own motion and after notice and opportunity for public comment, amend the Program Implementation Manual upon a finding of good cause.

Stat. Auth.: OL 2016, ch. 28, sec. 22
Stats. Implemented: OL 2016, ch. 28, sec. 22
Hist.: PUC 6-2017, f & cert. ef. 6-30-17

**Public Utility Commission,
Oregon Board of Maritime Pilots
Chapter 856**

Rule Caption: Adjusts pilot license fee by percentage change in consumer price index for previous 24 months.

Adm. Order No.: BMP 3-2017

Filed with Sec. of State: 6-23-2017

Certified to be Effective: 7-1-17

Notice Publication Date: 5-1-2017

Rules Amended: 856-010-0016

Subject: The Board is statutorily required to adjust the amount of the maximum license for a maritime pilot for each subsequent biennium by a proportional amount equal to the percentage change in the 24-month period prior to the beginning of the biennium in the Portland-Salem OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. The cumulative CPI for the previous period will increase the license fee from \$2,995 to \$3,149 annually.

Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0016

License Fees

The annual license fee for pilots shall be \$3,149.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115 & 776.355
Hist.: MP 1-1991(Temp), f. 6-19-91, cert. ef. 7-1-91; MP 2-1991, f. & cert. ef. 12-27-91; MP 3-1992(Temp), f. 6-26-92, cert. ef. 7-1-92; MP 4-1992, f. 11-13-92, cert. ef. 12-28-92; BMP 3-2007(Temp), f. & cert. ef. 7-26-07 thru 1-21-08; BMP 1-2008, f. & cert. ef. 1-24-08; BMP 6-2009, f. & cert. ef. 8-24-09; BMP 6-2011, f. 10-31-11, cert. ef. 11-1-11; BMP 2-2013, f. & cert. ef. 7-1-13; BMP 3-2015, f. & cert. ef. 7-22-15; BMP 3-2017, f. 6-23-17, cert. ef. 7-1-17

**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Expand public records training and add facilitated dispute resolution for public records requests

Adm. Order No.: OSA 2-2017

Filed with Sec. of State: 7-14-2017

Certified to be Effective: 7-14-17

Notice Publication Date: 6-1-2017

Rules Adopted: 166-035-0005, 166-035-0010, 166-035-0015, 166-037-0010, 166-037-0020

Subject: The Secretary of State is launching the Oregon Access Project to improve public records access. As part of the project, the Archives Division will expand public records trainings for members of the public, media, state agencies, and local governments while also adding a new service: facilitated dispute resolution for public records

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requests. This will maximize current staff expertise, use existing resources, and avoid unnecessary duplication.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-035-0005

Purpose

This Division specifies requirements for a public body and the public to request facilitated dispute resolution services when requested from the Archives Division. As used in this rule, “person” includes members of the public or media, and “public body” includes state agencies and local governments.

Stat. Auth.: ORS 192.015, 357.895, 357.855
Stats. Implemented: ORS 192 & 357
Hist.: OSA 2-2017, f. & cert. ef. 7-14-17

166-035-0010

Requesting Facilitated Dispute Resolution

(1) A person may seek facilitated dispute resolution services under this section when seeking to inspect or receive copies of public records from a public body and the person:

(a) Has been denied access to all or a portion of the records being sought;

(b) Has been denied a fee waiver or reduction in fees after asserting under ORS 192.440(5) that a fee waiver or reduction of fees is in the public interest; or

(c) Received a written fee estimate under ORS 192.440(4) that the person believes exceeds the actual cost to be incurred by the public body in producing the requested records.

(2) A public body may seek facilitated dispute resolution services under this section if, in response to a request for public records, the public body asserts:

(a) That all or a portion of the records being sought are not public records;

(b) That all or a portion of the records being sought are exempt from mandatory disclosure;

(c) That the public body is, under ORS 192.440, entitled to the fees the public body is seeking in order to produce the records being requested; or

(d) That the scope of the public records request is too broad to be cost efficient.

Stat. Auth.: ORS 192.015, 357.895, 357.855
Stats. Implemented: ORS 192 & 357
Hist.: OSA 2-2017, f. & cert. ef. 7-14-17

166-035-0015

Facilitated Dispute Resolution Process

Upon receipt of a request for facilitated dispute resolution services, the State Archivist shall communicate with both parties regarding the records request. The Archivist shall determine if the request meets the requirements of OAR 166-035-0010, needs to be narrowed or clarified and shall work with both parties to reach a compromise.

(1) Subject to ORS 357.875, the State Archivist may confidentially access, examine, or receive the records in question to determine if they can be disclosed in whole, in part, or not at all. In some cases, the Attorney General may be consulted for legal advice.

(2) If the facilitated dispute resolution results in an agreement between the public records requester and the public body, the State Archivist shall prepare a written document memorializing the agreement. The written agreement shall be executed by the public records requester and an authorized representative of the public body. The written agreement shall control the resolution of the records request.

(3) If an agreement is not reached, the State Archivist shall inform the requestor of the process to escalate to the Attorney General, District Attorney, or appropriate legal counsel. The public body will also be informed of their right to consult their legal counsel for a formal opinion.

(4) The State Archivist possesses sole discretion over the conduct of facilitated dispute resolution sessions within the bounds of this rule.

(5) The State Archivist may decline to accept requests for facilitated dispute resolution if the State Archivist has reason to believe that facilitated dispute resolution would not be productive, such as if a person or public body has acted in bad faith.

(6) The State Archivist may delegate duties under this rule.

(7) The State Archivist shall publish an annual report on facilitated dispute resolution services requested, resulting outcomes, and recommended process improvements. A copy shall be sent to the Legislature and Governor.

Stat. Auth.: ORS 192.015, 357.895, 357.855, 357.875

Stats. Implemented: ORS 192 & 357
Hist.: OSA 2-2017, f. & cert. ef. 7-14-17

166-037-0010

Public Records Training

(1) The State Archivist shall provide training for members of the public, media, state agencies, and local governments at locations throughout the state regarding the requirements and best practices for the management of public records and processing and responding to public records requests.

(2) The State Archivist shall notify members of the public, media, state agencies, and local governments of training opportunities and create a process allowing members of the public, media, state agencies, and local governments to request trainings.

(3) Upon the written request of a state agency or local government, the State Archivist may provide guidance and advice on matters pertaining to the management of public records and public records request processing and the disclosure and applicability of exemptions from disclosure of public records.

(4) The State Archivist may delegate duties under this rule.

(5) The State Archivist shall publish an annual report on trainings conducted under this rule. A copy shall be sent to the Legislature and Governor.

Stat. Auth.: ORS 192.015, 357.895, 357.855
Stats. Implemented: ORS 192 & 357
Hist.: OSA 2-2017, f. & cert. ef. 7-14-17

166-037-0020

Public Records Survey, Research, and Reporting

(1) The State Archivist shall periodically:

(a) Survey state agency and local government practices and procedures for:

(A) Receiving public records requests, identifying the existence of records responsive to the requests, and gathering and disclosing responsive records;

(B) Determining fee estimates and imposing or waiving fees under ORS 192.440; and

(C) Determining and applying exemptions from required disclosure of public records.

(D) Written policies that set forth the agency’s use, access, management, retention and ownership of public records.

(b) Examine practices in other jurisdictions that are similar to those described in paragraph (a) of this subsection.

(c) Identify inefficiencies and inconsistencies in application of public records laws that impede transparency in the public records disclosure process and government.

(d) Make recommendations on changes in law, policy, or practice that could enhance transparency in the public records disclosure process and government, and facilitate rapid dissemination of public records to requesters.

(2) The State Archivist may delegate duties under this rule.

(3) The State Archivist shall publish an annual report on research conducted under this rule. A copy shall be sent to the Legislature and Governor.

Stat. Auth.: ORS 192.015, 357.895, 357.855
Stats. Implemented: ORS 192 & 357
Hist.: OSA 2-2017, f. & cert. ef. 7-14-17

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**Secretary of State,
Elections Division
Chapter 165**

Rule Caption: Increases length of time before voters are moved to inactive status under ORS 247.013(6)

Adm. Order No.: ELECT 2-2017

Filed with Sec. of State: 6-16-2017

Certified to be Effective: 6-16-17

Notice Publication Date: 5-1-2017

Rules Adopted: 165-005-0180

Subject: This rule specifies that the registration of a voter who has not voted or updated their registration information shall not be made inactive until they have not voted or updated their registration information for a period of ten years.

Rules Coordinator: Brenda Bayes—(503) 986-1518

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165-005-0180

Inactive Voters under ORS 247.013(6)

In accordance with ORS 247.013(6) the registration of a voter who has neither voted nor updated their registration for a period of not less than five years shall not be considered inactive until such time as:

- (1) The voter has neither voted nor updated their registration for a period of ten years; and
- (2) The county clerk has mailed the notice described in ORS 247.563 to the voter.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 247.005 & 247.013(6)
Hist.: ELECT 2-2017, f. & cert. ef. 6-16-17

Rule Caption: Adopts Revisions to the Vote by Mail Manual

Adm. Order No.: ELECT 3-2017

Filed with Sec. of State: 6-16-2017

Certified to be Effective: 6-16-17

Notice Publication Date: 3-1-2017

Rules Amended: 165-007-0030

Subject: This rule amendment adopts the most recent revisions of the Vote by Mail Manual as the processes, procedures and requirements for conducting an election by mail. This August 2015 revision incorporated updated procedures for voters lacking a residential address and ballot return envelope language. Other non-substantive technical changes and clarifications were also incorporated with this revision.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-0030

Designating the Vote By Mail Manual

The Secretary of State designates the Vote by Mail Manual and associated forms, as the procedures for conducting all vote by mail elections. All vote by mail elections shall be conducted following the requirements of ORS Chapters 246 through 260 and the Vote By Mail Manual.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 246.150, 254.465 & 254.470
Stats. Implemented: ORS 247 & 254
Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 9-2003, f. & cert. ef. 9-3-03; ELECT 26-2003, f. & cert. ef. 12-31-03; ELECT 10-2007, f. & cert. ef. 12-31-07; ELECT 10-2012, f. & cert. ef. 4-24-12; ELECT 8-2015, f. & cert. ef. 12-11-15; ELECT 3-2017, f. & cert. ef. 6-16-17

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Amends rules related to licensure and professional practices.

Adm. Order No.: TSPC 3-2017(Temp)

Filed with Sec. of State: 6-27-2017

Certified to be Effective: 7-1-17 thru 12-27-17

Notice Publication Date:

Rules Amended: 584-050-0035, 584-200-0005, 584-200-0020, 584-220-0010, 584-220-0120

Subject: The agency is amending professional practices and licensure rules to implement the provisions of SB 205 (Enrolled - 2017). SB 205 permits a person whose application for a teaching license is pending to teach in Oregon public schools for 90 days after the date of the submission of the application if certain background clearance requirements are met. Specifically, this rulemaking makes the following changes:

584-050-0035: Amends professional practices rule to permit teachers to work for 90 days after the date of submission of the application in a public school without a license without being in violation of professional practices standards. Educators must still meet certain background clearance requirements prior to employment.

584-200-0020: Amends licensure rule to permit teachers to work in a public school for 90 days after the date of submission of the application, if the educator meets the background clearance requirements.

The agency is amending licensure rules to provide an additional transitional option of a Legacy Middle Level endorsement for teachers who hold or previously held a multiple subjects endorsement with

a middle level authorization. Specifically, this rulemaking makes the following changes:

584-200-0005: Amends licensure rule to permit an educator who holds or previously held a multiple subjects endorsement with a middle level authorization issued prior to July 1, 2015 to be eligible for the Legacy Middle Level endorsement.

584-220-0010: Amends licensure rule to add the Legacy Middle Level endorsement to list of Commission-adopted teaching endorsements.

584-220-0120: Amends licensure rule to add the Legacy Middle Level endorsement to list of legacy teaching endorsements and to permit educators who hold or previously held a multiple subjects endorsements with a middle level authorization issued prior to July 1, 2015 to be eligible for the Legacy Middle Level endorsement.

Rules Coordinator: Tamara Dykeman—(503) 378-3586

584-050-0035

Requirements for Licenses, Registrations or Certifications While Employed

(1) Any person employed in a position in a school district, education service district, or charter school for which a license or registration is required pursuant to ORS Chapter 342, must hold a valid license or registration appropriate for the assignment while working as a public school, education service district or charter school employee.

(2) Notwithstanding subsection (1), a person whose application for a teaching license is pending may teach in Oregon public schools for 90 calendar days after the date of submission of the application, if the person:

(a) Submits an application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050; and

(b) Completes a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(C) A criminal records check as provided in ORS 181A.195 and a background check through an interstate clearinghouse of revoked and suspended licenses.

(3) Notwithstanding subsection (1), the employing school district, school or charter school must ensure a person is properly licensed on the 91st calendar day after the date of submission of the application, if a person whose application is pending is teaching in an Oregon public school as provided in subsection (2).

(4) Failure to maintain proper licensure, registration or certification may constitute gross neglect of duty pursuant to OAR 584-020-0040.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1980, f. & ef. 3-19-80; TS 1-1982, f. & ef. 1-5-82; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 3-2017(Temp), f. 6-27-17, cert. ef. 7-1-17 thru 12-27-17

584-200-0005

Transition to New Licensure System

(1) Effective January 1, 2016: All OAR chapter 584 rule titles, numbers and provisions adopted on or after January 1, 2016 will supersede all OAR chapter 584 rule numbers, titles and provisions adopted prior to this date. Any conflicting rule requirements within OAR chapter 584 will be resolved according to the OAR chapter 584 rule provisions effective on or after January 1, 2016.

(2) Endorsements:

(a) Effective July 1, 2015, the endorsements as provided in OAR 584-220-0010 will be placed on first-issue licenses and renewals.

(b) Effective July 1, 2015, all teaching licenses will be issued endorsements in accordance with Division 220, Endorsements on Teaching Licenses and subsection (2)(c) of this rule.

(c) Multiple Subjects endorsement authorized at the Middle Level: Effective July 1, 2015, the Multiple Subjects endorsement authorized at the Middle Level is abolished. The Multiple Subjects endorsement authorized at the Middle Level will not be added to or retained with an applicant's Initial, Initial I, Initial II, Continuing, Professional Teaching Licenses or any future licenses the applicant holds. Holders of a current or expired Multiple Subjects endorsement authorized at the Middle Level are subject to the following transition provisions:

(A) If the applicant has been assigned and taught multiple subjects (self-contained) for four full years or more in a public, charter or private

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school setting as evidenced by Professional Educational Experience Report (PEER) forms, the Elementary-Multiple Subjects endorsement may be added to the license. If the applicant has not taught four full years or more in an assignment that requires a multiple subjects (self-contained) endorsement, the Elementary-Multiple Subjects endorsement may not be added to the license. If necessary, the applicant and an Oregon school district may apply for an Emergency Teaching License pursuant to OAR 584-210-0130 or a License for Conditional Assignment (LCA) pursuant to OAR 584-210-0160 while the applicant is in the process of qualifying for an Elementary — Multiple Subjects or another valid endorsement.

(B) If the applicant has been assigned and taught Foundational Mathematics, Foundational Language Arts, Foundational Social Studies or Foundational Science for four full years or more in a public, charter or private school setting, as evidenced by Professional Educational Experience Report (PEER) forms, the appropriate foundational single subject may be added to the license. If the applicant has not taught four full years in an assignment that requires a foundational subject matter endorsement, the foundational subject matter endorsement may not be added to or retained on the license. If necessary, the applicant and a district may apply for an Emergency Teaching License pursuant to OAR 584-210-0130 or a License for Conditional Assignment (LCA) pursuant to 584-210-0160 while the applicant is in the process of qualifying for a valid subject-matter endorsement. The applicant may add the Foundational Mathematics, Foundational Language Arts, Foundational Social Studies or Foundational Science endorsement by receiving a passing score of the appropriate Commission-approved subject mastery test. The applicant is not required to complete the pedagogy requirements for adding an endorsement to a Preliminary Teaching License as provided in chapter 584, division 220.

(C) If an educator held a Multiple Subjects endorsement authorized at the Middle Level on an Initial I, Initial II, Continuing or Professional teaching license prior to July 1, 2015, the Legacy Middle Level endorsement may be added to the license.

(3) Grade-Level Authorizations:

(a) Effective July 1, 2015, grade-level authorizations for Initial, Initial I, Initial II, Continuing, Professional Teaching and Distinguished Teacher Leader licenses are abolished and regardless of the printed grade authorizations held on the license, all licenses in this subsection are authorized prekindergarten through grade 12 within the scope of the NCES course codes associated with the endorsements held on the license.

(b) Effective January 1, 2016, grade-level authorizations for Basic and Standard teaching licenses are abolished and regardless of the printed grade authorizations held on the license, all licenses are authorized prekindergarten through grade 12 within the scope of the NCES course codes associated with the endorsements held on the license.

(c) Effective July 1, 2015, licensees will no longer be advised that they must add a grade-level authorization program in order to expand the grade levels on their license.

(d) Licensees advised they were required to complete a grade-level authorization program will not be held for failure to complete that requirement.

(e) The Commission will make every effort to identify these licensees to alert them to the new grade-level authorization requirements.

(4) Initial I Teaching Licenses:

(a) All applicants issued an Initial I Teaching License between July 1, 2015 and December 31, 2015 will be issued a renewal of their license in accordance with the Preliminary Teaching License adopted on January 1, 2016.

(b) Effective January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(5) Initial I and Initial II Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program issued prior to July 1, 2015: General Provisions: Effective July 1, 2015, the completion of the advanced coursework of six (6) semester or nine (9) quarter graduate hours required to advance to the Initial II Teaching License satisfies the advanced professional education program requirements for the Professional Teaching License.

(6) Initial I Teaching Licenses Based on a Bachelor's Degree issued prior to July 1, 2015: General Provisions: Effective July 1, 2015, for Initial I Teaching Licenses based on a Bachelor's degree, the requirements to complete the master's degree or equivalent post-Initial I Teaching License are modified as follows:

(a) Admission to and completion of a master's degree or higher in education or in the arts and sciences from a regionally accredited institution, or the foreign equivalent of such degree approved by the Commission

will satisfy the advanced professional education program requirements of the Professional Teaching License;

(b) Completion of thirty (30) semester hours or forty-five (45) quarter hours of graduate coursework will be considered "equivalent" to completion of a master's degree;

(c) Effective July 1, 2015, the requirement that "equivalent" graduate coursework must include equal amounts of pedagogy; content; and electives (ten (10) semester or fifteen (15) quarter graduate hours each) has been eliminated; and

(d) Applicants who do not wish to complete these requirements may qualify for promotion to the Professional Teaching License upon completion of the advanced program requirements as provided in OAR 584-0210-0040.

(7) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2012 through June 30, 2015: First Renewal:

(a) Upon the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for qualifying for the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for first renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements to show progress of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Preliminary Teaching License renewal requirements as provided in OAR 584-210-0030.

(d) If the applicant does not meet renewal requirements for either previously advised or new Preliminary Teaching License renewal options, the applicant may not renew the license. The applicant may apply to reinstate the Preliminary Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement. (See, OAR 584-210-0030 and 584-210-0190.)

(e) Failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(8) Initial I Teaching Licenses Based on a Bachelor's Degree Issued Between July 1, 2012 through June 30, 2015: First Renewal:

(a) Upon the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements to qualify for the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for first renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Preliminary Teaching License renewal requirements as provided in OAR 584-210-0030.

(d) If the applicant does not meet renewal requirements for either the previously advised renewal option or the new Preliminary Teaching License renewal option, the applicant may not renew the license. The applicant may apply to reinstate the Preliminary Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Generally, failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(9) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2009 through June 30, 2012: Second Renewal:

(a) Upon second and final renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) To qualify for second renewal of the Initial I Teaching License, an applicant subject to this subsection must:

(A) Meet the previously advised renewal requirements to show progress of 3 semester or 4.5 quarter hours (at least 90 professional development units); or

(B) Meet the new Preliminary Teaching License renewal requirements as provided in OAR 584-210-0030.

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(d) If the applicant does not meet renewal requirements for either the previously advised renewal option or the new Preliminary Teaching License renewal option, the applicant may not renew the license. The applicant may apply to reinstate the Preliminary Teaching License upon completion of the renewal requirements in effect at the time of application for reinstatement.

(e) Generally, failure to complete renewal requirements is not considered an eligible emergency for purposes of the Emergency Teaching License.

(f) If an applicant is eligible for the Professional Teaching License as provided in OAR 584-210-0040, the applicant will be issued the Professional Teaching License.

(10) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2009 through June 30, 2012:

(a) Qualified applicants who have completed the advanced professional education program requirements and the professional experience requirement as previously advised by the Commission will be issued the Professional Teaching License.

(b) To qualify for the Professional Teaching License, applicants subject to this subsection must:

(A) Meet previously advised advanced coursework requirement of six (6) semester or nine (9) quarter graduate hours; or

(B) Meet the new requirements for the Professional Teaching License as provided in OAR 584-210-0040. Under this option, the applicant may use any qualifying coursework earned during the first two terms of her or his Initial I Teaching License to satisfy the new advanced professional education program requirements.

(c) If an applicant is unable to meet requirements for the Professional Teaching License as provided in subsection (10)(b) of this rule, the applicant will be issued a renewal of the Preliminary Teaching License.

(d) To qualify for the Professional Teaching License, all applicants must also meet the professional experience requirements provided in OAR 584-210-0040, Professional Teaching License.

(11) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2006 through June 30, 2009: No Further Renewals:

(a) Qualified applicants who have completed the advanced coursework requirements as previously advised by the Commission and the professional experience requirement will be issued the Professional Teaching License;

(b) To qualify for the Professional Teaching License, applicants subject to this subsection must:

(A) Meet previously advised advanced master's degree or equivalent coursework requirements for the Initial II Teaching License as modified by subsection (5) and (6) of this rule; or

(B) Meet the new requirements for the Professional Teaching License as provided in OAR 584-210-0040. Under this option, the applicant may use any qualifying coursework earned during the first two terms of her or his Initial I teaching License to satisfy the new advanced professional education program requirements.

(c) If an applicant is unable to meet requirements for the Professional Teaching License provided in subsection (10)(b) of this rule, the applicant will be issued a renewal of the Preliminary Teaching License.

(d) To qualify for the Professional Teaching License, all applicants must also meet the professional experience requirements provided in OAR 584-210-0040, Professional Teaching License.

(12) Initial II Teaching Licenses Effective July 1, 2015:

(a) Effective July 1, 2015, the Initial II Teaching License will no longer be issued.

(b) Qualified applicants who were issued the Initial II Teaching License prior July 1, 2015 are considered to have satisfied all advanced professional education program requirements provided in OAR 584-210-0040, Professional Teaching License;

(c) Qualified applicants who have completed the teaching experience requirements provided in OAR 584-210-0040 will be issued the Professional Teaching License;

(d) Qualified applicants who do not have sufficient teaching experience to meet the requirements for OAR 584-210-0040, Professional Teaching License, will be issued a continuously renewable Preliminary Teaching License as provided in OAR 584-210-0030, Preliminary Teaching License.

(e) On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(13) Continuing Teaching Licenses:

(a) Effective March 1, 2014, the Continuing Teaching License is no longer issued.

(b) Qualified Continuing Teaching License holders will be issued a Professional Teaching License with instructions on how to qualify and apply for the Teacher Leader License;

(14) Basic Teaching Licenses:

(a) Effective January 1, 2016, the Basic Teaching License will no longer be issued.

(b) Qualified applicants who were issued the Basic Teaching License prior to December 31, 2015 are considered to have satisfied all advanced professional education program requirements provided in OAR 584-210-0040, Professional Teaching License;

(c) Qualified applicants who have completed the teaching experience requirements provided in OAR 584-210-0040 will be issued the Professional Teaching License;

(d) Qualified applicants who do not have sufficient teaching experience to meet the requirements for OAR 584-210-0040, Professional Teaching License, will be issued the Legacy Teaching License unless the applicant requests to have the Preliminary Teaching License.

(15) Standard Teaching License Renewals:

(a) Effective January 1, 2016, the Standard Teaching License will no longer be issued.

(b) Qualified Standard Teaching License holders will be issued a Professional Teaching License.

(16) First Time Out of State Applicants:

(a) Effective January 1, 2016, the Initial Teaching License will no longer be issued.

(b) Qualified new out of state applicants will be issued a Reciprocal Teaching License as provided in OAR 584-210-0060.

(17) Five Year Teaching Licenses (Pre-1965 licenses) Renewals:

(a) Effective January 1, 2016, the pre-1965 Five Year Teaching Licenses will no longer be issued.

(b) Qualified Five Year Teaching License holders will be issued the Professional Teaching License.

(18) Teaching Licenses with Communication Disorder endorsements (speech language pathology):

(a) Effective January 1, 2016, all speech pathology related endorsements are retitled to Special Education: Communication Disorders.

(b) Until June 30, 2016, qualified applicants may be issued new non-provisional teaching licenses with special education: communications disorder endorsements.

(c) Effective July 1, 2016, new special education: communication disorder endorsements (speech language pathology) will no longer be issued.

(d) Effective July 1, 2016, licensed educators issued a non-provisional special education: communication disorder endorsements or other similar speech language pathology endorsements prior to June 30, 2016 are grandfathered into the licensure system and will be able to keep their special education: communication disorder endorsement. Grandfathered qualified applicants will be able to renew and reinstate teaching licenses with the special education: communication disorder endorsement. Applicants may not reinstate a restricted teaching license with a communication disorder or other similar speech pathology endorsement.

(19) Endorsements transitioning to Specializations:

(a) Early Childhood: All licenses issued prior to January 1, 2016 with an early childhood authorization or endorsement will be issued an early childhood specialization upon renewal of the license.

(b) ESOL/Bilingual: All licenses issued prior to January 1, 2016 with an ESOL/Bilingual endorsement will be issued an ESOL endorsement with a bilingual specialization upon renewal of the license.

(20) ESEA Alternative Route Teaching License Transition: Effective January 1, 2016, the ESEA Alternative Route Teaching License is no longer issued. Qualified applicants issued an ESEA license prior to January 1, 2016 must transition to full licensure at the end of their current three-year license term.

(21) Administrative and Personnel Service License Title Name Changes: Effective January 1, 2016, administrative and personnel service educator licenses titles will be renamed as follows:

(a) Basic Administrator is retitled to Legacy Preliminary Administrator;

(b) Standard Administrator is retitled to Professional Administrator;

(c) Initial Administrator is retitled to Preliminary Administrator;

(d) Continuing Administrator is retitled to Professional Administrator;

(e) Distinguished Administrator is retitled to Distinguished Administrator;

(f) Transitional Administrator is retitled to Reciprocal Administrator;

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(g) Transitional Superintendent is retitled to Reciprocal Superintendent;

(h) Restricted Administrator is retitled to Restricted Administrator;

(i) Exceptional Administrator is retitled to Exceptional Administrator;

(j) Emergency Administrator is retitled to Emergency Administrator;

(k) Basic Personnel Service with a Basic or Standard Counselor endorsement is retitled to Legacy School Counselor;

(l) Basic Personnel Service with a Basic or Standard School Psychologist endorsement is retitled to Legacy School Psychologist;

(m) Standard Personnel Service with a Standard Counselor endorsement is retitled to Professional School Counselor;

(n) Standard Personnel Service with a Standard School Psychologist endorsement is retitled to Professional School Psychologist;

(o) Standard School Counselor is retitled to Professional School Counselor;

(p) Initial I School Counselor is retitled to Preliminary School Counselor;

(q) Initial II School Counselor is retitled to Preliminary School Counselor;

(r) Continuing School Counselor is retitled to Professional School Counselor;

(s) Transitional School Counselor is retitled to Reciprocal School Counselor;

(t) Restricted School Counselor is retitled to Restricted School Counselor;

(u) Emergency School Counselor is retitled to Emergency School Counselor;

(v) Basic School Psychologist is retitled to Preliminary School Psychologist;

(w) Standard School Psychologist is retitled to Professional School Psychologist;

(x) Initial School Psychologist is retitled to Preliminary School Psychologist;

(y) Continuing School Psychologist is retitled to Professional School Psychologist;

(z) Transitional School Psychologist is retitled to Reciprocal School Psychologist;

(aa) Limited Student Services is retitled to Limited Student Services;

(bb) Initial School Social Worker is retitled to Preliminary School Social Worker;

(cc) Continuing School Social Worker is retitled to Professional School Social Worker;

(dd) Transitional School Social Worker is retitled to Reciprocal School Social Worker;

(ee) Restricted School Social Worker is retitled to Restricted School Social Worker; and

(ff) Emergency School Social Worker is retitled to Emergency School Social Worker.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 3-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; TSPC 1-2017, f. & cert. ef. 2-1-17; TSPC 3-2017(Temp), f. 6-27-17, cert. ef. 7-1-17 thru 12-27-17

584-200-0020

Personnel Required to Hold Licenses or Charter School Registrations

(1) An educator must hold a license or registration issued by the Commission if she or he is:

(a) Employed by an Oregon public school; and

(b) Compensated for their services from public funds.

(2) Licenses or registrations are required for:

(a) Teachers;

(b) Substitute Teachers;

(c) Principals;

(d) School counselors;

(e) School psychologists;

(f) Supervisors;

(g) Program directors, including: special education and career and technical directors;

(h) District administrators who evaluate or discipline licensed personnel, or who authorize out-of-school suspensions or expulsions of students;

(i) Superintendents and Assistant or Deputy Superintendents;

(j) Athletic coaches who coach during the school day in courses or activities for which students receive academic credit;

(k) Charter school teachers (registrations);

(l) Charter school administrators (registrations); and

(m) Other personnel performing the above duties regardless of title.

(3) Notwithstanding subsection (1), School districts may provide related services for children identified as requiring special education services by employing a public agency, such as a community mental health program, or by employing professionals who are licensed within their own specialties by the State of Oregon. These personnel are not required to hold licensure from the Commission. See also ORS 343.221.

(4) Notwithstanding ORS 342.173, community college faculty who provide instruction in cooperation with a school district for academic career and technical education, school-to-work or other work-related programs under ORS Chapter 329 will not be required to have teaching licenses. See also ORS 341.535. Both full-time and part-time faculty employed under this section are subject to criminal history records checks by the Oregon State Police and the Federal Bureau of Investigation. See also ORS 326.603 and OAR 581-022-1730.

(5) Notwithstanding subsection (1), a person whose application for a teaching license is pending may teach in Oregon public schools for 90 calendar days after the date of submission of the application, if the person:

(a) Submits an application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050; and

(b) Completes a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission;

(C) A criminal records check as provided in ORS 181A.195 and a background check through an interstate clearinghouse of revoked and suspended licenses; and

(6) Notwithstanding subsection (1), the employing school district, school or charter school must ensure a person is properly licensed on the 91st calendar day after the date of submission of the application, if a person whose application is pending is teaching in an Oregon public school as provided in subsection (5).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 13-2015(Temp), f. 11-13-15, cert. ef. 1-1-16 thru 6-28-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 3-2017(Temp), f. 6-27-17, cert. ef. 7-1-17 thru 12-27-17

584-220-0010

Endorsement on Teaching Licenses: General Provisions

(1) Purpose of Teaching License Endorsements: The purpose of an endorsement on a teaching license is to indicate the subject areas (content knowledge) for which the educator is authorized to teach. New educators must meet the requirements for content and subject-specific pedagogical knowledge prior to adding an endorsement to an existing Preliminary Teaching License. Experienced educators must meet the Commission-established requirements for content knowledge prior to adding the endorsement to an existing Professional, Teacher Leader or Legacy Teaching Licenses. Only Commission-adopted endorsements may be added to teaching licenses. New endorsements may only be established through official Commission action at a meeting.

(2) Teaching endorsements may be added to the following teaching licenses:

(a) Preliminary Teaching License;

(b) Professional Teaching License;

(c) Teacher Leader License; and

(d) Legacy Teaching License.

(3) Teaching endorsements may not be added to the following teaching licenses and registrations, except as noted:

(a) American Indian Languages Teacher (May add another American Indian Language);

(b) Charter school teacher registration;

(c) Reciprocal Teaching License;

(d) Restricted Teaching License;

(e) Emergency Teaching License;

(f) Limited Teaching License;

(g) Career and Technical Education Teaching License (May add Career and Technical Education endorsements);

(h) International Visiting Teaching License;

(i) Substitute Teaching License (Already valid to teach any subject);

and

(j) Restricted Substitute Teaching License (Already valid to teach any subject);

(4) Scope of Endorsements: The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC

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course catalogue. An educator may only be assigned to teach courses within the scope of the endorsements on their license except as provided in OAR 584-210-0170, Atypical Assignments and OAR 584-210-0160, License on Conditional Assignment.

(5) Removing an Endorsement: An educator may request to remove an endorsement from their license. It is the responsibility of the educator to understand all employment issues related to the removal of the endorsement. To remove an endorsement from a license, an educator must submit a correct and complete application for removal of the endorsement in the manner and form required by the Commission, including all required fees as provided in OAR 584-200-0050. Once removed, the educator must meet all current endorsement requirements in order to add back the endorsement.

(6) The Commission approved general education endorsements for teaching licenses are:

- (a) Advanced Mathematics;
- (b) Agricultural Science;
- (c) Art;
- (d) Biology;
- (e) Business: Generalist;
- (f) Business: Marketing;
- (g) Career Trades: Generalist (formerly Technology Education);
- (h) Chemistry;
- (i) Drama;
- (j) Elementary — Multiple Subjects (formerly Multiple Subjects Self-Contained);
- (k) English Language Arts;
- (l) English to Speakers of Other Languages (ESOL);
- (m) Family and Consumer Science
- (n) Foundational English Language Arts (formerly Middle School Language Arts);
- (o) Foundational Mathematics (formerly Basic Math);
- (p) Foundational Science (formerly Middle School Science);
- (q) Foundational Social Studies (formerly Middle School Social Studies);
- (r) Health;
- (s) Integrated Science;
- (t) Legacy Art;
- (u) Legacy English to Speakers of Other Languages;
- (v) Legacy Health;
- (w) Legacy World Language;
- (x) Legacy Family and Consumer Science;
- (y) Legacy Career Trades: Generalist;
- (z) Legacy Library Media;
- (aa) Legacy Middle Level;
- (bb) Legacy Music;
- (cc) Legacy Physical Education;
- (dd) Legacy Reading;
- (ee) Legacy Five Year Elementary;
- (ff) Legacy Five Year Secondary;
- (gg) Library Media;
- (hh) Music;
- (ii) Physical Education;
- (jj) Physics;
- (kk) Reading Intervention (formerly Reading Specialist);
- (ll) Social Studies;
- (mm) Special Education: Generalist;
- (nn) Special Education: Early Intervention;
- (oo) Special Education: Deaf and Hard-of-Hearing;
- (pp) Special Education: Visually Impaired;
- (qq) Special Education: Communication Disorders;
- (rr) Speech (Forensics);
- (ss) World Language: Chinese;
- (tt) World Language: French;
- (uu) World Language: German;
- (vv) World Language: Japanese;
- (ww) World Language: Latin;
- (xx) World Language: Russian; and
- (yy) World Language: Spanish.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 6-2016, f. & cert. ef. 11-15-16; TSPC 3-2017(Temp), f. 6-27-17, cert. ef. 7-1-17 thru 12-27-17

584-220-0120

Legacy Teaching Endorsements

(1) Purpose: A Legacy teaching endorsement on a license indicates that the educator is eligible for prior-to-secondary teaching assignments in prekindergarten through grade twelve as provided by the TSPC course catalogue for the specific legacy teaching endorsement provided in subsection (2) of this rule.

(2) The legacy teaching endorsements include the following endorsements:

- (a) Legacy Art;
- (b) Legacy English to Speakers of Other Languages;
- (c) Legacy Health;
- (d) Legacy World Language;
- (e) Legacy Family and Consumer Science;
- (f) Legacy Career Trades: Generalist;
- (g) Legacy Library Media;
- (h) Legacy Music;
- (i) Legacy Physical Education;
- (j) Legacy Reading; and
- (k) Legacy Middle Level.

(3) To be eligible to add a Legacy Art, Legacy English to Speakers of Other Languages, Legacy Health, Legacy World Language, Legacy Family and Consumer Science, Legacy Career Trades: Generalist, Legacy Library Media, Legacy Music, Legacy Physical Education, or Legacy Reading endorsement to a Legacy, Preliminary, Professional or Teacher Leader teaching license, an applicant must:

(a) Have held an Oregon Basic or Standard Teaching License prior to January 1, 2016 with a Basic Elementary or Standard Elementary endorsement;

(b) Have had four years of experience teaching the legacy endorsement's subject matter assignment as provided in subsection (2) of this rule in a prekindergarten through grade 8 environment obtained after January 1, 2011 and prior to January 1, 2016; and

(c) Submit a complete and correct application to obtain the endorsement in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(4)(a) If the educator held an Oregon Basic or Standard Teaching License with a Basic or Standard Elementary endorsement prior to January 1, 2016, but does not meet the employment requirements in subsection 3(b) of this rule, the educator may apply and be issued a Licensed for Conditional Assignment for the subject matter of the legacy endorsement to allow the educator time to meet qualifications for the non-legacy endorsement.

(b) Teaching assignments in accordance with the Basic or Standard Elementary endorsement may continue so long as the educator holds the Basic or Standard Elementary endorsement on their license. However, only experience obtained prior to January 2016 will count toward adding a Legacy Endorsement.

(5) To be eligible to add a Legacy Middle Level endorsement to a Legacy, Preliminary, Professional or Teacher Leader teaching license, the educator must have held a Multiple Subjects endorsement authorized at the Middle Level on an Initial I, Initial II, Continuing or Professional teaching license prior to July 1, 2015.

Note: Adding the endorsement at the time of renewal will not require an additional cost to the licensure renewal process.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 3-2017(Temp), f. 6-27-17, cert. ef. 7-1-17 thru 12-27-17

Rule Caption: Adopts, amends, and repeals rules related to licensure, professional practices and approval of preparation programs

Adm. Order No.: TSPC 4-2017

Filed with Sec. of State: 6-27-2017

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Rules Adopted: 584-017-1037, 584-230-0010, 584-230-0020, 584-230-0030, 584-230-0040, 584-230-0050, 584-230-0060, 584-230-0070, 584-230-0080, 584-230-0100

Rules Amended: 584-010-0050, 584-017-1100, 584-020-0005, 584-020-0040, 584-050-0019, 584-210-0040, 584-210-0050, 584-210-0140, 584-210-0150, 584-210-0160, 584-255-0010

Rules Repealed: 584-042-0008, 584-042-0012, 584-042-0021, 584-042-0022, 584-042-0031, 584-042-0036, 584-042-0044, 584-042-0051, 584-042-0060, 584-042-0070, 584-042-0081, 584-042-0090

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Subject: 584-010-0050 is amended to change the reporting date from September 30 to April 15. This change will align with the CAEP annual report timeline and will allow the EPPs more time to analyze the previous year's data.

584-017-1100 is amended to change the implementation timing and other provisions related to the Commission-adopted teacher performance assessment.

584-017-1037 is adopted to create standards for Cooperating Teachers, as required by statute.

584-020-0005 is amended to prohibit educators from engaging in sexual conduct with a person previously known to the educator as a student and who has left school or graduated in the 90 days prior to the conduct and defines student as "any individual enrolled in the state's public or private schools from preschool through high school graduation or any individual between under the age of 18."

584-020-0040 is amended to remove specific reference to list of crimes and now simply references the statute, ORS 342.143. The amendments also adds marijuana to list of substances that are prohibited from appearing on duty or at any district-sponsored activity while under the influence.

584-050-0019 is amended to eliminate the requirement for a notarized affidavit. Applicants will simply need to submit materials sufficient to indicate they have met all terms of probation.

584-210-0040 is amended to allow long-term substitute assignments (10 days or more) to count toward the 135-day teaching year for purposes of qualifying for the Professional Teaching License.

584-210-0050 is amended to remove July 1, 2017 sunset date, allowing current provisions of the Teacher Leader License to remain in place.

584-210-0140 is amended to remove the June 30, 2017 sunset date, allowing the current provisions of the Substitute Teacher License to remain in place.

584-210-0150 is amended to remove June 30, 2017 sunset date, allowing the current provisions of the Restricted Substitute Teacher License to remain in place.

584-230-0010 Definitions for CTE, 584-230-0020 Preliminary CTE License, 584-230-0030 Professional CTE License, 584-230-0040 Restricted CTE License, 584-230-0050 CTE Endorsements, 584-230-0060 CTE Instructor Appraisal Committees, 584-230-0070 CTE Professional Development Plans. 584-230-0080 CTE Work Experience, 584-230-0100 Waivers, are adopted to replace the current CTE licensure rules.

584-210-0160 is amended to permit License for Conditional Assignments (LCA) for CTE endorsements on teaching licenses. The amendments also remove restriction on the grace period and holding previous out-of-state endorsements and licenses. Adds provisions related to application process.

584-255-0010 is amended to incorporate new CTE licenses into the professional development requirements.

584-042-0008, 584-042-0012, 584-042-0021, 584-042-0022, 584-042-0031, 584-042-0036, 584-042-0044, 584-042-0051, 584-042-0060, 584-042-0070, 584-042-0081, 584-042-0090 are repealed. These are the current CTE licensure rules that are being replaced by the new rules delineated in the previous paragraph.

Rules Coordinator: Tamara Dykeman—(503) 378-3586

584-010-0050

Annual Report from the Unit

(1) Educator preparation providers (EPP) must submit an Oregon EPP Annual Report to the Commission by April 15 of each year. When April 15 falls on a Saturday or Sunday, the Oregon EPP Annual Report is due the following Monday.

(a) If an EPP is not able to submit an annual report by this date, it must notify the Commission in the manner and form provided in the TSPC Program Review and Standards Handbook.

(b) Failure to submit, or notify delay of, annual reports may result in Commission sanctions.

(2) The purpose of the Oregon EPP Annual Report is to provide:

(a) Updates on conditions, areas for improvement (AFIs) or areas of concern (AOCs) that the Commission placed on the EPP in the preceding state approval process;

(b) Information on Oregon standards and requirements as provided in Oregon Administrative Rules and Oregon Revised Statutes; and

(c) An opportunity for the EPPs and the Commission to annually review programs within a continuous improvement environment.

(3) The EPP must submit the Oregon EPP Annual Report in the form and manner as provided in the TSPC Program Review and Standards Handbook.

(4) An EPP is not required to submit an annual report for the reporting year in which a state or joint accreditation site visit occurs.

(5) For the purposes of the Oregon EPP Annual Report, a reporting year is from September 1 through August 31.

Stat. Auth.: ORS 342.147

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-017-1037

Cooperating Teachers: Program Standards

(1) The Cooperating Teacher standards are established pursuant to Sections 3 and 4, chapter 279, Oregon Laws 2015 (Enrolled SB 83).

Cooperating Teacher Qualifications

(2) An educator preparation provider (EPP) may utilize an educator for supervising candidates in a clinical experience required by the Commission in OAR 584-017-1045 Student Teaching if the educator:

(a) Holds a qualified license as provided in subsection (3) or (7);

(b) Meets the experience requirements as provided in subsection (5);

(c) Meets the endorsement requirements as provided in subsection (6) or (7);

(d) Meets the characteristic requirements as provided in subsection (9);

(e) Is co-selected with a partnering school district or other partnering entity as provided in subsection (10) or (11); and

(f) Completes program training from the EPP as provided in subsection (12).

License Requirements

(3) Educators who hold the following licenses may serve as Cooperating Teachers:

(a) Preliminary Teaching License;

(b) Professional Teaching License;

(c) Teacher Leader License;

(d) Legacy Teaching License;

(e) Basic Teaching License;

(f) Standard Teaching License;

(g) Initial I Teaching License;

(h) Initial II Teaching License;

(i) Continuing Teaching License;

(j) Distinguished Teaching License;

(k) Preliminary CTE Teaching License (May only supervise candidates pursuing CTE endorsements);

(l) Professional CTE Teaching License (May only supervise candidates pursuing CTE endorsements); and

(m) American Indian Language Teaching License (May only supervise candidates pursuing American Indian Language Teaching License and endorsements).

(4) Educators who only hold the following licenses may not serve as Cooperating Teachers:

(a) Reciprocal Teaching License;

(b) Restricted Teaching License;

(c) Emergency Teaching License;

(d) Limited Teaching License;

(e) International Visiting Teaching License;

(f) Restricted Substitute Teaching License;

(g) Substitute Teaching License;

(h) Charter School Registrations (Teaching and Administrator);

(i) Restricted CTE License;

(j) Administrator Licenses, except as follows:

(A) May serve as mentors for candidates in administrative license preparation programs; or

(B) May serve as a Cooperating Teacher if the educator also holds a current and valid teaching license and is assigned to a teaching position.

(k) Personnel Services Licenses (School Counselor, School Psychologists and School Social Workers), except as follows:

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(A) May serve as mentors for candidates in the school counselor, school psychologist and school social worker preparation programs; or

(B) May serve as a Cooperating Teacher if the educator also holds a current and valid teaching license and is assigned to a teaching position.

