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PROCEDURAL RULES

[ED. NOTE: Procedure Rules, OAR 415-001-0005 & 415-001-0010, were repealed effective 6-1-06. The Department will adhere to the Procedural Rules in OAR 407-001.]

DIVISION 12

STANDARDS FOR APPROVAL/LICENSURE OF ALCOHOL AND OTHER DRUG ABUSE PROGRAMS

415-012-0000
Purpose

Purpose. These rules establish procedures for approval of the following:

(1) Any alcohol or drug abuse service provider which is, or seeks to be, contractually affiliated with the Addictions and Mental Health Division or local mental health authority for the purpose of providing alcohol and other drug abuse treatment and prevention services;

(2) Any service provider using public funds in the provision of alcohol or drug abuse prevention, intervention, or treatment services in Oregon;

(3) Performing providers under Addictions and Mental Health Division rules under OAR 309-016-0000 through 309-016-0120;

(4) Organizations that provide alcohol or drug abuse treatment services seeking approval from the Division to establish eligibility for insurance reimbursement as provided in ORS 430.065;

(5) Organizations seeking approval from the Division for provision of residential services as provided in ORS 430.010 and 443.400 or detoxification services under 430.306; or

(6) Alcohol and drug evaluation specialists designated to do Driving Under the Influence of Intoxicants (DUII) diagnostic assessments under ORS 813.020 and 813.260.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0010
Definitions

(1) "Applicant" means any person or entity who has requested, in writing, a letter of approval or license.

(2) "Assistant Director" means the Assistant Director of the Addictions and Mental Health Division of the Oregon Health Authority.

(3) "Client" means an individual receiving services under these rules.

(4) "Community Mental Health Program (CMHP)" means the organization of all services for individuals with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, 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.

(5) "Direct Contract" or "Contract" is 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 alcohol and drug abuse program within a county's boundaries, or operating a statewide, regional, or specialized service.

(6) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(7) "Intergovernmental Agreement" or "Agreement" is 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 an alcohol and drug abuse service.

(8) "Letter of Approval (LOA)" means a certificate issued by the Assistant Director to applicants who are in substantial compliance with applicable administrative rules for alcohol and drug abuse treatment in an outpatient setting, Driving Under the Influence of Intoxicants (DUII) diagnostic assessment, or prevention services, and which is renewable every three years.

(9) "License" means a certificate issued by the Assistant Director to applicants who are in substantial compliance with applicable administrative rules for alcohol and drug abuse treatment in a residential setting and which is renewable every two years.

(10) "Non-Funded Provider" means an organization not contractually affiliated with the Division, a CMHP, or other contractor of the Division.

(11) "Provider" means an organization providing alcohol or drug abuse 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.

(12) "Provisional" means a LOA or license issued for one year or less pending completion of specified requirements because of substantial failure to comply with applicable administrative rules.

(13) "Quality Assurance" means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of client care to identify and resolve identified problems.

(14) "Restriction" means any limitations placed on a LOA or license such as age of clients to be served or number of clients to be served.

(15) "Revocation" means the removal of authority for a provider to provide certain services under a LOA or license.

(16) "Service Element" means a distinct service or group of services for persons with alcohol or other drug abuse problems defined in administrative rule and included in a contract or agreement issued by the Division.

(17) "Subcontract" means the document describing and limiting the relationship and respective obligations between a government and other entity having an agreement or contract with the Division and a third organization (subcontractor) for the purpose of delivering some or all of the services specified in the agreement or contract with the Division.

(18) "Substantial Compliance" means a level of adherence to applicable administrative rules which, while 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 or ongoing violation of the rights of service recipients as set forth in administrative rules; or

(c) Prevent the accomplishment of the state's purposes in approving or supporting the subject service.

(19) "Substantial Failure to Comply" is used in this rule to mean the opposite of "substantial compliance."

(20) "Suspension" means a temporary removal of authority for a provider to conduct a service for a stated period of time or until the occurrence of a specified event under a LOA or license.

(21) "Temporary" means a LOA license issued for 185 days to a program approved for the first time. A temporary LOA license cannot be extended.

(22) "Variance or Exception" means a waiver of a regulation or provision of these rules granted by the Division upon written application.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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 1-2001, f. 3-29-01, cert. ef. 4-1-01; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0020
General Requirements

(1) Providers That Must Have LOA or License: Every provider that operates a service element by contract with the Division or subcontracts with a local entity or public body or otherwise receives public funds for providing alcohol or drug abuse prevention, intervention, or treatment services must have an LOA or license:

(a) No provider shall represent themselves as conducting any service described in this rule without first obtaining an LOA or license;

(b) A provider that does not have an LOA or license for conducting a service described in this rule may not admit a person needing that service; and

(c) The LOA or license shall be posted in the facility and available for inspection at all times.

(2) Discretionary LOA: The Division may also issue an LOA to organizations seeking approval for insurance reimbursement as provided in ORS 430.065 or to other non-funded providers.

(3) Facilities Requiring License: Any facility which meets the definition of a residential treatment facility for alcohol or drug-dependent persons under ORS 443.400 or a detoxification center as defined in ORS 430.306 must be licensed by the Division:

(a) No individual or entity shall represent themselves as a residential treatment facility for alcohol or drug-dependent persons or as a detoxification center without first 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) LOA or License is not a Contract: 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.

(5) List of Service Elements: Services eligible for an LOA include but are not limited to:

(a) Outpatient alcohol or other drug treatment;

(b) Outpatient methadone maintenance and outpatient methadone detoxification;

(c) Outpatient DUII alcohol and other drug information and rehabilitation programs and marijuana education and treatment programs;

(d) Outpatient occupational drivers license program;

(e) Title XIX program;

(f) Prevention programs;

(g) Alcohol and drug evaluation specialists; and

(h) Marijuana evaluation specialists.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0030
Initial Application Procedures

(1) Application Packet: The Division shall mail an application packet to all applicants upon request. This application process applies to all providers except persons who wish to become Alcohol and Drug Evaluation Specialists (ADES) who should refer to OAR 415-054-0045 to 415-054-0100.

(2) Initial Meeting: All programs applying for the first time for a LOA or 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) Multiple Locations: A separate application is required for each location where the provider intends to operate.

(4) Copy of Application: A copy of the application shall be provided by the applicant to the local mental health authority (CMHP) and to the Local Alcohol Planning Committee (LAPC) for review and comment. A program seeking to provide services on a statewide or regional basis must provide application material to the CMHP and the LAPC in the county where the program resides.

(5) Withdrawal of Application: 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.

(6) Initial Application Information: An applicant for a LOA or license shall submit the information listed below on forms provided by the Division:

(a) Name and address of the applicant;

(b) Name, address, and qualifications of the executive director or administrator;

(c) Outline of the staff organization with names and qualifications;

(d) Articles of incorporation and bylaws;

(e) Names and addresses of the board of directors, sponsors, or advisory boards of the program;

(f) Names and addresses of physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the program has a direct referral agreement or is otherwise affiliated;

(g) Description of the treatment services provided by the program setting forth program philosophy, goals, objectives, and a description of the treatment methodology for each service element;

(h) Materials demonstrating compliance with the administrative rules governing the specific service provided;

(i) Materials showing compliance with all related federal, state and local acts, ordinances, rules and amendments such as State Fire Marshal rules, board of health and building zoning codes, and the American Disabilities Act;

(j) Materials substantiating compliance with other licensing authorities such as the Children, Adults and Families (CAF) Division for residential adolescent programs or the Drug Enforcement Administration and Food and Drug Administration for methadone treatment programs;

(k) For residential treatment and detoxification facilities, the maximum client capacity requested;

(l) Source of funds used to finance the program such as an annual budget of the organization or a copy of the most current fiscal audit or review;

(m) Written evidence of applicable insurance such as liability insurance;

(n) Floor plan for the proposed facility;

(o) Representative sample client file;

(p) Written nondiscrimination policy including:

(A) Explanation of methods used to disseminate the policy;

(B) Description of procedures used to communicate with sensory impaired person or persons of limited English proficiency;

(C) Written statement about the accessibility of the facility and programs for disabled persons; and

(D) Written grievance procedure for handling discrimination complaints.