Experience Requirements

(5) To qualify as a Cooperating Teacher, educators holding a Preliminary Teacher License, Basic Teaching License, Initial I Teaching License, Initial II Teaching License or Preliminary CTE Teaching License must:

(a) Have three full years of teaching experience; and

(b) No longer be in probationary contract status.

(c) Educators holding a Professional, Teacher Leader, Legacy, Professional CTE, Standard, Continuing, Distinguished, or American Indian Language teaching licenses have met all experience requirements.

Endorsement Requirements

(6) A Cooperating Teacher must hold the same endorsement that the teacher candidate is preparing for during the clinical experience required by the Commission in OAR 584-017-1045 Student Teaching., unless the Cooperating Teacher is an alternative cooperating teacher, as provided in subsection (7).

Alternative Cooperating Teachers

(7) If an EPP and partnering school district do not have a qualified educator to serve as a Cooperating Teacher, the EPP and partnering school district may:

(a) Use a Cooperating Teacher with a related endorsement area (e.g., a biology teacher supervising a teacher candidate for chemistry endorsement);

(b) Use an appropriately qualified provider-based clinical educator (e.g., adjunct faculty) as the Cooperating Teacher; or

(c) Use an appropriately qualified (non-school district) supervisor related to the endorsement area (e.g., a supervisor in a community-based early childhood program for a SPED early intervention program).

(d) The alternative Cooperating Teacher must meet the program training requirements as provided in subsection (12).

(e) The EPP must report the use of the alternative Cooperating Teacher, as provided in the TSPC Program Review and Standards Handbook.

Candidates with Restricted Teaching Licenses

(8) If a school district has employed a candidate as a teacher under the provisions of the Restricted Teaching License, the EPP and employing school district must develop a plan to address the cooperating teacher requirements within the clinical experience required by the Commission in OAR 584-017-1045 Student Teaching. The plan must be submitted to the Commission for approval, as provided in the TSPC Program Review and Standards Handbook.

Characteristic Requirements

(9) To serve as a Cooperating Teacher, an educator must:

Pedagogy, content knowledge, and dispositions in support of candidate learning

(a) Demonstrate effective instruction and assessment, including:

(A) Content knowledge related to subject area;

(B) Curriculum development and differentiation;

(C) Lesson planning and use of multiple instructional strategies;

(D) Assessment, including the use of formative assessment to support student learning;

(E) Academic language as it pertains to content delivery and support of student learning; and

(F) Classroom management.

(b) Demonstrate dispositions that support candidate growth, including:

(A) The ability to listen actively and respond constructively to teacher candidates;

(B) The ability to adapt and be flexible in response to changing circumstances;

(C) The capacity for empathy towards others and the ability to build trusting relationships;

(D) The ability to serve as a role model with respect to professional and ethical behavior;

(E) A commitment to inquiry in teaching and working with teacher candidates; and

(F) A commitment to ongoing professional development and learning.

(c) Employ equity principles and practices to support student learning by:

(A) Utilizing a strength-based approach that recognizes the learning potential of all students through the use of inclusive practices; and

(B) Engaging students through differentiated instruction and assessment practices.

Supervision, mentoring, and reflective practice in support of candidate learning

(d) Understand adult learning and the professional growth of teacher candidates by:

(A) Demonstrating the ability to scaffold experiences in support of teacher candidates' growth;

(B) Using a variety of strategies and resources to respond to teacher candidates;

(C) Demonstrating the ability to help others actively learn new knowledge and skills; and

(D) Demonstrating regard for multiple perspectives.

(e) Facilitate learning experiences that promote collaborative inquiry, analysis, and reflection by:

(A) Using data to engage the teacher candidate in examining and improving practice; and

(B) Guiding candidates effectively in collaborative problem solving and reflective thinking.

(f) Understands the teacher candidate's program and requirements.

Classroom environment and expectations in support of candidate learning

(g) Create an environment of professional and respectful communication with teacher candidates.

(h) Create effective collaborative time in support of teacher candidates' learning; and

(i) Demonstrate skill in collaborating with families and the broader education community.

Co-Selection of Cooperating Teachers

(10) The EPP and partnering school district(s) must co-select, prepare, evaluate, support, and retain high-quality clinical educators, both provider- and school-based, who demonstrate a positive impact on candidates' development and PreK-12 student learning and development. In collaboration with their partners, the EPP must use multiple indicators and appropriate technology-based applications to establish, maintain, and refine criteria for the selection, professional development, performance evaluation, continuous improvement, and retention of clinical educators in all clinical placement settings.

(11) If the EPP is unable to find a partnering school district to meet the requirements of subsection (10) for a specific endorsement area, the EPP may use another partner in lieu of the school district. The EPP must develop a plan for utilizing a substitute partner as provided in the TSPC Program Review and Standards Handbook.

Program Training

(12) The EPP and the partnering school district must provide program training to educators supervising teacher candidates in the clinical experience required by the Commission in OAR 584-017-1045 Student Teaching.

(a) The program training must provide the Cooperating Teacher with an understanding of program and licensure requirements of their teacher candidate; and

(b) The Cooperating Teacher must complete the program training prior to supervising a teacher candidate in a clinical experience required by the Commission in OAR 584-017-1045 Student Teaching.

(c) The Cooperating Teacher is required to complete the program training only once for each EPP, unless significant modifications have occurred with the program that affect the role of the Cooperating Teacher.

Annual Report

(13) Annual Reports: The EPP must report on the training of Cooperating Teachers, as provided in the TSPC Program Review and Standards Handbook.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147 & 342.165

Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-017-1100

Teacher Candidate Performance Assessments

(1) Oregon educator preparation providers (EPPs) must require preservice teacher candidates to successfully complete a teacher candidate performance assessment, as provided in this rule and the TSPC Program Review and Standards Handbook, prior to recommending candidates for initial licensure.

Preservice Candidates

(2) Effective September 1, 2016, one hundred percent of preservice teacher candidates must complete a Commission-approved teacher performance assessment and submit the assessment for national scoring. The one hundred percent requirement only applies to preservice candidates preparing for endorsements for which the Commission has adopted a teacher performance assessment. (For exceptions, see subsection (6).)

(3) Between September 1, 2015 and August 31, 2018, the results of the Commission-approved teacher performance assessment are non-consequential. Oregon preservice teacher candidates will not be required to have

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a passing score on the assessment for program completion as defined in OAR 584-010-0100.

(4) The Commission will set the passing score levels for Commission-approved teacher performance assessment prior to January 1, 2018.

(5) Effective September 1, 2018, all Oregon preservice teacher candidates must receive a passing score a Commission-approved teacher performance assessment for program completion, as defined in OAR 584-010-0100, if the Commission has adopted a performance assessment for the endorsement area. (For exceptions, see subsection (6).)

(6) If the Commission has not adopted a teacher performance assessment for a subject-matter area, EPPs may use one of the following assessments to evaluate the teaching performance of preservice candidates in the endorsement area:

(a) Oregon Work Sample, as provided in subsection (9); or

(b) A teacher performance assessment that is developed, delivered, and evaluated by the EPP.

Two or More Endorsements (Preservice Candidates)

(7) If a preservice candidate is completing two or more separate endorsement programs, the preservice candidate is not required to complete a teacher performance assessment for the additional endorsement(s). Preservice candidates are only required to complete one teacher performance assessment.

Licensed Teachers

(8) Licensed teachers adding endorsements to existing licenses are not required to complete a teacher performance assessment.

Oregon Work Samples

(9) To qualify as an Oregon Work Sample, a teacher performance assessment must include the following:

(a) Context of the school and classroom is explained; learners with special needs, TAG learners, ESOL learners, and learners from diverse cultural, linguistic, and social backgrounds are described; adaptations for their learning needs are discussed; and prerequisite skills required for the unit are considered;

(b) Goals for the unit of study that vary in kind and complexity but that include concept attainment and application of knowledge and skills;

(c) Instructional plans to accomplish the learning goals for all groups of students that includes differentiation of instruction for all students listed in subsection (9)(a) of this rule;

(d) Data on learning gains resulting from instruction, analyzed for each student, and summarized in relation to students' levels of knowledge prior to instruction;

(e) Interpretation and explanation of the learning gains, or lack thereof;

(f) A description of the uses to be made of the data on learning gains in planning subsequent instruction and in reporting student progress to the students and their parents; and

(g) Purposeful attention to literacy instruction based upon content requirements, appropriate authorization levels, and student needs in at least one subject.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.127, ORS 342.135, ORS 342.140, ORS 342.143, ORS 342.147, ORS 342.165, ORS 342.175 & ORS 342.176

Hist.: TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-020-0005

Definitions

The following definitions apply to Oregon Administrative Rules 584-020-0000 through 584-020-0045 unless otherwise indicated by context:

(1) "Administrator:" Any educator who holds a valid Oregon Administrative License or registration and who works in a position requiring an administrative license pursuant to OAR 584-005-0005(1).

(2) "Competent:" Discharging required duties as set forth in these rules.

(3) "Educator:" Any licensed or registered, or certified person who is authorized to engage in an instructional program including teaching, counseling, school psychology, administering, and supervising.

(4) "Ethical:" Conforming to the professional standards of conduct set forth in these rules.

(5) "Sexual Conduct:" Any conduct with a student which includes but is not limited to:

(a) The intentional touching of the breast or sexual or other intimate parts of a student;

(b) Causing, encouraging, or permitting a student to touch the breast or sexual or other intimate parts of the educator;

(c) Sexual advances or requests for sexual favors directed towards a student;

(d) Verbal or physical conduct of a sexual nature when directed toward a student or when such conduct has the effect of unreasonably interfering with a student's educational performance or creates an intimidating, hostile or offensive educational environment; or

(e) Verbal or physical conduct which has the effect of unreasonably interfering with a student's educational performance or creates an intimidating, hostile or offensive educational environment.

(f) For purposes of this subsection, the educator shall not engage in sexual conduct with a person previously known to the educator as a student and who has left school or graduated in the 90 days prior to the conduct.

(6) "Sexual harassment:" Any unwelcome conduct with an individual which includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

(7) "Teacher:" Any person who holds a teacher's license as provided in ORS 342.125.

(8) "Student:" is any individual enrolled in the state's public or private schools from preschool through high school graduation or any individual under the age of 18.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 & 342.175 - 342.190

Hist.: TS 5-1979, f. 12-29-79, ef. 1-1-80; TS 1-1987, f. & ef. 3-3-87; TS 2-1988, f. & cert. ef. 4-7-88; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 8-1998, f. & cert. ef. 12-9-98; TSPC 5-1999(Temp), f. & cert. ef. 8-24-99 thru 2-19-00; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-020-0040

Grounds for Disciplinary Action

(1) The Commission will deny, revoke or deny the right to apply for a license or charter school registration to any applicant or educator who, has been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if convicted in another jurisdiction or convicted of attempt to commit such crimes as defined in ORS 161.405. Evaluation of substantially equivalent crimes or attempts to commit crimes will be based on Oregon laws in effect at the time of the conviction, regardless of the jurisdiction in which the conviction occurred.

(2) An applicant fails to meet the requirement of ORS 342.143 "good moral character" if the applicant engages in gross neglect of duty, gross unfitness, in violation of section (4) of this rule or other acts which are in violation of sections (1) or (3) of this rule.

(3) The Commission may initiate proceedings to suspend or revoke the license or registration of an educator under ORS 342.175 or deny a license or registration to an applicant under 342.143 who:

(a) Has been convicted of a crime not listed in section (1) of this rule, if the Commission finds that the nature of the act or acts constituting the crime for which the educator was convicted render the educator unfit to hold a license;

(b) Is charged with knowingly making any false statement in the application for a license or registration;

(c) Is charged with gross neglect of duty;

(d) Is charged with gross unfitness; or

(e) Is convicted of a crime involving the illegal use, sale or possession of controlled substances.

(4) Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. The following may be admissible as evidence of gross neglect of duty. Consideration may include but is not limited to:

(a) Substantial unauthorized use of: school name or financial credit; school materials or equipment for personal purposes; or school personnel to provide personal services unrelated to school business;

(b) Substantial unauthorized use of employment time or school resources for private purposes;

(c) Falsification of any document or knowing misrepresentation directly related to licensure, employment, or professional duties;

(d) Unreasonable physical force against students, fellow employees, or visitors to the school, except as permitted under ORS 339.250;

(e) Violent or destructive behavior on school premises or at a school-sponsored activity;

(f) Any sexual conduct with a student;

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(g) Appearing on duty or at any district-sponsored activity while under the influence of alcohol, marijuana, or any controlled substance;

(h) Unauthorized disclosure of student records information received in confidence by the educator under ORS 40.245, (See, subsection (6), below);

(i) Assigning an educator in violation of licensure requirements;

(j) Resignation from a contract in violation of ORS 342.553,

(k) Violation of any order or rule of the Commission;

(l) Sexual harassment;

(m) Failure of a chief administrator to report a violation of Commission standards as required by OAR 584-020-0041;

(n) Substantial deviation from professional standards of competency set forth in OAR 584-020-0010 through 584-020-0030;

(o) Substantial deviation from professional standards of ethics set forth in OAR 584-020-0035;

(p) Subject to the exercise of any legal right or privilege, failure or refusal by an educator under investigation to respond to requests for information, to furnish documents or to participate in interviews with a Commission representative relating to a Commission investigation;

(q) Unauthorized use of school electronic equipment to receive, store, produce or send sexually explicit materials;

(r) Working without a license; or

(s) Failing to report child abuse pursuant to ORS 419B.010.

(5) Gross unfitness is any conduct which renders an educator unqualified to perform his or her professional responsibilities. Conduct constituting gross unfitness may include conduct occurring outside of school hours or off school premises when such conduct bears a demonstrable relationship to the educator's ability to fulfill professional responsibilities effectively. The following may be admissible as evidence of gross unfitness. Consideration may include but is not limited to:

(a) Revocation, suspension or denial of a license by another state for reasons and through procedures that are the same as, or substantially equivalent to, those permitting similar action in Oregon;

(b) Fraud or misrepresentation;

(c) Conviction of violating any federal, state, or local law. A conviction includes any final judgment of conviction by a court whether as the result of guilty plea, no contest plea or any other means.

(d) Commission of an act listed in OAR 584-020-0040(1);

(e) Admission of or engaging in acts constituting criminal conduct, even in the absence of a conviction; or

(f) Violation of a term of probation imposed by a court.

(6) In any proceeding brought under subsection (4)(h) of this rule, the Commission may not impose a sanction more severe than a suspension of the educator's license.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.143 & 342.175 - 342.190

Hist.: TS 5-1983, f. & cert. ef. 7-21-83; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 2-1988, f. & cert. ef. 4-7-88; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1993, f. & cert. ef. 9-29-93; TS 5-1996, f. & cert. ef. 9-24-96; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 8-1998 f. & cert. ef. 12-9-98; TSPC 5-1999(Temp), f. & cert. ef. 8-24-99 thru 2-19-00; TSPC 6-1999(Temp), f. & cert. ef. 9-20-99 thru 3-17-00; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 4-2000, f. & cert. ef. 7-17-00; TSPC 9-2005, f. & cert. ef. 11-15-05; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 8-2008, f. & cert. ef. 11-13-08; TSPC 4-2010, f. & cert. ef. 7-15-10; TSPC 5-2011, f. & cert. ef. 6-15-11; TSPC 2-2014, f. & cert. ef. 3-15-14; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-050-0019

Termination of Probation

(1) Promptly after the full term of probation has been completed, the educator must submit to the Commission documentation sufficient to establish convincingly that all terms and conditions of the probation have been met successfully and fulfilled.

(2) If the materials submitted for termination of probation are satisfactory, the Executive Director will terminate the probation. If materials are incomplete or not found to be satisfactory, the Executive Director will make a recommendation regarding the probation to the Commission in executive session at the next regularly scheduled Commission meeting.

(3) Before taking action on the Executive Director's recommendation, the Commission may schedule an informal meeting between the educator and the Commission in executive session. The decision to schedule or not to schedule an informal meeting is entirely at the Commission's discretion.

(4) If the Commission does not terminate the probation, the educator will be entitled to a contested case hearing pursuant to ORS 342.175 and OAR 584-019-0002.

(5) The Executive Director may issue a charge and notice of opportunity for hearing to an educator on probation when the Executive Director has information that any term or condition of probation may have been violated. If the educator is unwilling to accept disciplinary action proposed by

the Executive Director and approved by the Commission, the educator will be entitled to a contested case hearing under ORS 342.175 and OAR 584-019-0002.

(6) When no conditions for completion have been established by the Commission, and when there is no documented violation of Commission rules by the educator subsequent to the issuance of the current probation, the term of probation shall be allowed to expire without documentation being required from the educator.

Stat. Auth.: ORS 181 & 342

Stats. Implemented: ORS 181.525, 342.120 - 342.200 & 342.400

Hist.: TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-210-0040

Professional Teaching License

(1) Purpose of the License: The Professional Teaching License is a license that qualifies its holder to teach in prekindergarten through grade 12 Oregon public school districts, education service districts, and charter school assignments. The Professional Teaching License signifies that the educator is an experienced teacher who has successfully demonstrated an advanced level of educator knowledge, skills and dispositions.

(2) Term of Licensure: The Professional Teaching License is valid for five years and is renewable as provided in subsection (8) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(3) Assignment and Endorsement Authorization: The Professional Teaching License qualifies the teacher to accept:

(a) Any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Professional Teaching License. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement as provided by the TSPC course catalogue; and

(b) Any substitute teaching assignment.

(4) Pursuant to ORS 342.138, the Commission has approved the following advanced professional education programs to develop advanced level competencies required for promotion to the Professional Teaching License:

(a) Advanced Professional Development Program: The purpose of the Advanced Professional Development Program is to provide the individual teacher with the specific professional development needed to advance to a professional teacher level. The program is developed by the applicant in conjunction with the employing district and includes professional development specifically tailored to the performance goals of the novice teacher in accordance with ORS 342.815 to 342.856. To qualify as an Advanced Professional Development Program, the program must consist of:

(A) A teacher who holds the Preliminary Teaching License and is employed in accordance with ORS 342.815 to 342.856; and

(B) A requirement to complete 150 advanced professional development units while holding a Preliminary Teaching License. To qualify as advanced professional development, the units must:

(i) Be completed in conjunction with the performance goals of the teacher established in accordance with ORS 342.815 to 342.856;

(ii) Be verified as advanced professional development by the employing district or charter school; and

(iii) Meet all other requirements provided in OAR 584-255-0010, Professional Development Requirements.

(b) Advanced Degree Programs: Admission to and completion of an educational specialist, master's or doctoral degree program that is reasonably related to improving the teaching skills of the educator. The program must be regionally accredited or foreign equivalent.

(c) Endorsement Program: Admission to and completion of a Commission-approved subject-matter endorsement program;

(d) Specialization Program: Admission to and completion of a Commission-approved Oregon specialization program;

(e) Advanced Licensure: Admission to and completion of a Commission-approved advanced licensure program;

(f) National Board Certification: National Board of Professional Teaching Standards certification;

(g) Out-of-State Professional Certification: A professional certificate issued by the State of Washington or other equivalent out-of-state professional teaching licenses approved by the Commission; and

(h) Other acceptable advanced coursework or assessment approved by the Executive Director or the Director of Licensure as provided in OAR 584-200-0100, Waiver of Licensure Requirements by the Commission.

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(5) All evidence of advanced professional education programs must be equal to at least 150 professional development units as calculated in OAR 584-255-0010(3) and must have been obtained by the applicant after the date of issuance of their first non-provisional teaching license in Oregon or another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction.

(6) Professional Teaching Experience Requirements: To qualify for the Professional Teaching License, an educator must obtain:

- (a) Four full of years teaching experience in a 1.0 assignment; or
- (b) Six full years of teaching experience in a .50 or more assignment.
- (c) The years of teaching experience do not have to be earned consecutively.

NOTE: Teaching experience of .49 or less is not eligible to meet any teaching experience requirement for the Professional Teaching License. Teaching experience from two or more academic years may not be combined to meet the teaching requirements.

EXAMPLE: An applicant may not combine two full years of .25 teaching assignment to equal one year of .5 teaching assignment for the part-time teaching requirement.

EXAMPLE: An applicant may not combine one year of a .75 assignment and one year of a .25 assignment to equal one year of full-time teaching experience.

(d) The full year of teaching experience must be:

(A) Completed while holding an Initial, Initial I, Initial II, Reciprocal, Preliminary or equivalent non-provisional license from a National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction;

(B) Equal to 135 days of teaching within an academic year (July 1 to June 30) in one, or combination of, the following assignments:

- (i) Direct instruction of students as provided in ORS 342.120;
- (ii) Teachers on Special Assignment (TOSA); or
- (iii) Long-term substitute assignments, if the employing district verifies a minimum of 10 or more consecutive days in a single assignment.

The employing district must verify the qualifying long-term substitute assignment on the PEER form. If the district is also verifying the completion of an advanced professional development program, the district must submit the Advanced Professional Development Program form to verify program completion and the experience. The provision allowing qualifying long-term substitute assignments of 10 through 135 days is effective for assignments completed after July 1, 2017. A single long-term substitute assignment of 135 days or more completed prior to July 1, 2017 may be eligible experience for the Professional Teaching License; and

(C) Completed in one, or a combination of, the following employment settings:

- (A) Public prekindergarten through grade 12 classroom;
- (B) Private, regionally-accredited, prekindergarten through grade 12 classroom; or

(C) Alternative education, post-secondary or other similar teaching settings closely-related to prekindergarten through grade 12 classroom instruction as approved by the Director of Licensure.

(7) To be eligible to apply for a Professional Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Preliminary, Initial I, Initial II, Basic, Continuing, Standard, or an equivalent teaching license issued previously by the Commission or issued by another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction;

(c) Complete an advanced professional education program as provided in subsections (4) and (5) of this rule;

(d) Complete the teaching experience requirements as provided in subsection (6) of this rule;

(e) Complete a background clearance that includes:

- (A) Furnishing fingerprints, if required;
- (B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) To be eligible to apply for renewal of the Professional Teaching License, the applicant must:

(a) Complete continuing professional development requirements as provided in OAR 584-255-0010 Professional Development Requirements and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 1-2017, f. & cert. ef. 2-1-17; TSPC 2-2017, f. & cert. ef. 4-12-17; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-210-0050

Teacher Leader License

(1) Purpose of the License: The Teacher Leader License is issued to professional teachers who have demonstrated exceptional leadership in the school environment, education profession and the larger community while consistently advancing student growth and achievement. The Teacher Leader License designates that the licensee is qualified to hold the title of Teacher Leader and to provide educational leadership that may include, but is not limited to: mentoring, curriculum development support, teacher preparation support and other leadership activities consistent with the Teacher Leader Standards adopted by the Commission.

(2) Term of Licensure: The Teacher Leader License is valid for five years and is renewable as provided in subsection (9) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(3) Assignment and Endorsement Authorization: The Teacher Leader License qualifies the teacher to accept:

(a) Any instructional assignment from preprimary through grade 12 within the scope of the subject-matter endorsements held on the Teacher Leader License;

(b) Any substitute teaching assignments; and

(c) Teacher leader activities, as agreed upon with any employing school district, as provided in subsection (1) of this rule.

(4) Evidence of Effectiveness: To be eligible to qualify for a Teacher Leader License, an applicant must be deemed to be effective or highly effective as provided in ORS 342.856 and the following provisions:

(a) The applicant must provide evidence of two evaluations with an "effective" or "highly effective" level. The evaluations must be completed:

(A) Within the five years immediately preceding the application for the Teacher Leader license; and

(B) While the applicant held an Initial II, Continuing, Standard or Professional Teaching License.

(b) The applicant must verify that they have not received an evaluation with lower than an "effective" level within the five years immediately preceding the application for the Teacher Leader license.

(c) The terms "effective" and "highly effective" include the top two differentiated levels established as provided in the Oregon Department of Education's "Oregon Matrix Model for Educator Evaluation." Other acceptable evaluation terms may include, but are not limited to: proficient, exemplary, accomplished, or distinguished.

(d) If an applicant is employed by a private school, the applicant must verify that their school evaluates educators in accordance with the requirements of ORS 342.856. The applicant must provide documentation that the employing private school formally adopted the equivalent evaluation method in a meeting of the governing body.

(5) Evidence of Current Professional Leadership Practices: To be eligible to qualify for a Teacher Leader License, an applicant must submit evidence of current professional leadership practices as provided in ORS 342.856.

(a) To submit an advanced portfolio of "current professional leadership practices" the evidence must:

(A) Align with the standards for the Teacher Leader License as provided in OAR 584-420-0040;

(B) Have occurred within the five years immediately prior to the application for the Teacher Leader License; and

(C) Meet the following criteria:

(i) The applicant must demonstrate through submitted documentation that they have fully met at least twelve (12) elements of the existing thirty-seven (37) elements under any of the seven (7) domains within the standards for the Teacher Leader License;

(ii) The evidence for each element submitted must be verified as valid by at least two professional colleagues, which may include coworkers, supervisors, or other professional peers; and

(iii) The evidence for each element submitted must be unique and separate. For example, an applicant may not reuse evidence from one element to support meeting another element.

(b) To submit National Board for Professional Teacher Standards Certification to demonstrate "current professional leadership practices" the evidence must:

(A) Show the national board certification occurred in the five years immediately prior to the application; and

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(B) Demonstrate how board certification and subsequent professional practice by the teacher meets at least twelve (12) elements of the existing thirty-seven (37) elements under any of the seven (7) domains within the standards for the Teacher Leader License.

(c) To submit admission to and completion of a Commission-approved teacher leader program to demonstrate “current professional leadership practices” evidence, the applicant must provide documentation that:

(A) The program was completed in the five years immediately prior to the application; and

(B) The completion of the Commission-approved teacher leader preparation program and subsequent professional practice by the teacher meets at least twelve (12) elements of the existing thirty-seven (37) elements under any of the seven (7) domains within the standards for the Teacher Leader License.

(6) To be eligible to apply for a Teacher Leader License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a valid Professional, Initial II or Standard teaching License;

(c) Have been employed as a licensed educator for five full academic school years within the five years preceding application;

(d) Meet the “evidence of effectiveness” requirements as provided in subsection (4) of this rule;

(e) Meet the “evidence of current professional leadership practices” requirements as provided in subsection (5) of this rule;

(f) Submit the adopted Rubric for Teacher Leader Evaluation for review by the Commission. The applicant must indicate the exact evidence they are using to satisfy each of their selected elements. There must be a clear indication on the evidence which of the elements the evidence is being submitted to support;

(g) Complete a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(h) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) All applications for the Teacher Leader License must be received in the TSPC office no later than one calendar month prior to the Commission meeting at which the applicant wishes to have their application evaluated.

(8) All current teaching licenses held prior to the application for the Teacher Leader License will expire on the date the Teacher Leader License is issued regardless of the expiration date on the license.

(9) Renewal Requirements: To be eligible to apply for renewal of the Teacher Leader License, an applicant must:

(a) Provide documentation of ongoing teacher leader activities, including but not limited to, mentoring, curriculum development support, teacher preparation support and other educational leadership activities;

(b) Complete professional development units as provided in OAR 584-255-0010 Professional Development Requirements; and

(c) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(10) If an applicant does not meet the renewal requirements of subsection (9) of this rule or decides not to renew the Teacher Leader License, the applicant may apply for or will be issued a Professional Teaching License as provided in OAR 584-210-0040.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 3-2016(Temp), f. 6-30-16, cert. ef. 7-1-16 thru 12-27-16; TSPC 1-2017, f. & cert. ef. 2-1-17; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-210-0140

Substitute Teaching License

(1) Purpose of the License: The Substitute Teaching License is a license that permits a qualified individual to substitute teach in a prekindergarten through grade 12 Oregon public school district, education service districts, and charter school assignments to replace a teacher who is temporarily unable to work.

(2) Term of Licensure: The Substitute Teaching License is valid for three years and may be renewed continuously as provided by subsection (6) of this rule. The date of the first expiration of the license is three years from the date of issue plus time to the applicant’s birthday.

(3) Assignment Authorization: The Substitute Teaching License is valid for substitute teaching assignments in any Oregon school district, including education service districts. The length of the substitute teaching assignment is limited as follows:

(a) The length of any one assignment may not exceed one academic school year;

(b) If the length of any one assignment must exceed one academic school year, one of the following must occur:

(A) If the educator holding the Substitute Teaching License previously held a non-provisional license appropriate for the assignment, the previous license must be reinstated.

(B) If the educator holding the Substitute Teaching License did not previously hold a non-provisional license appropriate for the assignment, the applicant and sponsoring district may apply for an Emergency Teaching License as provided for in OAR 584-210-0130, Emergency Teaching License.

(i) The Executive Director may approve the Emergency Teaching License upon proof of the district’s emergency and may only issue the license for the amount of time to cover the emergency.

(ii) The Emergency Teaching License may permit the educator to teach for time beyond the allowed timelines stated in subsection (3)(a) of this rule.

(iii) In all cases, the Emergency Teaching License may not extend beyond the end of the school year for which the Emergency Teaching License was issued.

(iv) Upon the expiration of the Emergency Teaching License as provided in this subsection, the applicant must qualify for a non-provisional teaching license with all required endorsements or may apply to reinstate the Substitute Teaching License if the educator is no longer working in a long-term assignment.

(4) Sanctions: The Commission may sanction the teacher or assigning administrator or both for failure to meet the following:

(a) The requirements for purpose of the Substitute Teaching License as provided in subsection (1) of this rule; or

(b) The requirements for length of assignment of the Substitute Teaching License as provided in subsection (3) of this rule.

(5) To be eligible to apply for a Substitute Teaching License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor’s degree or higher from a regionally-accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master’s degree or a doctoral degree from a regionally-accredited institution in the United States validates a non-regionally accredited bachelor’s degree for licensure;

(c) Provide documentation of one of the following:

(A) A valid and active non-provisional teaching license from another NASDTEC jurisdiction valid for unrestricted full time teaching assignments; or

(B) Admission to and completion of an Oregon teacher preparation program approved by the Commission that resulted in eligibility for a non-provisional Oregon teaching license;

(d) Obtain a passing score on a Commission-adopted test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(6) Renewal Requirements: To be eligible for renewal of the Substitute Teaching License, an applicant must submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-210-0150

Restricted Substitute Teaching License

(1) Purpose of the License: The Restricted Substitute Teaching License is a license that permits a qualified individual to substitute teach in prekindergarten through grade 12 Oregon public school district, education

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service districts, and charter school assignments with the restriction that the individual must obtain and maintain district sponsorship.

(2) District Sponsorship: The Restricted Substitute Teaching License requires district sponsorship. The sponsoring district must submit a statement:

- (a) Explaining the district's need for the restricted substitute;
- (b) Assuring the Commission that the district will obtain the license for the educator prior to assignment within the district;

(3) Renewal of District Sponsorship: Upon renewal of the Restricted Substitute Teaching License, the sponsoring district must provide a new statement confirming the continued need for the substitute.

(4) Assignment Authorization: The Restricted Substitute Teaching License is valid for substitute teaching assignments as follows:

(a) The Restricted Substitute Teaching License is valid for substitute teaching in any Oregon prekindergarten through grade 12 assignments to replace a teacher who is temporarily unable to work;

(b) The Restricted Substitute Teaching License is valid for substitute assignments in any Oregon school district, including education service districts; and

(c) Any single assignment on the Restricted Substitute Teaching License may not exceed 10 days consecutively under any circumstances.

(5) Term of Licensure: The Restricted Substitute Teaching License is valid in accordance with the following provisions:

(a) For applications received from July 1 through December 31, the first Restricted Substitute Teaching License is valid through June 30 of the school year for which it is issued.

(b) For applications received from January 1 through June 30, the first Restricted Substitute Teaching License is valid through June 30 of the following school year unless otherwise requested by the sponsoring district;

(c) If the Restricted Substitute Teaching License is renewed with the same sponsoring district, the renewed Restricted Substitute Teaching License is valid for three years. The license will expire on June 30 of the third academic year following the issuance of the license. The Restricted Substitute Teaching License may be continuously renewed if the applicant maintains an active Restricted Substitute Teaching License with the original sponsoring district and meets the requirements of subsection (7) of this rule.

(d) If the Restricted Substitute Teaching License expires or the applicant obtains a new district sponsor, the applicant will be issued a first Restricted Substitute Teaching License as provided in subsection (5)(a) and (5)(b) of this rule.

(6) To be eligible to apply for a Restricted Substitute Teaching License, an applicant must:

(a) Provide a statement from the sponsoring district in accordance with subsection (2) of this rule

(b) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(c) Hold a bachelor's degree or higher from a regionally accredited institution or an approved foreign equivalent. Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(d) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) Renewal Requirements: To be eligible to apply for renewal of the Restricted Substitute Teaching License, an applicant must:

(a) Provide a statement from the original sponsoring district in accordance with subsection (3) of this rule; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) Emergency Teaching License: A sponsoring district and co-applicant educator may apply for an Emergency Teaching License if the applicant has yet to obtain a passing score on the Commission-approved civil rights and ethics test. The Executive Director or Licensure Director may determine if the sponsoring district and applicant meet the requirements set forth in OAR 584-210-0130, Emergency Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-210-0160

License for Conditional Assignment

(1) Purpose of License Conditional Assignment: An Oregon school district may request a License for Conditional Assignment (LCA) for any educator holding a Preliminary, Professional, Teacher Leader, Legacy or Reciprocal teaching license. The purpose of an LCA is to allow a school district to request misassignment for an educator to teach in an out-of-field subject-matter endorsement area for which the educator is not authorized to teach, while the educator completes requirements necessary either to add the subject-matter to the underlying license or to obtain a new license type.

(2) The LCA is required when teaching or working out-of-field under the following circumstances:

(a) Teaching assignments for more than 10 hours weekly in one subject-matter area without the appropriate subject-matter endorsement. This provision does not apply to teaching assignments in ODE-approved CTE programs;

EXAMPLE: A physical education teacher without a health endorsement teaching health three periods of the day would require a LCA for health. If only teaching two periods a day; that would fall under the 10 hours per week threshold.

(b) Teaching in more than one unendorsed subject-matter endorsement area for any amount of time; or

EXAMPLE: If the physical education teacher above was teaching one period of health and one period of math; then an LCA would be required for both areas regardless of the 10 hours per week rule. The 10 hours per week rule applies to one subject only.

(c) Moving from one license to another.

EXAMPLE: A teacher moving to administration; an administrator moving to teaching (if the educator does not hold a valid teaching license); a teacher moving to school psychology.

(d) Adding a CTE endorsement to a teaching license.

EXAMPLE: An advanced math teacher without a CTE endorsement teaching mechanical engineering in an ODE-approved CTE program would require an LCA for the CTE endorsement.

(3) Term of License for Conditional Assignment: The LCA is a provisional license that provides temporary conditional approval to teach out-of-field under the following conditions:

(a) All LCAs will expire on June 30 following the date the LCA is issued;

(b) For endorsements that require only a test, experience or nine quarter hours or less of coursework, all endorsement requirements must be completed by June 30th following the date the LCA is issued;

(c) For CTE endorsements or non-CTE endorsements requiring coursework exceeding nine quarter or six semester hours of coursework, the LCA will not exceed more than three academic years in total. The LCA for these endorsements will be issued as follows:

(A) The first LCA will expire on June 30th following the date the first LCA is issued;

(B) The second LCA will be reauthorized upon application by the educator and the school district upon evidence the educator has completed some coursework toward adding the endorsement or made significant progress on the CTE Professional Development Plan. The LCA will expire on June 30th following the date the second LCA is issued;

(C) The third LCA will be reauthorized upon application by the educator and the school district and upon evidence the educator has substantially completed:

(i) Coursework needed to add the endorsement;

(ii) New licensure program, or

(iii) CTE Professional Development Plan.

(D) The LCA will expire on June 30th following the date the third LCA is issued.

(4) The LCA will not be "back dated." Time spent on assignments where the district failed to request the LCA will be deducted from the allowable LCA total (either one year or three years).

(5) The LCA is not renewable.

(6) The LCA is not a stand-alone or independent license. The underlying license must be kept current in order for the LCA to remain active. The LCA will not be issued for a duration that exceeds the expiration date of the underlying license. In cases where there is a lapse in the underlying license, the LCA may be re-activated for a time as determined by the Executive Director or Licensure Director upon reinstatement of the underlying license.

(7) The district applying for an LCA is assumed to have informed the educator for which the LCA is being requested. Failure to inform the educator may result in an invalid LCA upon a finding by the Commission that

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the educator did not grant the district permission to add the LCA to the educator's license.

(8) Licenses not eligible for an LCA include, but are not limited to, the following provisional licenses:

- (a) Any Restricted License;
- (b) Limited Teaching License;
- (c) American Indian Language;
- (d) Teaching Associate License;
- (e) Substitute Teaching License;
- (f) Restricted Substitute Teaching License;
- (g) Limited Student Services License;
- (h) Exceptional Administrator License; or
- (i) International Visiting Teaching License.

(9) Other Special LCA Limitations:
(a) An administrator, school counselor, or school psychologist who has never held a non-provisional teaching license in any state may not be issued an LCA to teach;

(b) Applicants seeking conditional assignment as an administrator must hold a master's degree, educational specialist, or doctoral in education to be eligible for the LCA; (See, OAR 584-080-0153 Restricted Transitional Administrator License for other possible alternatives.)

(c) Applicants seeking conditional assignment in school counseling or school psychology must hold at least a bachelor's degree or master's, educational specialist, or doctoral degree in the respective field of counseling or psychology; and

(d) Applicants must never have held any one of the following licenses or permits endorsed in the subject-matter area or licensure areas in which the educator is seeking to work out-of-field:

- (A) Conditional assignment permit; and
- (B) Restricted Licenses.

(10) The LCA is restricted to use within the sponsoring district. The LCA may be transferred to a new district unless the eligibility for the LCA has expired.

EXAMPLE: A teacher has held a LCA for special education for two years sponsored by District A. The LCA may be transferred for one more year to a different sponsoring district.

(11) A district must:

(a) Apply for an LCA by October 31 for the fall term; or thereafter, apply for the LCA within two weeks after the assignment has begun; and

(b) Agree to provide professional assistance specific to the assignment for the educator during the first year of the conditional assignment.

(12) After an LCA has expired, the educator must have completed all requirements necessary to add the appropriate endorsement or new licensure program in order to continue working in the area in which the educator held the LCA. Continuing to work in an out-of-field position on an expired LCA is a violation of licensure law and is unauthorized. In these cases, the license-holder or the assigning administrator or both may be subject to sanctions for gross neglect of duty by the Commission pursuant to OAR 584-020-0040(4).

(13) To be eligible to apply for a License for Conditional Assignment, an applicant must:

(a) Hold an active and valid qualifying non-provisional Oregon license;

(b) Provide a statement from sponsoring district requesting the LCA; and

(c) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 6-2016, f. & cert. ef. 11-15-16; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0010

Definitions

(1) "Approved Career and Technical Education Program:" A career and technical education program (CTE), approved by the Oregon Department of Education (ODE).

(2) "Career and Technical Education (CTE) Mentor:" A teacher holding a Preliminary CTE, Professional CTE, Preliminary, Professional or Teacher Leader teaching license who guides and supports a novice teacher holding a Restricted CTE Teaching License with instructional planning and preparation, delivery of classroom instruction, classroom management, assessment of student performance, and professional development. The assigned mentor must be approved by ODE to be a CTE mentor.

(3) "Career and Technical Education Professional Development Plan:" A plan for professional development that prepares and develops the

applicant for CTE instructional assignments. The plan must be developed and completed as provided in OAR 584-230-0070, CTE Professional Development Plan.

(4) "Regional Coordinator:" An individual hired by a local educational agency or community college and officially recognized by the Oregon Department of Education (ODE) to specifically coordinate the ODE approved regional system of Career and Technical Education.

(5) "Instructor Appraisal Committee (IAC):" A committee organized locally to evaluate and assess how the teacher candidate can best fill the instructor role in the local CTE program of study. The IAC is involved in the licensure process to help determine what professional development, educational courses, and/or industry experiences the teacher may need to be the most successful in that program. The IAC is comprised of industry professionals that are involved at the advisory committee level of the local program or the aligned or articulated community college. These individuals are heavily involved in the industry and understand the industry standards that should be met by the program.

(6) "Significant Progress:" Significant progress toward completion of CTE Professional Development Plan requirements means the applicant has made a confirmed commitment in each year the license is held toward completing the CTE professional development plan submitted upon application to TSPC.

(7) "Waivers:" A waiver of the industry work experience or academic requirements for the Restricted CTE Teaching License in accordance with OAR 584-230-0100 Waivers.

(8) "Work Experience:" Planned and coordinated industry work experience or previous and documented industry work experience that meets the criteria included in 584-230-0080 CTE Work Experience.

(9) "Planned and Coordinated Work Experiences:" Activities prescribed by the Instructor Appraisal Committee, designed to give the applicant the requisite knowledge and skills of the industry directly related to the CTE Program of Study in which they will be teaching. These activities should provide the necessary time and practice to allow the teacher the ability to teach the appropriate technical skills to students.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455-342.495, 342.553

Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0020

Preliminary CTE Teaching License

(1) Purpose of the License: The Preliminary Career and Technical Education (CTE) Teaching License qualifies its holder to teach in an ODE-approved Career and Technical Education program(s). The Preliminary CTE License is issued to new teachers who have successfully completed requirement of the Restricted CTE Teaching License as provided in OAR 584-230-0040. The Preliminary CTE Teaching License signifies that the educator is a novice teacher who has not met the advanced competencies and experience requirements necessary to meet the qualifications of the Professional CTE Teaching License.

(2) Term of Licensure: The Preliminary CTE Teaching License is valid for three years and is renewable as provided in subsection (5) of this rule. The license may be renewed continuously until the applicant has met both the advanced competencies and experience requirements for the Professional CTE Teaching License. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(3) Assignment and Endorsement Authorization: The Preliminary CTE Teaching License qualifies the teacher to teach in:

(a) An instructional assignment from prekindergarten through grade 12 in an Oregon Department of Education approved Career and Technical Education program[s] and within the scope of the subject-matter endorsement. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes included in the recommendation from the Oregon Department of Education.

(b) Any assignment in diversified occupations or as work experience coordinators; and

(c) Any substitute teaching assignment.

(4) To be eligible to apply for a Preliminary CTE Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold an associate's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission, or obtain the appropriate waiver pursuant to 584-230-0100 Waivers.

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(c) Provide evidence of completion of the CTE Professional Development Plan as provided in OAR 584-230-0070;

(d) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights laws and professional ethics;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(5) To be eligible to apply for renewal of the Preliminary CTE Teaching License, an applicant must:

(a) Complete 75 advanced professional development units as provided in OAR 584-200-0040 Professional CTE Teaching License and OAR 584-255-0010 Professional Development Requirements; or

(b) Complete 75 continuing professional development units as provided in OAR 584-255-0010 Professional Development Requirements.

(c) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(6) Upon qualifying for the advanced competencies and teaching experience requirements of the Professional CTE Teaching License, an applicant will be promoted from the Preliminary CTE Teaching License to the Professional CTE Teaching License. Licensees may renew the Preliminary CTE Teaching License until they have met all qualifications for the Professional CTE Teaching License.

(7) Effective July 1, 2017, CTE II licenses will no longer be issued. Upon renewal, qualified applicants with CTE II Teaching Licenses will be issued a Preliminary CTE Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495, 342.553

Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0030

Professional CTE License

(1) Purpose of the License: The Professional CTE Teaching License is a license that qualifies its holder to teach courses tied to an ODE approved Career and Technical Education program of study. The Professional CTE Teaching License signifies that the educator is an experienced teacher who has successfully demonstrated an advanced level of educator knowledge, skills and dispositions.

(2) Term of Licensure: The Professional CTE Teaching License is valid for five years and is renewable as provided in subsection (8) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(3) Assignment and Endorsement Authorization: The Professional CTE Teaching License qualifies the teacher to teach in:

(a) An instructional assignment from prekindergarten through grade 12 in an Oregon Department of Education approved Career and Technical Education program[s] and within the scope of the subject-matter endorsement. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes.

(b) Any assignment in diversified occupations or as work experience coordinators; and

(c) Any substitute teaching assignment.

(4) The Commission has approved the following advanced professional education programs to develop advanced level competencies required for promotion to the Professional CTE Teaching License:

(a) Advanced Professional Development Program: The purpose of the Advanced Professional Development Program is to provide the individual teacher with the specific professional development needed to advance to a professional teacher level. The program is developed by the applicant in conjunction with the employing district and includes professional development specifically tailored to the performance goals of the novice teacher in accordance with ORS 342.815 to 342.856. To qualify as an Advanced Professional Development Program, the program must consist of:

(A) A teacher who holds the Preliminary CTE Teaching License and is employed in accordance with ORS 342.815 to 342.856; and

(B) A requirement to complete 150 advanced professional development units while holding a Preliminary CTE Teaching License. To qualify as advanced professional development, the units must:

(i) Be completed in conjunction with the performance goals of the teacher established in accordance with ORS 342.815 to 342.856;

(ii) Be verified as advanced professional development by the employing district or charter school; and

(iii) Meet all other requirements provided in OAR 584-255-0010, Professional Development Requirements.

(b) Degree Programs: Admission to and completion of a bachelor's, master's or doctoral degree program that is reasonably related to improving the pedagogy skills or subject-matter knowledge of the endorsement(s) on the Preliminary CTE license. The program must be regionally accredited or foreign equivalent.

(c) Advanced Licensure: Admission to and completion of a Commission-approved advanced licensure program;

(d) National Board Certification: National Board of Professional Teaching Standards certification, Career and Technical Education;

(e) ODE approved and nationally recognized Professional Certification(s) related to the Career and Technical Education program area; and

(f) Other acceptable advanced coursework or assessment approved by the Executive Director or the Director of Licensure as provided in OAR 584-200-0100, Waiver of Licensure Requirements by the Commission.

(5) All evidence of advanced professional education programs must be equal to at least 150 professional development units as calculated in OAR 584-255-0010(3) and must have been obtained by the applicant after the date of issuance of their first non-provisional teaching license in Oregon.

(6) Professional CTE Teaching Experience Requirements: To qualify for the Professional CTE Teaching License, an educator must obtain:

(a) Full-time Experience: Four full of years teaching experience in a 1.0 assignment; or

(b) Part-time Experience: Six full years of teaching experience in at least a .50 to .99 assignment.

NOTE: Teaching experience of .49 or less is not eligible to meet any teaching experience requirement for the Professional CTE Teaching License. Teaching experience from two or more academic years may not be combined to meet the teaching requirements.

EXAMPLE: An applicant may not combine two full years of .25 teaching assignment to equal one year of .5 teaching assignment for the part-time teaching requirement.

EXAMPLE: An applicant may not combine one year of a .75 assignment and one year of a .25 assignment to equal one year of full-time teaching experience.

(c) One full year of teaching experience is equal to 135 days of contracted classroom teaching within an academic year (July 1 to June 30).

(d) The years of teaching experience do not have to be earned consecutively.

(e) Substitute experience is not considered qualifying teaching experience under this subsection unless the educator is assigned to a single substitute assignment in accordance with subsection (6)(c) of this rule.

(f) The applicant must obtain the teaching experience while holding a Restricted CTE, CTE I, CTE II, Reciprocal, Preliminary CTE or equivalent non-provisional CTE license from a National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction.

(g) The teaching experience must include a Teacher on Special Assignment (TOSA) or direct instruction of students as provided in ORS 342.120 and must occur in an ODE-approved Career and Technical Education Program.

(7) To be eligible to apply for a Professional CTE Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Preliminary CTE Teaching License or an equivalent teaching license issued previously by the Commission;

(c) Complete an advanced professional education program as provided in subsections (4) and (5) of this rule;

(d) Complete the teaching experience requirements as provided in subsection (6) of this rule;

(e) Complete a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) To be eligible to apply for renewal of the Professional CTE Teaching License, the applicant must:

(a) Complete continuing professional development requirements as provided in OAR 584-255-0010 Professional Development Requirements and

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(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495, 342.553
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0040

Restricted CTE License

(1) Purpose of the License: The Restricted CTE Teaching License qualifies its holder to teach in an ODE approved Career and Technical Education Program of Study in an Oregon school district, education service districts, or charter school assignments. The Restricted CTE Teaching License is issued to qualified individuals who have at least an associate's degree, or equivalent, and relevant and documented industry work experience, but has not completed a teacher preparation program.

(2) Sponsorship: The Restricted CTE Teaching License requires sponsorship of an ODE-approved sponsor. The sponsor must be verified by ODE and identified on the official CTE application through the Oregon Department of Education.

(a) Sponsors may include:

- (A) Public schools and districts;
- (B) Charter schools;
- (C) Education Service Districts;
- (D) Post-secondary institutions;
- (E) Private prekindergarten through grade 12 schools; and
- (F) Other entities as approved by Oregon Department of Education.

(b) If the holder of the Restricted CTE license is employed in a CTE teaching position, the holder must be sponsored by the employing school, district, college or other institution.

(c) The application for the Restricted CTE license must identify the supervising administrator and the CTE mentor, if the applicant is employed in a CTE teaching position.

(3) Terms of Licensure: The Restricted CTE Teaching License can be reissued up to two times for a total of three years on the license, in accordance with the following provisions:

(a) For applications received from July 1 through December 31, the first Restricted CTE Teacher License is valid through June 30 of the school year for which it is issued.

(b) For applications received from January 1 through June 30, the first Restricted CTE Teacher License is valid through June 30 of the following school year unless otherwise requested by the sponsoring district;

(c) All subsequent Restricted CTE teaching licenses will expire on June 30.

(d) Upon expiration of the final term (after second reissue) of the Restricted CTE Teaching License, the educator must qualify for the Preliminary CTE Teaching License.

(4) Assignment and Endorsement Authorization: The Restricted CTE Teaching License qualifies the teacher to accept within the sponsoring district:

(a) An instructional assignment from prekindergarten through grade 12 in an Oregon Department of Education's approved Career and Technical Education program[s] and within the scope of the subject-matter endorsement. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes included in the recommendation from the Oregon Department of Education;

(b) Any substitute teaching assignment.

(5) To be eligible to apply for a Restricted CTE Teaching License, the applicant must:

(a) Have an ODE-approved sponsor for the license as provided in subsection (2);

(b) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(c) Hold an associate's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission, or obtain the appropriate waiver pursuant to 584-230-0100 Waivers.

(d) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Submit a copy of the ODE-approved Restricted CTE Teaching License application form, including:

(A) Industry work experience pursuant to OAR 584-230-0080 CTE Industry Work Experience or waiver pursuant to OAR 584-230-0100 Waivers.

(B) Recommendation for licensure and endorsement(s), including any course restrictions related to the recommended endorsement(s);

(C) CTE Professional Development Plan pursuant to OAR 584-230-0070 CTE Professional Development Plan; and

(D) Sponsorship information and verification as provided in subsection (2).

(f) Complete a background clearance that includes:

(A) Furnishing fingerprints, if required;

(B) Providing satisfactory responses to character questions in the form and manner prescribed by the Commission; and

(g) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(6) First Reissue: To be eligible to apply for the first reissue of a Restricted CTE Teaching License, an applicant must submit:

(a) A statement from the sponsor that verifies:

(A) The applicant continues to be sponsored by an ODE-approved sponsor. If the applicant is employed in a CTE teaching position, the sponsor must be the employing school, district, college or other institution; and

(B) The applicant is on target to meet the qualifications for the Preliminary CTE Teaching License by the end of the final term (after second reissue) of the Restricted CTE Teaching License; and

(C) The names of the supervisory administrator and CTE mentor, if the applicant is employed in a CTE teaching position.

(b) A complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(7) Second Reissue: To be eligible to apply for the second reissue of a Restricted CTE Teaching License, an applicant must submit:

(a) A statement from the sponsor that verifies:

(A) The applicant continues to be sponsored by an ODE-approved sponsor. If the applicant is employed in a CTE teaching position, the sponsor must be the employing school, district, college or other institution; and

(B) The applicant has completed more than 50 percent of the approved Professional Development Plan in order to meet the qualifications for the Preliminary CTE Teaching License by the end of the final term (after second reissue) of the Restricted CTE Teaching License; and

(C) The names of the supervisory administrator and CTE mentor, if the applicant is employed in a CTE teaching position.

(b) A complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-200-0050.

(8) Transfer of Sponsorship: The Restricted CTE Teaching License is transferable to another sponsor. To transfer sponsorship, the new sponsor must submit a statement that:

(a) Verifies that the new sponsor is approved by the Oregon Department of Education;

(b) Identifies the supervising administrator and the CTE mentor, if the applicant is employed in a CTE teaching position;

(c) Verifies that the new sponsor has informed the original sponsor of the transfer; and

(d) Acknowledges the new sponsor has reviewed and supports the original CTE professional development plan and assures the applicant will complete the original plan within the original three year term.

(9) Upon expiration of the final term (after second reissue) of the Restricted CTE Teaching License, holders of this license must meet all the requirements of the Preliminary CTE Teaching License.

(a) The educator may apply for the Preliminary CTE Teaching License prior to the expiration of the final term of the Restricted CTE Teaching License.

(b) If the educator does not meet the qualifications for the Preliminary CTE Teaching License prior to the expiration of the final term of the Restricted CTE Teaching License, the educator and the sponsor may apply for an Emergency Teaching License as provided in subsection (10).

(10) Emergency Teaching License: The applicant and sponsoring district may apply for an Emergency Teaching License as provided in OAR 584-210-0130 if necessary to protect the CTE programs or students. The sponsoring district must ensure the applicant will meet all requirements for the Restricted or Preliminary CTE Teaching License upon expiration of the Emergency Teaching License.

(11) Effective July 1, 2017, CTE I Teaching Licenses will no longer be issued. Qualified applicants with CTE I Teaching Licenses will be reissued Restricted CTE Teaching Licenses. Holders of the CTE I Teaching License issued prior to July 1, 2017 must qualify for the Preliminary CTE

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license within three years of the issuance of their first CTE I Teaching License.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495, 342.553
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0050

CTE Endorsements

(1) Purpose of CTE Teaching License Endorsements: The purpose of a Career and Technical Education (CTE) endorsement on a license is to indicate the CTE areas for which the educator is authorized to teach. Only Commission-adopted CTE endorsements may be added teaching licenses. New CTE endorsements may only be established through official Commission action at a meeting.

(2) The following teaching licenses are eligible to hold CTE endorsements:

- (a) Restricted CTE Teaching License;
- (b) Preliminary CTE Teaching License;
- (c) Professional CTE Teaching License;
- (d) Preliminary Teaching License;
- (e) Professional Teaching License;
- (f) Reciprocal Teaching License;
- (g) Teacher Leader License;
- (h) Legacy Teaching License; and
- (i) Emergency Teaching License.

(3) The following teaching licenses and registrations are not eligible to add CTE endorsements:

- (a) American Indian Languages Teaching License;
- (b) Charter school teacher registration;
- (c) Restricted Teaching License;
- (d) Limited Teaching License;
- (e) International Visiting Teaching License;
- (f) Substitute Teaching License (Already valid to substitute teach in any subject); and
- (g) Restricted Substitute Teaching License (Already valid to substitute teach in any subject).

NOTE: Holders of the licenses listed in subsection (3) may be eligible to qualify for a CTE license and endorsement upon completion of the CTE requirements.

(4) To add an endorsement to an existing teaching license, the applicant must complete the ODE-approved CTE application process, which may include completion of a CTE Professional Development Plan. ODE may require the licensed teacher to complete additional work experience or education through the CTE Professional Development Plan and the LCA process.

(5) Out-of-state applicants holding a non-CTE (regular) teaching licenses with CTE endorsement(s) must complete the ODE CTE application process. A CTE endorsement may be added to a Reciprocal Teaching License.

(6) Out-of-state applicants holding a CTE teaching license with CTE endorsement(s) must complete the ODE CTE application process prior to receiving an Oregon CTE license. After completing the ODE CTE application process, the applicant may be eligible for the Restricted CTE, Preliminary CTE or Professional CTE license, depending on the applicant's qualifications.

(7) The Commission-approved Career and Technical Education endorsements are:

(a) Endorsements in the Agriculture, Food and Natural Resource Systems area include:

- (A) Agriculture Science and Technology;
- (B) Natural Resources Management; and
- (C) Environmental Services.

(b) Endorsements in the Arts, Information and Communications area include:

- (A) Publishing and Broadcasting;
- (B) Information and Communications Technology; and
- (C) Visual, Performing and Media Arts.
- (c) Endorsements in the Business and Management area include:
 - (A) Business Management and Administration;
 - (B) Finance;
 - (C) Hospitality and Tourism;
 - (D) Marketing; and
 - (E) Culinary.

(d) Endorsements in the Health Sciences area include:

- (A) Health Sciences;
- (B) Biotechnology and Research;
- (C) Therapeutic Services; and
- (D) Diagnostic Services.

(e) Endorsements in the Human Resources area include:

- (A) Education and Related Fields;
- (B) Government and Public Administration;
- (C) Human Services; and
- (D) Public Services.

(f) Endorsements in the Industrial and Engineering Systems area include:

- (A) Construction Technology;
- (B) Engineering Technology;
- (C) Transportation Technology; and
- (D) Manufacturing Technology.

(8) Effective July 1, 2017, new and renewing CTE teaching licenses will be issued the Commission-adopted endorsements as provided in subsection (7).

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495, 342.553
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0060

CTE Instructor Appraisal Committees

(1) An Instructor Appraisal Committee (IAC) is a committee of industry and education experts that evaluate applications for CTE licensure and endorsements based on work experience and preparation in a CTE endorsement area. The IAC is appointed by the Local Education Agency.

(2) The Instructor Appraisal Committee must have a minimum of five (5) members, as provided:

(a) The IAC must include a school administrator or a CTE director from the sponsoring district. The administrator representative is an official member of the IAC.

(b) If the applicant is a licensed teacher, at least two IAC members must be from business and industry pursuant to subsection (3).

(c) If the applicant is from business and industry and is not a licensed teacher, at least two IAC members must be from education pursuant to subsection (4).

(d) The IAC facilitator may not be included in the five member minimum requirement;

(e) An IAC member may represent more than one required membership category.

(3) Business or industry members: The business or industry representative is an official member of the IAC. To be appointed as a member to the IAC, the business or industry representatives must:

(a) Possess current and substantial knowledge of the technical and environmental requirements, and standards of behavior required of the business or industry program.

(a) Be either employers or employees of the business or industry;

(c) At least one business or industry representatives must be currently engaged in an occupation related to the career and technical education program endorsement area.

(4) Educator members: The educator representative(s) is an official member of the IAC. To be appointed as a member to the IAC, the educator must:

(a) Possess current and substantial knowledge of pedagogy, instructional practices, assessment practices, classroom management, and education policy; and

(b) Be employed with one of the following:

(A) A public or private secondary school. The secondary school educator must hold an active and valid Oregon teaching license; or

(B) A post-secondary institutions. Post-secondary representatives must be from the applicant's endorsement program area.

(5) Ex-Officio: The sponsoring district or Regional Coordinator may appoint non-voting ex-officio members to the IAC.

(6) IAC Facilitator: The Regional Coordinator or the appropriate ODE program specialist will serve as the IAC facilitator to operate the IAC during each candidate appraisal process. Failure to use an approved IAC facilitator may result in an invalid recommendation and incomplete licensure application process.

(7) IAC Chair: The IAC must appoint a chair from the official membership of the committee.

(a) The chair is responsible to provide the IAC's rationale for the recommendation and must sign any submitted recommendation for a waiver of academic or work experience to the ODE, prior to application for licensure at TSPC.

(b) The chair may not be an ex-officio member or an appointed facilitator.

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(8) IAC members may be comprised of existing program advisory committees if the IAC membership meets the minimum membership requirements pursuant to subsection (2).

(9) The CTE Regional Coordinator and the appropriate ODE program specialist must officially verify the IAC member roster as well as evaluations and recommendations of the IAC prior to application for licensure at TSPC.

(10) The applicant's proposed CTE professional development plan must be consistent with the Preliminary CTE Teaching License requirements as provided in OAR 584-230-0020 if the candidate does not hold an existing CTE, Preliminary, Professional, Legacy or Teacher Leader teaching license.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495, 342.553
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0070

CTE Professional Development Plan

(1) A CTE Professional Development Plan is required component of the ODE CTE application for the Restricted CTE Teaching License or a License for Conditional Assignment for CTE endorsement.

(2) The CTE Professional Development Plan must include:

(a) Academic requirements as provided in subsection (3);

(b) Business and Industry work requirements as provided in OAR 584-230-0080;

(c) Signatures from the ODE-approved sponsor and the applicant. The sponsor must maintain a copy of the CTE professional development plan;

(d) Assurances that the ODE-approved sponsor has assigned an appropriately licensed administrator to monitor the progress and timely completion of the signed CTE professional development plan, if required. The administrator must be identified in the application materials; and

(e) Assurances that the ODE-approved sponsor has assigned an appropriately trained mentor consistent with OAR 584-230-0010 Definitions, if required. The mentor must be identified in the application materials.

(3) For applicants who have not previously completed a teacher preparation program, the CTE professional development plan must require the applicant to complete one of the following:

(a) CTE Program: Complete a Commission-approved CTE preparation program. Commission-approved programs may include school districts, Education Service Districts, community colleges, technical colleges or institutions of higher education. All programs must meet the same Commission-approved CTE program standards; or

(b) CTE Coursework: Complete a minimum of eighteen (18) quarter hours or twelve (12) semester credit hours of CTE teacher preparation from a Commission-approved educator preparation program, accredited technical college or accredited community college. The credit hours must include:

(A) Three (3) quarter hours or two (2) semester hours of Introduction to Career and Technical Education in Oregon;

(B) Three (3) quarter hours or two (2) semester hours of Classroom Management;

(C) Three (3) quarter hours or two (2) semester hours of Culturally Responsive Practices, including responsiveness to the instructional needs of:

(i) Students from under-represented communities;

(ii) Students from all socio-economic situations; and

(iii) Students that require special education services.

(D) Three (3) quarter hours or two (2) semester hours in Human Development for adolescent and older children;

(E) Three (3) quarter hours or two (2) semester hours in Curriculum Design, Instructional Strategies and Assessment; and

(F) Three (3) quarter hours or two (2) semester hours in one of the following:

(i) Instructional methodology in how to teach mathematics to secondary learners, which may include coursework focused on how to teach mathematics in the CTE context; or

(ii) Instructional methodology in how to teach reading, or writing and literacy to secondary learners.

(4) The CTE Professional Development Plan may include additional education requirements if the IAC or ODE determines the additional education is necessary.

(5) The CTE Professional Development Plans may be modified if ODE approves of the modification in writing. The modified CTE plan, with verified ODE approval, must be submitted to TSPC with prior to the expiration of the Restricted CTE Teaching License.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430, 342.455 – 342.496, 342.553
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0080

CTE Industry Work Experience

(1) Candidates for CTE endorsements must complete at least 2000 hours of relevant and documented industry work experience in the requested CTE endorsement area. The industry work experience in the CTE endorsement area may include verified:

(a) Employment;

(b) Internships; or

(c) Volunteer experience.

(2) Candidates for CTE endorsements that do not have at least 2000 hours of relevant and documented industry work experience in the requested CTE endorsement area may be required to complete a Planned and Coordinated Work Experience. The Planned and Coordinated Work Experience must be:

(a) At least 667 hours of employment, internship, or volunteer experience.

(A) One hour of Planned and Coordinated Work Experience equals three hours of Previous and Documented Work Experience;

(B) Planned and coordinated work experience may be combined with previous and documented industry-related work hours to meet the work experience requirements.

(b) Designed to increase specific business and industry knowledge and skills specifically related to the applicant's endorsement area;

(c) Prescribed by the Instructor Appraisal Committee; and

(d) Included in the approved CTE Professional Development Plan as provided in OAR 584-230-0070 CTE Professional Development Plan.

(3) Alternatives to 2000 hours of work experience requirement may include:

(a) Related industry certification or licensure;

(b) Related technical courses from an accredited community college or other accredited institution. One technical course credit is equal to 20 hours of industry experience;

(5) The ODE may certify industry work experience pursuant to this rule in lieu of the IAC process and upon request from an applicant for the Restricted CTE Teaching License.

(6) A Commission-approved Oregon educator preparation program may certify work experience pursuant to this rule for pre-service candidates applying for a Preliminary Teaching License with a CTE endorsement as provided in OAR 584-230-0050 CTE Endorsements.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120, 342.147 & 342.165
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-230-0100

Waivers

(1) The Instructor Appraisal Committee (IAC) may recommend to the ODE a waiver of the industry work experience or the associate degree requirements for the Restricted CTE Teaching License. The waiver recommendation must include:

(a) The academic preparation of the applicant that justifies the waiver of the associate's degree requirement;

(b) The industry work experience or training of the applicant that justifies the waiver of the industry work experience requirement; and

(c) A signed copy of the CTE Professional Development Plan, including any relevant IAC recommendations.

(2) An approved waiver must be signed and dated within ninety (90) days from the date of application to ODE and must be submitted to the TSPC as part of the application for the Restricted CTE Teaching License. The Chair of the IAC, an ODE Regional Coordinator or an ODE specialist are authorized to sign the waiver.

(3) The IAC recommendation for waiver is advisory only and may be denied by the ODE.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120, 342.147 & 342.165
Hist.: TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

584-255-0010

Professional Development Requirements

(1) The Commission believes that high quality and individualized professional development for educators is essential to promote:

(a) Effective educational practices;

(b) Supportive educational leadership; and

(c) Enriched student learning.

(2) The Commission requires the completion of advanced or continuing professional development units for:

(a) Promotion to the Professional Teaching License or Professional CTE Teaching License (Advanced PDU);

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- (b) Renewal of most active educator licenses (Continuing PDUs); and
- (c) Renewal of School Nurses Certificates (Continuing PDUs).

(3) Professional Development Units (PDUs) are calculated as follows:

(a) One (1) hour of advanced or continuing professional development activity equals one (1) PDU;

(b) One (1) semester hour of college credit equals thirty (30) PDUs;

or

(c) One (1) quarter hour of college credit equals twenty (20) PDUs.

(4) Advanced Professional Development (Advanced PDUs): The Commission requires completion of an advanced professional education program for promotion to the Professional Teaching License and Professional CTE Teaching License. The Commission has approved the completion of an Advanced Professional Development Program as one method to meet the requirement for an advanced professional education program. An Advanced Professional Development Program must include 150 advanced professional development units (advanced PDUs) that are:

(a) Tailored to the performance goals of the teacher in accordance with ORS 342.815 to 342.856;

(b) Based on the core teaching standards as provided in OAR 584-255-0020, Standards for Professional Development; and

(c) Calculated as provided in subsection (3) of this rule; and

(d) Completed while the applicant holds the Preliminary Teaching License or Preliminary CTE Teaching License.

NOTE: Refer to OAR 584-210-0040 Professional Teaching License and OAR 584-230-0030 Professional CTE Teaching License for other methods to meet the advanced professional program requirements.

(5) Continuing Professional Development: The Commission requires continuing professional development for renewal of most active licenses and certificates that do not require advancement to another license.

(a) To qualify for renewal of a license, the applicant must complete 25 Continuing PDUs per year of licensure term, as follows:

(A) 75 PDUs during the life of a three (3) year license; and

(B) 125 PDUs during the life of a five (5) year license.

(b) Completing any of the following advanced certifications will waive continuing professional development requirements only for the renewal period during which the certification is completed and the following licensure renewal cycle:

(A) National Board of Professional Teaching Standards (NBPTS) certification;

(B) National Association of School Psychologists (NASP) certification;

(C) National School Counselor Certification (NSCC);

(D) National Association of Social Workers (C-SSWS) certification;

or

(E) Association of Speech, Hearing and Audiology (ASHA) certification.

(c) Licensed educators may carry-over 25 PDUs of excess Continuing PDUs obtained only in the previous reporting period.

(d) Educators who hold dual licensure with other state professional licensing boards are encouraged to fulfill their continuing professional development requirements by completing the PDUs provided by those professional licensure areas (for example: Speech Language Pathologists).

(e) Educators who are employed as faculty at university or colleges may use their course presentation hours to fulfill their continuing PDU requirement. One (1) hour of course presentation is equal to one (1) PDU.

(f) The requirement for continuing professional development applies to the renewal of the following teaching, administrative, and personnel service licenses:

(A) Preliminary Teaching License [Note: If the applicant is renewing the Preliminary Teaching License with Advanced PDUs, Continuing PDUs are not required];

(B) Professional Teaching License;

(C) Teacher Leader License;

(D) Legacy Teaching License;

(E) Limited Teaching License;

(F) American Indian Language Teaching License;

(G) Preliminary CTE Teaching License; [Note: If the applicant is renewing the Preliminary CTE Teaching License with Advanced PDUs, Continuing PDUs are not required];

(H) Professional CTE Teaching License;

(I) Legacy Administrator;

(J) Distinguished Administrator;

(K) Exceptional administrator;

(L) Preliminary School Counselor [Note: If the applicant is renewing with requirements to move to Professional School Counselor license, Continuing PDUs are not required];

(M) Professional School Counselor;

(N) Legacy School Counselor;

(O) Preliminary School Psychologist;

(P) Professional School Psychologist;

(Q) Legacy School Psychologist;

(R) Limited Student Services;

(S) Preliminary School Social Worker; and

(T) Professional School Social Worker.

(6) Continuing Professional Development for School Nurse Certificates: To qualify for renewal of a School Nurse Certificate pursuant to OAR chapter 584, division 021, an applicant must:

(a) Meet the professional development requirements provided in OAR 584-021-0150 (Renewal of Professional School Nurse Certification); or

(b) Meet the professional development requirement provided in OAR 584-021-0155 (Emergency School Nurse Certification Renewal).

(7) It is the sole responsibility of the licensed educator to ensure accurate completion of professional development upon renewal or issue of a subsequent license. Generally, failure to complete advanced professional development or continuing professional development does not constitute an "emergency" for the purposes of receiving an Emergency License.

(8) If employed during the life of the license, the supervisor or professional development advisor will verify that the educator has successfully completed all continuing professional development requirements to the district superintendent or designee on the TSPC Professional Educational Experience Report (PEER) form prior to renewal of licensure.

(9) The following licenses and registrations do not have continuing professional development requirements because the licenses require the completion of additional specific coursework or other licensure requirements to move to the next stage license, or the licenses or registrations do not require continuing professional development:

NOTE: Applicants for teaching licenses may be required to complete reinstatement professional development as provided in OAR 584-210-0190 Reinstatement of Teaching Licenses.

(a) All reciprocal licenses;

(b) All substitute licenses;

(c) Preliminary Administrator license;

(d) Restricted CTE Teaching license;

(e) International Visiting Teacher License;

(f) All restricted licenses;

(g) All emergency licenses;

(h) License for Conditional Assignment;

(i) Teacher Associate License; and

(j) All charter school registrations.

(10) Substitute teaching licenses do not have continuing professional development requirements due to a substitute shortage in the profession. The Commission has reserved the right to reconsider this continuing professional development waiver at any time in the future.

(11) Educators holding a Restricted CTE Teaching License may be subject to other professional development requirements consistent with their CTE Professional Development Plan pursuant to OAR 584-230-0070.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 12-2015, f. 11-13-15, cert. ef. 1-1-16; TSPC 1-2016, f. & cert. ef. 2-10-16; TSPC 4-2017, f. 6-27-17, cert. ef. 7-1-17

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123-061-0035	12-22-2016	Amend	2-1-2017	137-076-0034	4-27-2017	Amend	6-1-2017
123-061-0040	12-22-2016	Repeal	2-1-2017	137-076-0037	4-27-2017	Amend	6-1-2017
123-093-0100	2-22-2017	Adopt	4-1-2017	137-076-0040	4-27-2017	Amend	6-1-2017
123-093-0200	2-22-2017	Adopt	4-1-2017	137-076-0043	4-27-2017	Amend	6-1-2017
123-093-0300	2-22-2017	Adopt	4-1-2017	137-076-0045	4-27-2017	Amend	6-1-2017
123-093-0400	2-22-2017	Adopt	4-1-2017	137-076-0050	4-27-2017	Repeal	6-1-2017
123-093-0500	2-22-2017	Adopt	4-1-2017	137-076-0055	4-27-2017	Amend	6-1-2017
123-093-0600	2-22-2017	Adopt	4-1-2017	137-076-0056	4-27-2017	Amend	6-1-2017
123-093-0700	2-22-2017	Adopt	4-1-2017	137-076-0060	4-27-2017	Repeal	6-1-2017

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137-076-0070	4-27-2017	Amend	6-1-2017	141-075-0140	1-12-2017	Repeal	2-1-2017
137-080-0005	4-27-2017	Amend	6-1-2017	141-075-0145	1-12-2017	Repeal	2-1-2017
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137-080-0015	4-27-2017	Amend	6-1-2017	141-075-0155	1-12-2017	Repeal	2-1-2017
137-080-0020	4-27-2017	Repeal	6-1-2017	141-075-0160	1-12-2017	Repeal	2-1-2017
137-080-0025	4-27-2017	Amend	6-1-2017	141-075-0165	1-12-2017	Repeal	2-1-2017
137-080-0030	4-27-2017	Amend	6-1-2017	141-075-0170	1-12-2017	Repeal	2-1-2017
137-105-0001	11-17-2016	Amend	1-1-2017	141-075-0175	1-12-2017	Repeal	2-1-2017
137-105-0010	11-17-2016	Amend	1-1-2017	141-075-0180	1-12-2017	Repeal	2-1-2017
137-105-0020	11-17-2016	Amend	1-1-2017	141-075-0190	1-12-2017	Repeal	2-1-2017
137-105-0025	11-17-2016	Adopt	1-1-2017	141-075-0195	1-12-2017	Repeal	2-1-2017
137-105-0030	11-17-2016	Amend	1-1-2017	141-075-0200	1-12-2017	Repeal	2-1-2017
137-106-0001	11-17-2016	Adopt	1-1-2017	141-075-0205	1-12-2017	Repeal	2-1-2017
137-106-0010	11-17-2016	Adopt	1-1-2017	141-075-0210	1-12-2017	Repeal	2-1-2017
137-106-0030	11-17-2016	Adopt	1-1-2017	141-075-0215	1-12-2017	Repeal	2-1-2017
137-106-0040	11-17-2016	Adopt	1-1-2017	141-075-0220	1-12-2017	Repeal	2-1-2017
141-067-0130	1-12-2017	Amend	2-1-2017	141-075-0225	1-12-2017	Repeal	2-1-2017
141-067-0150	1-12-2017	Amend	2-1-2017	141-075-0230	1-12-2017	Repeal	2-1-2017
141-067-0155	1-12-2017	Amend	2-1-2017	141-075-0235	1-12-2017	Repeal	2-1-2017
141-067-0170	1-12-2017	Amend	2-1-2017	141-075-0240	1-12-2017	Repeal	2-1-2017
141-067-0180	1-12-2017	Amend	2-1-2017	141-075-0245	1-12-2017	Repeal	2-1-2017
141-067-0195	1-12-2017	Amend	2-1-2017	141-075-0250	1-12-2017	Repeal	2-1-2017
141-067-0200	1-12-2017	Repeal	2-1-2017	141-075-0255	1-12-2017	Repeal	2-1-2017
141-067-0215	1-12-2017	Amend	2-1-2017	141-075-0260	1-12-2017	Repeal	2-1-2017
141-067-0220	1-12-2017	Amend	2-1-2017	141-075-0265	1-12-2017	Repeal	2-1-2017
141-067-0270	1-12-2017	Amend	2-1-2017	141-075-0270	1-12-2017	Repeal	2-1-2017
141-067-0300	1-12-2017	Amend	2-1-2017	141-075-0275	1-12-2017	Repeal	2-1-2017
141-068-0000	1-12-2017	Adopt	2-1-2017	141-075-0280	1-12-2017	Repeal	2-1-2017
141-068-0010	1-12-2017	Adopt	2-1-2017	141-075-0285	1-12-2017	Repeal	2-1-2017
141-068-0020	1-12-2017	Adopt	2-1-2017	141-075-0290	1-12-2017	Repeal	2-1-2017
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141-068-0040	1-12-2017	Adopt	2-1-2017	141-075-0300	1-12-2017	Repeal	2-1-2017
141-068-0050	1-12-2017	Adopt	2-1-2017	141-075-0305	1-12-2017	Repeal	2-1-2017
141-068-0060	1-12-2017	Adopt	2-1-2017	141-075-0310	1-12-2017	Repeal	2-1-2017
141-068-0070	1-12-2017	Adopt	2-1-2017	141-075-0315	1-12-2017	Repeal	2-1-2017
141-068-0080	1-12-2017	Adopt	2-1-2017	141-075-0320	1-12-2017	Repeal	2-1-2017
141-068-0080	2-9-2017	Amend	3-1-2017	141-075-0325	1-12-2017	Repeal	2-1-2017
141-068-0090	1-12-2017	Adopt	2-1-2017	141-075-0330	1-12-2017	Repeal	2-1-2017
141-068-0100	1-12-2017	Adopt	2-1-2017	141-075-0335	1-12-2017	Repeal	2-1-2017
141-068-0110	1-12-2017	Adopt	2-1-2017	141-075-0400	1-12-2017	Repeal	2-1-2017
141-068-0120	1-12-2017	Adopt	2-1-2017	141-075-0405	1-12-2017	Repeal	2-1-2017
141-068-0130	1-12-2017	Adopt	2-1-2017	141-075-0460	1-12-2017	Repeal	2-1-2017
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141-075-0020	1-12-2017	Repeal	2-1-2017	141-075-0480	1-12-2017	Repeal	2-1-2017
141-075-0030	1-12-2017	Repeal	2-1-2017	141-075-0520	1-12-2017	Repeal	2-1-2017
141-075-0035	1-12-2017	Repeal	2-1-2017	141-075-0525	1-12-2017	Repeal	2-1-2017
141-075-0040	1-12-2017	Repeal	2-1-2017	141-075-0530	1-12-2017	Repeal	2-1-2017
141-075-0045	1-12-2017	Repeal	2-1-2017	141-075-0535	1-12-2017	Repeal	2-1-2017
141-075-0050	1-12-2017	Repeal	2-1-2017	141-075-0540	1-12-2017	Repeal	2-1-2017
141-075-0055	1-12-2017	Repeal	2-1-2017	141-075-0545	1-12-2017	Repeal	2-1-2017
141-075-0060	1-12-2017	Repeal	2-1-2017	141-075-0550	1-12-2017	Repeal	2-1-2017
141-075-0080	1-12-2017	Repeal	2-1-2017	141-075-0555	1-12-2017	Repeal	2-1-2017
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141-075-0575	1-12-2017	Repeal	2-1-2017	150-314-0327	6-28-2017	Amend	8-1-2017
141-125-0100	1-12-2017	Amend	2-1-2017	150-314-0380	6-28-2017	Amend	8-1-2017
141-125-0110	1-12-2017	Amend	2-1-2017	150-314-0485	1-1-2017	Amend	2-1-2017
141-125-0120	1-12-2017	Amend	2-1-2017	150-315-0070	1-1-2017	Amend	2-1-2017
141-125-0140	1-12-2017	Amend	2-1-2017	150-315-0080	1-1-2017	Repeal	2-1-2017
141-125-0160	1-12-2017	Amend	2-1-2017	150-315-0082	1-1-2017	Repeal	2-1-2017
141-125-0170	1-12-2017	Amend	2-1-2017	150-315-0084	1-1-2017	Repeal	2-1-2017
141-141-0100	7-1-2017	Adopt	7-1-2017	150-315-0120	1-1-2017	Repeal	2-1-2017
141-141-0110	7-1-2017	Adopt	7-1-2017	150-315-0121	1-1-2017	Adopt	2-1-2017
141-141-0120	7-1-2017	Adopt	7-1-2017	150-315-0125	1-1-2017	Adopt	2-1-2017
141-141-0130	7-1-2017	Adopt	7-1-2017	150-315-0130	6-1-2017	Repeal	7-1-2017
141-141-0140	7-1-2017	Adopt	7-1-2017	150-315-0132	6-1-2017	Repeal	7-1-2017
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141-141-0160	7-1-2017	Adopt	7-1-2017	150-316-0060	6-1-2017	Amend	7-1-2017
150-090-0020	1-1-2017	Adopt	2-1-2017	150-316-0075	1-1-2017	Repeal	2-1-2017
150-118-0150	1-1-2017	Amend	2-1-2017	150-316-0086	1-1-2017	Amend	2-1-2017
150-198-0900	6-8-2017	Amend	7-1-2017	150-316-0100	1-1-2017	Repeal	2-1-2017
150-280-0010	6-8-2017	Amend	7-1-2017	150-316-0105	6-1-2017	Repeal	7-1-2017
150-294-0430	1-1-2017	Amend	2-1-2017	150-316-0107	6-1-2017	Repeal	7-1-2017
150-294-0840	1-1-2017	Amend	2-1-2017	150-316-0120	6-1-2017	Amend	7-1-2017
150-305-0068	1-1-2017	Amend	2-1-2017	150-316-0150	6-1-2017	Amend	7-1-2017
150-305-0130	1-1-2017	Amend	2-1-2017	150-316-0210	1-1-2017	Repeal	2-1-2017
150-305-0140	1-1-2017	Amend	2-1-2017	150-316-0215	1-1-2017	Repeal	2-1-2017
150-305-0142	1-1-2017	Amend	2-1-2017	150-316-0220	6-1-2017	Repeal	7-1-2017
150-305-0150	6-1-2017	Amend	7-1-2017	150-316-0235	6-1-2017	Amend	7-1-2017
150-305-0202	1-1-2017	Amend	2-1-2017	150-316-0359	1-1-2017	Amend	2-1-2017
150-305-0304	6-8-2017	Amend	7-1-2017	150-316-0435	1-1-2017	Amend	2-1-2017
150-305-0360	6-1-2017	Amend	7-1-2017	150-316-0470	6-1-2017	Amend	7-1-2017
150-305-0360 T	12-21-2016	Amend(T)	2-1-2017	150-316-0493	6-1-2017	Amend	7-1-2017
150-307-0470	1-1-2017	Repeal	2-1-2017	150-316-0517	1-1-2017	Repeal	2-1-2017
150-307-0510	1-1-2017	Amend	2-1-2017	150-316-0615	6-1-2017	Amend	7-1-2017
150-308-0250	6-15-2017	Amend	7-1-2017	150-316-0620	6-1-2017	Repeal	7-1-2017
150-308-0280	6-15-2017	Amend	7-1-2017	150-316-0645	6-1-2017	Repeal	7-1-2017
150-308-0580	6-15-2017	Amend	7-1-2017	150-320-0010	1-1-2017	Repeal	2-1-2017
150-308-0760	6-1-2017	Amend	7-1-2017	150-320-0040	1-1-2017	Amend	2-1-2017
150-308-1140	6-1-2017	Amend	7-1-2017	150-321-0340	1-1-2017	Amend	2-1-2017
150-310-0010	6-15-2017	Amend	7-1-2017	150-321-0340	6-1-2017	Amend	7-1-2017
150-310-0050	6-28-2017	Amend	8-1-2017	150-321-0810	1-1-2017	Amend	2-1-2017
150-310-0060	6-15-2017	Amend	7-1-2017	150-321-0810	6-1-2017	Amend	7-1-2017
150-310-0560	6-15-2017	Amend	7-1-2017	150-323-0130	1-1-2017	Amend	2-1-2017
150-311-0100	6-15-2017	Amend	7-1-2017	150-323-0150	1-1-2017	Amend	2-1-2017
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150-311-0130	1-1-2017	Repeal	2-1-2017	162-050-0030	1-5-2017	Adopt	2-1-2017
150-311-0510	1-1-2017	Repeal	2-1-2017	165-005-0180	6-16-2017	Adopt	8-1-2017
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150-312-0010	6-15-2017	Amend	7-1-2017	166-035-0005	7-14-2017	Adopt	8-1-2017
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150-312-0040	6-28-2017	Amend	8-1-2017	166-035-0015	7-14-2017	Adopt	8-1-2017
150-314-0020	6-1-2017	Repeal	7-1-2017	166-037-0010	7-14-2017	Adopt	8-1-2017
150-314-0082	6-28-2017	Amend	8-1-2017	166-037-0020	7-14-2017	Adopt	8-1-2017
150-314-0084	6-28-2017	Amend	8-1-2017	166-150-0005	1-13-2017	Amend	2-1-2017
150-314-0140	1-1-2017	Amend	2-1-2017	166-150-0110	1-13-2017	Amend	2-1-2017
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166-400-0025	1-13-2017	Amend	2-1-2017	213-071-0020	12-29-2016	Adopt	2-1-2017
166-400-0030	1-13-2017	Amend	2-1-2017	230-020-0330	12-1-2016	Amend	1-1-2017
166-400-0035	1-13-2017	Amend	2-1-2017	230-030-0150	2-28-2017	Amend	4-1-2017
166-400-0040	1-13-2017	Amend	2-1-2017	250-020-0041	5-1-2017	Amend	6-1-2017
166-400-0045	1-13-2017	Amend	2-1-2017	250-020-0091	12-5-2016	Amend(T)	1-1-2017
166-400-0050	1-13-2017	Amend	2-1-2017	250-020-0091(T)	12-5-2016	Suspend	1-1-2017
166-400-0055	1-13-2017	Amend	2-1-2017	255-005-0005	4-5-2017	Amend	5-1-2017
166-400-0060	1-13-2017	Amend	2-1-2017	255-060-0011	1-3-2017	Amend(T)	2-1-2017
166-400-0065	1-13-2017	Amend	2-1-2017	255-060-0011	4-5-2017	Amend	5-1-2017
170-002-0010	5-25-2017	Amend	7-1-2017	255-060-0016	1-3-2017	Amend(T)	2-1-2017
170-062-0000	2-23-2017	Amend	4-1-2017	255-060-0016	4-5-2017	Amend	5-1-2017
170-063-0000	2-23-2017	Amend	4-1-2017	255-080-0001	4-5-2017	Amend	5-1-2017
170-080-0001	4-19-2017	Adopt	6-1-2017	255-085-0010	1-3-2017	Amend(T)	2-1-2017
170-080-0002	4-19-2017	Adopt	6-1-2017	255-085-0010	3-21-2017	Amend(T)	5-1-2017
170-080-0005	4-19-2017	Adopt	6-1-2017	255-085-0010	7-1-2017	Amend	8-1-2017
170-080-0010	4-19-2017	Adopt	6-1-2017	255-085-0020	1-3-2017	Amend(T)	2-1-2017
170-080-0015	4-19-2017	Adopt	6-1-2017	255-085-0020	3-21-2017	Amend(T)	5-1-2017
170-080-0015	6-22-2017	Amend	8-1-2017	255-085-0020	7-1-2017	Amend	8-1-2017
170-080-0020	4-19-2017	Adopt	6-1-2017	255-085-0030	3-21-2017	Amend(T)	5-1-2017
170-080-0025	4-19-2017	Adopt	6-1-2017	255-085-0030	7-1-2017	Amend	8-1-2017
170-080-0030	4-19-2017	Adopt	6-1-2017	255-085-0040	3-21-2017	Amend(T)	5-1-2017
170-080-0035	4-19-2017	Adopt	6-1-2017	255-085-0040	7-1-2017	Amend	8-1-2017
170-080-0040	4-19-2017	Adopt	6-1-2017	255-085-0050	3-21-2017	Amend(T)	5-1-2017
170-080-0045	4-19-2017	Adopt	6-1-2017	255-085-0050	7-1-2017	Amend	8-1-2017
170-080-0050	4-19-2017	Adopt	6-1-2017	255-085-0060	3-21-2017	Adopt(T)	5-1-2017
170-080-0055	4-19-2017	Adopt	6-1-2017	255-085-0060	7-1-2017	Adopt	8-1-2017
170-080-0060	4-19-2017	Adopt	6-1-2017	257-050-0050	11-18-2016	Amend(T)	1-1-2017
170-080-0065	4-19-2017	Adopt	6-1-2017	257-050-0050	3-8-2017	Amend	4-1-2017
177-010-0100	4-1-2017	Amend	5-1-2017	257-050-0145	11-18-2016	Amend(T)	1-1-2017
177-036-0030	2-1-2017	Amend	3-1-2017	257-050-0145	3-8-2017	Amend	4-1-2017
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177-099-0020	5-21-2017	Amend	6-1-2017	257-095-0010	12-14-2016	Adopt(T)	1-1-2017
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177-099-0050	5-21-2017	Amend	6-1-2017	257-095-0030	12-14-2016	Adopt(T)	1-1-2017
177-099-0095	5-21-2017	Amend	6-1-2017	257-095-0030	6-6-2017	Adopt	7-1-2017
177-099-0100	5-21-2017	Amend	6-1-2017	257-095-0040	12-14-2016	Adopt(T)	1-1-2017
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213-004-0001	1-1-2017	Amend	2-1-2017	257-095-0070	12-14-2016	Adopt(T)	1-1-2017
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213-017-0005	1-1-2017	Amend	2-1-2017	257-095-0080	12-14-2016	Adopt(T)	1-1-2017
213-017-0006	1-1-2017	Amend	2-1-2017	257-095-0080	6-6-2017	Adopt	7-1-2017
213-017-0008	1-1-2017	Amend	2-1-2017	257-095-0090	12-14-2016	Adopt(T)	1-1-2017
213-017-0011	1-1-2017	Amend	2-1-2017	257-095-0090	6-6-2017	Adopt	7-1-2017
213-018-0075	1-1-2017	Amend	2-1-2017	257-095-0100	12-14-2016	Adopt(T)	1-1-2017
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259-008-0060	1-1-2017	Amend	2-1-2017	291-063-0050	6-12-2017	Am. & Ren.	7-1-2017
259-008-0060	5-1-2017	Amend	6-1-2017	291-063-0060	6-12-2017	Am. & Ren.	7-1-2017
259-008-0064	7-1-2017	Amend	8-1-2017	291-063-0130	6-12-2017	Adopt	7-1-2017
259-008-0065	3-22-2017	Amend	5-1-2017	291-063-0150	6-12-2017	Adopt	7-1-2017
259-008-0075	4-1-2017	Amend	5-1-2017	291-063-1000	6-12-2017	Adopt	7-1-2017
259-008-0080	4-1-2017	Amend	5-1-2017	291-063-1010	6-12-2017	Adopt	7-1-2017
259-008-0085	4-1-2017	Amend	5-1-2017	291-065-0006	3-17-2017	Amend	5-1-2017
259-008-0090	3-22-2017	Amend	5-1-2017	291-065-0007	3-17-2017	Amend	5-1-2017
259-009-0005	7-1-2017	Amend	8-1-2017	291-079-0030	11-30-2016	Repeal	1-1-2017
259-009-0062	12-22-2016	Amend	2-1-2017	291-079-0040	11-30-2016	Repeal	1-1-2017
259-009-0062	7-1-2017	Amend	8-1-2017	291-210-0010	2-15-2017	Amend(T)	3-1-2017
259-060-0010	3-22-2017	Amend	5-1-2017	291-210-0010	6-8-2017	Amend	7-1-2017
259-060-0015	3-22-2017	Amend	5-1-2017	291-210-0010(T)	6-8-2017	Repeal	7-1-2017
259-060-0130	3-22-2017	Amend	5-1-2017	291-210-0020	2-15-2017	Amend(T)	3-1-2017
259-060-0200	3-22-2017	Adopt	5-1-2017	291-210-0020	6-8-2017	Amend	7-1-2017
259-060-0300	6-23-2017	Amend	8-1-2017	291-210-0020(T)	6-8-2017	Repeal	7-1-2017
259-060-0450	3-22-2017	Amend	5-1-2017	291-210-0030	2-15-2017	Amend(T)	3-1-2017
259-060-0600	3-22-2017	Amend	5-1-2017	291-210-0030	6-8-2017	Amend	7-1-2017
259-061-0010	3-22-2017	Amend	5-1-2017	291-210-0030(T)	6-8-2017	Repeal	7-1-2017
259-061-0018	3-22-2017	Amend	5-1-2017	291-210-0040	2-15-2017	Adopt(T)	3-1-2017
259-061-0110	3-22-2017	Amend	5-1-2017	291-210-0040	6-8-2017	Adopt	7-1-2017
291-001-0110	6-8-2017	Amend	7-1-2017	291-210-0040(T)	6-8-2017	Repeal	7-1-2017
291-001-0115	3-9-2017	Adopt	4-1-2017	291-210-0050	2-15-2017	Adopt(T)	3-1-2017
291-013-0104	6-22-2017	Amend	8-1-2017	291-210-0050	6-8-2017	Adopt	7-1-2017
291-058-0010	5-17-2017	Amend	7-1-2017	291-210-0050(T)	6-8-2017	Repeal	7-1-2017
291-058-0020	5-17-2017	Amend	7-1-2017	309-008-0100	11-30-2016	Adopt	1-1-2017
291-058-0030	5-17-2017	Amend	7-1-2017	309-008-0200	11-30-2016	Adopt	1-1-2017
291-058-0040	5-17-2017	Amend	7-1-2017	309-008-0250	11-30-2016	Adopt	1-1-2017
291-058-0045	5-17-2017	Amend	7-1-2017	309-008-0300	11-30-2016	Adopt	1-1-2017
291-058-0046	5-17-2017	Amend	7-1-2017	309-008-0400	11-30-2016	Adopt	1-1-2017
291-058-0047	5-17-2017	Adopt	7-1-2017	309-008-0500	11-30-2016	Adopt	1-1-2017
291-058-0050	5-17-2017	Amend	7-1-2017	309-008-0600	11-30-2016	Adopt	1-1-2017
291-058-0060	5-17-2017	Amend	7-1-2017	309-008-0700	11-30-2016	Adopt	1-1-2017
291-058-0065	5-17-2017	Amend	7-1-2017	309-008-0800	11-30-2016	Adopt	1-1-2017
291-058-0066	5-17-2017	Adopt	7-1-2017	309-008-0800	1-1-2017	Amend(T)	2-1-2017
291-058-0067	5-17-2017	Adopt	7-1-2017	309-008-0800	6-1-2017	Amend	7-1-2017
291-058-0070	5-17-2017	Amend	7-1-2017	309-008-0800(T)	6-1-2017	Repeal	7-1-2017
291-061-0061	3-30-2017	Amend(T)	5-1-2017	309-008-0900	11-30-2016	Adopt	1-1-2017
291-061-0061	6-21-2017	Amend	8-1-2017	309-008-0900	1-1-2017	Amend(T)	2-1-2017
291-062-0100	5-17-2017	Amend	7-1-2017	309-008-0900	6-1-2017	Amend	7-1-2017
291-062-0110	5-17-2017	Amend	7-1-2017	309-008-0900(T)	6-1-2017	Repeal	7-1-2017
291-062-0120	5-17-2017	Amend	7-1-2017	309-008-0905	1-1-2017	Adopt(T)	2-1-2017
291-062-0130	5-17-2017	Amend	7-1-2017	309-008-0905	6-1-2017	Adopt	7-1-2017
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291-062-0150	5-17-2017	Amend	7-1-2017	309-008-1000	11-30-2016	Adopt	1-1-2017
291-062-0160	5-17-2017	Amend	7-1-2017	309-008-1100	11-30-2016	Adopt	1-1-2017
291-062-0165	5-17-2017	Adopt	7-1-2017	309-008-1100	1-1-2017	Amend(T)	2-1-2017
291-062-0170	5-17-2017	Amend	7-1-2017	309-008-1100	6-1-2017	Amend	7-1-2017
291-063-0005	6-12-2017	Am. & Ren.	7-1-2017	309-008-1100(T)	6-1-2017	Repeal	7-1-2017
291-063-0010	6-12-2017	Am. & Ren.	7-1-2017	309-008-1200	11-30-2016	Adopt	1-1-2017
291-063-0016	6-12-2017	Am. & Ren.	7-1-2017	309-008-1200	1-1-2017	Amend(T)	2-1-2017
291-063-0030	3-15-2017	Amend(T)	4-1-2017	309-008-1200	6-1-2017	Amend	7-1-2017
291-063-0030	6-12-2017	Am. & Ren.	7-1-2017	309-008-1200(T)	6-1-2017	Repeal	7-1-2017
291-063-0030(T)	6-12-2017	Repeal	7-1-2017	309-008-1300	11-30-2016	Adopt	1-1-2017