(7) Application Satisfactory: If the application is found to be complete and if the material documents compliance with applicable administrative rules, the Division shall issue a temporary LOA or license no later than 30 days after final approval of the application.

(8) Unsatisfactory Application: If the application is not complete or if the application does not document compliance:

(a) The applicant shall be provided with written notification that identifies needed information or areas of non-compliance within 60 days of receipt of the application; and

(b) The original application shall be kept on file for 60 days after written notice has been given, at which time, if no further material is submitted to correct the deficiencies noted, the application shall be denied and all material shall be returned to the applicant.

(9) Application Denied: If an initial LOA or license is denied:

(a) The applicant shall be entitled to a hearing with the Assistant Director if the applicant requests a hearing in writing within 60 days of the receipt of the notice;

(b) The Assistant Director, whose decision is final, shall hold a hearing within 60 days of receipt of the written request; and

(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 Assistant Director may designate its file as the record for purposes of order by default.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0040
Letters of Approval and Licenses

(1) Types of Certification: The Division may issue the following types of certificates:

(a) Temporary LOA or temporary license for 185 days;

(b) Provisional LOA or license for one year or less;

(c) A license for two years; or

(d) An LOA for three years.

(2) Renewal: Renewal of three-year letters of approval and two-year licenses shall be contingent upon demonstration of compliance with appropriate administrative rules:

(a) A program may continue to operate until final determination of its approval or licensure status is made by the Division;

(b) Failure to demonstrate compliance may result in the issuance of a provisional LOA, license, suspension, or revocation.

(3) Provisional Certification: Programs with provisional letters of approval or licenses upon demonstrating substantial compliance with appropriate administrative rules may be eligible for a three-year LOA or a two-year license. However, the provider's failure to demonstrate substantial compliance may result in an extension, suspension, or revocation of the provisional LOA or license.

(4) Nondiscrimination; Special Populations: The Division shall not discriminate in its review procedures or services on the basis of race, color, national origin, age, or disability. The Division may issue LOA or licenses to specialized programs to assure maximum benefit for special populations, in which case, the Division may identify that special population in the LOA or license and impose applicable program criteria.

(5) Restrictions: Restrictions which may be attached to a LOA or license include:

(a) Limiting the total number of clients (in residential or detoxification treatment);

(b) Defining the age level of clients (i.e., youth or adult) to be admitted into the facility;

(c) Defining the gender of clients, if the provider is identified as serving only males or females;

(d) Assuring compliance with other licensing entities such as the CAF Division, the State Public Health Division, or the Food and Drug Administration; or

(e) Other restrictions as required by the Division.

(6) Time Limits on Restrictions: Restrictions may be imposed for the extent of the approval period or limited to some other shorter period of time. If the restriction corresponds to the licensing period, the reasons for the restriction shall be considered at the time of renewal to determine if the restrictions are still appropriate.

(7) Restriction to Appear on LOA or License: The effective date and expiration date of the restriction shall be indicated on the certificate.

(8) Non-Transferability: An LOA or license issued by the Division for the operation of a substance abuse program applies both to the applicant program and the premises upon which the program is to be operated. A LOA or license is not transferable to another person, entity, or to any other location:

(a) Any person or other legal entity acquiring an approved licensed facility for the purpose of operating a substance abuse program shall make an application as provided herein for a new LOA or license;

(b) Any person or legal entity having been issued a license and desiring to fundamentally alter the treatment philosophy or transfer to different premises must notify the Division 30 days prior to doing so in order for the Division to review the program or site change and to determine further necessary action.

(9) Change of Administrator: If the administrator of the program changes during the period covered by the letter of approval or license:

(a) A request for a change must be submitted to the Division within 15 days, along with the qualifications of the proposed new administrator;

(b) Upon a determination that the administrator meets the requirements of applicable administrative rules, a revised LOA or license shall be issued with the name of the new administrator.

(10) Discontinued Program: When a program is discontinued, its current LOA or license is void immediately and the certificate shall be returned to the Division. A discontinued program is one which has terminated its services for which it has been approved or licensed. A program planning to discontinue services must:

(a) Notify the Division 60 days prior to a voluntary closure of a facility with written notice of how the provider will comply with OAR 309-014-0035(4) and 42 CFR Part 2, Federal Confidentiality Regulations, regarding the preservation of all client records; and

(b) Provide clients 30 days written notice and shall be responsible for making reasonable efforts to obtain treatment placement of clients as appropriate.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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 1-2001, f. 3-29-01, cert. ef. 4-1-01; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0050
Onsite Reviews

(1) Scheduled Inspections: The Division shall inspect the facilities and must review procedures utilized:

(a) Before issuing a LOA or license to an applicant; and

(b) Before renewal of an existing LOA or license.

(2) Discretionary Onsite Inspections: The Division may conduct onsite inspections:

(a) Upon receipt of verbal or written complaints of violations that allege conditions that may threaten the health, safety, or welfare of clients or for any other reason to be concerned for client welfare; or

(b) Any time the Division has reason to believe it is necessary to assure if a provider is in compliance with the administrative rules or with conditions placed upon the LOA or license.

(3) Substance of Reviews: The review may include but is not limited to case record audits and interviews with staff and clients, consistent with the confidentiality safeguards of state and federal laws.

(4) Access to Facilities and Records: Each applicant or provider agrees, as a condition of LOA or license approval:

(a) To permit designated representatives of the Division to inspect premises of programs to verify information contained in the application or to assure compliance with all laws, rules, and regulations during all hours of operation of the facility and at any other reasonable hour;

(b) To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the approved or licensed program; and

(c) That such right of immediate entry and inspection shall, under due process of law, extend to any premises on which the Division has

reasons to believe a program is being operated by the provider in violation of these rules.

(5) Access if Requirement for LOA or License: An applicant or provider shall not be granted approval or licensing which does not permit inspection by the Division or examination of all records, including financial records as appropriate, methods of administration, the disbursement of drugs and method of supply, and any other records the Division considers to be relevant to the establishment of such a program.

(6) Inspection by Other Agencies: Each applicant or provider agrees, as a condition of LOA or license approval that:

(a) State or local fire inspectors shall be permitted access to enter and inspect the facility regarding fire safety upon the request of the Division; and

(b) State or local health inspectors shall be permitted access to enter and inspect the facility regarding health safety upon the request of the Division.

(7) Notice: The Division has authority to conduct inspections with or without advance notice to the administrator, staff, or clients:

(a) The Division is not required to give advance notice of any onsite inspection if the Division reasonably believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules; and

(b) If Division staff are not permitted access for inspection, a search warrant may be sought.

(8) Review Process and Reports: For renewal of a LOA or license:

(a) The Division shall designate a lead specialist and other onsite review members as appropriate, such as a peer reviewer or the designee of the CMHP, to perform a formal onsite review of the service element or elements;

(9) Access to Reports: Public access to final reports of onsite inspections, except for confidential information, shall be available upon written request from the Division during business hours in accordance with OAR chapter 407, division 003.

(10) Corrective Action Plan. Programs issued a provisional LOA or license must submit an action plan to the Assistant Director or his or her designee for approval no later than 30 days following receipt of the final onsite report. The corrective action plan shall include, but not be limited to:

(a) Specific problem areas cited as out of compliance;

(b) A delineation of corrective measures to be taken by the program to bring the program into compliance; and

(c) A delineation of target dates for completion of corrective measures for each problem area.

(11) Failure to Take Corrective Action: Failure to demonstrate compliance with the corrective action plan may result in an extension, suspension or revocation of the provisional LOA or license.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0060
Denial, Revocation, Non-renewal, or Suspension

(1) Denial of Application or Request for Renewal: The Division shall deny an application or request for renewal for an LOA or license where it finds any of the following:

(a) The provider has substantially failed to comply with applicable administrative rules or with local codes and ordinances or any other applicable state or federal law or rule;

(b) The applicant or provider has had a prior LOA or license to operate an alcohol and drug abuse treatment program denied, suspended, revoked, or refused to be renewed in any county in Oregon within three years preceding the present application for reason of abuse or neglect of clients or the administrator's failure to possess adequate physical health, mental health, or good personal character;

(c) If such prior denial, suspension, revocation, or refusal to renew occurred more than three years from the present action, the provider is required to establish to the Division by clear and convincing evidence his or her ability and fitness to operate a treatment program. If the applicant or provider does not provide such evidence, the Division shall deny the application;

(d) The applicant or provider submits fraudulent or untrue information to the Division;

(e) The applicant or provider has a history of, or currently demonstrates, financial insolvency such as filing for bankruptcy, foreclosures, eviction due to failure to a 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;

(f) The applicant or provider refuses to allow immediate access and onsite inspection by the Division; or

(g) The applicant or provider fails to maintain sufficient staffing or fails to comply with staff qualifications requirements.

(2) Notification of Denial: When the Division determines that an applicant's request for an LOA or license should be denied, the Assistant Director or designee shall notify the applicant, by certified mail, return receipt requested, of the Division's decision to deny the approval or licensure and the reasons for the denial.

(3) Summary Suspension: If the Division finds that the health, safety, or welfare of the public are seriously endangered by continued operation of a treatment or prevention program and sets forth specific reasons for its findings, summary suspension of an LOA or license may be ordered. The Division may suspend an LOA or license for any of the following reasons:

(a) Violation by the program, its director or staff, of any rule promulgated by this Division pertaining to treatment or prevention programs;

(b) Permitting, aiding or abetting the commitment of an unlawful act within the facilities maintained by the program, or permitting, aiding or abetting the commitment of an unlawful act involving chemical substances within the program;

(c) Conduct or practices found by the Division to be detrimental to the general health or welfare of a client in the program; or

(d) Deviation by the program from the plan of operation originally approved or licensed which, in the judgment of the Division, adversely affects the character, quality or scope of services intended to be provided to clients within the program.

(4) Criminal Record: The Division may deny, refuse to renew, suspend, or revoke an LOA or license if:

(a) Any of the program's staff, within the previous three years, has been convicted of:

(A) Any crime or violation under ORS chapter 475, including but not limited to the Uniform Controlled Substances Act, or under ORS 813.010, driving under the influence of intoxicants;

(B) A substantially similar crime or violation in any other state; or

(C) Any felony.

(b) Any of the program's staff has entered into, within the past three years, a diversion agreement under ORS 813.010 or 135.907 through 135.921, or a diversion agreement under a substantially similar law in any other state;

(5) Criminal Record Checks: The Assistant Director or designee may make criminal record inquiries necessary to ensure implementation of these rules.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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

415-012-0070
Hearings

(1) Requesting Hearings: If a license or letter of approval is suspended, not renewed, or revoked:

(a) The provider shall be entitled to a hearing preceding the effective date of the denial, suspension, non-renewal, or revocation if requested in writing within 21 days after receipt of notice.

(b) If no timely written request is received, the notice shall become the final order by default and the Assistant Director may designate the Division file as the record for purposes of order by default.

(2) Contested Case Hearings: Programs that wish to contest the suspension, non-renewal, or revocation of their LOA or license shall have an opportunity for a hearing by the Division according to the Attorney General's Model Rules of Procedure.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0080
Complaints

(1) Investigation of Complaints: Any person who believes that administrative rules have been violated may file a complaint with the Division:

(a) The Division may require that complainant exhaust grievance procedures available to them through the provider prior to initiation of an investigation;

(b) The Division shall investigate complaints and notify the provider of the results of the investigation and any proposed action.

(2) Records of Complaints: A record shall be maintained by the Division of all complaints and any action taken on the complaint and shall:

(a) Be placed into the public file. Any information regarding the investigation of the complaint shall not be filed in the public file until the investigation has been completed;

(b) Protect the identification of the complainant; and

(c) Treat the identities of the witnesses and clients as confidential information.

(3) Inspection of Records: Any person may inspect and receive a photocopy of the public complaint files maintained by the Division upon requesting an appointment to do so. A fee shall be charged in accordance with OAR chapter 407, division 003.

(4) Substantiated Complaint Grounds for Action: Providers who acquire substantiated complaints pertaining to the health, safety, or welfare of clients may have their LOA or licenses suspended, revoked, or not renewed and arrangements made to move the clients.

(5) Retaliation Toward A Client Forbidden: The provider shall not retaliate against any client for filing a complaint with the Division by:

(a) Increasing charges; decreasing services; rights or privileges;

(b) Threatening to increase charges or decrease services, rights, or privileges;

(c) Taking or threatening to take any action to coerce or compel the client to leave the facility; or

(d) Abusing or threatening to harass or abuse a client in any manner.

(6) Retaliation Toward Employee or Witness: The provider shall not retaliate against any complainant, witness, or employee of a facility for making a report to or being interviewed by the Division about a complaint including restriction to access to the program or to a client or, if an employee, to dismissal or harassment.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-012-0090
Variance or Exception

(1) Procedure for Submission of Request. Request must be made in writing:

(a) For an initial application it should be included with the application documents submitted to the Division, local mental health authority, and the Local Alcohol Planning Committee;

(b) If the provider is an agency under contract with the local mental health authority, it must submit the request through the local mental health authority to the Assistant Director; and

(b) If the provider is not under contract to the local mental health authority, the request should be submitted directly to the Assistant Director.

(2) Substance of Request: The request should include the following:

(a) The reason for the proposed variance or exception;

(b) The alternative practice proposed; and

(c) For an exception, a plan and timetable for compliance with the section of the rule from which the exception is sought.

(3) Approval or Denial: The Assistant Director, whose decision shall be final, shall approve or deny the request for variance or exception.

(4) Notification: The Division shall notify the provider requesting the variance or exception and the community mental health program of the decision.

(5) Variance Part of LOA or License: A variance granted by the Division shall be attached to, and become part of, the LOA or license. Continuance of the variance shall be reviewed at the time the LOA or license is considered for renewal.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 426.450, 430.010-041, 430.260, 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; ADS 2-2008, f. & cert. ef. 11-13-08

DIVISION 20

STANDARDS FOR OUTPATIENT SYNTHETIC OPIATE TREATMENT PROGRAMS

415-020-0000
Purpose

These rules prescribe standards for the development and operation of Opioid Treatment Programs approved by the Addictions and Mental Health Division of the Oregon Health Authority.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0000; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03: ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0005
Definitions

(1) "Accreditation" means the process of review and acceptance by an accreditation body.

(2) "Accreditation Body" means an organization that has been approved by the Substance Abuse and Mental Health Services Administration (SAMHSA) to accredit opioid treatment programs that use opioid agonist treatment medications.

(3) "Accredited Opioid Treatment Program" means a program that is the subject of a current, valid accreditation from an accreditation body approved by SAMHSA.

(4) "Assistant Director" means the Assistant Director of the Addictions and Mental Health Division of the Oregon Health Authority.

(5) "Community Mental Health Program (CMHP)" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, 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 Oregon Health Authority.

(6) "Comprehensive maintenance treatment" means opioid agonist medication treatment that includes a broad range of clinically appropriate medical and rehabilitative services.

(7) "Division" means the Addiction and Mental Health Division of the Oregon Health Authority.

(8) "Medically Supervised Withdrawal" means the administration of an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects incident to withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug free state.

(9) "Diversion Control Plan" means a plan implemented by the opioid treatment program that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use.

(10) "Employee" means an individual who provides a program service or who takes part in a program service and who receives wages, a salary, or is otherwise paid by the program for providing the service.

(11) "Evaluation" means an assessment of an individual to determine the existence of drug abuse or drug dependence, its ancillary or causal factors, and the appropriate treatment and rehabilitation likely to overcome the problem.

(12) "Federal Opioid Treatment Standards" means the standards established by the Secretary of Health and Human Services that are used to determine whether an opioid treatment program is qualified to engage in opioid treatment.

(13) "Interim Maintenance Treatment" means treatment provided in conjunction with appropriate medical services while a patient is awaiting transfer to a program that provides comprehensive maintenance treatment.

(14) "Long-Term Medically Supervised Withdrawal Treatment" means treatment for a period of more than 30 days but not exceeding 180 days.

(15) "Maintenance Treatment" means the administration of an opioid agonist treatment medication at stable dosage levels for a period longer than 21 days.

(16) "Medical Director" means a physician licensed to practice medicine in the State of Oregon who is designated by the opioid treatment program to be responsible for the program's medical services.