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309-008-1300(T)	6-1-2017	Repeal	7-1-2017	309-019-0120	6-23-2017	Amend	8-1-2017
309-008-1400	11-30-2016	Adopt	1-1-2017	309-019-0120(T)	6-23-2017	Repeal	8-1-2017
309-008-1500	11-30-2016	Adopt	1-1-2017	309-019-0125	11-30-2016	Amend	1-1-2017
309-008-1600	11-30-2016	Adopt	1-1-2017	309-019-0125	12-28-2016	Amend(T)	2-1-2017
309-011-0024	12-27-2016	Amend	2-1-2017	309-019-0125	6-23-2017	Amend	8-1-2017
309-011-0026	12-27-2016	Amend	2-1-2017	309-019-0125(T)	6-23-2017	Repeal	8-1-2017
309-011-0028	12-27-2016	Amend	2-1-2017	309-019-0130	11-30-2016	Amend	1-1-2017
309-011-0031	12-27-2016	Adopt	2-1-2017	309-019-0130	12-28-2016	Amend(T)	2-1-2017
309-011-0032	12-27-2016	Amend	2-1-2017	309-019-0130	6-23-2017	Amend	8-1-2017
309-011-0034	12-27-2016	Amend	2-1-2017	309-019-0130(T)	6-23-2017	Repeal	8-1-2017
309-011-0036	12-27-2016	Amend	2-1-2017	309-019-0135	11-30-2016	Amend	1-1-2017
309-012-0130	12-1-2016	Repeal	1-1-2017	309-019-0135	12-28-2016	Amend(T)	2-1-2017
309-012-0140	12-1-2016	Repeal	1-1-2017	309-019-0135	6-23-2017	Amend	8-1-2017
309-012-0150	12-1-2016	Repeal	1-1-2017	309-019-0135(T)	6-23-2017	Repeal	8-1-2017
309-012-0160	12-1-2016	Repeal	1-1-2017	309-019-0140	11-30-2016	Amend	1-1-2017
309-012-0170	12-1-2016	Repeal	1-1-2017	309-019-0140	12-28-2016	Amend(T)	2-1-2017
309-012-0180	12-1-2016	Repeal	1-1-2017	309-019-0140	6-23-2017	Amend	8-1-2017
309-012-0190	12-1-2016	Repeal	1-1-2017	309-019-0140(T)	6-23-2017	Repeal	8-1-2017
309-012-0200	12-1-2016	Repeal	1-1-2017	309-019-0145	11-30-2016	Amend	1-1-2017
309-012-0210	12-1-2016	Repeal	1-1-2017	309-019-0145	12-28-2016	Amend(T)	2-1-2017
309-012-0220	12-1-2016	Repeal	1-1-2017	309-019-0145	6-23-2017	Amend	8-1-2017
309-012-0230	12-1-2016	Repeal	1-1-2017	309-019-0145(T)	6-23-2017	Repeal	8-1-2017
309-014-0000	12-1-2016	Amend	1-1-2017	309-019-0150	12-28-2016	Amend(T)	2-1-2017
309-014-0005	12-1-2016	Amend	1-1-2017	309-019-0150	1-18-2017	Amend(T)	3-1-2017
309-014-0010	12-1-2016	Amend	1-1-2017	309-019-0150	6-23-2017	Amend	8-1-2017
309-014-0015	12-1-2016	Amend	1-1-2017	309-019-0150(T)	6-23-2017	Repeal	8-1-2017
309-014-0020	12-1-2016	Amend	1-1-2017	309-019-0151	12-28-2016	Adopt(T)	2-1-2017
309-014-0021	12-1-2016	Adopt	1-1-2017	309-019-0151	1-18-2017	Amend(T)	3-1-2017
309-014-0022	12-1-2016	Adopt	1-1-2017	309-019-0151	6-23-2017	Adopt	8-1-2017
309-014-0023	12-1-2016	Adopt	1-1-2017	309-019-0151(T)	6-23-2017	Repeal	8-1-2017
309-014-0025	12-1-2016	Amend	1-1-2017	309-019-0152	12-28-2016	Adopt(T)	2-1-2017
309-014-0030	12-1-2016	Amend	1-1-2017	309-019-0152	6-23-2017	Adopt	8-1-2017
309-014-0035	12-1-2016	Amend	1-1-2017	309-019-0152(T)	6-23-2017	Repeal	8-1-2017
309-014-0036	12-1-2016	Adopt	1-1-2017	309-019-0155	12-28-2016	Amend(T)	2-1-2017
309-014-0037	12-1-2016	Amend	1-1-2017	309-019-0155	6-23-2017	Amend	8-1-2017
309-014-0040	12-1-2016	Amend	1-1-2017	309-019-0155(T)	6-23-2017	Repeal	8-1-2017
309-018-0100	11-28-2016	Amend	1-1-2017	309-019-0160	12-28-2016	Amend(T)	2-1-2017
309-018-0105	11-28-2016	Amend	1-1-2017	309-019-0160	6-23-2017	Amend	8-1-2017
309-018-0107	11-28-2016	Adopt	1-1-2017	309-019-0160(T)	6-23-2017	Repeal	8-1-2017
309-018-0160	11-28-2016	Amend	1-1-2017	309-019-0165	12-28-2016	Amend(T)	2-1-2017
309-018-0210	11-28-2016	Amend	1-1-2017	309-019-0165	6-23-2017	Amend	8-1-2017
309-018-0215	11-28-2016	Amend	1-1-2017	309-019-0165(T)	6-23-2017	Repeal	8-1-2017
309-019-0100	11-30-2016	Amend	1-1-2017	309-019-0170	6-23-2017	Amend	8-1-2017
309-019-0100	6-23-2017	Amend	8-1-2017	309-019-0175	11-30-2016	Amend	1-1-2017
309-019-0105	11-30-2016	Amend	1-1-2017	309-019-0175	12-28-2016	Amend(T)	2-1-2017
309-019-0105	12-28-2016	Amend(T)	2-1-2017	309-019-0175	6-23-2017	Amend	8-1-2017
309-019-0105	6-23-2017	Amend	8-1-2017	309-019-0175(T)	6-23-2017	Repeal	8-1-2017
309-019-0105(T)	6-23-2017	Repeal	8-1-2017	309-019-0180	12-28-2016	Amend(T)	2-1-2017
309-019-0110	11-30-2016	Amend	1-1-2017	309-019-0180	6-23-2017	Amend	8-1-2017
309-019-0110	12-28-2016	Amend(T)	2-1-2017	309-019-0180(T)	6-23-2017	Repeal	8-1-2017
309-019-0110	6-23-2017	Amend	8-1-2017	309-019-0185	12-28-2016	Amend(T)	2-1-2017
309-019-0110(T)	6-23-2017	Repeal	8-1-2017	309-019-0185	6-23-2017	Amend	8-1-2017
309-019-0115	12-28-2016	Amend(T)	2-1-2017	309-019-0185(T)	6-23-2017	Repeal	8-1-2017
309-019-0115	6-23-2017	Amend	8-1-2017	309-019-0190	6-23-2017	Amend	8-1-2017

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309-019-0195	6-23-2017	Amend	8-1-2017	309-019-0270(T)	6-23-2017	Repeal	8-1-2017
309-019-0200	6-23-2017	Amend	8-1-2017	309-019-0275	12-28-2016	Adopt(T)	2-1-2017
309-019-0205	6-23-2017	Amend	8-1-2017	309-019-0275	1-18-2017	Amend(T)	3-1-2017
309-019-0210	11-30-2016	Amend	1-1-2017	309-019-0275	6-23-2017	Adopt	8-1-2017
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309-019-0215	11-30-2016	Amend	1-1-2017	309-019-0280	12-28-2016	Adopt(T)	2-1-2017
309-019-0215	12-28-2016	Amend(T)	2-1-2017	309-019-0280	1-18-2017	Amend(T)	3-1-2017
309-019-0215	6-23-2017	Amend	8-1-2017	309-019-0280	6-23-2017	Adopt	8-1-2017
309-019-0215(T)	6-23-2017	Repeal	8-1-2017	309-019-0280(T)	6-23-2017	Repeal	8-1-2017
309-019-0220	11-30-2016	Amend	1-1-2017	309-019-0285	12-28-2016	Adopt(T)	2-1-2017
309-019-0220	6-23-2017	Amend	8-1-2017	309-019-0285	1-18-2017	Amend(T)	3-1-2017
309-019-0225	11-30-2016	Adopt	1-1-2017	309-019-0285	6-23-2017	Adopt	8-1-2017
309-019-0225	12-28-2016	Amend(T)	2-1-2017	309-019-0285(T)	6-23-2017	Repeal	8-1-2017
309-019-0225	1-18-2017	Amend(T)	3-1-2017	309-019-0290	12-28-2016	Adopt(T)	2-1-2017
309-019-0225	6-23-2017	Amend	8-1-2017	309-019-0290	1-18-2017	Amend(T)	3-1-2017
309-019-0225(T)	6-23-2017	Repeal	8-1-2017	309-019-0290	6-23-2017	Adopt	8-1-2017
309-019-0226	12-28-2016	Adopt(T)	2-1-2017	309-019-0290(T)	6-23-2017	Repeal	8-1-2017
309-019-0226	1-18-2017	Amend(T)	3-1-2017	309-019-0295	12-28-2016	Adopt(T)	2-1-2017
309-019-0226	6-23-2017	Adopt	8-1-2017	309-019-0295	1-18-2017	Amend(T)	3-1-2017
309-019-0226(T)	6-23-2017	Repeal	8-1-2017	309-019-0295	6-23-2017	Adopt	8-1-2017
309-019-0230	11-30-2016	Adopt	1-1-2017	309-019-0295(T)	6-23-2017	Repeal	8-1-2017
309-019-0230	12-28-2016	Amend(T)	2-1-2017	309-019-0300	6-23-2017	Adopt	8-1-2017
309-019-0230	6-23-2017	Amend	8-1-2017	309-019-0305	6-23-2017	Adopt	8-1-2017
309-019-0230(T)	6-23-2017	Repeal	8-1-2017	309-019-0310	6-23-2017	Adopt	8-1-2017
309-019-0235	11-30-2016	Adopt	1-1-2017	309-019-0315	6-23-2017	Adopt	8-1-2017
309-019-0235	1-18-2017	Amend(T)	3-1-2017	309-019-0320	6-23-2017	Adopt	8-1-2017
309-019-0235	6-23-2017	Amend	8-1-2017	309-022-0100	12-1-2016	Amend	1-1-2017
309-019-0235(T)	6-23-2017	Repeal	8-1-2017	309-022-0105	12-1-2016	Amend	1-1-2017
309-019-0240	11-30-2016	Adopt	1-1-2017	309-022-0105	12-29-2016	Amend(T)	2-1-2017
309-019-0240	12-28-2016	Amend(T)	2-1-2017	309-022-0105	6-23-2017	Amend	8-1-2017
309-019-0240	6-23-2017	Amend	8-1-2017	309-022-0105(T)	6-23-2017	Repeal	8-1-2017
309-019-0240(T)	6-23-2017	Repeal	8-1-2017	309-022-0110	12-29-2016	Amend(T)	2-1-2017
309-019-0241	12-28-2016	Adopt(T)	2-1-2017	309-022-0110	6-23-2017	Amend	8-1-2017
309-019-0241	6-23-2017	Adopt	8-1-2017	309-022-0110(T)	6-23-2017	Repeal	8-1-2017
309-019-0241(T)	6-23-2017	Repeal	8-1-2017	309-022-0115	12-29-2016	Amend(T)	2-1-2017
309-019-0242	12-28-2016	Adopt(T)	2-1-2017	309-022-0115	6-23-2017	Amend	8-1-2017
309-019-0242	1-18-2017	Amend(T)	3-1-2017	309-022-0115(T)	6-23-2017	Repeal	8-1-2017
309-019-0242	6-23-2017	Adopt	8-1-2017	309-022-0125	12-29-2016	Amend(T)	2-1-2017
309-019-0242(T)	6-23-2017	Repeal	8-1-2017	309-022-0125	6-23-2017	Amend	8-1-2017
309-019-0245	11-30-2016	Adopt	1-1-2017	309-022-0125(T)	6-23-2017	Repeal	8-1-2017
309-019-0245	12-28-2016	Amend(T)	2-1-2017	309-022-0130	12-29-2016	Amend(T)	2-1-2017
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309-019-0245(T)	6-23-2017	Repeal	8-1-2017	309-022-0130(T)	6-23-2017	Repeal	8-1-2017
309-019-0248	11-30-2016	Adopt	1-1-2017	309-022-0135	12-1-2016	Amend	1-1-2017
309-019-0248	1-18-2017	Amend(T)	3-1-2017	309-022-0140	12-29-2016	Amend(T)	2-1-2017
309-019-0248	6-23-2017	Amend	8-1-2017	309-022-0140	6-23-2017	Amend	8-1-2017
309-019-0248(T)	6-23-2017	Repeal	8-1-2017	309-022-0140(T)	6-23-2017	Repeal	8-1-2017
309-019-0250	11-30-2016	Adopt	1-1-2017	309-022-0155	12-29-2016	Amend(T)	2-1-2017
309-019-0250	1-18-2017	Amend(T)	3-1-2017	309-022-0155	6-23-2017	Amend	8-1-2017
309-019-0250	6-23-2017	Amend	8-1-2017	309-022-0155(T)	6-23-2017	Repeal	8-1-2017
309-019-0250(T)	6-23-2017	Repeal	8-1-2017	309-022-0160	12-29-2016	Amend(T)	2-1-2017
309-019-0255	11-30-2016	Adopt	1-1-2017	309-022-0160	6-23-2017	Amend	8-1-2017
309-019-0255	6-23-2017	Amend	8-1-2017	309-022-0160(T)	6-23-2017	Repeal	8-1-2017
309-019-0270	12-28-2016	Adopt(T)	2-1-2017	309-022-0175	12-1-2016	Amend	1-1-2017
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309-022-0175(T)	6-23-2017	Repeal	8-1-2017	309-035-0105(T)	6-8-2017	Repeal	7-1-2017
309-022-0180	12-29-2016	Amend(T)	2-1-2017	309-035-0110	3-4-2017	Amend(T)	4-1-2017
309-022-0180	6-23-2017	Amend	8-1-2017	309-035-0110	6-8-2017	Amend	7-1-2017
309-022-0180(T)	6-23-2017	Repeal	8-1-2017	309-035-0110(T)	6-8-2017	Repeal	7-1-2017
309-022-0192	12-29-2016	Adopt(T)	2-1-2017	309-035-0113	3-4-2017	Suspend	4-1-2017
309-022-0192	6-23-2017	Adopt	8-1-2017	309-035-0113	6-8-2017	Repeal	7-1-2017
309-022-0192(T)	6-23-2017	Repeal	8-1-2017	309-035-0115	3-4-2017	Amend(T)	4-1-2017
309-022-0195	12-29-2016	Amend(T)	2-1-2017	309-035-0115	6-8-2017	Amend	7-1-2017
309-022-0200	12-29-2016	Amend(T)	2-1-2017	309-035-0115(T)	6-8-2017	Repeal	7-1-2017
309-022-0205	12-1-2016	Amend	1-1-2017	309-035-0117	3-4-2017	Suspend	4-1-2017
309-022-0205	12-29-2016	Amend(T)	2-1-2017	309-035-0117	6-8-2017	Repeal	7-1-2017
309-022-0210	12-29-2016	Amend(T)	2-1-2017	309-035-0120	3-4-2017	Amend(T)	4-1-2017
309-022-0215	12-29-2016	Amend(T)	2-1-2017	309-035-0120	6-8-2017	Amend	7-1-2017
309-022-0220	12-29-2016	Amend(T)	2-1-2017	309-035-0120(T)	6-8-2017	Repeal	7-1-2017
309-022-0225	12-29-2016	Amend(T)	2-1-2017	309-035-0125	3-4-2017	Amend(T)	4-1-2017
309-022-0230	12-29-2016	Amend(T)	2-1-2017	309-035-0125	6-8-2017	Amend	7-1-2017
309-023-0100	12-29-2016	Adopt	2-1-2017	309-035-0125(T)	6-8-2017	Repeal	7-1-2017
309-023-0110	12-29-2016	Adopt	2-1-2017	309-035-0130	3-4-2017	Amend(T)	4-1-2017
309-023-0120	12-29-2016	Adopt	2-1-2017	309-035-0130	6-8-2017	Amend	7-1-2017
309-023-0130	12-29-2016	Adopt	2-1-2017	309-035-0130(T)	6-8-2017	Repeal	7-1-2017
309-023-0140	12-29-2016	Adopt	2-1-2017	309-035-0135	3-4-2017	Amend(T)	4-1-2017
309-023-0150	12-29-2016	Adopt	2-1-2017	309-035-0135	6-8-2017	Amend	7-1-2017
309-023-0160	12-29-2016	Adopt	2-1-2017	309-035-0135(T)	6-8-2017	Repeal	7-1-2017
309-023-0170	12-29-2016	Adopt	2-1-2017	309-035-0140	3-4-2017	Amend(T)	4-1-2017
309-023-0180	12-29-2016	Adopt	2-1-2017	309-035-0140	6-8-2017	Amend	7-1-2017
309-027-0010	12-5-2016	Adopt	1-1-2017	309-035-0140(T)	6-8-2017	Repeal	7-1-2017
309-027-0020	12-5-2016	Adopt	1-1-2017	309-035-0145	3-4-2017	Amend(T)	4-1-2017
309-027-0030	12-5-2016	Adopt	1-1-2017	309-035-0145	6-8-2017	Amend	7-1-2017
309-027-0040	12-5-2016	Adopt	1-1-2017	309-035-0145(T)	6-8-2017	Repeal	7-1-2017
309-027-0050	12-5-2016	Adopt	1-1-2017	309-035-0150	3-4-2017	Amend(T)	4-1-2017
309-027-0060	12-5-2016	Adopt	1-1-2017	309-035-0150	6-8-2017	Amend	7-1-2017
309-032-0311	6-23-2017	Amend	8-1-2017	309-035-0150(T)	6-8-2017	Repeal	7-1-2017
309-032-0850	12-1-2016	Amend	1-1-2017	309-035-0155	3-4-2017	Amend(T)	4-1-2017
309-032-0850	6-23-2017	Amend	8-1-2017	309-035-0155	6-8-2017	Amend	7-1-2017
309-032-0860	12-1-2016	Amend	1-1-2017	309-035-0155(T)	6-8-2017	Repeal	7-1-2017
309-032-0860	6-23-2017	Amend	8-1-2017	309-035-0157	3-4-2017	Suspend	4-1-2017
309-032-0870	12-1-2016	Amend	1-1-2017	309-035-0157	6-8-2017	Repeal	7-1-2017
309-032-0870	6-23-2017	Amend	8-1-2017	309-035-0159	3-4-2017	Suspend	4-1-2017
309-032-0890	12-1-2016	Amend	1-1-2017	309-035-0159	6-8-2017	Repeal	7-1-2017
309-032-0890	6-23-2017	Amend	8-1-2017	309-035-0163	3-4-2017	Adopt(T)	4-1-2017
309-033-0210	12-29-2016	Amend	2-1-2017	309-035-0163	6-8-2017	Adopt	7-1-2017
309-033-0410	12-29-2016	Amend	2-1-2017	309-035-0163(T)	6-8-2017	Repeal	7-1-2017
309-033-0432	12-29-2016	Amend	2-1-2017	309-035-0165	3-4-2017	Amend(T)	4-1-2017
309-033-0510	12-29-2016	Amend	2-1-2017	309-035-0165	6-8-2017	Amend	7-1-2017
309-033-0530	12-29-2016	Amend	2-1-2017	309-035-0165(T)	6-8-2017	Repeal	7-1-2017
309-033-0610	12-29-2016	Amend	2-1-2017	309-035-0167	3-4-2017	Suspend	4-1-2017
309-033-0710	12-29-2016	Amend	2-1-2017	309-035-0167	6-8-2017	Repeal	7-1-2017
309-033-0720	12-29-2016	Amend	2-1-2017	309-035-0170	3-4-2017	Amend(T)	4-1-2017
309-033-0740	12-29-2016	Amend	2-1-2017	309-035-0170	6-8-2017	Amend	7-1-2017
309-033-0910	12-29-2016	Amend	2-1-2017	309-035-0170(T)	6-8-2017	Repeal	7-1-2017
309-033-0970	12-29-2016	Amend	2-1-2017	309-035-0175	3-4-2017	Amend(T)	4-1-2017
309-035-0100	3-4-2017	Amend(T)	4-1-2017	309-035-0175	6-8-2017	Amend	7-1-2017
309-035-0100	6-8-2017	Amend	7-1-2017	309-035-0175(T)	6-8-2017	Repeal	7-1-2017
309-035-0100(T)	6-8-2017	Repeal	7-1-2017	309-035-0183	3-4-2017	Adopt(T)	4-1-2017
309-035-0105	3-4-2017	Amend(T)	4-1-2017	309-035-0183	6-8-2017	Adopt	7-1-2017

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309-035-0183(T)	6-8-2017	Repeal	7-1-2017	309-035-0390	3-4-2017	Suspend	4-1-2017
309-035-0185	3-4-2017	Amend(T)	4-1-2017	309-035-0390	6-8-2017	Repeal	7-1-2017
309-035-0185	6-8-2017	Amend	7-1-2017	309-035-0400	3-4-2017	Suspend	4-1-2017
309-035-0185(T)	6-8-2017	Repeal	7-1-2017	309-035-0400	6-8-2017	Repeal	7-1-2017
309-035-0190	3-4-2017	Amend(T)	4-1-2017	309-035-0410	3-4-2017	Suspend	4-1-2017
309-035-0190	6-8-2017	Amend	7-1-2017	309-035-0410	6-8-2017	Repeal	7-1-2017
309-035-0190(T)	6-8-2017	Repeal	7-1-2017	309-035-0420	3-4-2017	Suspend	4-1-2017
309-035-0195	3-4-2017	Adopt(T)	4-1-2017	309-035-0420	6-8-2017	Repeal	7-1-2017
309-035-0195	6-8-2017	Adopt	7-1-2017	309-035-0430	3-4-2017	Suspend	4-1-2017
309-035-0195(T)	6-8-2017	Repeal	7-1-2017	309-035-0430	6-8-2017	Repeal	7-1-2017
309-035-0200	3-4-2017	Adopt(T)	4-1-2017	309-035-0440	3-4-2017	Suspend	4-1-2017
309-035-0200	6-8-2017	Adopt	7-1-2017	309-035-0440	6-8-2017	Repeal	7-1-2017
309-035-0200(T)	6-8-2017	Repeal	7-1-2017	309-035-0450	3-4-2017	Suspend	4-1-2017
309-035-0205	3-4-2017	Adopt(T)	4-1-2017	309-035-0450	6-8-2017	Repeal	7-1-2017
309-035-0205	6-8-2017	Adopt	7-1-2017	309-035-0460	3-4-2017	Suspend	4-1-2017
309-035-0205(T)	6-8-2017	Repeal	7-1-2017	309-035-0460	6-8-2017	Repeal	7-1-2017
309-035-0210	3-4-2017	Adopt(T)	4-1-2017	309-035-0500	3-4-2017	Suspend	4-1-2017
309-035-0210	6-8-2017	Adopt	7-1-2017	309-035-0500	6-8-2017	Repeal	7-1-2017
309-035-0210(T)	6-8-2017	Repeal	7-1-2017	309-035-0550	3-4-2017	Suspend	4-1-2017
309-035-0215	3-4-2017	Adopt(T)	4-1-2017	309-035-0550	6-8-2017	Repeal	7-1-2017
309-035-0215	6-8-2017	Adopt	7-1-2017	309-035-0560	3-4-2017	Suspend	4-1-2017
309-035-0215(T)	6-8-2017	Repeal	7-1-2017	309-035-0560	6-8-2017	Repeal	7-1-2017
309-035-0220	3-4-2017	Adopt(T)	4-1-2017	309-035-0570	3-4-2017	Suspend	4-1-2017
309-035-0220	6-8-2017	Adopt	7-1-2017	309-035-0570	6-8-2017	Repeal	7-1-2017
309-035-0220(T)	6-8-2017	Repeal	7-1-2017	309-035-0580	3-4-2017	Suspend	4-1-2017
309-035-0225	3-4-2017	Adopt(T)	4-1-2017	309-035-0580	6-8-2017	Repeal	7-1-2017
309-035-0225	6-8-2017	Adopt	7-1-2017	309-035-0590	3-4-2017	Suspend	4-1-2017
309-035-0225(T)	6-8-2017	Repeal	7-1-2017	309-035-0590	6-8-2017	Repeal	7-1-2017
309-035-0250	3-4-2017	Suspend	4-1-2017	309-035-0600	3-4-2017	Suspend	4-1-2017
309-035-0250	6-8-2017	Repeal	7-1-2017	309-035-0600	6-8-2017	Repeal	7-1-2017
309-035-0260	3-4-2017	Suspend	4-1-2017	309-039-0500	11-30-2016	Amend	1-1-2017
309-035-0260	6-8-2017	Repeal	7-1-2017	309-039-0510	11-30-2016	Amend	1-1-2017
309-035-0270	3-4-2017	Suspend	4-1-2017	309-039-0530	11-30-2016	Amend	1-1-2017
309-035-0270	6-8-2017	Repeal	7-1-2017	309-039-0580	11-30-2016	Amend	1-1-2017
309-035-0280	3-4-2017	Suspend	4-1-2017	309-040-0300	3-4-2017	Amend(T)	4-1-2017
309-035-0280	6-8-2017	Repeal	7-1-2017	309-040-0300	7-1-2017	Amend	8-1-2017
309-035-0290	3-4-2017	Suspend	4-1-2017	309-040-0300(T)	7-1-2017	Repeal	8-1-2017
309-035-0290	6-8-2017	Repeal	7-1-2017	309-040-0305	3-4-2017	Amend(T)	4-1-2017
309-035-0300	3-4-2017	Suspend	4-1-2017	309-040-0305	7-1-2017	Amend	8-1-2017
309-035-0300	6-8-2017	Repeal	7-1-2017	309-040-0305(T)	7-1-2017	Repeal	8-1-2017
309-035-0310	3-4-2017	Suspend	4-1-2017	309-040-0307	3-4-2017	Adopt(T)	4-1-2017
309-035-0310	6-8-2017	Repeal	7-1-2017	309-040-0307	7-1-2017	Adopt	8-1-2017
309-035-0320	3-4-2017	Suspend	4-1-2017	309-040-0307(T)	7-1-2017	Repeal	8-1-2017
309-035-0320	6-8-2017	Repeal	7-1-2017	309-040-0310	3-4-2017	Amend(T)	4-1-2017
309-035-0330	3-4-2017	Suspend	4-1-2017	309-040-0310	7-1-2017	Amend	8-1-2017
309-035-0330	6-8-2017	Repeal	7-1-2017	309-040-0310(T)	7-1-2017	Repeal	8-1-2017
309-035-0340	3-4-2017	Suspend	4-1-2017	309-040-0315	3-4-2017	Amend(T)	4-1-2017
309-035-0340	6-8-2017	Repeal	7-1-2017	309-040-0315	7-1-2017	Amend	8-1-2017
309-035-0350	3-4-2017	Suspend	4-1-2017	309-040-0315(T)	7-1-2017	Repeal	8-1-2017
309-035-0350	6-8-2017	Repeal	7-1-2017	309-040-0320	3-4-2017	Amend(T)	4-1-2017
309-035-0360	3-4-2017	Suspend	4-1-2017	309-040-0320	7-1-2017	Amend	8-1-2017
309-035-0360	6-8-2017	Repeal	7-1-2017	309-040-0320(T)	7-1-2017	Repeal	8-1-2017
309-035-0370	3-4-2017	Suspend	4-1-2017	309-040-0325	3-4-2017	Amend(T)	4-1-2017
309-035-0370	6-8-2017	Repeal	7-1-2017	309-040-0325	7-1-2017	Amend	8-1-2017
309-035-0380	3-4-2017	Suspend	4-1-2017	309-040-0325(T)	7-1-2017	Repeal	8-1-2017
309-035-0380	6-8-2017	Repeal	7-1-2017	309-040-0330	3-4-2017	Amend(T)	4-1-2017

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309-040-0330(T)	7-1-2017	Repeal	8-1-2017	309-040-0415	7-1-2017	Amend	8-1-2017
309-040-0335	3-4-2017	Amend(T)	4-1-2017	309-040-0415(T)	7-1-2017	Repeal	8-1-2017
309-040-0335	7-1-2017	Amend	8-1-2017	309-040-0420	3-4-2017	Amend(T)	4-1-2017
309-040-0335(T)	7-1-2017	Repeal	8-1-2017	309-040-0420	7-1-2017	Amend	8-1-2017
309-040-0340	3-4-2017	Amend(T)	4-1-2017	309-040-0420(T)	7-1-2017	Repeal	8-1-2017
309-040-0340	7-1-2017	Amend	8-1-2017	309-040-0425	3-4-2017	Amend(T)	4-1-2017
309-040-0340(T)	7-1-2017	Repeal	8-1-2017	309-040-0425	7-1-2017	Amend	8-1-2017
309-040-0345	3-4-2017	Amend(T)	4-1-2017	309-040-0425(T)	7-1-2017	Repeal	8-1-2017
309-040-0345	7-1-2017	Amend	8-1-2017	309-040-0430	3-4-2017	Amend(T)	4-1-2017
309-040-0345(T)	7-1-2017	Repeal	8-1-2017	309-040-0430	7-1-2017	Amend	8-1-2017
309-040-0350	3-4-2017	Amend(T)	4-1-2017	309-040-0430(T)	7-1-2017	Repeal	8-1-2017
309-040-0350	7-1-2017	Amend	8-1-2017	309-040-0435	3-4-2017	Amend(T)	4-1-2017
309-040-0350(T)	7-1-2017	Repeal	8-1-2017	309-040-0435	7-1-2017	Amend	8-1-2017
309-040-0355	3-4-2017	Amend(T)	4-1-2017	309-040-0435(T)	7-1-2017	Repeal	8-1-2017
309-040-0355	7-1-2017	Amend	8-1-2017	309-040-0440	3-4-2017	Amend(T)	4-1-2017
309-040-0355(T)	7-1-2017	Repeal	8-1-2017	309-040-0440	7-1-2017	Amend	8-1-2017
309-040-0360	3-4-2017	Amend(T)	4-1-2017	309-040-0440(T)	7-1-2017	Repeal	8-1-2017
309-040-0360	7-1-2017	Amend	8-1-2017	309-040-0445	3-4-2017	Amend(T)	4-1-2017
309-040-0360(T)	7-1-2017	Repeal	8-1-2017	309-040-0445	7-1-2017	Amend	8-1-2017
309-040-0365	3-4-2017	Amend(T)	4-1-2017	309-040-0445(T)	7-1-2017	Repeal	8-1-2017
309-040-0365	7-1-2017	Amend	8-1-2017	309-040-0450	3-4-2017	Amend(T)	4-1-2017
309-040-0365(T)	7-1-2017	Repeal	8-1-2017	309-040-0450	7-1-2017	Amend	8-1-2017
309-040-0370	3-4-2017	Amend(T)	4-1-2017	309-040-0450(T)	7-1-2017	Repeal	8-1-2017
309-040-0370	7-1-2017	Amend	8-1-2017	309-040-0455	3-4-2017	Amend(T)	4-1-2017
309-040-0370(T)	7-1-2017	Repeal	8-1-2017	309-040-0455	7-1-2017	Amend	8-1-2017
309-040-0375	3-4-2017	Amend(T)	4-1-2017	309-040-0455(T)	7-1-2017	Repeal	8-1-2017
309-040-0375	7-1-2017	Amend	8-1-2017	325-005-0015	3-1-2017	Amend	4-1-2017
309-040-0375(T)	7-1-2017	Repeal	8-1-2017	325-005-0015	6-30-2017	Amend	7-1-2017
309-040-0380	3-4-2017	Amend(T)	4-1-2017	330-001-0015	5-24-2017	Repeal	7-1-2017
309-040-0380	7-1-2017	Amend	8-1-2017	330-001-0025	5-24-2017	Amend	7-1-2017
309-040-0380(T)	7-1-2017	Repeal	8-1-2017	330-007-0200	5-8-2017	Amend	6-1-2017
309-040-0385	3-4-2017	Amend(T)	4-1-2017	330-007-0210	5-8-2017	Amend	6-1-2017
309-040-0385	7-1-2017	Amend	8-1-2017	330-007-0220	5-8-2017	Repeal	6-1-2017
309-040-0385(T)	7-1-2017	Repeal	8-1-2017	330-007-0230	5-8-2017	Repeal	6-1-2017
309-040-0390	3-4-2017	Amend(T)	4-1-2017	330-007-0240	5-8-2017	Amend	6-1-2017
309-040-0390	7-1-2017	Amend	8-1-2017	330-007-0250	5-8-2017	Repeal	6-1-2017
309-040-0390(T)	7-1-2017	Repeal	8-1-2017	330-007-0260	5-8-2017	Repeal	6-1-2017
309-040-0393	3-4-2017	Adopt(T)	4-1-2017	330-007-0270	5-8-2017	Repeal	6-1-2017
309-040-0393	7-1-2017	Adopt	8-1-2017	330-007-0280	5-8-2017	Repeal	6-1-2017
309-040-0393(T)	7-1-2017	Repeal	8-1-2017	330-007-0290	5-8-2017	Repeal	6-1-2017
309-040-0394	3-4-2017	Adopt(T)	4-1-2017	330-007-0300	5-8-2017	Repeal	6-1-2017
309-040-0394	7-1-2017	Adopt	8-1-2017	330-007-0310	5-8-2017	Repeal	6-1-2017
309-040-0394(T)	7-1-2017	Repeal	8-1-2017	330-007-0320	5-8-2017	Amend	6-1-2017
309-040-0395	3-4-2017	Amend(T)	4-1-2017	330-007-0330	5-8-2017	Amend	6-1-2017
309-040-0395	7-1-2017	Amend	8-1-2017	330-063-0010	12-21-2016	Amend	2-1-2017
309-040-0395(T)	7-1-2017	Repeal	8-1-2017	330-063-0015	12-21-2016	Amend	2-1-2017
309-040-0400	3-4-2017	Amend(T)	4-1-2017	330-063-0020	12-21-2016	Amend	2-1-2017
309-040-0400	7-1-2017	Amend	8-1-2017	330-063-0025	12-21-2016	Amend	2-1-2017
309-040-0400(T)	7-1-2017	Repeal	8-1-2017	330-070-0010	1-1-2017	Amend	2-1-2017
309-040-0405	3-4-2017	Amend(T)	4-1-2017	330-070-0013	1-1-2017	Amend	2-1-2017
309-040-0405	7-1-2017	Amend	8-1-2017	330-070-0014	1-1-2017	Amend	2-1-2017
309-040-0405(T)	7-1-2017	Repeal	8-1-2017	330-070-0022	1-1-2017	Amend	2-1-2017
309-040-0410	3-4-2017	Amend(T)	4-1-2017	330-070-0024	1-1-2017	Amend	2-1-2017
309-040-0410	7-1-2017	Amend	8-1-2017	330-070-0025	1-1-2017	Amend	2-1-2017
309-040-0410(T)	7-1-2017	Repeal	8-1-2017	330-070-0026	1-1-2017	Amend	2-1-2017