(17) "Medical Professional" means a medical or osteopathic physician, physician's assistant licensed by the Board of Medical Examiners, or a registered nurse or nurse practitioner licensed by the Board of Nursing.

(18) "Opiate Addiction" means a cluster of cognitive, behavioral, and physiological symptoms in which the individual continues use of opiates despite significant opiate-induced problems. Opiate addiction is characterized by repeated self-administration that usually results in tolerance, withdrawal symptoms, and compulsive drug taking.

(19) "Opioid Agonist Medication" means any drug that is approved by the Food and Drug Administration under Section 505 of Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opiate addiction.

(20) "Opioid Treatment Program" means a program that dispenses and administers opioid agonist medications in conjunction with appropriate counseling, supportive, and medical services.

(21) "Patient" means any individual who receives services in an opioid treatment program.

(22) "Patient Record" means the official legal written file for each patient, containing all the information required to demonstrate compliance with these rules. Information in program records maintained in electronic format must be produced in a contemporaneous printed form, authenticated by signature and date of the person who provided the service, and placed in the patient record.

(23) "Program Staff" means:

(a) An employee or person who, by contract with the program, provides a clinical service and who has the credentials required in these rules to provide the clinical service; and

(b) Any other employee of the program.

(24) "Quality Assurance" means the process of objectively and systematically monitoring and evaluating the appropriateness of patient care to identify and resolve identified problems.

(25) "Rehabilitation" means those services, such as vocational rehabilitation or academic education, which assist in overcoming the problems associated with drug abuse or drug dependence and which enable the patient to function at his or her highest potential.

(26) "State Methadone Authority" means the State Methadone Authority designated pursuant to section 409 of Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, or in lieu thereof, any other State authority designated by the Governor for purposes of exercising the authority under this section. The State Methadone Authority for Oregon is the Addictions and Mental Health Division of the Oregon Health Authority.

(27) "Treatment" means the specific medical and non-medical therapeutic techniques employed to assist the patient in recovering from drug abuse or drug dependence.

(28) "Urinalysis Test" means an analytical procedure to identify the presence or absence of specific drugs or metabolites in a urine specimen.

(29) "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.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0005; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0010
Program Approval

(1) Letter of Approval: No person or governmental entity shall operate an Opioid Treatment Program without a letter of approval from the State Methadone Authority in Oregon.

(2) Application: To receive a letter of approval the Opioid Treatment Program must meet the criteria under OAR 415-012-0000 to 415-012-0090; in addition, the Opioid Treatment Program must:

(a) Meet the standards set forth in these rules and any other administrative rules applicable to the program;

(b) Comply with the federal regulations contained in 42 CFR Part 2 and 42 CFR Part 8; and

(c) Submit documentation of accreditation as an opioid treatment program by an accreditation body approved by SAMHSA under 42 CFR Part 8.

(d) Specify in the application the identity and financial interest of any person (if the person is a corporation, the name of any stockholder holding stock representing an interest of 5 percent or more) or other legal entity who has an interest of 5 percent or more or 5 percent of a lease agreement for the facility.

(3) Renewal: The renewal of a letter of approval shall be governed by OAR 415-012-0040.

(4) Denial, Revocation, Nonrenewal, Suspension: The denial, revocation, nonrenewal, or suspension of a letter of approval or license for an opioid treatment program may be based on any of the grounds set forth in OAR 415-012-0060.

(5) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew, or suspend a letter of approval when he or she determines that the issuance or continuation of the letter of approval would be inconsistent with the public interest. In determining the public interest, the Assistant Director shall consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, clinical supervisor, or staff:

(a) Any convictions under any federal or state law

(b) Furnishing of false or fraudulent material in any application for a letter of approval; or

(c) Any other factors relevant to, and consistent with, the public health or safety.

(6) Federal Protocols: The program shall be responsible for filing and maintaining all necessary protocols and documentation required by the National Institute on Drug Abuse (NIDA), the Federal Substance Abuse and Mental Health Services Administration, and the Federal Drug Enforcement Administration.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b), 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0010; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0015
Administrative Requirements

(1) Administrative Rules: An Opioid Treatment Program which obtains reimbursement for publicly funded services shall comply with the public contracting rules including but not limited to:

(a) OAR 309-013-0020;

(b) OAR 309-013-0075 to 309-013-0105;

(c) OAR 309-014-0000 to 309-014-0040;

(d) OAR 309-016-0000 to 309-016-0130;

(e) OAR 410-120-0000 through 410-120-1980; and

(f) OAR 410-141-0000 through 410-141-0860.

(2) Policies and Procedures: An Opioid Treatment Program shall develop and implement written policies and procedures, which describe program operations. This shall include a quality assurance process that ensures that patients receive appropriate treatment services and that the program is in compliance with relevant administrative rules.

(3) Personnel Policies: If two or more staff provide services, the program shall have and implement the following written personnel policies and procedures which are applicable to program staff:

(a) Rules of program staff conduct and standards for ethical practices of treatment program practitioners;

(b) Standards for program staff use and abuse of alcohol and other drugs with procedures for managing incidences of use and abuse that, at a minimum, comply with Drug Free Workplace Standards; and

(c) Compliance with the federal and state personnel regulations including the Civil Rights Act of 1964 as amended in 1972, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act, Oregon civil rights laws relat-

ed to employment practices, and any subsequent amendments effective on or before the effective date of these rules. The opioid treatment program shall give individualized consideration to all job applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.

(4) Personnel Records: Personnel records for each member of the program's work force, including staff or volunteers shall be kept and shall include:

(a) Resume or employment application, and job description;

(b) Documentation of applicable qualification standards as described in OAR 415-020-0075;

(c) For volunteers or interns or students, the record need only include information required by subsection (a) of this rule and the written work plan for such person.

(5) Confidentiality and Retention: Personnel records shall be maintained and utilized in such a way as to ensure program staff confidentiality and shall be retained for a period of three years following the departure of a program staff person.

(6) Disabilities Act: Programs receiving public funds must comply with Title 2 of the Americans with Disabilities Act of 1990, 42 USC § 1231 et al.

(7) Insurance: Each program shall maintain malpractice and liability insurance and be able to demonstrate evidence of current compliance with this requirement. If the program is operated by a public body, the program shall demonstrate evidence of insurance or a self-insurance fund pursuant to ORS 30.282.

(8) Prevention of Duplicate Dispensing: Opioid Treatment Programs will participate in any procedures, developed by the Division in consultation with opioid treatment providers, for preventing simultaneous dispensing of opioid agonist medications to the same patient by more than one program.

(9) Patient Recordkeeping: Each program shall:

(a) Accurately record all information about patients as required by these rules in the permanent patient record;

(b) Maintain each patient record to assure identification, accessibility, uniform organization, and completeness of all components required by these rules and in a manner to protect against damage or separation from the permanent patient or program record;

(c) Keep all documentation current .unless specified otherwise, within seven days of delivering the service or obtaining the information;

(d) Include the signature of the person providing the documentation and service;

(e) Not falsify, alter, or destroy any patient information required by these rules to be maintained in a patient record or program records;

(f) Document all procedures in these rules requiring patient consent and the provision of information to the patient on forms describing what the patient has been asked to consent to or been informed of, and signed and dated by the patient. If the program does not obtain documentation of consent or provision of required information, the reasons must be specified in the patient record and signed by the person responsible for providing the service to the patient;

(g) Require that errors in the permanent record be corrected by lining out the incorrect data with a single line in ink, adding the correct information, and dating and initialing the correction. Errors may not be corrected by removal or obliteration through the use of correction fluid or tape so they cannot be read; and

(h) Permit inspection of patient records upon request by the Division to determine compliance with these rules.

(10) Patient and Fiscal Record Retention: Patient records shall be kept for a minimum of seven years. If a program is taken over or acquired by another program, the original program is responsible for assuring compliance with the requirements of 42 CFR §2.19(a)(1) or (b), whichever is applicable. If a program discontinues operations, the program is responsible for:

(a) Transferring fiscal records required to be maintained under section (1) of this rule to the Division if it is a direct contract or to the community mental health program or managed care plan administering the contract, whichever is applicable; and

(b) Destroying patient records or, with patient consent, transferring patient records to another program.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0015; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0020
Patient Rights

(1) Patient Record Confidentiality: An Opioid Treatment Program shall comply with federal regulations (42 CFR part 2, 45 CFR 205.50) and state statutes (ORS 179.505 and 430.399) pertaining to confidentiality of patient records.

(2) Informed Consent: Participation in an Opioid Treatment Program shall be voluntary. Patients shall be fully informed concerning possible risks and side effects associated with the use of opioid agonist medications, including the effects of alcohol and other drugs taken in combination with these drugs. Programs dispensing both methadone and Levomethadyl acetate (LAAM) must inform patients of the differences between the action of these drugs. The program shall ensure that all relevant facts concerning the use of opioid agonist medications are clearly and adequately explained to the patient and that the patient gives written informed consent to treatment. A copy of the information above, signed by the patient, must be placed in the patient record.

(3) Allowable Restrictions: No person shall be denied services or discriminated against on the basis of age or diagnostic or disability category unless predetermined clinical or program criteria for service restrict the service to specific age or diagnostic groups or disability category.

(4) Policies and Procedures: Each patient shall be assured the same civil and human rights as other persons. Each program shall develop and implement and inform patients of written policies and procedures which protect patients' rights, including:

(a) Protecting patient privacy and dignity;

(b) Assuring confidentiality of records consistent with federal and state laws;

(c) Prohibiting physical punishment or physical abuse;

(d) Prohibiting sexual abuse or sexual contact between patients and staff, including volunteers, interns, and students; and

(e) Providing adequate treatment or care.

(5) Services Refusal: The patient shall have the right to refuse service, including any specific procedure. If consequences may result from refusing the service, such as termination from other services or referral to a person having supervisory authority over the patient, that fact must be explained verbally and in writing to the patient.

(6) Access to Records: Access includes the right to obtain a copy of the record within five days of requesting it and making payment for the cost of duplication. The patient shall have the right of access to the patient's own records except:

(a) When the medical director of the program determines that disclosure of records would constitute immediate and grave detriment to the patient's treatment; or

(b) If confidential information has been provided to the program on the basis that the information not be redisclosed.

(7) Informed Participation in Treatment Planning: The patient and others of the patient's choice shall be afforded an opportunity to participate in an informed way in planning the treatment services, including the review of progress toward treatment goals and objectives. Patients shall be free from retaliation for exercising their rights to participate in the treatment planning process.

(8) Informed Consent to Fees for Services: The amount and schedule of any fees or co-payments to be charged must be disclosed in writing and agreed to by the patient. The fee agreement shall include but is not limited to a schedule of rates, conditions under which the rates can be changed, and the program's policy on refunds at the time of discharge or departure.

(9) Grievance Policy: The program shall develop, implement, and fully inform patients of policy and procedure regarding grievances, which provide for:

(a) Receipt of written grievances from patients or persons acting on their behalf;

(b) Investigation of the facts supporting or disproving the written grievance;

(c) Initiating action on substantiated grievances within five working days; and

(d) Documentation in the patient's record of the receipt, investigation, and any action taken regarding the written grievance.

(10) Barriers to Treatment: Where there is a barrier to services due to culture, language, illiteracy, or disability, the program shall develop a holistic treatment approach to address or overcome those barriers. This may include:

(a) Making reasonable modifications in policies, practices, and procedures to avoid discrimination (unless the program can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity) such as:

(A) Providing individuals capable of assisting the program in minimizing barriers (such as interpreters);

(B) Translation of written materials to appropriate language or method of communication;

(C) To the degree possible, providing assistive devices which minimize the impact of the barrier; and

(D) To the degree possible, acknowledging cultural and other values, which are important to the patient.

(b) Not charging patients for costs of the measures, such as the provision of interpreters, that are required to provide nondiscriminatory treatment to the patient and

(c) Referring patients to another provider if that patient requires treatment outside of the referring program's area of specialization and if the program would make a similar referral for an individual without a disability.

(11) Patient Work Policy: Any patient labor performed as part of the patient's treatment plan or standard program expectations or in lieu of fees shall be agreed to, in writing, by the patient

(12) Voter Registration: All publicly funded programs primarily engaged in providing services to persons with disabilities must provide onsite voter registration and assistance. Program staff providing voter registration services may not seek to influence an applicant's political preference or party registration or display any such political preference or party allegiance, such as buttons, expressing support for a particular political party or candidates for partisan political office. However, such program staff may wear buttons or otherwise display their preference on nonpartisan political matters and issues.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590.

Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0020; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0025
Admission Policies and Procedures

(1) Admission Criteria: The Opioid Treatment Program shall have written criteria for accepting or rejecting admission requests. The criteria shall be available to patients, staff, and the community, and require:

(a) Evidence of current physical dependence on narcotics or opiates as determined by the program physician or medical director;

(b) A one year history, immediately prior to admission, of a continuous physical dependence on narcotics or opiates as documented by medical records, records of arrests for possession of narcotics, or records from drug treatment programs; or

(c) Documentation that medically supervised withdrawal or medically supervised withdrawal with acupuncture and counseling has proven ineffective or that a physician licensed by the Oregon State Board of Medical Examiners has documentation in the patient record that there is a medical need to administer opioid agonist medications

(d) Documentation that an effort was made to discover whether the applicant is on probation or parole. For applicants on parole or probation, the program must obtain documentation that the probation and parole officer has provided written approval for admission,

(e) Documentation that an initial urinalysis test has been completed and screened for opiates, methadone, benzodiazepines, barbiturates, cocaine, amphetamines, and Tetrahydrocannabinol (THC),

(f) That each patient voluntarily chooses opioid treatment and that all relevant facts concerning the use of an opioid agonist drug have been clearly and adequately explained.

(g) Documentation that the patient has provided written informed consent to treatment.

(2) Admission Criteria Exceptions: If clinically appropriate, the program physician may waive the requirement for a one-year history of opioid addiction for patients who:

(a) Have been released from a corrections facility within the previous six months;

(b) Are pregnant and whose pregnancy has been verified by the program physician; or

(c) Have previously been treated and discharged from opioid treatment programs within the last two years.

(3) Refusing Admissions: A patient may be refused opioid treatment even if the patient meets admission standards if, in the professional judgment of the medical director, a particular patient would not benefit from opioid treatment. The reasons for the refusal must be documented in the patient file within seven days following the refusal decision.

(4) Minors: No person under 18 years of age may be admitted to an opioid treatment program unless:

(a) A parent, legal guardian, or responsible adult designated by the State provides written consent for treatment; and

(b) The program can document two unsuccessful attempts at short-term medically supervised withdrawal or drug free treatment within a 12 month period

(5) Pregnant Patients: Admission and treatment of pregnant patients regardless of age is allowed under the following conditions:

(a) The patient has had a documented narcotic dependency in the past and may be in direct jeopardy of returning to narcotic dependency. For such patients, evidence of current physiological dependence on narcotic drugs is not needed if a program physician certifies the pregnancy and, in his or her reasonable clinical judgment, finds treatment to be medically justified. Evidence of all findings and the criteria used to determine the findings are required to be recorded in the patient's record by the admitting program physician, or by program personnel supervised by the admitting program physician;

(b) The patient undergoes a prenatal exam and health check to verify the pregnancy and identify any health problems;

(c) The patient is given the opportunity for prenatal care either by the program or by referral to appropriate health care providers. If a program cannot provide direct prenatal care for pregnant patients in treatment, the program shall establish a system for informing the patient of the publicly or privately funded prenatal care opportunities available. If there are no publicly funded prenatal referral opportunities and the program cannot provide such services or the patient cannot afford them or refuses them, then the treatment program shall, at a minimum, offer her basic prenatal instruction on maternal, physical, and dietary care as part of its counseling service;

(d) The patient is fully informed concerning risks to herself and her unborn child from the use of methadone and other drugs including alcohol;

(6) Intake Procedures: The program shall utilize a written intake procedure. The procedure shall require:

(a) Documentation that the medical director has:

(A) Examined and approved all admissions;

(B) Recorded in the patient's record the criteria used to determine the patient's current dependence and history of addiction; and

(C) Determined that the opioid treatment program's services are appropriate to the needs of the patient.