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330-070-0029	1-1-2017	Amend	2-1-2017	333-004-0010	1-10-2017	Amend	2-1-2017
330-070-0060	1-1-2017	Amend	2-1-2017	333-004-0020	1-10-2017	Amend	2-1-2017
330-070-0073	1-1-2017	Amend	2-1-2017	333-004-0030	1-10-2017	Amend	2-1-2017
330-092-0015	12-21-2016	Amend	2-1-2017	333-004-0040	1-10-2017	Amend	2-1-2017
330-110-0042	1-25-2017	Amend(T)	3-1-2017	333-004-0050	1-10-2017	Amend	2-1-2017
330-160-0015	12-21-2016	Amend	2-1-2017	333-004-0060	1-10-2017	Amend	2-1-2017
330-160-0030	12-21-2016	Amend	2-1-2017	333-004-0070	1-10-2017	Amend	2-1-2017
330-160-0035	12-21-2016	Amend	2-1-2017	333-004-0080	1-10-2017	Amend	2-1-2017
330-160-0080	12-21-2016	Adopt	2-1-2017	333-004-0110	1-10-2017	Amend	2-1-2017
330-160-0090	12-21-2016	Adopt	2-1-2017	333-004-0120	1-10-2017	Amend	2-1-2017
330-220-0000	1-25-2017	Amend	3-1-2017	333-004-0130	1-10-2017	Amend	2-1-2017
330-220-0010	1-25-2017	Amend	3-1-2017	333-004-0140	1-10-2017	Amend	2-1-2017
330-220-0020	1-25-2017	Amend	3-1-2017	333-004-0150	1-10-2017	Amend	2-1-2017
330-220-0030	1-25-2017	Amend	3-1-2017	333-004-0160	1-10-2017	Amend	2-1-2017
330-220-0040	1-25-2017	Amend	3-1-2017	333-007-0010	11-28-2016	Amend	1-1-2017
330-220-0050	1-25-2017	Amend	3-1-2017	333-007-0010(T)	11-28-2016	Repeal	1-1-2017
330-220-0070	1-25-2017	Amend	3-1-2017	333-007-0090	11-28-2016	Amend	1-1-2017
330-220-0080	1-25-2017	Amend	3-1-2017	333-007-0090	12-2-2016	Amend(T)	1-1-2017
330-220-0090	1-25-2017	Amend	3-1-2017	333-007-0090	12-15-2016	Amend(T)	1-1-2017
330-220-0100	1-25-2017	Amend	3-1-2017	333-007-0090	5-31-2017	Amend	7-1-2017
330-220-0150	1-25-2017	Amend	3-1-2017	333-007-0090(T)	5-31-2017	Repeal	7-1-2017
331-910-0000	1-6-2017	Amend	2-1-2017	333-007-0100	11-28-2016	Amend	1-1-2017
331-910-0005	1-6-2017	Amend	2-1-2017	333-007-0100(T)	11-28-2016	Repeal	1-1-2017
331-910-0010	1-6-2017	Amend	2-1-2017	333-007-0200	11-28-2016	Amend	1-1-2017
331-910-0015	1-6-2017	Amend	2-1-2017	333-007-0200	5-31-2017	Amend	7-1-2017
331-910-0025	1-6-2017	Amend	2-1-2017	333-007-0210	11-28-2016	Amend	1-1-2017
331-910-0030	1-6-2017	Amend	2-1-2017	333-007-0210	5-31-2017	Amend	7-1-2017
331-910-0035	1-6-2017	Amend	2-1-2017	333-007-0220	11-28-2016	Amend	1-1-2017
331-910-0040	1-6-2017	Amend	2-1-2017	333-007-0220	5-31-2017	Amend	7-1-2017
331-910-0045	1-6-2017	Amend	2-1-2017	333-007-0300	11-28-2016	Amend	1-1-2017
331-910-0050	1-6-2017	Amend	2-1-2017	333-007-0300	5-31-2017	Amend	7-1-2017
331-910-0055	1-6-2017	Amend	2-1-2017	333-007-0310	12-2-2016	Amend(T)	1-1-2017
331-910-0060	1-6-2017	Amend	2-1-2017	333-007-0310	5-31-2017	Amend	7-1-2017
331-910-0070	1-6-2017	Amend	2-1-2017	333-007-0310(T)	5-31-2017	Repeal	7-1-2017
331-910-0075	1-6-2017	Amend	2-1-2017	333-007-0315	12-2-2016	Amend(T)	1-1-2017
331-910-0080	1-6-2017	Amend	2-1-2017	333-007-0315	5-31-2017	Amend	7-1-2017
331-910-0085	1-6-2017	Amend	2-1-2017	333-007-0315(T)	5-31-2017	Repeal	7-1-2017
331-915-0000	1-6-2017	Amend	2-1-2017	333-007-0320	12-2-2016	Amend(T)	1-1-2017
331-915-0005	1-6-2017	Amend	2-1-2017	333-007-0320	12-15-2016	Amend(T)	1-1-2017
331-915-0007	1-6-2017	Adopt	2-1-2017	333-007-0320	5-31-2017	Amend	7-1-2017
331-915-0015	1-6-2017	Amend	2-1-2017	333-007-0320(T)	5-31-2017	Repeal	7-1-2017
331-915-0020	1-6-2017	Amend	2-1-2017	333-007-0330	5-31-2017	Amend	7-1-2017
331-915-0025	1-6-2017	Amend	2-1-2017	333-007-0340	5-31-2017	Amend	7-1-2017
331-915-0030	1-6-2017	Amend	2-1-2017	333-007-0345	5-31-2017	Amend	7-1-2017
331-915-0035	1-6-2017	Amend	2-1-2017	333-007-0350	12-2-2016	Amend(T)	1-1-2017
331-915-0040	1-6-2017	Amend	2-1-2017	333-007-0350	12-15-2016	Amend(T)	1-1-2017
331-915-0045	1-6-2017	Repeal	2-1-2017	333-007-0350	5-31-2017	Amend	7-1-2017
331-915-0050	1-6-2017	Amend	2-1-2017	333-007-0350(T)	5-31-2017	Repeal	7-1-2017
331-915-0055	1-6-2017	Amend	2-1-2017	333-007-0360	12-2-2016	Amend(T)	1-1-2017
331-915-0060	1-6-2017	Amend	2-1-2017	333-007-0360	12-15-2016	Amend(T)	1-1-2017
331-915-0065	1-6-2017	Amend	2-1-2017	333-007-0360	5-31-2017	Amend	7-1-2017
331-915-0070	1-6-2017	Amend	2-1-2017	333-007-0360(T)	5-31-2017	Repeal	7-1-2017
331-915-0075	1-6-2017	Amend	2-1-2017	333-007-0370	5-31-2017	Amend	7-1-2017
331-915-0080	1-6-2017	Amend	2-1-2017	333-007-0390	5-31-2017	Amend	7-1-2017
331-915-0085	1-6-2017	Amend	2-1-2017	333-007-0400	5-31-2017	Amend	7-1-2017

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333-007-0410	5-31-2017	Amend	7-1-2017	333-008-1505	11-28-2016	Amend	1-1-2017
333-007-0410(T)	5-31-2017	Repeal	7-1-2017	333-008-1505	5-31-2017	Repeal	7-1-2017
333-007-0420	5-31-2017	Amend	7-1-2017	333-008-1505(T)	11-28-2016	Repeal	1-1-2017
333-007-0430	12-2-2016	Amend(T)	1-1-2017	333-008-1620	11-28-2016	Amend	1-1-2017
333-007-0430	5-31-2017	Amend	7-1-2017	333-008-1620	5-31-2017	Amend	7-1-2017
333-007-0430(T)	5-31-2017	Repeal	7-1-2017	333-008-1630	5-31-2017	Amend	7-1-2017
333-007-0440	12-2-2016	Amend(T)	1-1-2017	333-008-1690	5-31-2017	Amend	7-1-2017
333-007-0440	12-15-2016	Amend(T)	1-1-2017	333-008-1730	11-28-2016	Amend	1-1-2017
333-007-0440	5-31-2017	Amend	7-1-2017	333-008-1740	11-28-2016	Amend	1-1-2017
333-007-0440(T)	5-31-2017	Repeal	7-1-2017	333-008-1740(T)	11-28-2016	Repeal	1-1-2017
333-007-0450	12-2-2016	Amend(T)	1-1-2017	333-008-1760	11-28-2016	Amend	1-1-2017
333-007-0450	5-31-2017	Amend	7-1-2017	333-008-1760	5-31-2017	Amend	7-1-2017
333-007-0450(T)	5-31-2017	Repeal	7-1-2017	333-008-1770	11-28-2016	Amend	1-1-2017
333-007-0480	12-2-2016	Amend(T)	1-1-2017	333-008-1810	5-31-2017	Amend	7-1-2017
333-007-0480	5-31-2017	Amend	7-1-2017	333-008-1820	11-28-2016	Amend	1-1-2017
333-007-0480(T)	5-31-2017	Repeal	7-1-2017	333-008-1830	5-31-2017	Amend	7-1-2017
333-007-0490	12-2-2016	Suspend	1-1-2017	333-008-2080	11-28-2016	Amend	1-1-2017
333-007-0490	5-31-2017	Repeal	7-1-2017	333-008-2120	11-28-2016	Amend	1-1-2017
333-007-0500	5-31-2017	Adopt	7-1-2017	333-008-2130	11-28-2016	Repeal	1-1-2017
333-007-2000	3-2-2017	Adopt(T)	4-1-2017	333-008-2180	5-31-2017	Amend	7-1-2017
333-007-2000	5-31-2017	Adopt	7-1-2017	333-008-2190	11-28-2016	Amend	1-1-2017
333-007-2000(T)	5-31-2017	Repeal	7-1-2017	333-008-2210	5-31-2017	Adopt	7-1-2017
333-008-0010	11-28-2016	Amend	1-1-2017	333-008-9900	11-28-2016	Amend	1-1-2017
333-008-0023	11-28-2016	Amend	1-1-2017	333-008-9900	5-31-2017	Repeal	7-1-2017
333-008-0033	5-31-2017	Amend	7-1-2017	333-008-9910	12-31-2016	Adopt(T)	2-1-2017
333-008-0040	11-28-2016	Amend	1-1-2017	333-008-9910(T)	5-31-2017	Repeal	7-1-2017
333-008-0550	5-31-2017	Amend	7-1-2017	333-010-0405	12-12-2016	Amend	1-1-2017
333-008-0570	5-31-2017	Amend	7-1-2017	333-010-0415	12-12-2016	Amend	1-1-2017
333-008-0600	11-28-2016	Amend	1-1-2017	333-010-0435	12-12-2016	Amend	1-1-2017
333-008-0600	5-31-2017	Amend	7-1-2017	333-016-2035	12-1-2016	Adopt	1-1-2017
333-008-1020	11-28-2016	Amend	1-1-2017	333-016-2040	12-1-2016	Adopt	1-1-2017
333-008-1020	5-31-2017	Amend	7-1-2017	333-016-2040	2-1-2017	Amend	3-1-2017
333-008-1030	5-31-2017	Amend	7-1-2017	333-016-2050	12-1-2016	Adopt	1-1-2017
333-008-1070	5-31-2017	Amend	7-1-2017	333-016-2060	12-1-2016	Adopt	1-1-2017
333-008-1110	11-28-2016	Amend	1-1-2017	333-016-2060	2-1-2017	Amend	3-1-2017
333-008-1190	11-28-2016	Repeal	1-1-2017	333-016-2070	12-1-2016	Adopt	1-1-2017
333-008-1200	11-28-2016	Amend	1-1-2017	333-016-2070	2-1-2017	Amend	3-1-2017
333-008-1200	12-31-2016	Amend(T)	2-1-2017	333-016-2080	2-1-2017	Adopt	3-1-2017
333-008-1200	5-31-2017	Amend	7-1-2017	333-016-2090	12-1-2016	Adopt	1-1-2017
333-008-1200(T)	11-28-2016	Repeal	1-1-2017	333-023-0805	1-10-2017	Amend	2-1-2017
333-008-1200(T)	5-31-2017	Repeal	7-1-2017	333-023-0820	1-10-2017	Amend	2-1-2017
333-008-1205	5-31-2017	Amend	7-1-2017	333-023-0830	1-10-2017	Adopt	2-1-2017
333-008-1220	5-31-2017	Repeal	7-1-2017	333-028-0220	7-1-2017	Amend	2-1-2017
333-008-1225	11-28-2016	Repeal	1-1-2017	333-028-0230	7-1-2017	Amend	2-1-2017
333-008-1230	11-28-2016	Amend	1-1-2017	333-028-0234	7-1-2017	Adopt	2-1-2017
333-008-1230	12-31-2016	Amend(T)	2-1-2017	333-028-0238	7-1-2017	Adopt	2-1-2017
333-008-1230	5-31-2017	Amend	7-1-2017	333-028-0240	7-1-2017	Amend	2-1-2017
333-008-1230(T)	11-28-2016	Repeal	1-1-2017	333-028-0250	7-1-2017	Amend	2-1-2017
333-008-1230(T)	5-31-2017	Repeal	7-1-2017	333-028-0320	11-18-2016	Amend	1-1-2017
333-008-1245	5-31-2017	Amend	7-1-2017	333-046-0010	12-22-2016	Adopt	2-1-2017
333-008-1248	5-31-2017	Amend	7-1-2017	333-046-0020	12-22-2016	Adopt	2-1-2017
333-008-1255	11-28-2016	Adopt	1-1-2017	333-046-0030	12-22-2016	Adopt	2-1-2017
333-008-1500	11-28-2016	Amend	1-1-2017	333-046-0040	12-22-2016	Adopt	2-1-2017
333-008-1500	5-31-2017	Repeal	7-1-2017	333-046-0050	12-22-2016	Adopt	2-1-2017
333-008-1500(T)	11-28-2016	Repeal	1-1-2017	333-046-0060	12-22-2016	Adopt	2-1-2017

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333-046-0090	12-22-2016	Adopt	2-1-2017	333-070-0160	1-1-2017	Am. & Ren.	1-1-2017
333-046-0100	12-22-2016	Adopt	2-1-2017	333-070-0200	1-1-2017	Adopt	1-1-2017
333-046-0110	12-22-2016	Adopt	2-1-2017	333-102-0005	2-1-2017	Amend	3-1-2017
333-046-0120	12-22-2016	Adopt	2-1-2017	333-102-0015	2-1-2017	Amend	3-1-2017
333-046-0130	12-22-2016	Adopt	2-1-2017	333-102-0101	2-1-2017	Amend	3-1-2017
333-064-0100	12-2-2016	Amend(T)	1-1-2017	333-106-0325	2-1-2017	Amend	3-1-2017
333-064-0100	12-15-2016	Amend(T)	1-1-2017	333-125-0040	2-1-2017	Amend	3-1-2017
333-064-0100	5-31-2017	Amend	7-1-2017	333-125-0120	2-1-2017	Amend	3-1-2017
333-064-0100(T)	5-31-2017	Repeal	7-1-2017	333-250-0000	3-21-2017	Renumber	5-1-2017
333-064-0110	12-2-2016	Amend(T)	1-1-2017	333-250-0010	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110	12-15-2016	Amend(T)	1-1-2017	333-250-0020	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110	5-31-2017	Amend	7-1-2017	333-250-0030	3-21-2017	Am. & Ren.	5-1-2017
333-064-0110(T)	5-31-2017	Repeal	7-1-2017	333-250-0031	3-21-2017	Repeal	5-1-2017
333-068-0005	1-1-2017	Repeal	1-1-2017	333-250-0040	3-21-2017	Am. & Ren.	5-1-2017
333-068-0010	1-1-2017	Repeal	1-1-2017	333-250-0041	3-21-2017	Am. & Ren.	5-1-2017
333-068-0015	1-1-2017	Repeal	1-1-2017	333-250-0042	3-21-2017	Repeal	5-1-2017
333-068-0020	1-1-2017	Repeal	1-1-2017	333-250-0043	3-21-2017	Am. & Ren.	5-1-2017
333-068-0025	1-1-2017	Repeal	1-1-2017	333-250-0044	3-21-2017	Repeal	5-1-2017
333-068-0030	1-1-2017	Repeal	1-1-2017	333-250-0045	3-21-2017	Repeal	5-1-2017
333-068-0035	1-1-2017	Repeal	1-1-2017	333-250-0046	3-21-2017	Am. & Ren.	5-1-2017
333-068-0040	1-1-2017	Repeal	1-1-2017	333-250-0047	3-21-2017	Am. & Ren.	5-1-2017
333-068-0045	1-1-2017	Repeal	1-1-2017	333-250-0048	3-21-2017	Repeal	5-1-2017
333-068-0050	1-1-2017	Repeal	1-1-2017	333-250-0049	3-21-2017	Repeal	5-1-2017
333-068-0055	1-1-2017	Repeal	1-1-2017	333-250-0050	3-21-2017	Am. & Ren.	5-1-2017
333-068-0060	1-1-2017	Repeal	1-1-2017	333-250-0060	3-21-2017	Am. & Ren.	5-1-2017
333-068-0065	1-1-2017	Repeal	1-1-2017	333-250-0070	3-21-2017	Am. & Ren.	5-1-2017
333-069-0005	1-1-2017	Repeal	1-1-2017	333-250-0080	3-21-2017	Am. & Ren.	5-1-2017
333-069-0010	1-1-2017	Repeal	1-1-2017	333-250-0085	3-21-2017	Am. & Ren.	5-1-2017
333-069-0015	1-1-2017	Repeal	1-1-2017	333-250-0100	3-21-2017	Repeal	5-1-2017
333-069-0020	1-1-2017	Repeal	1-1-2017	333-250-0220	3-21-2017	Adopt	5-1-2017
333-069-0030	1-1-2017	Repeal	1-1-2017	333-250-0225	3-21-2017	Adopt	5-1-2017
333-069-0040	1-1-2017	Repeal	1-1-2017	333-250-0230	3-21-2017	Adopt	5-1-2017
333-069-0050	1-1-2017	Repeal	1-1-2017	333-250-0235	3-21-2017	Adopt	5-1-2017
333-069-0060	1-1-2017	Repeal	1-1-2017	333-250-0255	3-21-2017	Adopt	5-1-2017
333-069-0070	1-1-2017	Repeal	1-1-2017	333-250-0265	3-21-2017	Adopt	5-1-2017
333-069-0080	1-1-2017	Repeal	1-1-2017	333-250-0310	3-21-2017	Adopt	5-1-2017
333-069-0085	1-1-2017	Am. & Ren.	1-1-2017	333-250-0320	3-21-2017	Adopt	5-1-2017
333-069-0090	1-1-2017	Repeal	1-1-2017	333-250-0350	3-21-2017	Adopt	5-1-2017
333-069-0100	1-1-2017	Adopt	1-1-2017	333-250-0360	3-21-2017	Adopt	5-1-2017
333-069-0120	1-1-2017	Adopt	1-1-2017	333-250-0380	3-21-2017	Adopt	5-1-2017
333-070-0075	1-1-2017	Repeal	1-1-2017	333-250-0390	3-21-2017	Adopt	5-1-2017
333-070-0080	1-1-2017	Repeal	1-1-2017	333-250-0410	3-21-2017	Adopt	5-1-2017
333-070-0085	1-1-2017	Repeal	1-1-2017	333-265-0000	3-30-2017	Amend	5-1-2017
333-070-0090	1-1-2017	Repeal	1-1-2017	333-265-0010	3-30-2017	Amend	5-1-2017
333-070-0095	1-1-2017	Repeal	1-1-2017	333-265-0011	3-30-2017	Repeal	5-1-2017
333-070-0100	1-1-2017	Repeal	1-1-2017	333-265-0012	3-30-2017	Amend	5-1-2017
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333-070-0110	1-1-2017	Repeal	1-1-2017	333-265-0015	3-30-2017	Amend	5-1-2017
333-070-0115	1-1-2017	Am. & Ren.	1-1-2017	333-265-0016	3-30-2017	Amend	5-1-2017
333-070-0120	1-1-2017	Am. & Ren.	1-1-2017	333-265-0018	3-30-2017	Amend	5-1-2017
333-070-0125	1-1-2017	Repeal	1-1-2017	333-265-0020	3-30-2017	Amend	5-1-2017
333-070-0130	1-1-2017	Repeal	1-1-2017	333-265-0022	3-30-2017	Amend	5-1-2017
333-070-0135	1-1-2017	Repeal	1-1-2017	333-265-0023	3-30-2017	Amend	5-1-2017
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333-265-0040	3-30-2017	Amend	5-1-2017	340-090-0360	1-19-2017	Amend	3-1-2017
333-265-0050	3-30-2017	Amend	5-1-2017	340-090-0370	1-19-2017	Amend	3-1-2017
333-265-0056	3-30-2017	Amend	5-1-2017	340-090-0380	1-19-2017	Amend	3-1-2017
333-265-0060	3-30-2017	Amend	5-1-2017	340-090-0390	1-19-2017	Amend	3-1-2017
333-265-0070	3-30-2017	Amend	5-1-2017	340-090-0400	1-19-2017	Amend	3-1-2017
333-265-0080	3-30-2017	Amend	5-1-2017	340-090-0410	1-19-2017	Amend	3-1-2017
333-265-0083	3-30-2017	Amend	5-1-2017	340-090-0420	1-19-2017	Amend	3-1-2017
333-265-0085	3-30-2017	Amend	5-1-2017	340-090-0430	1-19-2017	Amend	3-1-2017
333-265-0087	3-30-2017	Amend	5-1-2017	340-090-0510	1-19-2017	Amend	3-1-2017
333-265-0090	3-30-2017	Amend	5-1-2017	340-100-0002	7-12-2017	Amend	8-1-2017
333-265-0100	3-30-2017	Am. & Ren.	5-1-2017	340-101-0004	7-12-2017	Amend	8-1-2017
333-265-0105	3-30-2017	Amend	5-1-2017	340-102-0200	7-12-2017	Adopt	8-1-2017
333-265-0110	3-30-2017	Amend	5-1-2017	340-143-0005	3-1-2017	Amend	3-1-2017
333-265-0140	3-30-2017	Amend	5-1-2017	340-143-0010	3-1-2017	Amend	3-1-2017
333-265-0150	3-30-2017	Amend	5-1-2017	340-143-0050	3-1-2017	Amend	3-1-2017
333-265-0160	3-30-2017	Amend	5-1-2017	340-200-0040	1-19-2017	Amend	3-1-2017
333-265-0170	3-30-2017	Amend	5-1-2017	340-200-0040	7-13-2017	Amend	8-1-2017
333-510-0130	1-23-2017	Amend	3-1-2017	340-200-0050	7-13-2017	Amend	8-1-2017
333-510-0130(T)	1-23-2017	Repeal	3-1-2017	340-202-0090	7-13-2017	Amend	8-1-2017
333-535-0086	12-23-2016	Amend	2-1-2017	340-220-0030	1-19-2017	Amend	3-1-2017
334-001-0012	7-1-2017	Amend	7-1-2017	340-220-0040	1-19-2017	Amend	3-1-2017
334-010-0005	7-1-2017	Amend	7-1-2017	340-220-0050	1-19-2017	Amend	3-1-2017
334-010-0046	7-1-2017	Amend	7-1-2017	340-222-0060	7-13-2017	Amend	8-1-2017
334-010-0050	7-1-2017	Amend	7-1-2017	340-230-0500	7-13-2017	Amend	8-1-2017
339-010-0005	2-15-2017	Amend	3-1-2017	340-238-0040	7-13-2017	Amend	8-1-2017
339-010-0005	3-13-2017	Amend	4-1-2017	340-238-0060	7-13-2017	Amend	8-1-2017
339-010-0020	1-27-2017	Amend	3-1-2017	340-244-0030	7-13-2017	Amend	8-1-2017
339-010-0020	2-16-2017	Amend	4-1-2017	340-244-0220	7-13-2017	Amend	8-1-2017
340-090-0005	1-19-2017	Amend	3-1-2017	345-021-0010	3-8-2017	Amend	4-1-2017
340-090-0010	1-19-2017	Amend	3-1-2017	345-022-0000	3-8-2017	Amend	4-1-2017
340-090-0015	1-19-2017	Amend	3-1-2017	345-022-0060	3-8-2017	Amend	4-1-2017
340-090-0020	1-19-2017	Amend	3-1-2017	350-010-0000	4-1-2017	Adopt	4-1-2017
340-090-0030	1-19-2017	Amend	3-1-2017	350-010-0010	4-1-2017	Adopt	4-1-2017
340-090-0040	1-19-2017	Amend	3-1-2017	350-010-0020	4-1-2017	Adopt	4-1-2017
340-090-0041	1-19-2017	Adopt	3-1-2017	350-010-0030	4-1-2017	Adopt	4-1-2017
340-090-0042	1-19-2017	Adopt	3-1-2017	350-010-0040	4-1-2017	Adopt	4-1-2017
340-090-0045	1-19-2017	Repeal	3-1-2017	350-010-0050	4-1-2017	Adopt	4-1-2017
340-090-0050	1-19-2017	Amend	3-1-2017	350-081-0017	4-1-2017	Repeal	4-1-2017
340-090-0060	1-19-2017	Amend	3-1-2017	407-007-0210	12-1-2016	Amend	1-1-2017
340-090-0068	1-19-2017	Adopt	3-1-2017	407-007-0210	3-15-2017	Amend(T)	4-1-2017
340-090-0070	1-19-2017	Amend	3-1-2017	407-007-0210	7-1-2017	Amend	8-1-2017
340-090-0080	1-19-2017	Amend	3-1-2017	407-007-0210(T)	12-1-2016	Repeal	1-1-2017
340-090-0090	1-19-2017	Amend	3-1-2017	407-007-0210(T)	7-1-2017	Repeal	8-1-2017
340-090-0100	1-19-2017	Amend	3-1-2017	407-007-0250	12-1-2016	Amend	1-1-2017
340-090-0110	1-19-2017	Amend	3-1-2017	407-007-0250	3-15-2017	Amend(T)	4-1-2017
340-090-0120	1-19-2017	Amend	3-1-2017	407-007-0250	7-1-2017	Amend	8-1-2017
340-090-0130	1-19-2017	Amend	3-1-2017	407-007-0250(T)	12-1-2016	Repeal	1-1-2017
340-090-0140	1-19-2017	Amend	3-1-2017	407-007-0250(T)	7-1-2017	Repeal	8-1-2017
340-090-0150	1-19-2017	Amend	3-1-2017	407-007-0279	12-1-2016	Amend	1-1-2017
340-090-0180	1-19-2017	Amend	3-1-2017	407-007-0279	3-15-2017	Amend(T)	4-1-2017
340-090-0190	1-19-2017	Amend	3-1-2017	407-007-0279	7-1-2017	Amend	8-1-2017
340-090-0310	1-19-2017	Amend	3-1-2017	407-007-0279(T)	12-1-2016	Repeal	1-1-2017
340-090-0320	1-19-2017	Amend	3-1-2017	407-007-0279(T)	7-1-2017	Repeal	8-1-2017
340-090-0330	1-19-2017	Amend	3-1-2017	407-007-0290	12-1-2016	Amend	1-1-2017

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407-007-0320	12-1-2016	Amend	1-1-2017	409-055-0050	12-22-2016	Amend	2-1-2017
407-007-0320	3-15-2017	Amend(T)	4-1-2017	409-060-0110	12-22-2016	Amend	2-1-2017
407-007-0320	7-1-2017	Amend	8-1-2017	409-060-0120	12-22-2016	Amend	2-1-2017
407-007-0320(T)	12-1-2016	Repeal	1-1-2017	409-060-0140	12-22-2016	Amend	2-1-2017
407-007-0320(T)	7-1-2017	Repeal	8-1-2017	409-060-0150	12-22-2016	Amend	2-1-2017
407-007-0330	12-1-2016	Amend	1-1-2017	409-110-0025	11-29-2016	Renumber	1-1-2017
407-007-0330	3-15-2017	Amend(T)	4-1-2017	409-110-0030	11-29-2016	Renumber	1-1-2017
407-007-0330	7-1-2017	Amend	8-1-2017	409-110-0035	11-29-2016	Renumber	1-1-2017
407-007-0330(T)	12-1-2016	Repeal	1-1-2017	409-110-0040	11-29-2016	Renumber	1-1-2017
407-007-0330(T)	7-1-2017	Repeal	8-1-2017	409-110-0045	11-29-2016	Renumber	1-1-2017
407-007-0335	1-24-2017	Amend(T)	3-1-2017	410-050-0861	7-1-2017	Amend	8-1-2017
407-007-0335	7-1-2017	Amend	8-1-2017	410-120-0000	1-1-2017	Amend	2-1-2017
407-007-0335(T)	7-1-2017	Repeal	8-1-2017	410-120-0000(T)	1-1-2017	Repeal	2-1-2017
407-014-0200	5-15-2017	Amend(T)	6-1-2017	410-120-0006	3-1-2017	Amend(T)	4-1-2017
407-014-0200	5-16-2017	Amend	7-1-2017	410-120-0006	7-1-2017	Amend	8-1-2017
407-014-0200(T)	5-16-2017	Repeal	7-1-2017	410-120-0006(T)	7-1-2017	Repeal	8-1-2017
407-014-0205	5-15-2017	Amend(T)	6-1-2017	410-120-1230	1-1-2017	Amend	2-1-2017
407-014-0205	5-16-2017	Amend	7-1-2017	410-120-1340	5-26-2017	Amend(T)	7-1-2017
407-014-0205(T)	5-16-2017	Repeal	7-1-2017	410-121-0030	12-1-2016	Amend	1-1-2017
407-045-0800	12-1-2016	Amend	1-1-2017	410-121-0030	1-1-2017	Amend(T)	2-1-2017
407-045-0810	12-1-2016	Repeal	1-1-2017	410-121-0030	5-1-2017	Amend(T)	6-1-2017
407-045-0820	12-1-2016	Amend	1-1-2017	410-121-0030	6-29-2017	Amend	8-1-2017
407-045-0825	12-1-2016	Adopt	1-1-2017	410-121-0030	7-1-2017	Amend	8-1-2017
407-045-0830	12-1-2016	Repeal	1-1-2017	410-121-0030(T)	12-1-2016	Repeal	1-1-2017
407-045-0850	12-1-2016	Repeal	1-1-2017	410-121-0030(T)	6-29-2017	Repeal	8-1-2017
407-045-0860	12-1-2016	Repeal	1-1-2017	410-121-0040	12-1-2016	Amend	1-1-2017
407-045-0870	12-1-2016	Repeal	1-1-2017	410-121-0040	1-1-2017	Amend(T)	2-1-2017
407-045-0880	12-1-2016	Repeal	1-1-2017	410-121-0040	2-21-2017	Amend(T)	4-1-2017
407-045-0885	12-1-2016	Adopt	1-1-2017	410-121-0040	4-1-2017	Amend(T)	5-1-2017
407-045-0886	12-1-2016	Adopt	1-1-2017	410-121-0040	6-1-2017	Amend(T)	5-1-2017
407-045-0887	12-1-2016	Adopt	1-1-2017	410-121-0040	6-29-2017	Amend	8-1-2017
407-045-0890	12-1-2016	Amend	1-1-2017	410-121-0040	7-1-2017	Amend	8-1-2017
407-045-0895	12-1-2016	Adopt	1-1-2017	410-121-0040(T)	12-1-2016	Repeal	1-1-2017
407-045-0900	12-1-2016	Repeal	1-1-2017	410-121-0040(T)	6-1-2017	Suspend	5-1-2017
407-045-0910	12-1-2016	Amend	1-1-2017	410-121-0040(T)	6-29-2017	Repeal	8-1-2017
407-045-0920	12-1-2016	Repeal	1-1-2017	410-123-1220	1-1-2017	Amend(T)	2-1-2017
407-045-0930	12-1-2016	Repeal	1-1-2017	410-123-1220	6-29-2017	Amend	8-1-2017
407-045-0940	12-1-2016	Amend	1-1-2017	410-123-1220(T)	6-29-2017	Repeal	8-1-2017
407-045-0940	1-13-2017	Amend(T)	2-1-2017	410-123-1260	1-1-2017	Amend(T)	2-1-2017
407-045-0940	7-1-2017	Amend	8-1-2017	410-123-1260	6-29-2017	Amend	8-1-2017
407-045-0940(T)	7-1-2017	Repeal	8-1-2017	410-123-1260(T)	6-29-2017	Repeal	8-1-2017
407-045-0950	12-1-2016	Amend	1-1-2017	410-125-0085	1-1-2017	Amend	2-1-2017
407-045-0955	12-1-2016	Adopt	1-1-2017	410-125-0085(T)	1-1-2017	Repeal	2-1-2017
407-045-0960	12-1-2016	Repeal	1-1-2017	410-125-0360	1-1-2017	Amend	2-1-2017
407-045-0970	12-1-2016	Repeal	1-1-2017	410-125-0360(T)	1-1-2017	Repeal	2-1-2017
407-045-0980	12-1-2016	Repeal	1-1-2017	410-127-0020	7-15-2017	Amend(T)	8-1-2017
409-025-0100	1-1-2018	Amend	8-1-2017	410-127-0040	7-15-2017	Amend(T)	8-1-2017
409-025-0110	1-1-2018	Amend	8-1-2017	410-127-0045	7-15-2017	Adopt(T)	8-1-2017
409-025-0120	5-3-2017	Amend	6-1-2017	410-127-0050	7-15-2017	Suspend	8-1-2017
409-025-0120	1-1-2018	Amend	8-1-2017	410-127-0060	7-15-2017	Amend(T)	8-1-2017
409-025-0130	1-1-2018	Amend	8-1-2017	410-127-0065	7-15-2017	Amend(T)	8-1-2017
409-025-0150	1-1-2018	Amend	8-1-2017	410-127-0080	7-15-2017	Amend(T)	8-1-2017
409-055-0030	12-22-2016	Amend	2-1-2017	410-127-0200	7-15-2017	Amend(T)	8-1-2017
409-055-0030(T)	12-22-2016	Repeal	2-1-2017	410-129-0020	1-1-2017	Amend(T)	1-1-2017
409-055-0040	12-22-2016	Amend	2-1-2017	410-129-0020	6-9-2017	Amend	7-1-2017

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410-129-0040	6-9-2017	Repeal	7-1-2017	410-138-0080	1-13-2017	Amend(T)	2-1-2017
410-129-0070	1-1-2017	Amend(T)	1-1-2017	410-138-0080	2-10-2017	Amend(T)	3-1-2017
410-129-0070	6-9-2017	Amend	7-1-2017	410-138-0080	4-1-2017	Amend	5-1-2017
410-129-0070(T)	6-9-2017	Repeal	7-1-2017	410-138-0080(T)	4-1-2017	Repeal	5-1-2017
410-129-0100	6-9-2017	Amend	7-1-2017	410-138-0390	1-1-2017	Amend	2-1-2017
410-129-0190	1-1-2017	Suspend	1-1-2017	410-138-0390	1-13-2017	Amend(T)	2-1-2017
410-129-0190	6-9-2017	Repeal	7-1-2017	410-138-0390	2-10-2017	Amend(T)	3-1-2017
410-130-0015	5-1-2017	Amend(T)	6-1-2017	410-138-0390	4-1-2017	Amend	5-1-2017
410-130-0015	5-25-2017	Amend(T)	7-1-2017	410-138-0390(T)	4-1-2017	Repeal	5-1-2017
410-131-0040	1-1-2017	Amend(T)	1-1-2017	410-138-0420	1-1-2017	Amend	2-1-2017
410-131-0040	6-9-2017	Amend	7-1-2017	410-138-0420	1-13-2017	Amend(T)	2-1-2017
410-131-0040(T)	6-9-2017	Repeal	7-1-2017	410-138-0420	2-10-2017	Amend(T)	3-1-2017
410-131-0080	1-1-2017	Amend(T)	1-1-2017	410-138-0420	4-1-2017	Amend	5-1-2017
410-131-0080	6-9-2017	Amend	7-1-2017	410-138-0420(T)	4-1-2017	Repeal	5-1-2017
410-131-0080(T)	6-9-2017	Repeal	7-1-2017	410-141-0000	7-1-2017	Amend(T)	8-1-2017
410-131-0100	1-1-2017	Amend(T)	1-1-2017	410-141-0520	12-1-2016	Amend	1-1-2017
410-131-0100	6-9-2017	Repeal	7-1-2017	410-141-0520	1-1-2017	Amend(T)	2-1-2017
410-131-0120	1-1-2017	Amend(T)	1-1-2017	410-141-0520	3-1-2017	Amend	4-1-2017
410-131-0120	6-9-2017	Amend	7-1-2017	410-141-0520(T)	12-1-2016	Repeal	1-1-2017
410-131-0120(T)	6-9-2017	Repeal	7-1-2017	410-141-0520(T)	3-1-2017	Repeal	4-1-2017
410-138-0000	1-1-2017	Amend	2-1-2017	410-141-3015	1-1-2017	Amend	2-1-2017
410-138-0000	1-13-2017	Amend(T)	2-1-2017	410-141-3015	1-13-2017	Amend	2-1-2017
410-138-0000	2-10-2017	Amend(T)	3-1-2017	410-141-3015(T)	1-1-2017	Repeal	2-1-2017
410-138-0000	4-1-2017	Amend	5-1-2017	410-141-3015(T)	1-13-2017	Repeal	2-1-2017
410-138-0000(T)	4-1-2017	Repeal	5-1-2017	410-141-3070	1-1-2017	Amend	2-1-2017
410-138-0005	1-1-2017	Amend	2-1-2017	410-141-3145	1-1-2017	Amend	2-1-2017
410-138-0005	1-13-2017	Amend(T)	2-1-2017	410-141-3145	1-13-2017	Amend	2-1-2017
410-138-0005	2-10-2017	Amend(T)	3-1-2017	410-141-3145(T)	1-1-2017	Repeal	2-1-2017
410-138-0005	4-1-2017	Amend	5-1-2017	410-141-3145(T)	1-13-2017	Repeal	2-1-2017
410-138-0005(T)	4-1-2017	Repeal	5-1-2017	410-141-3160	1-1-2017	Amend(T)	2-1-2017
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410-138-0007	1-13-2017	Amend(T)	2-1-2017	410-141-3160	7-1-2017	Amend(T)	8-1-2017
410-138-0007	2-10-2017	Amend(T)	3-1-2017	410-141-3160(T)	6-29-2017	Repeal	7-1-2017
410-138-0007	4-1-2017	Amend	5-1-2017	410-141-3260	1-1-2017	Amend	2-1-2017
410-138-0007(T)	4-1-2017	Repeal	5-1-2017	410-141-3260	1-13-2017	Amend	2-1-2017
410-138-0009	1-1-2017	Amend	2-1-2017	410-141-3260(T)	1-1-2017	Repeal	2-1-2017
410-138-0009	1-13-2017	Amend(T)	2-1-2017	410-141-3260(T)	1-13-2017	Repeal	2-1-2017
410-138-0009	2-10-2017	Amend(T)	3-1-2017	410-141-3300	1-1-2017	Amend	2-1-2017
410-138-0009	4-1-2017	Amend	5-1-2017	410-141-3300	1-1-2017	Amend	2-1-2017
410-138-0009(T)	4-1-2017	Repeal	5-1-2017	410-141-3300	1-13-2017	Amend	2-1-2017
410-138-0020	1-1-2017	Amend	2-1-2017	410-141-3300(T)	1-1-2017	Repeal	2-1-2017
410-138-0020	1-13-2017	Amend(T)	2-1-2017	410-141-3300(T)	1-13-2017	Repeal	2-1-2017
410-138-0020	2-10-2017	Amend(T)	3-1-2017	410-141-3395	1-1-2017	Amend	2-1-2017
410-138-0020	4-1-2017	Amend	5-1-2017	410-141-3435	12-1-2016	Amend	1-1-2017
410-138-0020(T)	4-1-2017	Repeal	5-1-2017	410-165-0000	2-2-2017	Amend(T)	3-1-2017
410-138-0040	1-1-2017	Amend	2-1-2017	410-165-0000	6-2-2017	Amend	7-1-2017
410-138-0040	1-13-2017	Amend(T)	2-1-2017	410-165-0000(T)	6-2-2017	Repeal	7-1-2017
410-138-0040	2-10-2017	Amend(T)	3-1-2017	410-165-0020	2-2-2017	Amend(T)	3-1-2017
410-138-0040	4-1-2017	Amend	5-1-2017	410-165-0020	6-2-2017	Amend	7-1-2017
410-138-0040(T)	4-1-2017	Repeal	5-1-2017	410-165-0020(T)	6-2-2017	Repeal	7-1-2017
410-138-0060	1-1-2017	Amend	2-1-2017	410-165-0040	6-2-2017	Amend	7-1-2017
410-138-0060	1-13-2017	Amend(T)	2-1-2017	410-165-0060	2-2-2017	Amend(T)	3-1-2017
410-138-0060	2-10-2017	Amend(T)	3-1-2017	410-165-0060	6-2-2017	Amend	7-1-2017
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410-165-0080(T)	6-2-2017	Repeal	7-1-2017	411-317-0000	6-5-2017	Amend	7-1-2017
410-170-0110	11-29-2016	Amend	1-1-2017	411-317-0000(T)	6-5-2017	Repeal	7-1-2017
410-170-0110(T)	11-29-2016	Repeal	1-1-2017	411-323-0050	12-16-2016	Amend(T)	2-1-2017
410-172-0650	4-4-2017	Amend	5-1-2017	411-323-0050	4-22-2017	Amend	6-1-2017
410-172-0650(T)	4-4-2017	Repeal	5-1-2017	411-323-0050(T)	12-16-2016	Suspend	2-1-2017
410-172-0760	4-4-2017	Amend	5-1-2017	411-325-0020	2-28-2017	Amend	4-1-2017
410-172-0760(T)	4-4-2017	Repeal	5-1-2017	411-328-0560	2-28-2017	Amend	4-1-2017
410-172-0770	4-4-2017	Amend	5-1-2017	411-345-0020	2-28-2017	Amend	4-1-2017
410-172-0770(T)	4-4-2017	Repeal	5-1-2017	411-360-0020	2-28-2017	Amend	4-1-2017
410-200-0315	3-1-2017	Amend(T)	4-1-2017	411-360-0140	2-15-2017	Amend(T)	3-1-2017
410-200-0315	5-1-2017	Amend	6-1-2017	411-360-0140	6-9-2017	Amend	7-1-2017
410-200-0315(T)	5-1-2017	Repeal	6-1-2017	411-360-0140(T)	6-9-2017	Repeal	7-1-2017
411-004-0000	7-1-2017	Amend	8-1-2017	411-375-0010	2-28-2017	Amend	4-1-2017
411-004-0010	7-1-2017	Amend	8-1-2017	411-375-0020	2-28-2017	Amend	4-1-2017
411-004-0020	7-1-2017	Amend	8-1-2017	411-375-0035	2-28-2017	Amend	4-1-2017
411-004-0030	7-1-2017	Amend	8-1-2017	411-375-0040	2-28-2017	Amend	4-1-2017
411-004-0040	12-28-2016	Amend	2-1-2017	411-375-0050	2-28-2017	Amend	4-1-2017
411-004-0040	7-1-2017	Amend	8-1-2017	411-375-0055	2-28-2017	Amend	4-1-2017
411-019-0000	3-1-2017	Adopt	4-1-2017	411-375-0070	2-28-2017	Amend	4-1-2017
411-019-0010	3-1-2017	Adopt	4-1-2017	411-380-0020	2-28-2017	Amend	4-1-2017
411-019-0020	3-1-2017	Adopt	4-1-2017	411-380-0030	2-28-2017	Amend	4-1-2017
411-019-0030	3-1-2017	Adopt	4-1-2017	411-380-0060	2-28-2017	Amend	4-1-2017
411-027-0170	12-28-2016	Amend	1-1-2017	411-380-0090	2-28-2017	Amend	4-1-2017
411-030-0033	12-28-2016	Amend	2-1-2017	411-415-0020	2-28-2017	Amend	4-1-2017
411-030-0068	12-28-2016	Amend	2-1-2017	411-415-0060	2-28-2017	Amend	4-1-2017
411-030-0070	12-28-2016	Amend	2-1-2017	411-415-0070	2-28-2017	Amend	4-1-2017
411-030-0090	5-30-2017	Am. & Ren.	7-1-2017	411-435-0020	2-28-2017	Amend	4-1-2017
411-032-0050	7-1-2017	Amend	8-1-2017	411-435-0050	2-28-2017	Amend	4-1-2017
411-033-0000	5-30-2017	Adopt	7-1-2017	411-435-0060	2-28-2017	Amend	4-1-2017
411-033-0010	5-30-2017	Adopt	7-1-2017	411-435-0070	2-28-2017	Amend	4-1-2017
411-033-0030	5-30-2017	Adopt	7-1-2017	411-450-0020	2-28-2017	Amend	4-1-2017
411-050-0615	5-1-2017	Amend(T)	6-1-2017	411-450-0030	2-28-2017	Amend	4-1-2017
411-050-0650	5-1-2017	Amend(T)	6-1-2017	411-450-0060	2-28-2017	Amend	4-1-2017
411-050-0665	5-1-2017	Amend(T)	6-1-2017	411-450-0070	2-28-2017	Amend	4-1-2017
411-054-0105	5-1-2017	Amend(T)	6-1-2017	413-010-0000	12-1-2016	Amend	1-1-2017
411-300-0110	2-28-2017	Amend	4-1-2017	413-010-0035	1-1-2017	Amend	2-1-2017
411-300-0120	2-28-2017	Amend	4-1-2017	413-010-0035(T)	1-1-2017	Repeal	2-1-2017
411-305-0010	1-1-2017	Am. & Ren.	2-1-2017	413-010-0500	12-1-2016	Amend	1-1-2017
411-305-0020	1-1-2017	Am. & Ren.	2-1-2017	413-010-0501	12-1-2016	Repeal	1-1-2017
411-305-0023	1-1-2017	Am. & Ren.	2-1-2017	413-010-0502	12-1-2016	Amend	1-1-2017
411-305-0025	1-1-2017	Am. & Ren.	2-1-2017	413-010-0505	12-1-2016	Amend	1-1-2017
411-305-0027	1-1-2017	Repeal	2-1-2017	413-010-0510	12-1-2016	Amend	1-1-2017
411-305-0030	1-1-2017	Am. & Ren.	2-1-2017	413-010-0525	12-1-2016	Amend	1-1-2017
411-305-0050	1-1-2017	Repeal	2-1-2017	413-010-0535	12-1-2016	Amend	1-1-2017
411-305-0080	1-1-2017	Am. & Ren.	2-1-2017	413-015-0100	12-1-2016	Amend	1-1-2017
411-305-0090	1-1-2017	Am. & Ren.	2-1-2017	413-015-0100(T)	12-1-2016	Repeal	1-1-2017
411-305-0105	1-1-2017	Repeal	2-1-2017	413-015-0115	12-1-2016	Amend	1-1-2017
411-305-0110	1-1-2017	Repeal	2-1-2017	413-015-0115	2-7-2017	Amend(T)	3-1-2017
411-305-0115	1-1-2017	Repeal	2-1-2017	413-015-0125	12-1-2016	Amend	1-1-2017
411-305-0120	1-1-2017	Am. & Ren.	2-1-2017	413-015-0125(T)	12-1-2016	Repeal	1-1-2017
411-305-0140	1-1-2017	Am. & Ren.	2-1-2017	413-015-0205	12-1-2016	Amend	1-1-2017
411-305-0160	1-1-2017	Repeal	2-1-2017	413-015-0205	2-7-2017	Amend(T)	3-1-2017
411-305-0170	1-1-2017	Repeal	2-1-2017	413-015-0205(T)	12-1-2016	Repeal	1-1-2017
411-305-0180	1-1-2017	Repeal	2-1-2017	413-015-0210	4-3-2017	Amend	5-1-2017