(b) A specific time limit within which the initial patient assessment must be completed on each patient prior to the initial dose of an opioid agonist treatment medication;

(c) Documentation that individuals not admitted to the opioid treatment program were referred to appropriate treatment or other services;

(7) Orientation Information: The program shall give to, and document the receipt of, written program orientation information. The program shall also make the information available to others. The information given shall include:

(a) The program's philosophical approach to treatment;

(b) A description of the program's stages of treatment;

(c) Information on patients rights and responsibilities, including confidentiality, while receiving services,

(d) Information on the rules governing patient behavior and those infractions that may result in discharge or other actions. As a minimum these rules shall state the consequence of alcohol and other drug use, absences from appointments, non-payment of fees, criminal behavior, and failure to participate in the planned treatment program including school, work, or homemaker activities;

(e) Information on the specific hours of service available, methods to accommodate patient needs before and after normal working hours, and emergency services information; and

(f) A schedule of fees and charges.

(8) Patient Record: The following information shall be recorded in each patient's record at the time of admission:

(a) Name, address, and telephone number;

(b) Whom to contact in case of an emergency;

(c) Name of individual completing intake; and

(d) If the patient refuses to provide necessary information, documentation of that fact in the patient file.

(9) Initial Medical Examination Services: Opioid Treatment Programs shall require each patient to undergo a complete, fully documented physical evaluation by a physician, or medical professional under the supervision of a physician before admission to the program. The laboratory tests must be completed within 14 days of admission and must include;

(a) A skin test for tuberculosis, followed by a chest x-ray if the test is positive;

(b) A screening test for syphilis; and

(c) Other laboratory tests as clinically indicated by the patient history and physical examination.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0025; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0030
Diagnostic Assessment

(1) Written Procedure: The Opioid Treatment Program shall develop and implement a written procedure for assessing each patient's treatment needs based on the American Society of Addictions Medicine Patient Placement Criteria, 2nd Edition Revised (ASAM PPC 2R).

(2) The diagnostic assessment shall be documented in the permanent patient record. It shall consist of the elements described in the ASAM PPC 2R and documentation of the patient's self-identified cultural background. Cultural information documented should include level of acculturation, knowledge of own culture, primary language, spiritual or religious interests, and cultural attitudes toward alcohol and other drug use.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0030; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0035
Treatment Planning and Documentation of Treatment Progress

(1) The Opioid Treatment Program shall develop treatment plans, progress notes, and discharge plans consistent with the ASAM PPC 2R.

(2) Treatment Plan: The PTP shall develop an individualized treatment plan within 30 days of admission and shall be documented in the patient's record. The treatment plan shall:

(a) Describe the primary patient-centered issues;

(b) Focus on one or more individualized treatment plan objectives that are consistent with the patient's strengths and abilities and that address the primary obstacles to recovery;

(c) Define the treatment approach, which shall include services and activities to be used to achieve the individualized objectives;

(d) Document the participation of significant others in the planning process and the treatment where appropriate; and

(e) Document the patient's participation in developing the content of the treatment plan and any subsequent modifications, with the patient's signature,

(3) Documentation of Progress: The treatment staff shall document in the permanent record any current obstacles to recovery and the patient's progress toward achieving the individualized objectives in the treatment plan.

(4) Treatment Plan Review: The permanent patient record shall document that the treatment plan is reviewed and modified continuously as needed and as clinically appropriate, consistent with the ASAM PPC 2R.

(5) Modifications: Changes in the patient's treatment needs identified by the review process must be addressed by modifications in the treatment plan. Any modifications to the treatment plan shall be made in conjunction with the patient.

(6) Treatment Summary: No later than 30 days after the last service contact, the program shall document in the permanent patient record a summary describing the reason for discharge, consistent with the ASAM PPC 2R, and the patient's progress toward the treatment objectives.

(7) Discharge Plan: Upon successful completion or planned interruption of the treatment services, the treatment staff and patient shall jointly develop a discharge plan. The discharge plan shall include a relapse prevention plan, which has been jointly developed by the counselor and patient.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0035; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0040
Treatment Services General

(1) Treatment Services: The Opioid Treatment Program shall provide patients the following services and activities and document the time or manner of each service or activity in the patient record:

(a) Dispensing of approved opioid agonist medications;

(b) Individual group, or family counseling, as clinically indicated;

(c) Information and training in parenting skills;

(d) HIV, AIDS, tuberculosis, sexually transmitted diseases, and other infectious disease information;

(e) Completion of HIV, TB, STD risk assessment within 30 days of admission;

(f) Relapse prevention training; and

(g) For pregnant patients in a treatment program who were not admitted under OAR 415-020-0025(5), a treatment program shall give them the opportunity for prenatal care. If a program cannot provide direct prenatal care for pregnant patients in treatment, it shall establish a system of referring them for prenatal care, which may be either publicly or privately funded. If there is no publicly funded prenatal care available to which a patient may be referred, and the program cannot provide such services, or the patient cannot afford or refuses prenatal care services, then the treatment program shall, at a minimum, offer her basic prenatal instruction on maternal, physical, and dietary care as a part of its counseling service.

(2) Community Resources: The program, to the extent of community resources available and as clinically indicated, shall provide patients with information and referral to the following services:

(a) Self help groups and other support groups;

(b) Educational services;

(c) Recreational programs and activities;

(d) Prevocational, occupational, and vocational rehabilitation;

(e) Life skills training;

(f) Legal services;

(g) Smoking cessation programs;

(h) Medical services;

(i) Housing assistance;

(j) Financial assistance counseling programs.

(k) Crisis intervention; and

(l) Comprehensive drug education.

(3) Non-compliance: Patients who are non-compliant with program rules may be discharged following medically supervised withdrawal. Clinical justification for medically supervised withdrawal schedules of less than 21 days must be documented in the patient record. For discharges because of failure to pay fees, detoxification periods of less than 21 days are not permitted.

(4) Testing for Drug Use: The program shall use observed urine drug screening as an aid in monitoring and evaluating a patient's progress in treatment. The urine drug screening shall include;

(a) A sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens; and

(b) If the initial test is positive, a confirmatory test, which 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 conducted by a different analytical method from that of the initial test, to ensure reliability and accuracy.

(5) Standards for Urine Tests: All urine tests shall be performed by laboratories meeting the licensing standards of OAR 333-024-0305 through 333-024-0365.

(6) All urine tests shall, at a minimum, screen for synthetic opiates, opiates, amphetamines, cocaine, benzodiazepines, and THC.

(7) Frequency of urine testing: The Opioid Treatment Program must provide adequate testing or analysis for drugs of abuse, including at least eight random drug abuse tests per year, for each patient in maintenance treatment, in accordance with generally accepted clinical practice. More frequent drug testing shall be done if clinically indicated. The program shall document in the patient record the results of any tests and interventions made by the program to address those tests which are positive for illicit substances.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0040; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0050
Transitional Treatment

(1) The Opioid Treatment Program shall provide transitional care for patients for who continued opioid agonist medication maintenance is no longer deemed appropriate.

(2) Transitional treatment services shall be provided with the purpose of assisting the patient to establish and maintain a stable, drug-free lifestyle. Transitional treatment will help prepare the patient to begin a reduction in opioid agonist medication dosage and shall be continued while the patient undergoes reduction in doses. The treatment shall continue following the final dose of opioid agonist medication, consistent with the clinical needs of the patient and with ASAM PPC 2R.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0050; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0053
Unsupervised Use of Opioid Agonist Medications

(1) Any patient in comprehensive maintenance treatment may receive a single take-home dose for a day that the clinic is closed for business, including Sundays, and state or federal holidays.

(2) Decisions on dispensing opioid treatment medications to patients for unsupervised use shall be made by the program medical director. In determining whether a patient is responsible in handling opioid medications and may be permitted unsupervised use, the medical director shall consider the following criteria;

(a) Absence of drugs of abuse, including alcohol;

(b) Regularity of program attendance;

(c) Absence of serious behavioral problems at the program;

(d) Absence of criminal activity while enrolled at the program;

(e) Stability of the patient's home environment and social relationships;

(f) Length of time in comprehensive maintenance treatment;

(g) Assurance that take-home medication can be safely stored in the patient's home; and

(h) Whether the rehabilitative benefit the patient derives from decreasing the frequency of program attendance outweighs the potential risks of diversion.