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413-015-0212(T)	12-1-2016	Repeal	1-1-2017	413-070-0000	2-7-2017	Amend(T)	3-1-2017
413-015-0215	2-7-2017	Amend(T)	3-1-2017	413-070-0010	2-7-2017	Amend(T)	3-1-2017
413-015-0300	12-1-2016	Amend	1-1-2017	413-070-0072	2-7-2017	Amend(T)	3-1-2017
413-015-0300(T)	12-1-2016	Repeal	1-1-2017	413-070-0100	2-7-2017	Suspend	3-1-2017
413-015-0409	12-1-2016	Amend	1-1-2017	413-070-0130	2-7-2017	Suspend	3-1-2017
413-015-0409(T)	12-1-2016	Repeal	1-1-2017	413-070-0140	2-7-2017	Suspend	3-1-2017
413-015-0415	2-7-2017	Amend(T)	3-1-2017	413-070-0150	2-7-2017	Suspend	3-1-2017
413-015-0420	12-1-2016	Amend	1-1-2017	413-070-0160	2-7-2017	Suspend	3-1-2017
413-015-0420(T)	12-1-2016	Repeal	1-1-2017	413-070-0170	2-7-2017	Suspend	3-1-2017
413-015-0432	2-7-2017	Amend(T)	3-1-2017	413-070-0180	2-7-2017	Suspend	3-1-2017
413-015-0440	12-1-2016	Amend	1-1-2017	413-070-0190	2-7-2017	Suspend	3-1-2017
413-015-0440(T)	12-1-2016	Repeal	1-1-2017	413-070-0200	2-7-2017	Suspend	3-1-2017
413-015-0445	12-1-2016	Amend	1-1-2017	413-070-0210	2-7-2017	Suspend	3-1-2017
413-015-0445(T)	12-1-2016	Repeal	1-1-2017	413-070-0220	2-7-2017	Suspend	3-1-2017
413-015-0450	12-1-2016	Amend	1-1-2017	413-070-0230	2-7-2017	Suspend	3-1-2017
413-015-0450(T)	12-1-2016	Repeal	1-1-2017	413-070-0240	2-7-2017	Suspend	3-1-2017
413-015-0455	2-7-2017	Amend(T)	3-1-2017	413-070-0250	2-7-2017	Suspend	3-1-2017
413-015-0620	12-1-2016	Adopt	1-1-2017	413-070-0260	2-7-2017	Suspend	3-1-2017
413-015-0620(T)	12-1-2016	Repeal	1-1-2017	413-070-0512	2-7-2017	Amend(T)	3-1-2017
413-015-0625	12-1-2016	Adopt	1-1-2017	413-070-0516	1-1-2017	Amend	2-1-2017
413-015-0625(T)	12-1-2016	Repeal	1-1-2017	413-070-0516	2-7-2017	Amend(T)	3-1-2017
413-015-0630	12-1-2016	Adopt	1-1-2017	413-070-0518	1-1-2017	Amend	2-1-2017
413-015-0630(T)	12-1-2016	Repeal	1-1-2017	413-070-0518	1-19-2017	Amend	3-1-2017
413-015-0640	12-1-2016	Adopt	1-1-2017	413-070-0519	2-7-2017	Amend(T)	3-1-2017
413-015-0640(T)	12-1-2016	Repeal	1-1-2017	413-070-0625	2-7-2017	Amend(T)	3-1-2017
413-015-1000	12-1-2016	Amend	1-1-2017	413-070-0670	1-1-2017	Amend	2-1-2017
413-015-1000(T)	12-1-2016	Repeal	1-1-2017	413-070-0900	1-1-2017	Amend	2-1-2017
413-015-9030	12-1-2016	Amend	1-1-2017	413-070-0900(T)	1-1-2017	Repeal	2-1-2017
413-015-9030(T)	12-1-2016	Repeal	1-1-2017	413-070-0917	1-1-2017	Amend	2-1-2017
413-015-9040	12-1-2016	Amend	1-1-2017	413-070-0917(T)	1-1-2017	Repeal	2-1-2017
413-015-9040(T)	12-1-2016	Repeal	1-1-2017	413-070-0959	1-1-2017	Amend	2-1-2017
413-017-0000	2-7-2017	Adopt(T)	3-1-2017	413-070-0959(T)	1-1-2017	Repeal	2-1-2017
413-017-0010	2-7-2017	Adopt(T)	3-1-2017	413-070-1020	1-1-2017	Amend	2-1-2017
413-017-0020	2-7-2017	Adopt(T)	3-1-2017	413-070-1050	2-7-2017	Amend(T)	3-1-2017
413-017-0030	2-7-2017	Adopt(T)	3-1-2017	413-080-0050	12-1-2016	Amend	1-1-2017
413-017-0040	2-7-2017	Adopt(T)	3-1-2017	413-080-0050	2-7-2017	Amend(T)	3-1-2017
413-020-0000	2-7-2017	Amend(T)	3-1-2017	413-080-0050(T)	12-1-2016	Repeal	1-1-2017
413-020-0010	2-7-2017	Amend(T)	3-1-2017	413-080-0051	12-1-2016	Adopt	1-1-2017
413-020-0020	2-7-2017	Amend(T)	3-1-2017	413-080-0051(T)	12-1-2016	Repeal	1-1-2017
413-020-0050	2-7-2017	Amend(T)	3-1-2017	413-080-0052	12-1-2016	Amend	1-1-2017
413-020-0075	2-7-2017	Amend(T)	3-1-2017	413-080-0052(T)	12-1-2016	Repeal	1-1-2017
413-020-0090	2-7-2017	Amend(T)	3-1-2017	413-080-0053	1-1-2017	Amend	2-1-2017
413-030-0000	2-7-2017	Amend(T)	3-1-2017	413-080-0053(T)	1-1-2017	Repeal	2-1-2017
413-030-0009	2-7-2017	Amend(T)	3-1-2017	413-080-0054	12-1-2016	Amend	1-1-2017
413-030-0210	2-7-2017	Amend(T)	3-1-2017	413-080-0054(T)	12-1-2016	Repeal	1-1-2017
413-030-0300	1-1-2017	Repeal	2-1-2017	413-080-0059	12-1-2016	Amend	1-1-2017
413-030-0310	1-1-2017	Repeal	2-1-2017	413-080-0059(T)	12-1-2016	Repeal	1-1-2017
413-030-0320	1-1-2017	Repeal	2-1-2017	413-080-0062	1-1-2017	Amend	2-1-2017
413-030-0445	2-7-2017	Amend(T)	3-1-2017	413-080-0062(T)	1-1-2017	Repeal	2-1-2017
413-030-0460	2-7-2017	Amend(T)	3-1-2017	413-080-0070	12-1-2016	Adopt	1-1-2017
413-040-0000	2-7-2017	Amend(T)	3-1-2017	413-080-0070(T)	12-1-2016	Repeal	1-1-2017
413-040-0010	2-7-2017	Amend(T)	3-1-2017	413-090-0000	12-1-2016	Amend	1-1-2017
413-040-0155	2-7-2017	Amend(T)	3-1-2017	413-090-0000(T)	12-1-2016	Repeal	1-1-2017
413-040-0159	2-7-2017	Amend(T)	3-1-2017	413-090-0051	7-5-2017	Adopt	8-1-2017
413-040-0310	2-7-2017	Amend(T)	3-1-2017	413-090-0055	12-1-2016	Amend	1-1-2017

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413-090-0065	12-1-2016	Amend	1-1-2017	413-120-0730	2-7-2017	Amend(T)	3-1-2017
413-090-0065(T)	12-1-2016	Repeal	1-1-2017	413-120-0750	2-7-2017	Amend(T)	3-1-2017
413-090-0070	12-1-2016	Amend	1-1-2017	413-120-0760	2-7-2017	Amend(T)	3-1-2017
413-090-0070(T)	12-1-2016	Repeal	1-1-2017	413-120-0870	2-7-2017	Amend(T)	3-1-2017
413-090-0075	12-1-2016	Amend	1-1-2017	413-120-0880	2-7-2017	Amend(T)	3-1-2017
413-090-0075(T)	12-1-2016	Repeal	1-1-2017	413-120-0925	2-7-2017	Amend(T)	3-1-2017
413-090-0080	12-1-2016	Amend	1-1-2017	413-120-0950	2-7-2017	Amend(T)	3-1-2017
413-090-0080(T)	12-1-2016	Repeal	1-1-2017	413-200-0260	2-7-2017	Amend(T)	3-1-2017
413-090-0090	12-1-2016	Amend	1-1-2017	413-200-0306	2-7-2017	Amend(T)	3-1-2017
413-090-0090(T)	12-1-2016	Repeal	1-1-2017	413-215-0000	12-1-2016	Adopt	1-1-2017
413-100-0020	2-7-2017	Amend(T)	3-1-2017	413-215-0000	2-7-2017	Amend(T)	3-1-2017
413-100-0240	2-7-2017	Amend(T)	3-1-2017	413-215-0000(T)	12-1-2016	Repeal	1-1-2017
413-110-0000	2-7-2017	Amend(T)	3-1-2017	413-215-0001	12-1-2016	Amend	1-1-2017
413-110-0280	1-1-2017	Repeal	2-1-2017	413-215-0001(T)	12-1-2016	Repeal	1-1-2017
413-110-0282	1-1-2017	Repeal	2-1-2017	413-215-0006	12-1-2016	Repeal	1-1-2017
413-110-0286	1-1-2017	Repeal	2-1-2017	413-215-0011	12-1-2016	Amend	1-1-2017
413-110-0288	1-1-2017	Repeal	2-1-2017	413-215-0011(T)	12-1-2016	Repeal	1-1-2017
413-110-0290	1-1-2017	Repeal	2-1-2017	413-215-0016	12-1-2016	Amend	1-1-2017
413-110-0291	1-1-2017	Repeal	2-1-2017	413-215-0016(T)	12-1-2016	Repeal	1-1-2017
413-110-0292	1-1-2017	Repeal	2-1-2017	413-215-0021	12-1-2016	Amend	1-1-2017
413-110-0293	1-1-2017	Repeal	2-1-2017	413-215-0021(T)	12-1-2016	Repeal	1-1-2017
413-110-0295	1-1-2017	Repeal	2-1-2017	413-215-0026	12-1-2016	Amend	1-1-2017
413-110-0297	1-1-2017	Repeal	2-1-2017	413-215-0026(T)	12-1-2016	Repeal	1-1-2017
413-110-0299	1-1-2017	Repeal	2-1-2017	413-215-0031	12-1-2016	Amend	1-1-2017
413-110-0300	2-7-2017	Amend(T)	3-1-2017	413-215-0031(T)	12-1-2016	Repeal	1-1-2017
413-115-0000	2-7-2017	Adopt(T)	3-1-2017	413-215-0036	12-1-2016	Amend	1-1-2017
413-115-0010	2-7-2017	Adopt(T)	3-1-2017	413-215-0036(T)	12-1-2016	Repeal	1-1-2017
413-115-0020	2-7-2017	Adopt(T)	3-1-2017	413-215-0041	12-1-2016	Amend	1-1-2017
413-115-0030	2-7-2017	Adopt(T)	3-1-2017	413-215-0041(T)	12-1-2016	Repeal	1-1-2017
413-115-0030	5-12-2017	Adopt(T)	6-1-2017	413-215-0046	12-1-2016	Amend	1-1-2017
413-115-0030(T)	5-12-2017	Suspend	6-1-2017	413-215-0046(T)	12-1-2016	Repeal	1-1-2017
413-115-0040	2-7-2017	Adopt(T)	3-1-2017	413-215-0051	12-1-2016	Amend	1-1-2017
413-115-0050	2-7-2017	Adopt(T)	3-1-2017	413-215-0051(T)	12-1-2016	Repeal	1-1-2017
413-115-0050	5-12-2017	Adopt(T)	6-1-2017	413-215-0056	12-1-2016	Amend	1-1-2017
413-115-0050(T)	5-12-2017	Suspend	6-1-2017	413-215-0056(T)	12-1-2016	Repeal	1-1-2017
413-115-0060	2-7-2017	Adopt(T)	3-1-2017	413-215-0061	12-1-2016	Amend	1-1-2017
413-115-0070	2-7-2017	Adopt(T)	3-1-2017	413-215-0061(T)	12-1-2016	Repeal	1-1-2017
413-115-0080	2-7-2017	Adopt(T)	3-1-2017	413-215-0066	12-1-2016	Amend	1-1-2017
413-115-0090	2-7-2017	Adopt(T)	3-1-2017	413-215-0066(T)	12-1-2016	Repeal	1-1-2017
413-115-0100	2-7-2017	Adopt(T)	3-1-2017	413-215-0071	12-1-2016	Amend	1-1-2017
413-115-0110	2-7-2017	Adopt(T)	3-1-2017	413-215-0071(T)	12-1-2016	Repeal	1-1-2017
413-115-0120	2-7-2017	Adopt(T)	3-1-2017	413-215-0076	12-1-2016	Amend	1-1-2017
413-115-0120	5-12-2017	Adopt(T)	6-1-2017	413-215-0076(T)	12-1-2016	Repeal	1-1-2017
413-115-0120(T)	5-12-2017	Suspend	6-1-2017	413-215-0081	12-1-2016	Amend	1-1-2017
413-115-0130	2-7-2017	Adopt(T)	3-1-2017	413-215-0081	2-7-2017	Amend(T)	3-1-2017
413-115-0140	2-7-2017	Adopt(T)	3-1-2017	413-215-0081(T)	12-1-2016	Repeal	1-1-2017
413-115-0150	2-7-2017	Adopt(T)	3-1-2017	413-215-0086	12-1-2016	Amend	1-1-2017
413-120-0000	2-7-2017	Amend(T)	3-1-2017	413-215-0086(T)	12-1-2016	Repeal	1-1-2017
413-120-0020	2-7-2017	Amend(T)	3-1-2017	413-215-0091	12-1-2016	Amend	1-1-2017
413-120-0021	2-7-2017	Amend(T)	3-1-2017	413-215-0091(T)	12-1-2016	Repeal	1-1-2017
413-120-0025	2-7-2017	Amend(T)	3-1-2017	413-215-0096	12-1-2016	Repeal	1-1-2017
413-120-0057	2-7-2017	Amend(T)	3-1-2017	413-215-0101	12-1-2016	Amend	1-1-2017
413-120-0060	2-7-2017	Amend(T)	3-1-2017	413-215-0101(T)	12-1-2016	Repeal	1-1-2017
413-120-0165	2-7-2017	Amend(T)	3-1-2017	413-215-0106	12-1-2016	Amend	1-1-2017
413-120-0175	2-7-2017	Amend(T)	3-1-2017	413-215-0106(T)	12-1-2016	Repeal	1-1-2017

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413-215-0111(T)	12-1-2016	Repeal	1-1-2017	413-215-0336	12-1-2016	Amend	1-1-2017
413-215-0116	12-1-2016	Amend	1-1-2017	413-215-0336(T)	12-1-2016	Repeal	1-1-2017
413-215-0116(T)	12-1-2016	Repeal	1-1-2017	413-215-0341	12-1-2016	Amend	1-1-2017
413-215-0121	12-1-2016	Amend	1-1-2017	413-215-0341(T)	12-1-2016	Repeal	1-1-2017
413-215-0121(T)	12-1-2016	Repeal	1-1-2017	413-215-0346	12-1-2016	Repeal	1-1-2017
413-215-0126	12-1-2016	Amend	1-1-2017	413-215-0349	12-1-2016	Amend	1-1-2017
413-215-0126(T)	12-1-2016	Repeal	1-1-2017	413-215-0349(T)	12-1-2016	Repeal	1-1-2017
413-215-0131	12-1-2016	Amend	1-1-2017	413-215-0351	12-1-2016	Amend	1-1-2017
413-215-0131(T)	12-1-2016	Repeal	1-1-2017	413-215-0351(T)	12-1-2016	Repeal	1-1-2017
413-215-0201	12-1-2016	Amend	1-1-2017	413-215-0356	12-1-2016	Amend	1-1-2017
413-215-0201(T)	12-1-2016	Repeal	1-1-2017	413-215-0356(T)	12-1-2016	Repeal	1-1-2017
413-215-0206	12-1-2016	Repeal	1-1-2017	413-215-0361	12-1-2016	Amend	1-1-2017
413-215-0211	12-1-2016	Amend	1-1-2017	413-215-0361(T)	12-1-2016	Repeal	1-1-2017
413-215-0211(T)	12-1-2016	Repeal	1-1-2017	413-215-0366	12-1-2016	Amend	1-1-2017
413-215-0216	12-1-2016	Amend	1-1-2017	413-215-0366(T)	12-1-2016	Repeal	1-1-2017
413-215-0216(T)	12-1-2016	Repeal	1-1-2017	413-215-0371	12-1-2016	Amend	1-1-2017
413-215-0218	12-1-2016	Adopt	1-1-2017	413-215-0371(T)	12-1-2016	Repeal	1-1-2017
413-215-0221	12-1-2016	Amend	1-1-2017	413-215-0376	12-1-2016	Amend	1-1-2017
413-215-0221(T)	12-1-2016	Repeal	1-1-2017	413-215-0376(T)	12-1-2016	Repeal	1-1-2017
413-215-0226	12-1-2016	Amend	1-1-2017	413-215-0381	12-1-2016	Amend	1-1-2017
413-215-0226(T)	12-1-2016	Repeal	1-1-2017	413-215-0381(T)	12-1-2016	Repeal	1-1-2017
413-215-0231	12-1-2016	Amend	1-1-2017	413-215-0386	12-1-2016	Amend	1-1-2017
413-215-0231(T)	12-1-2016	Repeal	1-1-2017	413-215-0386(T)	12-1-2016	Repeal	1-1-2017
413-215-0236	12-1-2016	Amend	1-1-2017	413-215-0391	12-1-2016	Amend	1-1-2017
413-215-0236(T)	12-1-2016	Repeal	1-1-2017	413-215-0391(T)	12-1-2016	Repeal	1-1-2017
413-215-0241	12-1-2016	Amend	1-1-2017	413-215-0396	12-1-2016	Amend	1-1-2017
413-215-0241(T)	12-1-2016	Repeal	1-1-2017	413-215-0396(T)	12-1-2016	Repeal	1-1-2017
413-215-0246	12-1-2016	Amend	1-1-2017	413-215-0401	12-1-2016	Amend	1-1-2017
413-215-0246(T)	12-1-2016	Repeal	1-1-2017	413-215-0401(T)	12-1-2016	Repeal	1-1-2017
413-215-0251	12-1-2016	Amend	1-1-2017	413-215-0406	12-1-2016	Repeal	1-1-2017
413-215-0251(T)	12-1-2016	Repeal	1-1-2017	413-215-0411	12-1-2016	Amend	1-1-2017
413-215-0256	12-1-2016	Repeal	1-1-2017	413-215-0411(T)	12-1-2016	Repeal	1-1-2017
413-215-0261	12-1-2016	Amend	1-1-2017	413-215-0416	12-1-2016	Amend	1-1-2017
413-215-0261(T)	12-1-2016	Repeal	1-1-2017	413-215-0416(T)	12-1-2016	Repeal	1-1-2017
413-215-0266	12-1-2016	Amend	1-1-2017	413-215-0421	12-1-2016	Amend	1-1-2017
413-215-0266(T)	12-1-2016	Repeal	1-1-2017	413-215-0421(T)	12-1-2016	Repeal	1-1-2017
413-215-0271	12-1-2016	Amend	1-1-2017	413-215-0426	12-1-2016	Amend	1-1-2017
413-215-0271(T)	12-1-2016	Repeal	1-1-2017	413-215-0426	2-7-2017	Amend(T)	3-1-2017
413-215-0276	12-1-2016	Amend	1-1-2017	413-215-0426(T)	12-1-2016	Repeal	1-1-2017
413-215-0276(T)	12-1-2016	Repeal	1-1-2017	413-215-0431	12-1-2016	Amend	1-1-2017
413-215-0301	12-1-2016	Amend	1-1-2017	413-215-0431	2-7-2017	Amend(T)	3-1-2017
413-215-0301(T)	12-1-2016	Repeal	1-1-2017	413-215-0431(T)	12-1-2016	Repeal	1-1-2017
413-215-0306	12-1-2016	Repeal	1-1-2017	413-215-0436	12-1-2016	Amend	1-1-2017
413-215-0311	12-1-2016	Amend	1-1-2017	413-215-0436(T)	12-1-2016	Repeal	1-1-2017
413-215-0311(T)	12-1-2016	Repeal	1-1-2017	413-215-0441	12-1-2016	Amend	1-1-2017
413-215-0313	12-1-2016	Amend	1-1-2017	413-215-0441	2-7-2017	Amend(T)	3-1-2017
413-215-0313(T)	12-1-2016	Repeal	1-1-2017	413-215-0441(T)	12-1-2016	Repeal	1-1-2017
413-215-0316	12-1-2016	Amend	1-1-2017	413-215-0446	12-1-2016	Amend	1-1-2017
413-215-0316(T)	12-1-2016	Repeal	1-1-2017	413-215-0446(T)	12-1-2016	Repeal	1-1-2017
413-215-0318	12-1-2016	Adopt	1-1-2017	413-215-0451	12-1-2016	Amend	1-1-2017
413-215-0321	12-1-2016	Amend	1-1-2017	413-215-0451(T)	12-1-2016	Repeal	1-1-2017
413-215-0321(T)	12-1-2016	Repeal	1-1-2017	413-215-0456	12-1-2016	Amend	1-1-2017
413-215-0326	12-1-2016	Amend	1-1-2017	413-215-0456(T)	12-1-2016	Repeal	1-1-2017
413-215-0326(T)	12-1-2016	Repeal	1-1-2017	413-215-0461	12-1-2016	Amend	1-1-2017
413-215-0331	12-1-2016	Amend	1-1-2017	413-215-0461(T)	12-1-2016	Repeal	1-1-2017

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413-215-0821	12-1-2016	Amend	1-1-2017	413-215-0996(T)	12-1-2016	Repeal	1-1-2017
413-215-0821(T)	12-1-2016	Repeal	1-1-2017	413-215-1001	12-1-2016	Amend	1-1-2017
413-215-0826	12-1-2016	Amend	1-1-2017	413-215-1001(T)	12-1-2016	Repeal	1-1-2017
413-215-0826(T)	12-1-2016	Repeal	1-1-2017	413-215-1006	12-1-2016	Amend	1-1-2017
413-215-0831	12-1-2016	Amend	1-1-2017	413-215-1006(T)	12-1-2016	Repeal	1-1-2017
413-215-0831(T)	12-1-2016	Repeal	1-1-2017	413-215-1011	12-1-2016	Amend	1-1-2017
413-215-0836	12-1-2016	Amend	1-1-2017	413-215-1011(T)	12-1-2016	Repeal	1-1-2017
413-215-0836(T)	12-1-2016	Repeal	1-1-2017	413-215-1016	12-1-2016	Amend	1-1-2017
413-215-0841	12-1-2016	Amend	1-1-2017	413-215-1016(T)	12-1-2016	Repeal	1-1-2017
413-215-0841(T)	12-1-2016	Repeal	1-1-2017	413-215-1021	12-1-2016	Amend	1-1-2017
413-215-0846	12-1-2016	Amend	1-1-2017	413-215-1021(T)	12-1-2016	Repeal	1-1-2017
413-215-0846(T)	12-1-2016	Repeal	1-1-2017	413-215-1026	12-1-2016	Amend	1-1-2017
413-215-0851	12-1-2016	Amend	1-1-2017	413-215-1026(T)	12-1-2016	Repeal	1-1-2017
413-215-0851(T)	12-1-2016	Repeal	1-1-2017	413-215-1031	12-1-2016	Amend	1-1-2017
413-215-0856	12-1-2016	Amend	1-1-2017	413-215-1031(T)	12-1-2016	Repeal	1-1-2017
413-215-0856(T)	12-1-2016	Repeal	1-1-2017	414-061-0020	12-19-2016	Amend	2-1-2017
413-215-0901	12-1-2016	Amend	1-1-2017	414-061-0040	12-19-2016	Amend	2-1-2017
413-215-0901(T)	12-1-2016	Repeal	1-1-2017	414-061-0050	12-19-2016	Amend	2-1-2017
413-215-0906	12-1-2016	Repeal	1-1-2017	414-061-0080	1-26-2017	Amend(T)	3-1-2017
413-215-0911	12-1-2016	Repeal	1-1-2017	414-061-0100	12-19-2016	Amend	2-1-2017
413-215-0916	12-1-2016	Amend	1-1-2017	414-061-0110	12-19-2016	Amend	2-1-2017
413-215-0916(T)	12-1-2016	Repeal	1-1-2017	414-061-0120	12-19-2016	Amend	2-1-2017
413-215-0918	12-1-2016	Amend	1-1-2017	414-180-0005	1-31-2017	Amend	3-1-2017
413-215-0921	12-1-2016	Amend	1-1-2017	414-180-0010	1-31-2017	Amend	3-1-2017
413-215-0921(T)	12-1-2016	Repeal	1-1-2017	414-180-0015	1-31-2017	Amend	3-1-2017
413-215-0926	12-1-2016	Amend	1-1-2017	414-180-0015	3-27-2017	Amend	5-1-2017
413-215-0926(T)	12-1-2016	Repeal	1-1-2017	414-180-0020	1-31-2017	Amend	3-1-2017
413-215-0931	12-1-2016	Amend	1-1-2017	414-180-0020	3-27-2017	Amend	5-1-2017
413-215-0931(T)	12-1-2016	Repeal	1-1-2017	414-180-0025	1-31-2017	Amend	3-1-2017
413-215-0936	12-1-2016	Amend	1-1-2017	414-180-0025	3-27-2017	Amend	5-1-2017
413-215-0936(T)	12-1-2016	Repeal	1-1-2017	414-180-0025	6-27-2017	Amend	8-1-2017
413-215-0941	12-1-2016	Amend	1-1-2017	414-180-0055	1-31-2017	Amend	3-1-2017
413-215-0941(T)	12-1-2016	Repeal	1-1-2017	414-205-0040	3-27-2017	Amend	5-1-2017
413-215-0946	12-1-2016	Amend	1-1-2017	414-205-0055	3-27-2017	Amend	5-1-2017
413-215-0946(T)	12-1-2016	Repeal	1-1-2017	414-205-0100	3-27-2017	Amend	5-1-2017
413-215-0951	12-1-2016	Amend	1-1-2017	414-205-0110	3-27-2017	Amend	5-1-2017
413-215-0951(T)	12-1-2016	Repeal	1-1-2017	414-205-0110	6-27-2017	Amend	8-1-2017
413-215-0956	12-1-2016	Amend	1-1-2017	414-205-0120	3-27-2017	Amend	5-1-2017
413-215-0956(T)	12-1-2016	Repeal	1-1-2017	414-300-0040	3-27-2017	Amend	5-1-2017
413-215-0961	12-1-2016	Amend	1-1-2017	414-300-0120	3-27-2017	Amend	5-1-2017
413-215-0961(T)	12-1-2016	Repeal	1-1-2017	414-300-0170	3-27-2017	Amend	5-1-2017
413-215-0966	12-1-2016	Amend	1-1-2017	414-300-0180	3-27-2017	Amend	5-1-2017
413-215-0966(T)	12-1-2016	Repeal	1-1-2017	414-300-0220	3-27-2017	Amend	5-1-2017
413-215-0971	12-1-2016	Amend	1-1-2017	414-300-0295	3-27-2017	Amend	5-1-2017
413-215-0971(T)	12-1-2016	Repeal	1-1-2017	414-300-0350	3-27-2017	Amend	5-1-2017
413-215-0976	12-1-2016	Amend	1-1-2017	414-300-0350	6-27-2017	Amend	8-1-2017
413-215-0976(T)	12-1-2016	Repeal	1-1-2017	414-350-0050	3-27-2017	Amend	5-1-2017
413-215-0981	12-1-2016	Amend	1-1-2017	414-350-0060	3-27-2017	Amend	5-1-2017
413-215-0981(T)	12-1-2016	Repeal	1-1-2017	414-350-0100	3-27-2017	Amend	5-1-2017
413-215-0986	12-1-2016	Amend	1-1-2017	414-350-0115	3-27-2017	Amend	5-1-2017
413-215-0986(T)	12-1-2016	Repeal	1-1-2017	414-350-0160	3-27-2017	Amend	5-1-2017
413-215-0991	12-1-2016	Amend	1-1-2017	414-350-0170	3-27-2017	Amend	5-1-2017
413-215-0991(T)	12-1-2016	Repeal	1-1-2017	414-350-0180	3-27-2017	Amend	5-1-2017
413-215-0992	12-1-2016	Amend	1-1-2017	414-350-0220	3-27-2017	Amend	5-1-2017
413-215-0992(T)	12-1-2016	Repeal	1-1-2017	414-350-0250	3-27-2017	Amend	5-1-2017

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415-012-0000	12-14-2016	Amend	1-1-2017	436-009-0040	1-1-2017	Amend(T)	2-1-2017
415-012-0010	12-14-2016	Amend	1-1-2017	436-009-0040	4-1-2017	Amend	4-1-2017
415-012-0010	2-2-2017	Amend(T)	3-1-2017	436-009-0060	4-1-2017	Amend	4-1-2017
415-012-0010	7-1-2017	Amend	8-1-2017	436-009-0110	4-1-2017	Amend	4-1-2017
415-012-0010(T)	7-1-2017	Repeal	8-1-2017	436-010-0001	4-11-2017	Amend(T)	5-1-2017
415-012-0020	12-14-2016	Amend	1-1-2017	436-010-0210	4-1-2017	Amend	4-1-2017
415-012-0020	2-2-2017	Amend(T)	3-1-2017	436-010-0280	4-11-2017	Amend(T)	5-1-2017
415-012-0020	7-1-2017	Amend	8-1-2017	436-030-0003	4-11-2017	Amend(T)	5-1-2017
415-012-0020(T)	7-1-2017	Repeal	8-1-2017	436-030-0020	4-11-2017	Amend(T)	5-1-2017
415-012-0030	12-14-2016	Amend	1-1-2017	436-030-0035	4-11-2017	Amend(T)	5-1-2017
415-012-0030	2-2-2017	Amend(T)	3-1-2017	436-035-0003	4-11-2017	Amend(T)	5-1-2017
415-012-0030	7-1-2017	Amend	8-1-2017	436-035-0006	4-11-2017	Amend(T)	5-1-2017
415-012-0030(T)	7-1-2017	Repeal	8-1-2017	436-035-0013	4-11-2017	Amend(T)	5-1-2017
415-012-0035	12-14-2016	Amend	1-1-2017	436-050-0001	1-1-2017	Repeal	1-1-2017
415-012-0035	2-2-2017	Amend(T)	3-1-2017	436-050-0002	1-1-2017	Repeal	1-1-2017
415-012-0035	7-1-2017	Amend	8-1-2017	436-050-0003	1-1-2017	Amend	1-1-2017
415-012-0035(T)	7-1-2017	Repeal	8-1-2017	436-050-0005	1-1-2017	Amend	1-1-2017
415-012-0040	12-14-2016	Amend	1-1-2017	436-050-0006	1-1-2017	Repeal	1-1-2017
415-012-0050	12-14-2016	Amend	1-1-2017	436-050-0008	1-1-2017	Amend	1-1-2017
415-012-0055	12-14-2016	Amend	1-1-2017	436-050-0015	1-1-2017	Amend	1-1-2017
415-012-0060	12-14-2016	Amend	1-1-2017	436-050-0025	1-1-2017	Amend	1-1-2017
415-012-0060	2-2-2017	Amend(T)	3-1-2017	436-050-0040	1-1-2017	Amend	1-1-2017
415-012-0060	7-1-2017	Amend	8-1-2017	436-050-0045	1-1-2017	Amend	1-1-2017
415-012-0060(T)	7-1-2017	Repeal	8-1-2017	436-050-0050	1-1-2017	Amend	1-1-2017
415-012-0065	12-14-2016	Amend	1-1-2017	436-050-0055	1-1-2017	Amend	1-1-2017
415-012-0067	12-14-2016	Amend	1-1-2017	436-050-0060	1-1-2017	Repeal	1-1-2017
415-012-0075	2-2-2017	Adopt(T)	3-1-2017	436-050-0110	1-1-2017	Amend	1-1-2017
415-012-0075	7-1-2017	Adopt	8-1-2017	436-050-0120	1-1-2017	Amend	1-1-2017
415-012-0075(T)	7-1-2017	Repeal	8-1-2017	436-050-0150	1-1-2017	Amend	1-1-2017
415-012-0090	12-14-2016	Amend	1-1-2017	436-050-0160	1-1-2017	Amend	1-1-2017
415-020-0000	12-14-2016	Amend	1-1-2017	436-050-0165	1-1-2017	Amend	1-1-2017
415-020-0005	12-14-2016	Amend	1-1-2017	436-050-0170	1-1-2017	Amend	1-1-2017
415-020-0010	12-14-2016	Amend	1-1-2017	436-050-0175	1-1-2017	Amend	1-1-2017
415-020-0090	12-14-2016	Amend	1-1-2017	436-050-0180	1-1-2017	Amend	1-1-2017
415-055-0000	12-5-2016	Amend	1-1-2017	436-050-0180	1-1-2017	Amend	2-1-2017
415-055-0010	12-5-2016	Amend	1-1-2017	436-050-0185	1-1-2017	Amend	1-1-2017
415-055-0035	12-5-2016	Amend	1-1-2017	436-050-0190	1-1-2017	Amend	1-1-2017
415-060-0010	12-14-2016	Repeal	1-1-2017	436-050-0195	1-1-2017	Amend	1-1-2017
415-060-0020	12-14-2016	Repeal	1-1-2017	436-050-0200	1-1-2017	Amend	1-1-2017
415-060-0030	12-14-2016	Repeal	1-1-2017	436-050-0205	1-1-2017	Amend	1-1-2017
415-060-0040	12-14-2016	Repeal	1-1-2017	436-050-0210	1-1-2017	Amend	1-1-2017
415-060-0050	12-14-2016	Repeal	1-1-2017	436-050-0220	1-1-2017	Amend	1-1-2017
416-070-0010	1-31-2017	Amend	3-1-2017	436-050-0230	1-1-2017	Amend	1-1-2017
416-070-0020	1-31-2017	Amend	3-1-2017	436-050-0260	1-1-2017	Amend	1-1-2017
416-070-0040	1-31-2017	Amend	3-1-2017	436-050-0270	1-1-2017	Amend	1-1-2017
416-070-0050	1-31-2017	Amend	3-1-2017	436-050-0280	1-1-2017	Amend	1-1-2017
416-070-0060	1-31-2017	Amend	3-1-2017	436-050-0290	1-1-2017	Amend	1-1-2017
416-335-0090	12-8-2016	Amend	1-1-2017	436-050-0300	1-1-2017	Amend	1-1-2017
436-009-0004	1-1-2017	Amend(T)	2-1-2017	436-050-0340	1-1-2017	Amend	1-1-2017
436-009-0004	4-1-2017	Amend	4-1-2017	436-050-0400	1-1-2017	Amend	1-1-2017
436-009-0010	1-1-2017	Amend(T)	2-1-2017	436-050-0410	1-1-2017	Amend	1-1-2017
436-009-0010	4-1-2017	Amend	4-1-2017	436-050-0420	1-1-2017	Amend	1-1-2017
436-009-0020	4-1-2017	Amend	4-1-2017	436-050-0440	1-1-2017	Amend	1-1-2017
436-009-0023	4-1-2017	Amend	4-1-2017	436-050-0450	1-1-2017	Amend	1-1-2017
436-009-0025	4-1-2017	Amend	4-1-2017	436-050-0455	1-1-2017	Amend	1-1-2017

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436-050-0470	1-1-2017	Amend	1-1-2017	436-110-0001	1-1-2017	Repeal	1-1-2017
436-050-0480	1-1-2017	Amend	1-1-2017	436-110-0002	1-1-2017	Repeal	1-1-2017
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436-060-0002	1-1-2017	Repeal	1-1-2017	436-110-0005	1-1-2017	Amend	1-1-2017
436-060-0003	1-1-2017	Amend	1-1-2017	436-110-0006	1-1-2017	Amend	1-1-2017
436-060-0005	1-1-2017	Amend	1-1-2017	436-110-0007	1-1-2017	Amend	1-1-2017
436-060-0006	1-1-2017	Repeal	1-1-2017	436-110-0150	1-1-2017	Amend	1-1-2017
436-060-0008	1-1-2017	Amend	1-1-2017	436-110-0240	1-1-2017	Amend	1-1-2017
436-060-0009	1-1-2017	Amend	1-1-2017	436-110-0290	1-1-2017	Amend	1-1-2017
436-060-0010	1-1-2017	Amend	1-1-2017	436-110-0310	1-1-2017	Amend	1-1-2017
436-060-0011	1-1-2017	Adopt	1-1-2017	436-110-0320	1-1-2017	Amend	1-1-2017
436-060-0015	1-1-2017	Amend	1-1-2017	436-110-0325	1-1-2017	Amend	1-1-2017
436-060-0017	1-1-2017	Amend	1-1-2017	436-110-0330	1-1-2017	Amend	1-1-2017
436-060-0018	1-1-2017	Amend	1-1-2017	436-110-0335	1-1-2017	Amend	1-1-2017
436-060-0019	1-1-2017	Amend	1-1-2017	436-110-0336	1-1-2017	Amend	1-1-2017
436-060-0020	1-1-2017	Amend	1-1-2017	436-110-0337	1-1-2017	Amend	1-1-2017
436-060-0025	1-1-2017	Amend	1-1-2017	436-110-0345	1-1-2017	Amend	1-1-2017
436-060-0030	1-1-2017	Amend	1-1-2017	436-110-0346	1-1-2017	Amend	1-1-2017
436-060-0035	1-1-2017	Amend	1-1-2017	436-110-0347	1-1-2017	Amend	1-1-2017
436-060-0040	1-1-2017	Amend	1-1-2017	436-110-0350	1-1-2017	Amend	1-1-2017
436-060-0045	1-1-2017	Amend	1-1-2017	436-110-0351	1-1-2017	Amend	1-1-2017
436-060-0055	1-1-2017	Amend	1-1-2017	436-110-0352	1-1-2017	Amend	1-1-2017
436-060-0060	1-1-2017	Amend	1-1-2017	436-110-0850	1-1-2017	Amend	1-1-2017
436-060-0095	1-1-2017	Amend	1-1-2017	436-110-0900	1-1-2017	Amend	1-1-2017
436-060-0105	1-1-2017	Amend	1-1-2017	436-120-0001	1-1-2017	Repeal	1-1-2017
436-060-0135	1-1-2017	Amend	1-1-2017	436-120-0002	1-1-2017	Repeal	1-1-2017
436-060-0137	1-1-2017	Amend	1-1-2017	436-120-0003	1-1-2017	Amend	1-1-2017
436-060-0140	1-1-2017	Amend	1-1-2017	436-120-0005	1-1-2017	Amend	1-1-2017
436-060-0147	1-1-2017	Amend	1-1-2017	436-120-0006	1-1-2017	Repeal	1-1-2017
436-060-0150	1-1-2017	Amend	1-1-2017	436-120-0007	1-1-2017	Am. & Ren.	1-1-2017
436-060-0153	1-1-2017	Amend	1-1-2017	436-120-0008	1-1-2017	Amend	1-1-2017
436-060-0155	1-1-2017	Amend	1-1-2017	436-120-0012	1-1-2017	Amend	1-1-2017
436-060-0160	1-1-2017	Amend	1-1-2017	436-120-0014	1-1-2017	Repeal	1-1-2017
436-060-0170	1-1-2017	Amend	1-1-2017	436-120-0016	1-1-2017	Repeal	1-1-2017
436-060-0180	1-1-2017	Amend	1-1-2017	436-120-0017	1-1-2017	Repeal	1-1-2017
436-060-0190	1-1-2017	Amend	1-1-2017	436-120-0018	1-1-2017	Repeal	1-1-2017
436-060-0195	1-1-2017	Amend	1-1-2017	436-120-0115	1-1-2017	Amend	1-1-2017
436-060-0200	1-1-2017	Amend	1-1-2017	436-120-0125	1-1-2017	Repeal	1-1-2017
436-060-0400	1-1-2017	Amend	1-1-2017	436-120-0135	1-1-2017	Repeal	1-1-2017
436-060-0500	1-1-2017	Amend	1-1-2017	436-120-0145	1-1-2017	Amend	1-1-2017
436-060-0510	1-1-2017	Amend	1-1-2017	436-120-0155	1-1-2017	Am. & Ren.	1-1-2017
436-105-0001	1-1-2017	Repeal	1-1-2017	436-120-0165	1-1-2017	Amend	1-1-2017
436-105-0002	1-1-2017	Repeal	1-1-2017	436-120-0175	1-1-2017	Amend	1-1-2017
436-105-0003	1-1-2017	Amend	1-1-2017	436-120-0185	1-1-2017	Amend	1-1-2017
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436-105-0008	1-1-2017	Amend	1-1-2017	436-120-0410	1-1-2017	Amend	1-1-2017
436-105-0500	1-1-2017	Amend	1-1-2017	436-120-0430	1-1-2017	Am. & Ren.	1-1-2017
436-105-0510	1-1-2017	Amend	1-1-2017	436-120-0443	1-1-2017	Amend	1-1-2017
436-105-0511	1-1-2017	Amend	1-1-2017	436-120-0445	1-1-2017	Amend	1-1-2017
436-105-0512	1-1-2017	Amend	1-1-2017	436-120-0448	1-1-2017	Am. & Ren.	1-1-2017
436-105-0520	1-1-2017	Amend	1-1-2017	436-120-0449	1-1-2017	Repeal	1-1-2017
436-105-0530	1-1-2017	Amend	1-1-2017	436-120-0451	1-1-2017	Am. & Ren.	1-1-2017
436-105-0540	1-1-2017	Amend	1-1-2017	436-120-0455	1-1-2017	Am. & Ren.	1-1-2017
436-105-0550	1-1-2017	Amend	1-1-2017	436-120-0500	1-1-2017	Amend	1-1-2017

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436-120-0530	1-1-2017	Amend	1-1-2017	437-002-2040	3-12-2018	Adopt	8-1-2017
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436-120-0710	1-1-2017	Amend	1-1-2017	437-002-2306	11-1-2017	Amend	7-1-2017
436-120-0720	1-1-2017	Amend	1-1-2017	437-002-2307	11-1-2017	Amend	7-1-2017
436-120-0755	1-1-2017	Amend	1-1-2017	437-003-1000	3-12-2018	Amend	8-1-2017
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436-120-0810	1-1-2017	Amend	1-1-2017	437-004-6001	1-1-2018	Adopt	3-1-2017
436-120-0820	1-1-2017	Amend	1-1-2017	437-004-6401	1-1-2018	Adopt	3-1-2017
436-120-0830	1-1-2017	Repeal	1-1-2017	437-004-6501	1-1-2018	Adopt	3-1-2017
436-120-0840	1-1-2017	Amend	1-1-2017	437-004-6502	1-1-2018	Adopt	3-1-2017
436-120-0900	1-1-2017	Amend	1-1-2017	437-004-6508	1-1-2018	Adopt	3-1-2017
436-120-0915	1-1-2017	Amend	1-1-2017	437-004-6509	1-1-2018	Adopt	3-1-2017
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437-002-0020	11-1-2017	Amend	7-1-2017	440-007-0200	1-6-2017	Repeal	2-1-2017
437-002-0022	11-1-2017	Amend	7-1-2017	440-007-0210	1-6-2017	Repeal	2-1-2017
437-002-0023	11-1-2017	Repeal	7-1-2017	440-007-0230	1-6-2017	Repeal	2-1-2017
437-002-0026	11-1-2017	Amend	7-1-2017	440-007-0240	1-6-2017	Repeal	2-1-2017
437-002-0027	11-1-2017	Repeal	7-1-2017	440-007-0250	1-6-2017	Repeal	2-1-2017
437-002-0028	11-1-2017	Repeal	7-1-2017	440-007-0260	1-6-2017	Repeal	2-1-2017
437-002-0030	11-1-2017	Repeal	7-1-2017	440-007-0270	1-6-2017	Repeal	2-1-2017
437-002-0031	11-1-2017	Repeal	7-1-2017	440-007-0272	1-6-2017	Repeal	2-1-2017
437-002-0032	11-1-2017	Amend	7-1-2017	440-007-0275	1-6-2017	Repeal	2-1-2017
437-002-0033	11-1-2017	Amend	7-1-2017	440-007-0280	1-6-2017	Repeal	2-1-2017
437-002-0060	11-1-2017	Amend	7-1-2017	440-007-0285	1-6-2017	Repeal	2-1-2017
437-002-0072	11-1-2017	Repeal	7-1-2017	440-007-0290	1-6-2017	Repeal	2-1-2017
437-002-0074	11-1-2017	Repeal	7-1-2017	440-007-0300	1-6-2017	Repeal	2-1-2017
437-002-0076	11-1-2017	Repeal	7-1-2017	441-025-0005	2-1-2017	Amend	3-1-2017
437-002-0120	11-1-2017	Amend	7-1-2017	441-025-0010	2-1-2017	Repeal	3-1-2017
437-002-0134	11-1-2017	Amend	7-1-2017	441-025-0020	2-1-2017	Amend	3-1-2017
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437-002-0220	11-1-2017	Amend	7-1-2017	441-035-0005	2-1-2017	Amend	3-1-2017
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437-002-0310	11-1-2017	Amend	7-1-2017	441-035-0045	2-1-2017	Amend	3-1-2017
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437-002-0312	11-1-2017	Amend	7-1-2017	441-035-0090	7-12-2017	Amend	8-1-2017
437-002-0314	11-1-2017	Amend	7-1-2017	441-035-0120	7-12-2017	Amend	8-1-2017
437-002-0382	3-12-2018	Amend	8-1-2017	441-035-0130	7-12-2017	Amend	8-1-2017
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437-002-2022	11-1-2017	Adopt	7-1-2017	441-035-0150	7-12-2017	Amend	8-1-2017
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437-002-2026	3-12-2018	Adopt	8-1-2017	441-049-1011	2-1-2017	Amend	3-1-2017
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437-002-2029	3-12-2018	Adopt	8-1-2017	441-175-0002	2-1-2017	Amend	3-1-2017
437-002-2030	3-12-2018	Adopt	8-1-2017	441-175-0020	2-1-2017	Amend	3-1-2017
437-002-2031	11-1-2017	Adopt	7-1-2017	441-175-0030	2-1-2017	Amend	3-1-2017
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437-002-2033	3-12-2018	Adopt	8-1-2017	441-505-3030	2-1-2017	Amend	3-1-2017
437-002-2034	3-12-2018	Adopt	8-1-2017	441-505-3090	2-1-2017	Amend	3-1-2017
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441-745-0330	4-14-2017	Amend	5-1-2017	461-135-0493	7-1-2017	Amend	7-1-2017
441-810-0020	4-14-2017	Amend	5-1-2017	461-135-0520	1-1-2017	Amend	2-1-2017
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441-810-0050	4-14-2017	Amend	5-1-2017	461-135-0730	1-1-2017	Amend	1-1-2017
441-810-0080	4-14-2017	Amend	5-1-2017	461-135-0780	1-1-2017	Amend	1-1-2017
441-860-0020	4-1-2017	Amend	3-1-2017	461-135-0820	1-1-2017	Amend	1-1-2017
441-860-0025	4-1-2017	Amend	3-1-2017	461-135-0832	2-13-2017	Amend(T)	3-1-2017
441-860-0050	4-1-2017	Amend	3-1-2017	461-135-0832	7-1-2017	Amend	7-1-2017
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441-910-0010	4-14-2017	Amend	5-1-2017	461-135-0835	7-1-2017	Amend	7-1-2017
441-910-0030	4-14-2017	Amend	5-1-2017	461-135-0835(T)	7-1-2017	Repeal	7-1-2017
441-910-0050	4-14-2017	Amend	5-1-2017	461-135-0900	4-1-2017	Amend	5-1-2017
441-910-0055	4-14-2017	Amend	5-1-2017	461-135-0915	4-1-2017	Adopt	5-1-2017
459-005-0525	1-27-2017	Amend	3-1-2017	461-135-0930	4-1-2017	Amend	5-1-2017
459-005-0545	1-27-2017	Amend	3-1-2017	461-135-0950	7-1-2017	Amend	8-1-2017
459-009-0400	5-26-2017	Adopt	7-1-2017	461-140-0040	4-1-2017	Amend	5-1-2017
459-011-0050	5-26-2017	Amend	7-1-2017	461-140-0210	4-1-2017	Amend	5-1-2017
459-017-0060	1-1-2017	Amend	1-1-2017	461-140-0296	1-1-2017	Amend	1-1-2017
459-080-0500	1-27-2017	Amend	3-1-2017	461-140-0296(T)	1-1-2017	Repeal	1-1-2017
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461-110-0210	4-1-2017	Amend	5-1-2017	461-145-0005	4-1-2017	Amend	5-1-2017
461-110-0370	1-1-2017	Amend	2-1-2017	461-145-0035	1-1-2017	Adopt	1-1-2017
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461-110-0750	4-1-2017	Amend	5-1-2017	461-145-0040	7-1-2017	Amend	7-1-2017
461-115-0020	1-1-2017	Amend	2-1-2017	461-145-0050	7-1-2017	Amend	7-1-2017
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461-115-0190	4-1-2017	Amend	5-1-2017	461-145-0110	7-1-2017	Amend	7-1-2017
461-115-0230	4-1-2017	Amend	5-1-2017	461-145-0140	1-1-2017	Amend	1-1-2017
461-115-0610	4-1-2017	Amend	5-1-2017	461-145-0145	7-1-2017	Amend	7-1-2017
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461-120-0330	4-1-2017	Amend	5-1-2017	461-145-0210	7-1-2017	Amend	7-1-2017
461-120-0345	1-1-2017	Amend	1-1-2017	461-145-0220	1-1-2017	Amend	1-1-2017
461-120-0345	7-1-2017	Amend	7-1-2017	461-145-0240	7-1-2017	Amend	7-1-2017
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461-130-0315	1-1-2017	Amend	2-1-2017	461-145-0435	7-1-2017	Amend	7-1-2017
461-130-0315(T)	1-1-2017	Repeal	2-1-2017	461-145-0440	7-1-2017	Amend	7-1-2017
461-130-0327	4-1-2017	Amend	5-1-2017	461-145-0460	7-1-2017	Amend	7-1-2017
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461-135-0075	7-1-2017	Amend	8-1-2017	461-145-0520	7-1-2017	Amend	7-1-2017
461-135-0075(T)	7-1-2017	Suspend	8-1-2017	461-145-0530	4-1-2017	Amend	5-1-2017
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461-155-0150	1-1-2017	Amend	2-1-2017	462-200-0665	1-23-2017	Adopt	3-1-2017
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461-155-0180	7-1-2017	Amend	7-1-2017	471-007-0210	4-5-2017	Amend	5-1-2017
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461-155-0225	4-1-2017	Amend	5-1-2017	471-007-0230	4-5-2017	Repeal	5-1-2017
461-155-0250	1-1-2017	Amend	1-1-2017	471-007-0240	4-5-2017	Repeal	5-1-2017
461-155-0250	4-1-2017	Amend(T)	5-1-2017	471-007-0250	4-5-2017	Repeal	5-1-2017
461-155-0270	1-1-2017	Amend	1-1-2017	471-007-0260	4-5-2017	Repeal	5-1-2017
461-155-0290	3-1-2017	Amend	4-1-2017	471-007-0270	4-5-2017	Repeal	5-1-2017
461-155-0291	3-1-2017	Amend	4-1-2017	471-007-0280	4-5-2017	Repeal	5-1-2017
461-155-0295	3-1-2017	Amend	4-1-2017	471-007-0285	4-5-2017	Amend	5-1-2017
461-155-0300	1-1-2017	Amend	1-1-2017	471-007-0290	4-5-2017	Repeal	5-1-2017
461-155-0300	4-1-2017	Suspend	5-1-2017	471-007-0300	4-5-2017	Amend	5-1-2017
461-155-0551	7-1-2017	Repeal	7-1-2017	471-007-0310	4-5-2017	Amend	5-1-2017
461-155-0580	7-1-2017	Amend	7-1-2017	471-030-0075	2-27-2017	Amend(T)	4-1-2017
461-155-0600	7-1-2017	Amend	7-1-2017	471-031-0017	2-1-2017	Amend	3-1-2017
461-155-0620	7-1-2017	Amend	7-1-2017	573-050-0015	12-6-2016	Amend	1-1-2017
461-155-0630	7-1-2017	Amend	7-1-2017	573-050-0016	12-6-2016	Amend	1-1-2017
461-155-0640	7-1-2017	Repeal	7-1-2017	573-050-0025	12-6-2016	Amend	1-1-2017
461-155-0660	4-1-2017	Amend(T)	5-1-2017	573-050-0040	12-6-2016	Amend	1-1-2017
461-155-0670	4-1-2017	Amend(T)	5-1-2017	573-050-0045	12-6-2016	Amend	1-1-2017
461-155-0670	7-1-2017	Amend	7-1-2017	581-002-0090	7-5-2017	Amend	8-1-2017
461-155-0670(T)	7-1-2017	Repeal	7-1-2017	581-002-1800	2-1-2017	Adopt	3-1-2017
461-155-0688	7-1-2017	Amend	7-1-2017	581-002-1805	2-1-2017	Adopt	3-1-2017
461-160-0015	4-1-2017	Amend	5-1-2017	581-002-1810	2-1-2017	Adopt	3-1-2017
461-160-0100	4-1-2017	Amend	5-1-2017	581-013-0005	3-1-2017	Adopt	4-1-2017
461-160-0160	4-1-2017	Amend	5-1-2017	581-013-0010	3-1-2017	Adopt	4-1-2017
461-160-0430	2-1-2017	Amend(T)	3-1-2017	581-013-0015	3-1-2017	Adopt	4-1-2017
461-160-0430	7-1-2017	Amend	7-1-2017	581-013-0020	3-1-2017	Adopt	4-1-2017
461-160-0430(T)	7-1-2017	Repeal	7-1-2017	581-013-0025	3-1-2017	Adopt	4-1-2017
461-160-0551	7-1-2017	Amend	7-1-2017	581-013-0030	3-1-2017	Adopt	4-1-2017
461-160-0580	1-1-2017	Amend	1-1-2017	581-013-0035	3-1-2017	Adopt	4-1-2017
461-160-0590	7-1-2017	Amend	7-1-2017	581-015-2150	7-5-2017	Amend	8-1-2017
461-160-0620	1-1-2017	Amend	1-1-2017	581-020-0600	12-20-2016	Amend	2-1-2017
461-160-0620	7-1-2017	Amend	7-1-2017	581-020-0603	12-20-2016	Amend	2-1-2017
461-160-0780	7-1-2017	Amend	7-1-2017	581-020-0606	12-20-2016	Amend	2-1-2017
461-165-0010	1-1-2017	Amend	2-1-2017	581-020-0609	12-20-2016	Amend	2-1-2017
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461-165-0030	7-1-2017	Amend	7-1-2017	581-020-0613	12-20-2016	Adopt	2-1-2017
461-165-0160	3-24-2017	Amend(T)	5-1-2017	581-020-0615	12-20-2016	Amend	2-1-2017
461-165-0180	1-1-2017	Amend	2-1-2017	581-020-0621	12-20-2016	Adopt	2-1-2017
461-165-0180	6-1-2017	Amend(T)	7-1-2017	581-020-0624	12-20-2016	Adopt	2-1-2017
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461-170-0011	3-10-2017	Amend(T)	4-1-2017	581-021-0041	5-4-2017	Amend	6-1-2017
461-170-0101	3-10-2017	Amend(T)	4-1-2017	581-021-0570	7-1-2017	Amend	8-1-2017
461-170-0120	7-1-2017	Repeal	7-1-2017	581-022-0405	7-5-2017	Renumber	8-1-2017
461-175-0220	4-1-2017	Amend	5-1-2017	581-022-0413	7-5-2017	Renumber	8-1-2017
461-180-0050	1-1-2017	Amend	1-1-2017	581-022-0416	7-5-2017	Renumber	8-1-2017
461-180-0090	7-1-2017	Amend	8-1-2017	581-022-0421	7-5-2017	Renumber	8-1-2017

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581-022-0610	7-5-2017	Renumber	8-1-2017	581-022-1920	2-1-2017	Amend(T)	3-1-2017
581-022-0612	7-5-2017	Renumber	8-1-2017	581-022-1940	7-1-2017	Am. & Ren.	8-1-2017
581-022-0615	7-5-2017	Renumber	8-1-2017	581-022-1941	7-1-2017	Am. & Ren.	8-1-2017
581-022-0617	7-5-2017	Renumber	8-1-2017	581-022-1941	7-5-2017	Renumber	8-1-2017
581-022-0705	7-5-2017	Renumber	8-1-2017	581-022-2440	2-1-2017	Adopt	3-1-2017
581-022-0711	7-5-2017	Renumber	8-1-2017	581-027-0005	3-1-2017	Amend	4-1-2017
581-022-0807	7-5-2017	Renumber	8-1-2017	581-027-0010	3-1-2017	Amend	4-1-2017
581-022-1020	7-5-2017	Repeal	8-1-2017	581-027-0010	6-1-2017	Amend	7-1-2017
581-022-1030	7-5-2017	Repeal	8-1-2017	581-027-0015	3-1-2017	Amend	4-1-2017
581-022-1060	7-5-2017	Renumber	8-1-2017	581-027-0015	6-1-2017	Amend	7-1-2017
581-022-1130	7-5-2017	Renumber	8-1-2017	581-027-0020	3-1-2017	Amend	4-1-2017
581-022-1131	7-5-2017	Renumber	8-1-2017	581-027-0020	6-1-2017	Amend	7-1-2017
581-022-1133	7-5-2017	Renumber	8-1-2017	581-027-0023	6-1-2017	Adopt	7-1-2017
581-022-1134	7-5-2017	Renumber	8-1-2017	581-027-0025	3-1-2017	Amend	4-1-2017
581-022-1135	7-5-2017	Renumber	8-1-2017	581-027-0025	6-1-2017	Amend	7-1-2017
581-022-1140	7-5-2017	Renumber	8-1-2017	581-027-0030	3-1-2017	Amend	4-1-2017
581-022-1210	5-2-2017	Amend	6-1-2017	581-027-0030	6-1-2017	Amend	7-1-2017
581-022-1210	7-5-2017	Renumber	8-1-2017	581-027-0035	3-1-2017	Amend	4-1-2017
581-022-1215	7-5-2017	Repeal	8-1-2017	581-027-0035	6-1-2017	Amend	7-1-2017
581-022-1310	7-5-2017	Renumber	8-1-2017	581-027-0040	3-1-2017	Amend	4-1-2017
581-022-1320	7-5-2017	Renumber	8-1-2017	581-027-0040	6-1-2017	Amend	7-1-2017
581-022-1330	7-5-2017	Renumber	8-1-2017	581-027-0045	3-1-2017	Amend	4-1-2017
581-022-1340	7-5-2017	Renumber	8-1-2017	581-027-0045	6-1-2017	Amend	7-1-2017
581-022-1350	7-5-2017	Renumber	8-1-2017	581-027-0050	3-1-2017	Amend	4-1-2017
581-022-1362	7-5-2017	Repeal	8-1-2017	581-027-0050	6-1-2017	Amend	7-1-2017
581-022-1363	7-5-2017	Repeal	8-1-2017	581-051-0120	6-1-2017	Adopt	7-1-2017
581-022-1364	7-5-2017	Repeal	8-1-2017	581-051-0125	6-1-2017	Adopt	7-1-2017
581-022-1365	7-5-2017	Repeal	8-1-2017	584-010-0004	2-1-2017	Adopt	3-1-2017
581-022-1366	7-5-2017	Repeal	8-1-2017	584-010-0050	7-1-2017	Amend	8-1-2017
581-022-1367	7-5-2017	Repeal	8-1-2017	584-010-0125	2-1-2017	Adopt	3-1-2017
581-022-1368	7-5-2017	Repeal	8-1-2017	584-017-1030	4-12-2017	Repeal	5-1-2017
581-022-1370	7-5-2017	Repeal	8-1-2017	584-017-1037	7-1-2017	Adopt	8-1-2017
581-022-1371	7-5-2017	Repeal	8-1-2017	584-017-1100	7-1-2017	Amend	8-1-2017
581-022-1372	7-5-2017	Repeal	8-1-2017	584-020-0005	7-1-2017	Amend	8-1-2017
581-022-1420	7-5-2017	Renumber	8-1-2017	584-020-0040	7-1-2017	Amend	8-1-2017
581-022-1430	7-5-2017	Renumber	8-1-2017	584-020-0060	2-1-2017	Am. & Ren.	3-1-2017
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581-022-1510	7-5-2017	Renumber	8-1-2017	584-042-0012	7-1-2017	Repeal	8-1-2017
581-022-1520	7-5-2017	Renumber	8-1-2017	584-042-0021	7-1-2017	Repeal	8-1-2017
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581-022-1620	7-5-2017	Renumber	8-1-2017	584-042-0036	7-1-2017	Repeal	8-1-2017
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581-022-1630	7-5-2017	Renumber	8-1-2017	584-042-0051	7-1-2017	Repeal	8-1-2017
581-022-1640	7-5-2017	Renumber	8-1-2017	584-042-0060	7-1-2017	Repeal	8-1-2017
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581-022-1660	7-5-2017	Renumber	8-1-2017	584-042-0081	7-1-2017	Repeal	8-1-2017
581-022-1661	7-5-2017	Renumber	8-1-2017	584-042-0090	7-1-2017	Repeal	8-1-2017
581-022-1670	7-5-2017	Renumber	8-1-2017	584-050-0019	7-1-2017	Amend	8-1-2017
581-022-1710	7-5-2017	Renumber	8-1-2017	584-050-0020	4-12-2017	Amend	5-1-2017
581-022-1720	7-5-2017	Renumber	8-1-2017	584-050-0035	7-1-2017	Amend	8-1-2017
581-022-1723	7-5-2017	Amend	8-1-2017	584-200-0005	2-1-2017	Amend	3-1-2017
581-022-1723	7-5-2017	Renumber	8-1-2017	584-200-0005	7-1-2017	Amend	8-1-2017
581-022-1724	7-5-2017	Renumber	8-1-2017	584-200-0010	4-12-2017	Amend	5-1-2017
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584-210-0040	7-1-2017	Amend	8-1-2017	603-048-0400	3-15-2017	Amend(T)	4-1-2017
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584-210-0060	2-1-2017	Amend	3-1-2017	603-048-0650	3-15-2017	Amend(T)	4-1-2017
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584-210-0090	4-12-2017	Amend	5-1-2017	603-048-0700	3-15-2017	Amend(T)	4-1-2017
584-210-0100	2-1-2017	Amend	3-1-2017	603-048-0700	7-13-2017	Amend	8-1-2017
584-210-0140	7-1-2017	Amend	8-1-2017	603-048-0700(T)	7-13-2017	Repeal	8-1-2017
584-210-0150	7-1-2017	Amend	8-1-2017	603-048-0800	3-15-2017	Amend(T)	4-1-2017
584-210-0160	7-1-2017	Amend	8-1-2017	603-048-0900	3-15-2017	Amend(T)	4-1-2017
584-220-0010	7-1-2017	Amend	8-1-2017	603-048-1000	3-15-2017	Amend(T)	4-1-2017
584-220-0120	7-1-2017	Amend	8-1-2017	603-048-2300	3-15-2017	Adopt(T)	4-1-2017
584-220-0185	4-12-2017	Amend	5-1-2017	603-048-2305	3-15-2017	Adopt(T)	4-1-2017
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584-420-0016	2-1-2017	Adopt	3-1-2017	603-075-0010	1-17-2017	Adopt	3-1-2017
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629-625-0100	7-1-2017	Amend	7-1-2017	635-006-0215	6-14-2017	Amend(T)	7-1-2017
629-625-0430	7-1-2017	Amend	7-1-2017	635-006-0225	6-14-2017	Amend(T)	7-1-2017
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629-635-0110	7-1-2017	Amend	7-1-2017	635-008-0175	11-17-2016	Amend	1-1-2017
629-635-0200	7-1-2017	Amend	7-1-2017	635-011-0100	1-1-2017	Amend	2-1-2017
629-635-0210	7-1-2017	Amend	7-1-2017	635-011-0102	4-22-2017	Amend(T)	5-1-2017
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629-640-0000	7-1-2017	Am. & Ren.	7-1-2017	635-013-0003	4-24-2017	Amend	6-1-2017
629-640-0100	7-1-2017	Am. & Ren.	7-1-2017	635-013-0004	1-1-2017	Amend	2-1-2017
629-640-0105	7-1-2017	Am. & Ren.	7-1-2017	635-013-0007	4-24-2017	Amend	6-1-2017
629-640-0110	7-1-2017	Am. & Ren.	7-1-2017	635-014-0080	1-1-2017	Amend	2-1-2017
629-640-0200	7-1-2017	Am. & Ren.	7-1-2017	635-014-0090	1-1-2017	Amend	2-1-2017
629-640-0210	7-1-2017	Am. & Ren.	7-1-2017	635-014-0090	1-25-2017	Amend	3-1-2017
629-640-0300	7-1-2017	Am. & Ren.	7-1-2017	635-016-0080	1-1-2017	Amend	2-1-2017
629-640-0400	7-1-2017	Am. & Ren.	7-1-2017	635-016-0090	1-1-2017	Amend	2-1-2017
629-640-0500	7-1-2017	Renumber	7-1-2017	635-016-0090	5-15-2017	Amend(T)	6-1-2017
629-642-0105	7-1-2017	Adopt	7-1-2017	635-017-0080	1-1-2017	Amend	2-1-2017
629-642-0110	7-1-2017	Adopt	7-1-2017	635-017-0080	4-1-2017	Amend(T)	5-1-2017
629-680-0020	7-1-2017	Amend	7-1-2017	635-017-0090	1-1-2017	Amend	2-1-2017
635-003-0003	4-24-2017	Amend	6-1-2017	635-017-0090	1-25-2017	Amend	3-1-2017
635-003-0085	4-24-2017	Amend	6-1-2017	635-017-0090	4-24-2017	Amend(T)	6-1-2017
635-004-0215	1-1-2017	Amend	1-1-2017	635-017-0090	4-25-2017	Amend(T)	6-1-2017
635-004-0223	1-1-2017	Adopt	1-1-2017	635-017-0090	5-1-2017	Amend(T)	6-1-2017
635-004-0275	2-15-2017	Amend	3-1-2017	635-017-0090	5-8-2017	Amend(T)	6-1-2017
635-004-0275	7-14-2017	Amend	8-1-2017	635-017-0090	5-13-2017	Amend(T)	6-1-2017
635-004-0330	1-1-2017	Amend	1-1-2017	635-017-0090	6-1-2017	Amend(T)	7-1-2017
635-004-0350	1-1-2017	Amend	1-1-2017	635-017-0090	6-8-2017	Amend(T)	7-1-2017
635-004-0355	1-1-2017	Amend	1-1-2017	635-017-0090	6-8-2017	Amend(T)	7-1-2017
635-004-0355	7-5-2017	Amend	8-1-2017	635-017-0090	6-27-2017	Amend	8-1-2017
635-004-0375	7-3-2017	Amend	8-1-2017	635-017-0090(T)	6-1-2017	Suspend	7-1-2017
635-004-0585	4-24-2017	Amend	6-1-2017	635-017-0090(T)	6-8-2017	Suspend	7-1-2017
635-005-0240	1-1-2017	Amend	1-1-2017	635-017-0090(T)	6-8-2017	Suspend	7-1-2017
635-005-0263	1-1-2017	Adopt	1-1-2017	635-017-0095	1-1-2017	Amend	2-1-2017
635-005-0355	12-15-2016	Amend(T)	1-1-2017	635-018-0080	1-1-2017	Amend	2-1-2017
635-005-0355	3-24-2017	Amend(T)	5-1-2017	635-018-0090	1-1-2017	Amend	2-1-2017
635-005-0465	11-23-2016	Amend(T)	1-1-2017	635-018-0090	4-5-2017	Amend(T)	5-1-2017
635-005-0465	12-18-2016	Amend(T)	1-1-2017	635-018-0090	4-15-2017	Amend(T)	3-1-2017
635-005-0465	12-22-2016	Amend(T)	2-1-2017	635-018-0090(T)	4-15-2017	Suspend	3-1-2017
635-005-0465	2-2-2017	Amend(T)	3-1-2017	635-018-0090(T)	4-17-2017	Suspend	6-1-2017
635-005-0465	2-8-2017	Amend(T)	3-1-2017	635-019-0080	1-1-2017	Amend	2-1-2017
635-005-0465	2-10-2017	Amend(T)	3-1-2017	635-019-0090	1-1-2017	Amend	2-1-2017
635-005-0465(T)	12-18-2016	Suspend	1-1-2017	635-021-0080	1-1-2017	Amend	2-1-2017
635-005-0465(T)	12-22-2016	Suspend	2-1-2017	635-021-0090	1-1-2017	Amend	2-1-2017
635-005-0465(T)	2-2-2017	Suspend	3-1-2017	635-021-0090	1-18-2017	Amend(T)	3-1-2017
635-005-0465(T)	2-8-2017	Suspend	3-1-2017	635-021-0090	6-27-2017	Amend	8-1-2017
635-005-0465(T)	2-10-2017	Suspend	3-1-2017	635-023-0080	1-1-2017	Amend	2-1-2017
635-005-0505	11-21-2016	Amend(T)	1-1-2017	635-023-0090	1-1-2017	Amend	2-1-2017
635-005-0915	1-1-2017	Amend	1-1-2017	635-023-0090	1-25-2017	Amend	3-1-2017

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635-023-0095	3-25-2017	Amend(T)	4-1-2017	635-042-0100	6-26-2017	Amend	8-1-2017
635-023-0095	3-30-2017	Amend(T)	5-1-2017	635-042-0130	2-2-2017	Amend(T)	3-1-2017
635-023-0095	6-5-2017	Amend(T)	7-1-2017	635-042-0145	2-6-2017	Amend(T)	3-1-2017
635-023-0095	6-15-2017	Amend(T)	7-1-2017	635-042-0145	3-30-2017	Amend(T)	5-1-2017
635-023-0095(T)	6-15-2017	Suspend	7-1-2017	635-042-0145	4-6-2017	Amend(T)	5-1-2017
635-023-0125	1-1-2017	Amend	2-1-2017	635-042-0145	4-13-2017	Amend(T)	5-1-2017
635-023-0125	3-1-2017	Amend(T)	4-1-2017	635-042-0145	4-27-2017	Amend(T)	6-1-2017
635-023-0125	4-7-2017	Amend(T)	5-1-2017	635-042-0145	5-3-2017	Amend(T)	6-1-2017
635-023-0125	4-13-2017	Amend(T)	5-1-2017	635-042-0145	5-15-2017	Amend(T)	6-1-2017
635-023-0125	5-16-2017	Amend(T)	6-1-2017	635-042-0145	5-22-2017	Amend(T)	7-1-2017
635-023-0128	1-1-2017	Amend	2-1-2017	635-042-0145	5-29-2017	Amend(T)	7-1-2017
635-023-0128	6-16-2017	Amend(T)	7-1-2017	635-042-0145	6-1-2017	Amend(T)	7-1-2017
635-023-0128	7-1-2017	Amend	8-1-2017	635-042-0145	6-15-2017	Amend(T)	7-1-2017
635-023-0128	7-7-2017	Amend	8-1-2017	635-042-0145(T)	2-6-2017	Suspend	3-1-2017
635-023-0128(T)	7-1-2017	Suspend	8-1-2017	635-042-0145(T)	5-29-2017	Suspend	7-1-2017
635-023-0128(T)	7-7-2017	Suspend	8-1-2017	635-042-0145(T)	6-1-2017	Suspend	7-1-2017
635-023-0130	1-1-2017	Amend	2-1-2017	635-042-0160	2-6-2017	Amend(T)	3-1-2017
635-023-0134	1-1-2017	Amend	2-1-2017	635-042-0160	3-20-2017	Amend(T)	5-1-2017
635-023-0134	4-22-2017	Amend(T)	6-1-2017	635-042-0160	3-30-2017	Amend(T)	5-1-2017
635-023-0140	1-1-2017	Amend	2-1-2017	635-042-0160	4-6-2017	Amend(T)	5-1-2017
635-039-0080	1-1-2017	Amend	2-1-2017	635-042-0160	4-13-2017	Amend(T)	5-1-2017
635-039-0080	2-15-2017	Amend	3-1-2017	635-042-0160	5-22-2017	Amend(T)	7-1-2017
635-039-0085	4-24-2017	Amend	6-1-2017	635-042-0160	6-15-2017	Amend(T)	7-1-2017
635-039-0085	5-25-2017	Amend(T)	7-1-2017	635-042-0160	7-13-2017	Amend	8-1-2017
635-039-0085	6-8-2017	Amend(T)	7-1-2017	635-042-0160(T)	2-6-2017	Suspend	3-1-2017
635-039-0085	6-17-2017	Amend(T)	7-1-2017	635-042-0160(T)	7-13-2017	Suspend	8-1-2017
635-039-0085	6-23-2017	Amend	8-1-2017	635-042-0170	2-6-2017	Amend(T)	3-1-2017
635-039-0085	7-12-2017	Amend	8-1-2017	635-042-0170	3-20-2017	Amend(T)	5-1-2017
635-039-0085(T)	6-8-2017	Suspend	7-1-2017	635-042-0170	3-30-2017	Amend(T)	5-1-2017
635-039-0085(T)	6-17-2017	Suspend	7-1-2017	635-042-0170	5-22-2017	Amend(T)	7-1-2017
635-039-0085(T)	6-23-2017	Suspend	8-1-2017	635-042-0170	6-15-2017	Amend(T)	7-1-2017
635-039-0085(T)	7-12-2017	Suspend	8-1-2017	635-042-0170	7-13-2017	Amend	8-1-2017
635-039-0090	1-1-2017	Amend	1-1-2017	635-042-0170(T)	2-6-2017	Suspend	3-1-2017
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635-039-0090	4-24-2017	Amend	6-1-2017	635-042-0180	2-6-2017	Amend(T)	3-1-2017
635-041-0005	2-21-2017	Amend	3-1-2017	635-042-0180	3-30-2017	Amend(T)	5-1-2017
635-041-0025	2-21-2017	Amend	3-1-2017	635-042-0180	5-22-2017	Amend(T)	7-1-2017
635-041-0030	2-21-2017	Amend	3-1-2017	635-042-0180(T)	2-6-2017	Suspend	3-1-2017
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635-041-0050	2-21-2017	Amend	3-1-2017	635-044-0002	1-24-2017	Repeal	3-1-2017
635-041-0061	2-21-2017	Amend	3-1-2017	635-044-0005	1-24-2017	Repeal	3-1-2017
635-041-0063	2-21-2017	Amend	3-1-2017	635-044-0010	1-24-2017	Repeal	3-1-2017
635-041-0065	2-1-2017	Amend(T)	3-1-2017	635-044-0015	1-24-2017	Repeal	3-1-2017
635-041-0065	2-7-2017	Amend(T)	3-1-2017	635-044-0020	1-24-2017	Repeal	3-1-2017
635-041-0065	2-15-2017	Amend(T)	3-1-2017	635-044-0025	1-24-2017	Repeal	3-1-2017
635-041-0065	2-22-2017	Amend(T)	4-1-2017	635-044-0030	1-24-2017	Repeal	3-1-2017
635-041-0065	3-1-2017	Amend(T)	4-1-2017	635-044-0035	1-24-2017	Repeal	3-1-2017
635-041-0065	3-17-2017	Amend(T)	4-1-2017	635-044-0035	1-24-2017	Repeal	3-1-2017
635-041-0065(T)	2-7-2017	Suspend	3-1-2017	635-044-0040	1-24-2017	Repeal	3-1-2017
635-041-0076	6-15-2017	Amend(T)	7-1-2017	635-044-0045	1-24-2017	Repeal	3-1-2017
635-041-0076	7-3-2017	Amend	8-1-2017	635-044-0050	1-24-2017	Repeal	3-1-2017
635-041-0076	7-12-2017	Amend	8-1-2017	635-044-0051	1-24-2017	Repeal	3-1-2017
635-041-0076(T)	7-3-2017	Suspend	8-1-2017	635-044-0060	1-24-2017	Repeal	3-1-2017
635-041-0076(T)	7-12-2017	Suspend	8-1-2017	635-044-0075	1-24-2017	Repeal	3-1-2017
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635-044-0125	1-24-2017	Repeal	3-1-2017	635-072-0000	3-2-2017	Amend	4-1-2017
635-044-0130	1-24-2017	Repeal	3-1-2017	635-073-0000	5-16-2017	Amend(T)	7-1-2017
635-044-0132	1-24-2017	Repeal	3-1-2017	635-075-0020	4-24-2017	Amend	6-1-2017
635-044-0400	1-24-2017	Adopt	3-1-2017	635-075-0022	3-21-2017	Amend	5-1-2017
635-044-0410	1-24-2017	Adopt	3-1-2017	635-075-0022	4-24-2017	Amend	6-1-2017
635-044-0420	1-24-2017	Adopt	3-1-2017	635-075-0022	5-16-2017	Amend(T)	7-1-2017
635-044-0430	1-24-2017	Adopt	3-1-2017	635-075-0024	4-24-2017	Adopt	6-1-2017
635-044-0440	1-24-2017	Adopt	3-1-2017	635-100-0125	4-25-2017	Amend	6-1-2017
635-044-0450	1-24-2017	Adopt	3-1-2017	635-200-0010	7-14-2017	Amend	8-1-2017
635-044-0460	1-24-2017	Adopt	3-1-2017	635-200-0080	7-14-2017	Amend	8-1-2017
635-044-0470	1-24-2017	Adopt	3-1-2017	635-200-0135	7-14-2017	Adopt	8-1-2017
635-044-0475	1-24-2017	Adopt	3-1-2017	635-200-0140	7-14-2017	Adopt	8-1-2017
635-044-0480	1-24-2017	Adopt	3-1-2017	635-500-6705	1-25-2017	Amend	3-1-2017
635-044-0490	1-24-2017	Adopt	3-1-2017	635-500-6705	4-4-2017	Amend	5-1-2017
635-044-0500	1-24-2017	Adopt	3-1-2017	635-500-6715	12-15-2016	Amend	1-1-2017
635-044-0500	3-9-2017	Amend	4-1-2017	635-500-6715	1-25-2017	Amend	3-1-2017
635-044-0510	1-24-2017	Adopt	3-1-2017	635-500-6715	4-4-2017	Amend	5-1-2017
635-044-0520	1-24-2017	Adopt	3-1-2017	635-500-6720	12-15-2016	Amend	1-1-2017
635-044-0530	1-24-2017	Adopt	3-1-2017	635-500-6720	1-25-2017	Amend	3-1-2017
635-044-0540	1-24-2017	Adopt	3-1-2017	635-500-6720	4-4-2017	Amend	5-1-2017
635-044-0550	1-24-2017	Adopt	3-1-2017	635-500-6725	12-15-2016	Amend	1-1-2017
635-044-0560	1-24-2017	Adopt	3-1-2017	635-500-6725	1-25-2017	Amend	3-1-2017
635-044-0570	1-24-2017	Adopt	3-1-2017	635-500-6730	12-15-2016	Amend	1-1-2017
635-044-0580	1-24-2017	Adopt	3-1-2017	635-500-6730	1-25-2017	Amend	3-1-2017
635-044-0590	1-24-2017	Adopt	3-1-2017	635-500-6730	4-4-2017	Amend	5-1-2017
635-045-0000	4-24-2017	Amend	6-1-2017	635-500-6735	12-15-2016	Amend	1-1-2017
635-045-0002	3-2-2017	Amend	4-1-2017	635-500-6735	1-25-2017	Amend	3-1-2017
635-050-0045	3-9-2017	Amend(T)	4-1-2017	635-500-6735	4-4-2017	Amend	5-1-2017
635-051-0000	4-24-2017	Amend	6-1-2017	635-500-6740	12-15-2016	Amend	1-1-2017
635-052-0000	4-24-2017	Amend	6-1-2017	635-500-6740	1-25-2017	Amend	3-1-2017
635-053-0000	4-24-2017	Amend	6-1-2017	635-500-6745	12-15-2016	Amend	1-1-2017
635-054-0000	4-24-2017	Amend	6-1-2017	635-500-6745	1-25-2017	Amend	3-1-2017
635-056-0010	7-14-2017	Amend	8-1-2017	635-500-6750	12-15-2016	Amend	1-1-2017
635-056-0060	7-14-2017	Amend	8-1-2017	635-500-6750	1-25-2017	Amend	3-1-2017
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635-056-0075	7-14-2017	Amend	8-1-2017	647-015-0010	4-25-2017	Amend	6-1-2017
635-056-0076	7-14-2017	Adopt	8-1-2017	660-023-0030	2-10-2017	Amend	3-1-2017
635-056-0140	7-14-2017	Amend	8-1-2017	660-023-0115	5-25-2017	Amend	7-1-2017
635-056-0150	7-14-2017	Amend	8-1-2017	660-023-0200	2-10-2017	Amend	3-1-2017
635-060-0000	3-2-2017	Amend	4-1-2017	660-025-0030	2-28-2017	Amend	4-1-2017
635-060-0000	4-24-2017	Amend	6-1-2017	660-038-0020	2-28-2017	Amend	4-1-2017
635-060-0046	4-24-2017	Amend	6-1-2017	660-038-0210	2-28-2017	Adopt	4-1-2017
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635-066-0010	3-2-2017	Amend	4-1-2017	660-039-0040	2-27-2017	Adopt	4-1-2017
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635-067-0000	5-16-2017	Amend(T)	7-1-2017	660-039-0070	2-27-2017	Adopt	4-1-2017
635-068-0000	3-2-2017	Amend	4-1-2017	660-039-0080	2-27-2017	Adopt	4-1-2017
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635-069-0000	5-16-2017	Amend(T)	7-1-2017	660-039-0100	2-27-2017	Adopt	4-1-2017
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660-044-0025	3-1-2017	Amend	4-1-2017	734-010-0330	11-28-2016	Amend	1-1-2017
660-044-0030	3-1-2017	Amend	4-1-2017	734-010-0340	11-28-2016	Amend	1-1-2017
660-044-0035	3-1-2017	Amend	4-1-2017	734-010-0350	11-28-2016	Repeal	1-1-2017
660-044-0040	3-1-2017	Amend	4-1-2017	734-010-0360	11-28-2016	Amend	1-1-2017
660-044-0060	3-1-2017	Amend	4-1-2017	734-010-0380	11-28-2016	Amend	1-1-2017
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661-010-0005	1-1-2017	Amend	2-1-2017	734-059-0015	11-28-2016	Amend	1-1-2017
661-010-0015	1-1-2017	Amend	2-1-2017	734-059-0200	11-28-2016	Amend	1-1-2017
661-010-0021	1-1-2017	Amend	2-1-2017	734-060-0000	11-28-2016	Amend	1-1-2017
661-010-0025	1-1-2017	Amend	2-1-2017	734-060-0010	11-28-2016	Repeal	1-1-2017
661-010-0030	1-1-2017	Amend	2-1-2017	734-060-0175	11-28-2016	Amend	1-1-2017
661-010-0035	1-1-2017	Amend	2-1-2017	734-060-0180	11-28-2016	Adopt	1-1-2017
661-010-0050	1-1-2017	Amend	2-1-2017	734-060-0190	11-28-2016	Amend	1-1-2017
661-010-0068	1-1-2017	Amend	2-1-2017	734-065-0010	11-28-2016	Amend	1-1-2017
661-010-0075	1-1-2017	Amend	2-1-2017	734-065-0015	11-28-2016	Amend	1-1-2017
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690-210-0320	2-16-2017	Amend	4-1-2017	734-065-0025	11-28-2016	Amend	1-1-2017
690-240-0005	2-16-2017	Amend	4-1-2017	734-065-0035	11-28-2016	Amend	1-1-2017
690-507-0010	5-22-2017	Amend	7-1-2017	734-065-0040	11-28-2016	Amend	1-1-2017
690-507-0020	5-22-2017	Amend	7-1-2017	734-065-0045	11-28-2016	Amend	1-1-2017
690-507-0030	5-22-2017	Amend	7-1-2017	734-072-0005	5-23-2017	Amend	7-1-2017
690-507-0040	5-22-2017	Amend	7-1-2017	734-072-0007	5-23-2017	Adopt	7-1-2017
690-507-0050	5-22-2017	Amend	7-1-2017	734-072-0010	5-23-2017	Amend	7-1-2017
690-507-0060	5-22-2017	Amend	7-1-2017	734-072-0011	5-23-2017	Amend	7-1-2017
690-507-0070	5-22-2017	Amend	7-1-2017	734-072-0015	5-23-2017	Amend	7-1-2017
690-507-0080	5-22-2017	Amend	7-1-2017	734-072-0020	5-23-2017	Amend	7-1-2017
690-507-0090	5-22-2017	Amend	7-1-2017	734-072-0022	5-23-2017	Amend	7-1-2017
690-507-0610	5-22-2017	Amend	7-1-2017	734-072-0023	5-23-2017	Amend	7-1-2017
690-507-0620	5-22-2017	Amend	7-1-2017	734-072-0025	5-23-2017	Amend	7-1-2017
690-507-0630	5-22-2017	Amend	7-1-2017	734-072-0030	5-23-2017	Amend	7-1-2017
690-507-0635	5-22-2017	Amend	7-1-2017	735-001-0100	2-1-2017	Amend	3-1-2017
690-507-0640	5-22-2017	Amend	7-1-2017	735-010-0020	1-24-2017	Amend	3-1-2017
690-507-0647	5-22-2017	Amend	7-1-2017	735-024-0015	11-22-2016	Amend	1-1-2017
690-507-0650	5-22-2017	Amend	7-1-2017	735-024-0025	11-22-2016	Amend	1-1-2017
690-507-0660	5-22-2017	Amend	7-1-2017	735-040-0115	1-24-2017	Amend	3-1-2017
690-507-0670	5-22-2017	Amend	7-1-2017	735-061-0210	3-20-2017	Amend	5-1-2017
690-507-0680	5-22-2017	Amend	7-1-2017	735-061-0210(T)	3-20-2017	Repeal	5-1-2017
690-507-0690	5-22-2017	Amend	7-1-2017	735-062-0013	7-1-2017	Adopt	7-1-2017
690-507-0790	5-22-2017	Amend	7-1-2017	735-062-0040	4-26-2017	Amend	6-1-2017
695-005-0010	5-2-2017	Amend	6-1-2017	735-062-0090	3-20-2017	Amend	5-1-2017
695-005-0030	5-2-2017	Amend	6-1-2017	735-062-0090(T)	3-20-2017	Repeal	5-1-2017
695-005-0040	5-2-2017	Amend	6-1-2017	735-150-0005	2-22-2017	Amend	4-1-2017
695-005-0050	5-2-2017	Amend	6-1-2017	735-150-0005	3-7-2017	Amend	4-1-2017
695-005-0060	5-2-2017	Amend	6-1-2017	735-150-0010	5-25-2017	Amend	7-1-2017
695-010-0020	5-2-2017	Amend	6-1-2017	735-150-0015	5-25-2017	Amend	7-1-2017
695-010-0060	5-2-2017	Amend	6-1-2017	735-150-0020	5-25-2017	Amend	7-1-2017
710-005-0005	6-21-2017	Amend	8-1-2017	735-150-0027	5-25-2017	Amend	7-1-2017
715-045-0001	1-1-2017	Amend	2-1-2017	735-150-0030	5-25-2017	Amend	7-1-2017
715-045-0007	1-1-2017	Amend	2-1-2017	735-150-0110	5-25-2017	Amend	7-1-2017
715-045-0033	1-1-2017	Amend	2-1-2017	735-150-0120	5-25-2017	Amend	7-1-2017
731-001-0025	5-25-2017	Amend(T)	7-1-2017	735-150-0130	5-25-2017	Amend	7-1-2017
734-005-0015	12-16-2016	Amend	2-1-2017	735-150-0160	5-25-2017	Amend	7-1-2017
734-010-0285	11-28-2016	Adopt	1-1-2017	735-152-0000	5-25-2017	Amend	7-1-2017
734-010-0290	11-28-2016	Amend	1-1-2017	735-152-0005	5-25-2017	Amend	7-1-2017