(3) Decisions to approve unsupervised use of opioid medications, including the rationale for the approval, shall be documented in the patient record.

(4) If it is determined that a patient is responsible in handling opioid agonist medications, the supply shall be limited to the following schedule;

(a) During the first 90 days of treatment, the take-home supply is limited to a single dose each week, in addition to take-home doses allowed when the clinic is closed;

(b) During the second 90 days of treatment, the take-home supply is limited to two doses per week, in addition to take-home doses allowed when the clinic is closed;

(c) During the third 90 days of treatment, the take-home supply is limited to three doses per week, in addition to take-home doses allowed when the clinic is closed;

(d) In the remaining months of the first year, a patient may be given a maximum 6-day supply of take-home medication;

(e) After one year of continuous abstinence in treatment, a patient may be given a maximum two-week supply of take-home medication;

(f) After two years of continuous abstinence treatment, a patient may be given a maximum one-month supply of take-home medication.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0054
Diversion Control Plan

Each Opioid Treatment Program shall have a diversion control plan to reduce possibilities for diversion of controlled substances from legitimate treatment to illicit use. The plan shall include the following;

(1) A mechanism for continuous monitoring of clinical and administrative activities, to reduce the risk of medication diversion; and

(2) A mechanism for problem identification, prevention, and correction of diversion problems.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0060
Medically Supervised Withdrawal

(1) This section contains special provisions that apply to medically supervised withdrawal. Except as otherwise noted in this section, all requirements in the other sections of this rule apply to medically supervised withdrawal as well as comprehensive maintenance treatment patients.

(2) Admission Criteria: The opioid treatment program must establish current physical dependence on narcotics or opiates by way of grade 2 withdrawal symptoms. A one year history of dependence is not required for medically supervised withdrawal.

(3) Readmissions: Patients with two or more unsuccessful medically supervised withdrawal episodes within a 12 month period must be assessed by the Opioid Treatment Program physician for other forms of treatment. A program shall not admit a patient for more than two medically supervised withdrawal episodes in one year.

(4) Medically Supervised Withdrawal Contract: Before initial dosing of the patient, the program shall develop a contract with the patient that shall be dated and signed by the counselor and the patient, and shall specify:

(a) Maximum length of medically supervised withdrawal treatment, which may not exceed 180 days, and a rationale for the length chosen. Subsequent changes in length of medically supervised withdrawal must also be accompanied by a rationale.

(b) Required abstinence from alcohol and other drugs during medically supervised withdrawal treatment;

(c) Required counseling contacts;

(d) Take-out dose limits;

(e) Consequences regarding missed doses;

(f) Urine drug screening procedures;

(g) Consequences of failure to carry out the medically supervised withdrawal contract including involuntary termination;

(h) Criteria for involuntary termination

(5) Assessment: The program shall develop and implement a written procedure for assessing each patient's medically supervised withdrawal needs following initial dosing. The procedure shall specify that the assessment and evaluation is the responsibility of a member of the treatment staff, shall be recorded in the patient record, and shall include:

(a) Alcohol and drug use and problems history;

(b) Psychological history;

(c) Presenting problems) and

(d) History of previous treatment.

(6) Planning: Individualized medically supervised withdrawal planning shall occur and be documented in the patient's record within seven working days to include:

(a) Initial dose level and a planned reduction schedule that shall be completed within 180 days;

(b) Referral to appropriate agencies for needs identified during the intake assessment and evaluation procedure; and

(c) Monthly review by the medical director.

(7) Treatment: Each patient shall be assigned a counselor who shall:

(a) Meet at least weekly with the patient;

(b) Monitor the patient's response to the withdrawal schedule;

(c) Make and monitor referrals;

(d) Maintain the patient's record; and

(e) Monitor patient compliance with the medically supervised withdrawal contract.

(8) Take-Out Doses: Take-home medication is not allowed for medically supervised withdrawal treatment planned for 30 days or less. For medically supervised withdrawal treatment planned for longer than 30 days the program shall use the time frames and criteria established for maintenance patients.

(9) Discharge: An opioid treatment program shall discharge a patient who misses two consecutive doses unless an adequate explanation for the absences has been reviewed and approved by the medical director.

(10) Urinalysis: The program shall collect and test one random urine drug screen for each patient per week. Documentation of a specific clinical intervention shall accompany documentation of any positive urine sample and shall be followed by documentation of the effectiveness of the intervention in subsequent progress notes.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0060; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0065
Opioid Agonist Medication Administration

The Opioid Treatment Program shall meet the following standards for opioid agonist medication for administration:

(a) Methadone shall be administered only in oral form and shall be formulated in such a way as to reduce its potential for abuse by injection and accidental ingestion;

(b) Packaged for outpatient use in special packaging as required by 16 CFR Part 1700.14.

(2) Methadone Take-Out Doses: For take-out doses, the Poison Prevention Act (P.L. 91-601, 15 USC 1471 et seq.) must be followed. Any take-out medication must be in oral form, either liquid or diskette and shall be labeled with the treatment program name, address, telephone number, and medical director. All labeling shall be in compliance with the Oregon Board of Pharmacy standards.

(3) Opioid Treatment Programs shall maintain current procedures to ensure that each opioid agonist treatment medication used by the program is administered in accordance with its approved product labeling.

(4) Records: Accurate records traceable to specific patients shall be maintained showing dates, quantity, and any other Board of Pharmacy required identification for the drug administered and shall be retained for a period of seven years.

(5) Security: The program shall meet security standards for the distribution and storage of controlled substances as required by the Federal Drug Enforcement Administration, Department of Justice.

(6) Who May Administer Opioid Agonist Treatment Medications: Medications shall be administered by:

(a) A practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients; or

(b) A person licensed or approved by the State Board of Nursing or the State Board of Pharmacy, supervised by and pursuant to the order of the practitioner.

(7) Responsibility: The licensed practitioner is fully accountable and personally responsible for the amounts of opioid agonist treatment medications administered.

(8) Documentation: All changes in dosage schedule will be recorded and signed by the licensed practitioner.

(9) Medical Director: The medical director shall:

(a) Assume responsibility for the amounts of opioid agonist treatment medications administered and record, date, and sign in each patient's record each change in the dosage schedule; and

(b) Review each patient's dosage level at least once every 90 days.

(10) Initial Dose: The initial dose of methadone should not exceed 30 milligrams and the total dose for the first day should not exceed 40 milligrams unless the program medical director documents in the patient's record that 40 milligrams did not suppress opiate abstinence symptoms. The initial dose of opioid agonist treatment medication to a patient whose tolerance for the drug is unknown shall not exceed 40 milligrams.

(11) Maintenance Dose: The maintenance dose should be individually determined with careful attention to the information provided by the patient. The dose should be determined by a physician experienced in addiction treatment and should be adequate to achieve the desired effects for 24 hours or more. The desired effects are;

(a) Preventing the onset of opioid abstinence syndrome;

(b) Reducing drug cravings or hunger; and

(c) Blocking the effects of any illicitly administered opioids.

(12) All changes ordered by a physician in the opioid agonist treatment medication shall be documented in the patient record.

(13) Methadone Take Out Schedule: A patient may be permitted a temporary or permanently increased take-out schedule if it is the reasonable clinical judgment of the program physician and documented in the records that:

(a) A patient is found to have a physical disability which interferes with the patient's ability to conform to the applicable take out schedule; or

(b) A patient, because of critical circumstances such as illness, personal or family crises, or other hardship is unable to conform to the applicable takeout schedule;

(c) The patient may not be given more than a 30-day supply of narcotic agonist medication at one time.

(14) Patient Treatment at Another Program: The patient shall report to the same treatment program unless prior written approval is obtained from the program physician allowing the patient to receive treatment at another program. If permission is granted, the programs involved shall meet the following requirements:

(a) The program referring the patient shall notify and obtain, in writing, permission from the other program for the patient to attend;

(b) The maximum period of time that a patient may attend another program is 30 days;

(c) During attendance at another program the patient may not receive more opioid agonist treatment medication take-out doses than currently authorized by his or her regular program; and

(d) The program making the referral shall provide the patient with positive identification for presentation to the other program.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0065; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0070
Medical Services

(1) There shall be at least one program physician available to supervise the initial medical evaluation, follow-up care and to supervise the patient medication schedules, who is licensed under the appropriate State law and registered under the appropriate State and Federal laws to order narcotic drugs for patients. The licensed physician assumes responsibility for the amounts of narcotic drugs administered or dispensed and shall record and countersign all changes in the dosage schedule.