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736-040-0100	2-2-2017	Adopt	3-1-2017	804-035-0020	2-10-2017	Amend	3-1-2017
736-040-0110	2-2-2017	Adopt	3-1-2017	804-035-0030	2-10-2017	Amend	3-1-2017
738-080-0030	4-28-2017	Amend	6-1-2017	804-035-0035	2-10-2017	Amend	3-1-2017
738-080-0045	7-12-2017	Amend	8-1-2017	804-035-0040	2-10-2017	Amend	3-1-2017
738-090-0030	7-12-2017	Amend	8-1-2017	804-040-0000	2-10-2017	Amend	3-1-2017
738-124-0020	3-8-2017	Amend(T)	4-1-2017	804-040-0000	7-1-2017	Amend	7-1-2017
738-124-0020	7-12-2017	Amend	8-1-2017	804-050-0005	2-10-2017	Amend	3-1-2017
738-124-0020(T)	7-12-2017	Repeal	8-1-2017	804-050-0010	2-10-2017	Amend	3-1-2017
738-125-0020	3-8-2017	Amend(T)	4-1-2017	804-050-0015	2-10-2017	Amend	3-1-2017
738-125-0020	7-12-2017	Amend	8-1-2017	806-001-0003	5-15-2017	Amend	6-1-2017
738-125-0020(T)	7-12-2017	Repeal	8-1-2017	806-001-0003	6-8-2017	Amend	7-1-2017
740-200-0010	2-22-2017	Amend	4-1-2017	808-001-0008	7-1-2017	Amend	7-1-2017
740-200-0010	3-7-2017	Amend	4-1-2017	808-003-0700	12-19-2016	Amend	2-1-2017
740-200-0020	2-22-2017	Amend	4-1-2017	808-003-0700(T)	12-19-2016	Repeal	2-1-2017
740-200-0020	3-7-2017	Amend	4-1-2017	808-003-0710	3-24-2017	Amend	5-1-2017
740-200-0040	2-22-2017	Amend	4-1-2017	808-005-0020	7-1-2017	Amend	7-1-2017
740-200-0040	3-7-2017	Amend	4-1-2017	809-010-0001	7-1-2017	Amend	7-1-2017
740-200-0045	5-23-2017	Amend	7-1-2017	809-010-0025	7-1-2017	Amend	7-1-2017
800-010-0015	1-27-2017	Amend	3-1-2017	811-010-0005	1-6-2017	Amend	2-1-2017
800-010-0035	1-27-2017	Amend	3-1-2017	811-010-0015	1-6-2017	Amend	2-1-2017
800-010-0040	1-27-2017	Amend	3-1-2017	811-010-0025	1-6-2017	Amend	2-1-2017
800-010-0050	1-27-2017	Amend	3-1-2017	811-010-0040	1-6-2017	Amend	2-1-2017
800-015-0010	1-27-2017	Amend	3-1-2017	811-010-0066	1-6-2017	Amend	2-1-2017
800-015-0020	1-27-2017	Amend	3-1-2017	811-010-0071	1-6-2017	Amend	2-1-2017
800-020-0015	1-27-2017	Amend	3-1-2017	811-010-0084	1-6-2017	Amend	2-1-2017
800-020-0020	1-27-2017	Amend	3-1-2017	811-010-0084	1-1-2018	Amend	6-1-2017
800-020-0022	1-27-2017	Amend	3-1-2017	811-010-0086	1-1-2018	Amend	6-1-2017
800-025-0060	1-27-2017	Amend	3-1-2017	811-010-0090	1-6-2017	Amend	2-1-2017
801-001-0005	1-4-2017	Amend	2-1-2017	811-010-0093	1-6-2017	Amend	2-1-2017
801-001-0035	1-4-2017	Amend	2-1-2017	811-010-0095	1-6-2017	Amend	2-1-2017
801-005-0010	1-4-2017	Amend	2-1-2017	811-010-0110	1-1-2018	Amend	6-1-2017
801-010-0060	1-4-2017	Amend	2-1-2017	811-035-0001	4-21-2017	Amend	6-1-2017
801-010-0065	1-4-2017	Amend	2-1-2017	812-003-0131	1-1-2017	Amend	2-1-2017
801-010-0080	1-4-2017	Amend	2-1-2017	812-003-0131	7-1-2017	Amend	8-1-2017
801-010-0110	1-4-2017	Amend	2-1-2017	812-003-0142	7-1-2017	Amend	8-1-2017
801-010-0115	1-4-2017	Amend	2-1-2017	812-003-0171	1-1-2017	Amend	2-1-2017
801-010-0120	1-4-2017	Amend	2-1-2017	812-003-0171	7-1-2017	Amend	8-1-2017
801-010-0130	1-4-2017	Amend	2-1-2017	812-003-0221	1-1-2017	Amend	2-1-2017
801-010-0340	1-4-2017	Amend	2-1-2017	812-003-0221	7-1-2017	Amend	8-1-2017
801-010-0345	1-4-2017	Amend	2-1-2017	812-004-0001	7-1-2017	Repeal	8-1-2017
801-020-0690	1-4-2017	Amend	2-1-2017	812-004-0110	7-1-2017	Repeal	8-1-2017
801-020-0700	1-4-2017	Amend	2-1-2017	812-004-0120	7-1-2017	Repeal	8-1-2017
801-030-0005	1-4-2017	Amend	2-1-2017	812-004-0140	7-1-2017	Repeal	8-1-2017
801-030-0020	1-4-2017	Amend	2-1-2017	812-004-0160	7-1-2017	Repeal	8-1-2017
801-040-0020	1-4-2017	Amend	2-1-2017	812-004-0180	7-1-2017	Repeal	8-1-2017
801-040-0030	1-4-2017	Amend	2-1-2017	812-004-0195	7-1-2017	Repeal	8-1-2017
801-040-0050	1-4-2017	Amend	2-1-2017	812-004-0210	7-1-2017	Repeal	8-1-2017
801-040-0090	1-4-2017	Repeal	2-1-2017	812-004-0240	7-1-2017	Repeal	8-1-2017
801-050-0020	1-4-2017	Amend	2-1-2017	812-004-0250	7-1-2017	Repeal	8-1-2017
801-050-0040	1-4-2017	Amend	2-1-2017	812-004-0260	7-1-2017	Repeal	8-1-2017
804-001-0002	7-1-2017	Amend	7-1-2017	812-004-0300	7-1-2017	Repeal	8-1-2017
804-003-0000	2-10-2017	Amend	3-1-2017	812-004-0320	7-1-2017	Repeal	8-1-2017
804-022-0025	2-10-2017	Amend	3-1-2017	812-004-0340	7-1-2017	Repeal	8-1-2017
804-030-0011	2-10-2017	Amend	3-1-2017	812-004-0350	7-1-2017	Repeal	8-1-2017

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812-004-0420	7-1-2017	Repeal	8-1-2017	813-135-0040	3-9-2017	Adopt	4-1-2017
812-004-0440	7-1-2017	Repeal	8-1-2017	813-135-0040	7-13-2017	Amend	8-1-2017
812-004-0450	7-1-2017	Repeal	8-1-2017	813-135-0040(T)	3-9-2017	Repeal	4-1-2017
812-004-0460	7-1-2017	Repeal	8-1-2017	813-135-0050	3-9-2017	Adopt	4-1-2017
812-004-0470	7-1-2017	Repeal	8-1-2017	813-135-0050(T)	3-9-2017	Repeal	4-1-2017
812-004-0480	7-1-2017	Repeal	8-1-2017	813-135-0060	3-9-2017	Adopt	4-1-2017
812-004-0500	7-1-2017	Repeal	8-1-2017	813-135-0060(T)	3-9-2017	Repeal	4-1-2017
812-004-0510	7-1-2017	Repeal	8-1-2017	813-240-0005	4-19-2017	Amend	6-1-2017
812-004-0520	7-1-2017	Repeal	8-1-2017	813-240-0005(T)	4-19-2017	Repeal	6-1-2017
812-004-0530	7-1-2017	Repeal	8-1-2017	818-021-0011	3-1-2017	Amend	3-1-2017
812-004-0535	7-1-2017	Repeal	8-1-2017	818-021-0025	3-1-2017	Amend	3-1-2017
812-004-0537	7-1-2017	Repeal	8-1-2017	819-005-0005	1-3-2017	Adopt	2-1-2017
812-004-0540	7-1-2017	Repeal	8-1-2017	819-020-0015	1-3-2017	Adopt	2-1-2017
812-004-0550	7-1-2017	Repeal	8-1-2017	819-020-0020	1-3-2017	Adopt	2-1-2017
812-004-0560	7-1-2017	Repeal	8-1-2017	819-020-0035	1-3-2017	Adopt	2-1-2017
812-004-0590	7-1-2017	Repeal	8-1-2017	819-020-0045	1-3-2017	Adopt	2-1-2017
812-004-0600	7-1-2017	Repeal	8-1-2017	819-020-0055	1-3-2017	Adopt	2-1-2017
812-004-1001	7-1-2017	Amend	8-1-2017	819-020-0065	1-3-2017	Adopt	2-1-2017
812-020-0071	7-1-2017	Amend	8-1-2017	819-020-0075	1-3-2017	Adopt	2-1-2017
812-020-0083	7-1-2017	Adopt	8-1-2017	819-020-0085	1-3-2017	Adopt	2-1-2017
812-020-0085	7-1-2017	Amend	8-1-2017	819-020-0090	1-3-2017	Adopt	2-1-2017
812-022-0000	7-1-2017	Amend	8-1-2017	819-030-0000	1-3-2017	Adopt	2-1-2017
812-022-0016	7-1-2017	Repeal	8-1-2017	819-040-0005	1-3-2017	Adopt	2-1-2017
812-022-0021	7-1-2017	Amend	8-1-2017	820-001-0025	5-12-2017	Amend	6-1-2017
812-022-0025	7-1-2017	Amend	8-1-2017	820-010-0505	7-12-2017	Amend	8-1-2017
812-022-0026	7-1-2017	Repeal	8-1-2017	820-010-0510	7-12-2017	Amend	8-1-2017
812-022-0027	7-1-2017	Repeal	8-1-2017	820-010-0520	12-29-2016	Amend	2-1-2017
812-022-0028	7-1-2017	Amend	8-1-2017	820-010-0520	7-12-2017	Amend	8-1-2017
812-022-0029	7-1-2017	Repeal	8-1-2017	820-010-0720	12-29-2016	Amend	2-1-2017
812-022-0040	7-1-2017	Amend	8-1-2017	820-010-1000	5-12-2017	Amend	6-1-2017
813-005-0005	12-14-2016	Amend	1-1-2017	820-010-1010	5-12-2017	Amend	6-1-2017
813-005-0005(T)	12-14-2016	Repeal	1-1-2017	820-010-1020	7-12-2017	Amend	8-1-2017
813-005-0025	12-14-2016	Adopt	1-1-2017	820-010-2000	5-12-2017	Amend	6-1-2017
813-005-0025(T)	12-14-2016	Repeal	1-1-2017	820-010-2020	7-12-2017	Amend	8-1-2017
813-006-0005	12-19-2016	Amend	2-1-2017	820-010-3000	5-12-2017	Amend	6-1-2017
813-006-0005(T)	12-19-2016	Repeal	2-1-2017	820-010-3010	7-12-2017	Amend	8-1-2017
813-006-0010	12-19-2016	Amend	2-1-2017	820-010-4000	7-1-2017	Amend	7-1-2017
813-006-0010(T)	12-19-2016	Repeal	2-1-2017	820-010-5000	7-12-2017	Amend	8-1-2017
813-046-0011	4-19-2017	Amend	6-1-2017	820-020-0035	5-12-2017	Amend	6-1-2017
813-046-0011(T)	4-19-2017	Repeal	6-1-2017	820-025-0005	12-29-2016	Amend	2-1-2017
813-053-0000	6-20-2017	Adopt(T)	8-1-2017	820-025-0005	7-12-2017	Amend	8-1-2017
813-053-0010	6-20-2017	Adopt(T)	8-1-2017	820-040-0005	6-13-2017	Amend(T)	7-1-2017
813-053-0020	6-20-2017	Adopt(T)	8-1-2017	820-040-0030	5-12-2017	Amend	6-1-2017
813-053-0030	6-20-2017	Adopt(T)	8-1-2017	820-080-0010	7-12-2017	Amend	8-1-2017
813-053-0040	6-20-2017	Adopt(T)	8-1-2017	820-080-1000	7-1-2017	Amend	7-1-2017
813-053-0050	6-20-2017	Adopt(T)	8-1-2017	824-010-0005	1-1-2017	Amend	1-1-2017
813-053-0060	6-20-2017	Adopt(T)	8-1-2017	824-030-0010	1-1-2017	Amend	1-1-2017
813-053-0070	6-20-2017	Adopt(T)	8-1-2017	824-030-0040	1-1-2017	Amend	1-1-2017
813-053-0080	6-20-2017	Adopt(T)	8-1-2017	824-035-0005	1-1-2017	Repeal	1-1-2017
813-053-0090	6-20-2017	Adopt(T)	8-1-2017	824-036-0001	1-1-2017	Adopt	1-1-2017
813-135-0010	3-9-2017	Adopt	4-1-2017	824-040-0010	1-1-2017	Amend	1-1-2017
813-135-0010(T)	3-9-2017	Repeal	4-1-2017	824-050-0010	1-1-2017	Amend	1-1-2017
813-135-0020	3-9-2017	Adopt	4-1-2017	824-060-0010	1-1-2017	Amend	1-1-2017
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830-011-0065	8-1-2017	Amend	8-1-2017	839-025-0700	7-1-2017	Amend	7-1-2017
830-030-0070	8-1-2017	Amend	8-1-2017	845-005-0306	5-1-2017	Amend	6-1-2017
830-030-0080	8-1-2017	Amend	8-1-2017	845-005-0412	1-1-2017	Adopt	1-1-2017
830-040-0090	8-1-2017	Amend	8-1-2017	845-006-0443	7-1-2017	Amend	8-1-2017
833-020-0081	6-10-2017	Amend	7-1-2017	845-006-0500	12-1-2016	Amend	1-1-2017
833-030-0021	6-10-2017	Amend	7-1-2017	845-007-0020	7-1-2017	Amend	8-1-2017
833-040-0021	6-10-2017	Amend	7-1-2017	845-013-0100	3-1-2017	Amend	4-1-2017
833-040-0041	12-12-2016	Amend(T)	1-1-2017	845-015-0142	3-1-2017	Adopt	4-1-2017
833-040-0041	6-12-2017	Amend	7-1-2017	845-025-1015	12-27-2016	Amend	2-1-2017
833-040-0041(T)	6-12-2017	Repeal	7-1-2017	845-025-1030	12-27-2016	Amend	2-1-2017
833-050-0031	1-1-2018	Amend	7-1-2017	845-025-1045	12-27-2016	Amend	2-1-2017
833-050-0041	1-1-2018	Amend	7-1-2017	845-025-1060	12-27-2016	Amend	2-1-2017
833-050-0091	1-1-2018	Amend	7-1-2017	845-025-1060	5-1-2017	Amend	6-1-2017
833-070-0011	7-1-2017	Amend(T)	7-1-2017	845-025-1090	12-27-2016	Amend	2-1-2017
833-075-0050	1-1-2018	Amend	7-1-2017	845-025-1100	12-27-2016	Amend	2-1-2017
833-075-0070	1-1-2018	Amend	7-1-2017	845-025-1115	12-27-2016	Amend	2-1-2017
833-100-0011	1-1-2018	Amend	7-1-2017	845-025-1160	12-27-2016	Amend	2-1-2017
833-100-0012	1-1-2018	Adopt	7-1-2017	845-025-1175	12-27-2016	Amend	2-1-2017
833-100-0021	1-1-2018	Amend	7-1-2017	845-025-1230	12-27-2016	Amend	2-1-2017
833-100-0031	1-1-2018	Repeal	7-1-2017	845-025-1335	7-1-2017	Adopt(T)	8-1-2017
833-100-0041	1-1-2018	Repeal	7-1-2017	845-025-1360	12-27-2016	Amend	2-1-2017
833-100-0051	1-1-2018	Repeal	7-1-2017	845-025-1410	12-27-2016	Amend	2-1-2017
833-100-0061	1-1-2018	Repeal	7-1-2017	845-025-1420	12-27-2016	Amend	2-1-2017
833-100-0071	1-1-2018	Repeal	7-1-2017	845-025-1440	12-27-2016	Amend	2-1-2017
834-030-0010	1-17-2017	Amend(T)	3-1-2017	845-025-1450	12-27-2016	Amend	2-1-2017
834-030-0010	4-1-2017	Amend	5-1-2017	845-025-1470	12-27-2016	Amend	2-1-2017
834-050-0000	1-9-2017	Amend	2-1-2017	845-025-2020	12-27-2016	Amend	2-1-2017
834-050-0010	1-9-2017	Amend	2-1-2017	845-025-2030	12-27-2016	Amend	2-1-2017
836-005-0405	1-10-2017	Adopt	2-1-2017	845-025-2040	12-27-2016	Amend	2-1-2017
836-010-0135	1-9-2017	Amend	2-1-2017	845-025-2060	12-27-2016	Amend	2-1-2017
836-010-0140	1-9-2017	Amend	2-1-2017	845-025-2070	1-1-2017	Amend(T)	2-1-2017
836-011-0000	1-31-2017	Amend(T)	3-1-2017	845-025-2070	6-30-2017	Amend	8-1-2017
836-011-0000	4-20-2017	Amend	6-1-2017	845-025-2100	12-27-2016	Adopt	2-1-2017
836-011-0000	4-27-2017	Amend	6-1-2017	845-025-2500	5-1-2017	Adopt	6-1-2017
836-011-0000(T)	4-20-2017	Repeal	6-1-2017	845-025-2510	5-1-2017	Adopt	6-1-2017
836-011-0000(T)	4-27-2017	Repeal	6-1-2017	845-025-2520	5-1-2017	Adopt	6-1-2017
836-011-0030	12-21-2016	Adopt	2-1-2017	845-025-2530	5-1-2017	Adopt	6-1-2017
836-014-0400	4-14-2017	Repeal	5-1-2017	845-025-2540	5-1-2017	Adopt	6-1-2017
836-031-0605	12-21-2016	Adopt	2-1-2017	845-025-2550	5-1-2017	Adopt	6-1-2017
836-053-0015	3-9-2017	Amend	4-1-2017	845-025-2560	5-1-2017	Adopt	6-1-2017
837-039-0003	7-1-2017	Amend	8-1-2017	845-025-2800	12-27-2016	Amend	2-1-2017
837-039-0010	7-1-2017	Am. & Ren.	8-1-2017	845-025-2840	12-27-2016	Amend	2-1-2017
837-039-0015	7-1-2017	Am. & Ren.	8-1-2017	845-025-2900	12-27-2016	Adopt	2-1-2017
837-039-0035	7-1-2017	Adopt	8-1-2017	845-025-2910	12-27-2016	Adopt	2-1-2017
837-039-0045	7-1-2017	Adopt	8-1-2017	845-025-3215	12-27-2016	Amend	2-1-2017
837-039-0055	7-1-2017	Am. & Ren.	8-1-2017	845-025-3250	1-1-2017	Amend(T)	2-1-2017
837-039-0056	7-1-2017	Adopt	8-1-2017	845-025-3250	6-30-2017	Amend	8-1-2017
837-039-0110	7-1-2017	Am. & Ren.	8-1-2017	845-025-3255	1-1-2017	Adopt(T)	2-1-2017
837-039-0120	7-1-2017	Am. & Ren.	8-1-2017	845-025-3255	6-30-2017	Adopt	8-1-2017
837-120-0501	2-1-2017	Adopt	3-1-2017	845-025-3260	12-27-2016	Amend	2-1-2017
837-120-0510	2-1-2017	Adopt	3-1-2017	845-025-3300	12-27-2016	Adopt	2-1-2017
837-120-0520	2-1-2017	Adopt	3-1-2017	845-025-3310	12-27-2016	Adopt	2-1-2017
837-120-0530	2-1-2017	Adopt	3-1-2017	845-025-3500	12-27-2016	Amend	2-1-2017
837-120-0540	2-1-2017	Adopt	3-1-2017	845-025-3510	12-27-2016	Adopt	2-1-2017

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845-025-5300	12-27-2016	Amend	2-1-2017	851-050-0004	4-15-2017	Amend(T)	5-1-2017
845-025-5350	12-27-2016	Amend	2-1-2017	851-052-0000	3-1-2017	Amend	4-1-2017
845-025-5500	12-27-2016	Amend	2-1-2017	851-052-0010	3-1-2017	Amend	4-1-2017
845-025-5540	12-27-2016	Amend	2-1-2017	851-052-0020	3-1-2017	Amend	4-1-2017
845-025-5700	12-27-2016	Amend	2-1-2017	851-052-0030	3-1-2017	Amend	4-1-2017
845-025-5700	3-3-2017	Amend(T)	4-1-2017	851-052-0040	3-1-2017	Amend	4-1-2017
845-025-5700(T)	12-27-2016	Repeal	2-1-2017	851-052-0050	3-1-2017	Adopt	4-1-2017
845-025-7000	12-27-2016	Amend	2-1-2017	851-052-0060	3-1-2017	Adopt	4-1-2017
845-025-7020	12-27-2016	Amend	2-1-2017	851-052-0100	3-1-2017	Amend	4-1-2017
845-025-7030	12-27-2016	Amend	2-1-2017	851-056-0026	4-15-2017	Amend(T)	5-1-2017
845-025-7060	12-27-2016	Amend	2-1-2017	851-061-0030	8-1-2017	Amend	8-1-2017
845-025-7520	12-27-2016	Amend	2-1-2017	851-063-0080	8-1-2017	Repeal	8-1-2017
845-025-7580	12-27-2016	Amend	2-1-2017	851-063-0110	8-1-2017	Repeal	8-1-2017
845-025-7700	12-27-2016	Amend	2-1-2017	852-005-0005	7-1-2017	Amend	3-1-2017
845-025-7750	12-27-2016	Amend	2-1-2017	852-005-0005	7-1-2017	Amend	4-1-2017
845-025-8040	12-27-2016	Amend	2-1-2017	852-010-0080	2-14-2017	Amend	3-1-2017
845-025-8060	12-27-2016	Amend	2-1-2017	852-010-0080	3-14-2017	Amend	4-1-2017
845-025-8520	12-27-2016	Amend	2-1-2017	852-010-0080	4-26-2017	Amend(T)	6-1-2017
845-025-8560	12-27-2016	Amend	2-1-2017	852-020-0045	2-14-2017	Amend	3-1-2017
845-025-8750	12-27-2016	Adopt	2-1-2017	852-020-0045	3-14-2017	Amend	4-1-2017
847-003-0100	7-14-2017	Amend	8-1-2017	852-050-0001	2-14-2017	Amend	3-1-2017
847-003-0200	7-1-2017	Amend	2-1-2017	852-050-0001	3-14-2017	Amend	4-1-2017
847-010-0066	4-7-2017	Amend	5-1-2017	852-050-0025	2-14-2017	Amend	3-1-2017
847-035-0030	1-6-2017	Amend	2-1-2017	852-050-0025	3-14-2017	Amend	4-1-2017
847-035-0030	7-14-2017	Amend	8-1-2017	852-060-0025	2-14-2017	Amend	3-1-2017
847-050-0041	7-14-2017	Amend	8-1-2017	852-060-0025	3-14-2017	Amend	4-1-2017
847-070-0005	1-6-2017	Amend	2-1-2017	852-070-0010	2-14-2017	Amend	3-1-2017
848-005-0010	6-14-2017	Amend(T)	7-1-2017	852-070-0010	3-14-2017	Amend	4-1-2017
848-005-0010	7-1-2017	Amend	4-1-2017	855-007-0060	2-23-2017	Amend	4-1-2017
851-001-0000	8-1-2017	Amend	8-1-2017	855-019-0120	12-14-2016	Amend	1-1-2017
851-001-0005	8-1-2017	Amend	8-1-2017	855-019-0123	2-23-2017	Adopt	4-1-2017
851-001-0010	8-1-2017	Amend	8-1-2017	855-019-0450	12-14-2016	Adopt	1-1-2017
851-001-0015	8-1-2017	Amend	8-1-2017	855-019-0450(T)	12-14-2016	Repeal	1-1-2017
851-001-0020	8-1-2017	Amend	8-1-2017	855-019-0455	12-14-2016	Adopt	1-1-2017
851-001-0030	8-1-2017	Amend	8-1-2017	855-019-0455(T)	12-14-2016	Repeal	1-1-2017
851-001-0100	8-1-2017	Amend	8-1-2017	855-019-0460	12-14-2016	Adopt	1-1-2017
851-001-0115	8-1-2017	Adopt	8-1-2017	855-019-0460(T)	12-14-2016	Repeal	1-1-2017
851-001-0125	8-1-2017	Adopt	8-1-2017	855-041-1001	2-23-2017	Amend	4-1-2017
851-001-0135	8-1-2017	Adopt	8-1-2017	855-041-1010	2-23-2017	Amend	4-1-2017
851-010-0000	1-1-2017	Adopt	1-1-2017	855-041-1036	2-23-2017	Amend	4-1-2017
851-010-0005	1-1-2017	Amend	1-1-2017	855-041-1045	2-23-2017	Amend	4-1-2017
851-010-0010	1-1-2017	Amend	1-1-2017	855-041-1046	2-23-2017	Adopt	4-1-2017
851-010-0015	1-1-2017	Amend	1-1-2017	855-041-1120	7-1-2017	Amend	8-1-2017
851-010-0020	1-1-2017	Repeal	1-1-2017	855-041-2340	12-14-2016	Adopt	1-1-2017
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851-010-0035	1-1-2017	Amend	1-1-2017	855-041-4100	2-23-2017	Amend	4-1-2017
851-045-0030	8-1-2017	Amend	8-1-2017	855-041-4120	2-23-2017	Amend	4-1-2017
851-045-0035	8-1-2017	Adopt	8-1-2017	855-041-5005	2-23-2017	Amend	4-1-2017
851-045-0040	8-1-2017	Amend	8-1-2017	855-044-0001	2-23-2017	Amend	4-1-2017
851-045-0050	8-1-2017	Amend	8-1-2017	855-044-0030	2-23-2017	Amend	4-1-2017
851-045-0060	8-1-2017	Amend	8-1-2017	855-065-0010	7-1-2017	Amend	8-1-2017
851-045-0070	8-1-2017	Amend	8-1-2017	855-080-0021	12-14-2016	Amend	1-1-2017
851-045-0080	8-1-2017	Repeal	8-1-2017	855-080-0105	2-23-2017	Amend	4-1-2017
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856-030-0040	11-22-2016	Amend	1-1-2017	860-036-0210	1-24-2017	Repeal	3-1-2017
858-010-0034	2-16-2017	Amend	4-1-2017	860-036-0215	1-24-2017	Repeal	3-1-2017
858-010-0075	5-24-2017	Amend	7-1-2017	860-036-0220	1-24-2017	Repeal	3-1-2017
858-020-0055	3-20-2017	Amend	5-1-2017	860-036-0225	1-24-2017	Repeal	3-1-2017
859-010-0005	11-18-2016	Amend	1-1-2017	860-036-0230	1-24-2017	Repeal	3-1-2017
859-020-0020	7-2-2017	Repeal	8-1-2017	860-036-0235	1-24-2017	Repeal	3-1-2017
859-510-0005	12-13-2016	Amend	1-1-2017	860-036-0240	1-24-2017	Repeal	3-1-2017
860-021-0407	5-30-2017	Adopt	7-1-2017	860-036-0245	1-24-2017	Repeal	3-1-2017
860-024-0010	2-21-2017	Amend	4-1-2017	860-036-0250	1-24-2017	Repeal	3-1-2017
860-032-0060	2-7-2017	Amend	3-1-2017	860-036-0301	1-24-2017	Repeal	3-1-2017
860-032-0610	11-22-2016	Am. & Ren.	1-1-2017	860-036-0305	1-24-2017	Repeal	3-1-2017
860-032-0620	11-22-2016	Am. & Ren.	1-1-2017	860-036-0310	1-24-2017	Repeal	3-1-2017
860-032-0630	11-22-2016	Am. & Ren.	1-1-2017	860-036-0315	1-24-2017	Repeal	3-1-2017
860-032-0640	11-22-2016	Renumber	1-1-2017	860-036-0320	1-24-2017	Repeal	3-1-2017
860-032-0650	11-22-2016	Renumber	1-1-2017	860-036-0325	1-24-2017	Repeal	3-1-2017
860-032-0660	11-22-2016	Renumber	1-1-2017	860-036-0335	1-24-2017	Repeal	3-1-2017
860-032-0670	11-22-2016	Renumber	1-1-2017	860-036-0340	1-24-2017	Repeal	3-1-2017
860-033-0005	12-2-2016	Amend(T)	1-1-2017	860-036-0345	1-24-2017	Repeal	3-1-2017
860-033-0005	5-31-2017	Amend	7-1-2017	860-036-0350	1-24-2017	Repeal	3-1-2017
860-033-0030	12-2-2016	Amend(T)	1-1-2017	860-036-0360	1-24-2017	Repeal	3-1-2017
860-033-0030	5-31-2017	Amend	7-1-2017	860-036-0365	1-24-2017	Repeal	3-1-2017
860-033-0046	12-2-2016	Amend(T)	1-1-2017	860-036-0370	1-24-2017	Repeal	3-1-2017
860-033-0046	5-31-2017	Amend	7-1-2017	860-036-0380	1-24-2017	Repeal	3-1-2017
860-033-0050	12-2-2016	Amend(T)	1-1-2017	860-036-0405	1-24-2017	Repeal	3-1-2017
860-033-0050	5-31-2017	Amend	7-1-2017	860-036-0410	1-24-2017	Repeal	3-1-2017
860-033-0110	5-31-2017	Amend	7-1-2017	860-036-0412	1-24-2017	Repeal	3-1-2017
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860-036-0001	1-24-2017	Repeal	3-1-2017	860-036-0420	1-24-2017	Repeal	3-1-2017
860-036-0005	1-24-2017	Repeal	3-1-2017	860-036-0425	1-24-2017	Repeal	3-1-2017
860-036-0010	1-24-2017	Repeal	3-1-2017	860-036-0505	1-24-2017	Repeal	3-1-2017
860-036-0015	1-24-2017	Repeal	3-1-2017	860-036-0605	1-24-2017	Repeal	3-1-2017
860-036-0020	1-24-2017	Repeal	3-1-2017	860-036-0610	1-24-2017	Repeal	3-1-2017
860-036-0025	1-24-2017	Repeal	3-1-2017	860-036-0615	1-24-2017	Repeal	3-1-2017
860-036-0030	1-24-2017	Repeal	3-1-2017	860-036-0616	1-24-2017	Repeal	3-1-2017
860-036-0035	1-24-2017	Repeal	3-1-2017	860-036-0620	1-24-2017	Repeal	3-1-2017
860-036-0040	1-24-2017	Repeal	3-1-2017	860-036-0630	1-24-2017	Repeal	3-1-2017
860-036-0045	1-24-2017	Repeal	3-1-2017	860-036-0635	1-24-2017	Repeal	3-1-2017
860-036-0050	1-24-2017	Repeal	3-1-2017	860-036-0640	1-24-2017	Repeal	3-1-2017
860-036-0055	1-24-2017	Repeal	3-1-2017	860-036-0645	1-24-2017	Repeal	3-1-2017
860-036-0060	1-24-2017	Repeal	3-1-2017	860-036-0705	1-24-2017	Repeal	3-1-2017
860-036-0065	1-24-2017	Repeal	3-1-2017	860-036-0708	1-24-2017	Repeal	3-1-2017
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860-088-0030	6-30-2017	Adopt	8-1-2017	918-308-0010	1-1-2017	Amend	2-1-2017
860-088-0040	6-30-2017	Adopt	8-1-2017	918-308-0160	1-1-2017	Amend	2-1-2017
860-088-0050	6-30-2017	Adopt	8-1-2017	918-460-0015	5-2-2017	Amend(T)	6-1-2017
860-088-0060	6-30-2017	Adopt	8-1-2017	918-500-0450	1-19-2017	Amend(T)	3-1-2017
860-088-0070	6-30-2017	Adopt	8-1-2017	918-500-0450	7-1-2017	Amend	8-1-2017
860-088-0080	6-30-2017	Adopt	8-1-2017	918-500-0450(T)	7-1-2017	Repeal	8-1-2017
860-088-0090	6-30-2017	Adopt	8-1-2017	918-525-0000	1-19-2017	Amend(T)	3-1-2017
860-088-0100	6-30-2017	Adopt	8-1-2017	918-525-0000	7-1-2017	Amend	8-1-2017
860-088-0110	6-30-2017	Adopt	8-1-2017	918-525-0000(T)	7-1-2017	Repeal	8-1-2017
860-088-0120	6-30-2017	Adopt	8-1-2017	918-525-0005	1-19-2017	Amend(T)	3-1-2017
860-088-0130	6-30-2017	Adopt	8-1-2017	918-525-0005	7-1-2017	Amend	8-1-2017
860-088-0140	6-30-2017	Adopt	8-1-2017	918-525-0005(T)	7-1-2017	Repeal	8-1-2017
860-088-0150	6-30-2017	Adopt	8-1-2017	918-525-0015	1-19-2017	Amend(T)	3-1-2017
860-088-0160	6-30-2017	Adopt	8-1-2017	918-525-0015	7-1-2017	Amend	8-1-2017
860-088-0170	6-30-2017	Adopt	8-1-2017	918-525-0015(T)	7-1-2017	Repeal	8-1-2017
860-088-0180	6-30-2017	Adopt	8-1-2017	918-525-0020	1-19-2017	Amend(T)	3-1-2017
860-088-0190	6-30-2017	Adopt	8-1-2017	918-525-0020	7-1-2017	Amend	8-1-2017
860-100-0001	11-22-2016	Adopt	1-1-2017	918-525-0020(T)	7-1-2017	Repeal	8-1-2017
860-100-0005	11-22-2016	Adopt	1-1-2017	918-525-0035	1-19-2017	Amend(T)	3-1-2017
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875-010-0031	5-16-2017	Amend	7-1-2017	918-525-0035(T)	7-1-2017	Repeal	8-1-2017
875-010-0045	12-12-2016	Amend(T)	1-1-2017	918-525-0040	1-19-2017	Amend(T)	3-1-2017
875-010-0045	12-13-2016	Amend	1-1-2017	918-525-0040	7-1-2017	Amend	8-1-2017
875-010-0045	12-14-2016	Amend(T)	1-1-2017	918-525-0040(T)	7-1-2017	Repeal	8-1-2017
875-010-0045	1-12-2017	Amend	2-1-2017	918-525-0042	1-19-2017	Amend(T)	3-1-2017
875-010-0045	5-16-2017	Amend	7-1-2017	918-525-0042	7-1-2017	Amend	8-1-2017
875-010-0090	12-12-2016	Amend	1-1-2017	918-525-0042(T)	7-1-2017	Repeal	8-1-2017
875-010-0090	1-12-2017	Amend	2-1-2017	918-525-0045	1-19-2017	Suspend	3-1-2017
875-015-0030	12-12-2016	Amend(T)	1-1-2017	918-525-0045	7-1-2017	Repeal	8-1-2017
875-015-0030	5-16-2017	Amend	7-1-2017	918-525-0045(T)	7-1-2017	Repeal	8-1-2017
875-030-0010	12-13-2016	Amend	1-1-2017	918-525-0055	1-19-2017	Suspend	3-1-2017
875-030-0010	1-12-2017	Amend	2-1-2017	918-525-0055	7-1-2017	Repeal	8-1-2017
875-030-0050	12-13-2016	Amend	1-1-2017	918-525-0055(T)	7-1-2017	Repeal	8-1-2017
875-030-0050	1-12-2017	Amend	2-1-2017	918-525-0060	1-19-2017	Amend(T)	3-1-2017
877-001-0009	1-23-2017	Amend	3-1-2017	918-525-0060	7-1-2017	Am. & Ren.	8-1-2017
877-015-0108	1-23-2017	Amend	3-1-2017	918-525-0060(T)	7-1-2017	Repeal	8-1-2017
877-020-0009	1-23-2017	Amend	3-1-2017	918-525-0065	1-19-2017	Amend(T)	3-1-2017
877-020-0010	1-23-2017	Amend	3-1-2017	918-525-0065	7-1-2017	Amend	8-1-2017
877-020-0012	1-23-2017	Amend	3-1-2017	918-525-0065(T)	7-1-2017	Repeal	8-1-2017
918-001-0012	4-1-2017	Adopt	5-1-2017	918-525-0070	1-19-2017	Amend(T)	3-1-2017
918-001-0014	4-1-2017	Adopt	5-1-2017	918-525-0070	7-1-2017	Am. & Ren.	8-1-2017
918-001-0016	4-1-2017	Adopt	5-1-2017	918-525-0070(T)	7-1-2017	Repeal	8-1-2017
918-001-0034	4-1-2017	Amend	5-1-2017	918-525-0080	1-19-2017	Amend(T)	3-1-2017
918-001-0300	4-1-2017	Adopt	5-1-2017	918-525-0080	7-1-2017	Am. & Ren.	8-1-2017
918-001-0310	4-1-2017	Adopt	5-1-2017	918-525-0080(T)	7-1-2017	Repeal	8-1-2017
918-020-0380	7-1-2017	Adopt	8-1-2017	918-525-0090	1-19-2017	Amend(T)	3-1-2017
918-098-1305	1-19-2017	Amend(T)	3-1-2017	918-525-0090	7-1-2017	Amend	8-1-2017
918-098-1305	7-1-2017	Amend	8-1-2017	918-525-0090(T)	7-1-2017	Repeal	8-1-2017
918-098-1325	1-19-2017	Amend(T)	3-1-2017	918-525-0100	1-19-2017	Amend(T)	3-1-2017
918-098-1325	7-1-2017	Amend	8-1-2017	918-525-0100	7-1-2017	Amend	8-1-2017
918-098-1325(T)	7-1-2017	Repeal	8-1-2017	918-525-0100(T)	7-1-2017	Repeal	8-1-2017
918-098-1505(T)	7-1-2017	Repeal	8-1-2017	918-525-0120	7-1-2017	Repeal	8-1-2017
918-282-0465	2-1-2017	Adopt(T)	3-1-2017	918-525-0130	7-1-2017	Repeal	8-1-2017
918-282-0470	2-1-2017	Adopt(T)	3-1-2017	918-525-0140	7-1-2017	Repeal	8-1-2017

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918-525-0160	7-1-2017	Repeal	8-1-2017	918-525-0520	1-19-2017	Amend(T)	3-1-2017
918-525-0170	7-1-2017	Repeal	8-1-2017	918-525-0520	7-1-2017	Amend	8-1-2017
918-525-0210	1-19-2017	Amend(T)	3-1-2017	918-525-0520(T)	7-1-2017	Repeal	8-1-2017
918-525-0210	7-1-2017	Repeal	8-1-2017	918-530-0005	1-19-2017	Suspend	3-1-2017
918-525-0210(T)	7-1-2017	Repeal	8-1-2017	918-530-0005	7-1-2017	Repeal	8-1-2017
918-525-0220	1-19-2017	Amend(T)	3-1-2017	918-530-0005(T)	7-1-2017	Repeal	8-1-2017
918-525-0220	7-1-2017	Repeal	8-1-2017	918-530-0010	1-19-2017	Suspend	3-1-2017
918-525-0220(T)	7-1-2017	Repeal	8-1-2017	918-530-0010	7-1-2017	Repeal	8-1-2017
918-525-0240	7-1-2017	Repeal	8-1-2017	918-530-0010(T)	7-1-2017	Repeal	8-1-2017
918-525-0250	7-1-2017	Repeal	8-1-2017	918-530-0020	1-19-2017	Suspend	3-1-2017
918-525-0260	1-19-2017	Amend(T)	3-1-2017	918-530-0020	7-1-2017	Repeal	8-1-2017
918-525-0260	7-1-2017	Repeal	8-1-2017	918-530-0020(T)	7-1-2017	Repeal	8-1-2017
918-525-0260(T)	7-1-2017	Repeal	8-1-2017	918-530-0040	1-19-2017	Suspend	3-1-2017
918-525-0270	1-19-2017	Amend(T)	3-1-2017	918-530-0040	7-1-2017	Repeal	8-1-2017
918-525-0270	7-1-2017	Repeal	8-1-2017	918-530-0040(T)	7-1-2017	Repeal	8-1-2017
918-525-0270(T)	7-1-2017	Repeal	8-1-2017	918-530-0050	1-19-2017	Suspend	3-1-2017
918-525-0310	1-19-2017	Amend(T)	3-1-2017	918-530-0050	7-1-2017	Repeal	8-1-2017
918-525-0310	7-1-2017	Amend	8-1-2017	918-530-0050(T)	7-1-2017	Repeal	8-1-2017
918-525-0310(T)	7-1-2017	Repeal	8-1-2017	918-530-0060	1-19-2017	Suspend	3-1-2017
918-525-0320	1-19-2017	Amend(T)	3-1-2017	918-530-0060	7-1-2017	Repeal	8-1-2017
918-525-0320	7-1-2017	Amend	8-1-2017	918-530-0060(T)	7-1-2017	Repeal	8-1-2017
918-525-0320(T)	7-1-2017	Repeal	8-1-2017	918-530-0070	1-19-2017	Suspend	3-1-2017
918-525-0325	1-19-2017	Suspend	3-1-2017	918-530-0070	7-1-2017	Repeal	8-1-2017
918-525-0325	7-1-2017	Repeal	8-1-2017	918-530-0070(T)	7-1-2017	Repeal	8-1-2017
918-525-0325(T)	7-1-2017	Repeal	8-1-2017	918-530-0080	1-19-2017	Suspend	3-1-2017
918-525-0330	1-19-2017	Amend(T)	3-1-2017	918-530-0080	7-1-2017	Repeal	8-1-2017
918-525-0330	7-1-2017	Amend	8-1-2017	918-530-0080(T)	7-1-2017	Repeal	8-1-2017
918-525-0330(T)	7-1-2017	Repeal	8-1-2017	918-530-0090	1-19-2017	Suspend	3-1-2017
918-525-0350	1-19-2017	Amend(T)	3-1-2017	918-530-0090	7-1-2017	Repeal	8-1-2017
918-525-0350	7-1-2017	Amend	8-1-2017	918-530-0090(T)	7-1-2017	Repeal	8-1-2017
918-525-0350(T)	7-1-2017	Repeal	8-1-2017	918-530-0100	1-19-2017	Suspend	3-1-2017
918-525-0360	7-1-2017	Amend	8-1-2017	918-530-0100	7-1-2017	Repeal	8-1-2017
918-525-0370	1-19-2017	Suspend	3-1-2017	918-530-0100(T)	7-1-2017	Repeal	8-1-2017
918-525-0370	7-1-2017	Repeal	8-1-2017	918-530-0110	1-19-2017	Suspend	3-1-2017
918-525-0370(T)	7-1-2017	Repeal	8-1-2017	918-530-0110	7-1-2017	Repeal	8-1-2017
918-525-0410	1-19-2017	Amend(T)	3-1-2017	918-530-0110(T)	7-1-2017	Repeal	8-1-2017
918-525-0410	7-1-2017	Amend	8-1-2017	918-530-0120	1-19-2017	Suspend	3-1-2017
918-525-0410(T)	7-1-2017	Repeal	8-1-2017	918-530-0120	7-1-2017	Repeal	8-1-2017
918-525-0420	1-19-2017	Amend(T)	3-1-2017	918-530-0120(T)	7-1-2017	Repeal	8-1-2017
918-525-0420	7-1-2017	Amend	8-1-2017	918-530-0310	1-19-2017	Suspend	3-1-2017
918-525-0420(T)	7-1-2017	Repeal	8-1-2017	918-530-0310	7-1-2017	Repeal	8-1-2017
918-525-0430	1-19-2017	Amend(T)	3-1-2017	918-530-0310(T)	7-1-2017	Repeal	8-1-2017
918-525-0430	7-1-2017	Amend	8-1-2017	918-530-0320	1-19-2017	Suspend	3-1-2017
918-525-0430(T)	7-1-2017	Repeal	8-1-2017	918-530-0320	7-1-2017	Repeal	8-1-2017
918-525-0440	1-19-2017	Amend(T)	3-1-2017	918-530-0320(T)	7-1-2017	Repeal	8-1-2017
918-525-0440	7-1-2017	Amend	8-1-2017	918-530-0340	1-19-2017	Suspend	3-1-2017
918-525-0440(T)	7-1-2017	Repeal	8-1-2017	918-530-0340	7-1-2017	Repeal	8-1-2017
918-525-0450	1-19-2017	Amend(T)	3-1-2017	918-530-0340(T)	7-1-2017	Repeal	8-1-2017
918-525-0450	7-1-2017	Amend	8-1-2017	918-550-0000	2-1-2017	Amend(T)	3-1-2017
918-525-0450(T)	7-1-2017	Repeal	8-1-2017	918-550-0010	2-1-2017	Amend(T)	3-1-2017
918-525-0460	1-19-2017	Suspend	3-1-2017	918-550-0020	2-1-2017	Adopt(T)	3-1-2017
918-525-0460	7-1-2017	Repeal	8-1-2017	918-550-0030	2-1-2017	Adopt(T)	3-1-2017
918-525-0460(T)	7-1-2017	Repeal	8-1-2017	918-550-0040	2-1-2017	Adopt(T)	3-1-2017
918-525-0510	1-19-2017	Amend(T)	3-1-2017	918-550-0100	2-1-2017	Amend(T)	3-1-2017
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918-550-0180	2-1-2017	Suspend	3-1-2017				
918-550-0200	2-1-2017	Amend(T)	3-1-2017				
918-550-0600	2-1-2017	Amend(T)	3-1-2017				
943-014-0200	5-17-2017	Amend	7-1-2017				
943-014-0205	5-17-2017	Amend	7-1-2017				
945-030-0020	6-29-2017	Amend	8-1-2017				
945-030-0030	4-5-2017	Amend	5-1-2017				
951-002-0000	5-2-2017	Amend	6-1-2017				
951-002-0001	5-2-2017	Amend	6-1-2017				
951-002-0005	5-2-2017	Amend	6-1-2017				
951-002-0010	5-2-2017	Amend	6-1-2017				
951-002-0020	5-2-2017	Amend	6-1-2017				
951-007-0000	5-2-2017	Adopt	6-1-2017				
951-007-0001	5-2-2017	Adopt	6-1-2017				
951-007-0005	5-2-2017	Adopt	6-1-2017				
951-007-0010	5-2-2017	Adopt	6-1-2017				
951-007-0020	5-2-2017	Adopt	6-1-2017				
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