(2) Administering of narcotic agonist medications may be performed by a registered nurse, licensed practical nurse, or other healthcare professional authorized by federal and state law to administer narcotic agonist medications under the direction and supervision of the program administrator.

(3) Dispensing services may be provided under the direction and supervision of the program physician, provided that the agent is a pharmacist or other healthcare professional authorized under federal and state law to dispense narcotic agonist medications.

(4) The medical director shall assure that the program's medical services are in full compliance with the standards, ethics, and licensure requirements of the medical profession and these rules.

(5) The program shall adopt, maintain, and implement written procedures for acquiring patient physical examinations including medical histories and any laboratory tests or other special examination required by the medical director including the required content of those examinations and procedures. The medical director shall review and approve all such examination procedures. Physical examinations must be completed before administering the first dose of an opioid agonist medication.

(6) The opioid treatment program shall adopt, maintain, and implement a policy and procedure to maintain the health and safety of patients and staff. This shall include:

(a) Control measures for infectious diseases such as hepatitis, tuberculosis, and AIDS;

(b) Informed consent for testing and medical treatment; and

(c) Medication monitoring.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88 ; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0070; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0075
Staffing

(1) Medical Director Qualifications: The Medical Director must be a physician licensed by the Oregon Board of Medical Examiners and whose license enables him or her to order, dispense, and administer opioid agonist medications. In addition, the program shall document that the Medical Director has completed a minimum of 12 hours per year of continuing education specific to the treatment of addiction disorder.

(2) Administrator — Qualifications: Each Opioid Treatment Program shall be directed by a person with the following qualifications at the time of hire and continuously throughout employment as the program administrator:

(a) Five years of paid full-time experience in the field of alcohol and drug treatment including experience in a opioid treatment program with at least one year in a paid administrative capacity; or

(b) A Bachelor's Degree in a relevant field and four years of paid full-time experience in the field of alcohol and drug treatment including experience in a opioid treatment program with at least one year in a paid administrative capacity; or

(c) A Master's degree in a relevant field and three years of paid full-time experience in the field of alcohol and drug treatment including experience in a opioid treatment program with at least one year in a paid administrative capacity.

(3) Management Staff — Competency: The program administrator shall:

(a) Have knowledge and experience demonstrating competence in the performance of the following essential job functions: program planning and budgeting, fiscal management, supervision of staff, personnel management, employee performance assessment, data collection, reporting, program evaluation, quality assurance, and developing and maintaining community resources;

(b) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules.

(4) Management Staff — Recovering Individuals: For an individual recovering from a substance abuse related disorder, the performance of a program administrator's essential job functions in connection with staff and patients who themselves may be trying to recover from a substance abuse related disorder demands that an applicant or person hired as program administrator be able to demonstrate continuous sobriety under nonresidential, independent living conditions for the immediate past two years.

(5) Clinical Supervisor — Qualifications: Each Opioid Treatment Program shall have an identified clinical supervisor who has one of the following qualifications at the time of hire:

(a) Five years of paid full-time experience in the field of alcohol and other drug treatment, including experience in a opioid treatment program, with a minimum of two years of direct alcohol and other drug treatment experience; or

(b) A Bachelor's degree in a relevant field and four years of paid full-time experience, with a minimum of two years of direct alcohol and other drug treatment experience including experience in a opioid treatment program; or

(c) A Master's degree in a relevant field and three years of paid full-time experience with a minimum of two years of direct alcohol and other drug treatment experience including experience in a opioid treatment program.

(6) Clinical Supervisor — Competency: All supervisors shall:

(a) Have knowledge and experience demonstrating competence in the performance of the following essential job functions: supervision of treatment staff including staff development, treatment planning, case management, and utilization of community resources including self-help groups; preparation and supervision of patient evaluation procedures; preparation and supervision of case management procedures for client treatment; conducting of individual, group, family, and other counseling; and assurance of the clinical integrity of all patient records for cases under their supervision, including timely entry or correctness of records and requiring adequate clinical rationale for decisions in admission and assessment records, treatment plans and progress notes, and discharge records;

(b) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules; and

(c) Except as provided in section (9) of this rule, hold a current certification or license in addiction counseling or hold a current license as a health or allied provider issued by a state licensing body.

(7) Clinical Supervisors — Certification: For supervisors holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(a) 4,000 hours of supervised experience in alcohol/drug abuse counseling;

(b) 270 contact hours of education and training in alcoholism and drug abuse related subjects; and

(c) Successful completion of a written objective examination or portfolio review by the certifying body.

(8) Clinical Supervisor — Licensure: For supervisors holding a health or allied provider license, such license shall 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 alcohol and drug-related disorders:

(a) Board of Medical Examiners;

(b) Board of Psychologist Examiners;

(c) Board of Clinical Social Workers;

(d) Board of Licensed Professional Counselors and Therapists; or

(e) Board of Nursing:

(9) Clinical Supervisors — Existing Staff: Supervisors not having a credential or license that meets the standards identified in section (7) or (8) of this rule must apply to a qualified credentialing organization or state licensing board within 90 days of the effective date of this rule and achieve certification or licensure meeting the standards of section (7) or (8) of this rule within 24 months of the application date.

(10) Clinical Supervisors — Recovering Individuals: For an individual recovering from the disease of alcoholism /or from other drug dependence, the performance of a clinical supervisor's essential job functions in connection with staff and patients who themselves may be trying to recover from the disease of addiction demands that an applicant or person hired as clinical supervisor be able to demonstrate continuous sobriety under non-residential, independent living conditions for the immediate past two years.

(11) Administrator as Clinical Supervisor: If the program's administrator meets the qualifications of the clinical supervisor, the administrator may be the clinical supervisor.

(12) Treatment Staff — Competency: All treatment staff shall:

(a) Have knowledge, skills, and abilities demonstrating competence in the following essential job functions: treatment of substance-related disorders including patient evaluation and individual, group, family, and other counseling techniques; program policies and procedures for client case management and record keeping; and accountability for recording information in the patient files assigned to them consistent with those policies and procedures and these rules;

(b) Demonstrate by conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules;

(c) Except as provided in section (15) or (16) of this rule, hold a current certification or license in addiction counseling or hold a current license as a health or allied provider issued by a state licensing body.

(13) Treatment Staff — Certification: For treatment staff holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(a) 1,000 hours of supervised experience in alcohol/drug abuse counseling;

(b) 150 contact hours of education and training in alcoholism and drug abuse related subjects; and

(c) Successful completion of a written objective examination or portfolio review by the certifying body.

(14) Treatment Staff — Licensure: For treatment staff holding a health or allied provider license, such license shall have been issued by one of the following state bodies and the staff person must possess documentation of at least 60 contact hours of academic or continuing professional education in the treatment of alcohol and drug-related disorders:

(a) Board of Medical Examiners;

(b) Board of Psychologist Examiners;

(c) Board of Clinical Social Workers;

(d) Board of Licensed Professional Counselors and Therapists; or

(e) Board of Nursing.

(15) Treatment Staff — Existing Staff: Existing staff who do not hold a certificate or license that meets the standards identified in section (13) or (14) of this rule must apply to a qualified credentialing organization or state licensing board within 90 days of the effective date of this rule and achieve certification or licensure meeting the standards of section (13) or (14) of this rule within 36 months of the application date.

(16) Treatment Staff — New Hires: New hires need not hold a qualified certificate or license but those who do not must make application within six months of employment and receive the credential or license within 36 months of the application.

(17) Treatment Staff — Recovering Individuals: For an individual recovering from the disease of alcoholism or from other drug dependence, the performance of a counselor's essential job functions demands that an applicant or person hired as a counselor be able to demonstrate continuous sobriety under non-residential, independent living conditions for the immediate past two years.

(18) The Opioid Treatment Program shall provide a minimum of two hours per month of clinical supervisor consultation for each staff person or volunteer who is responsible for the delivery of treatment services. One hour of the supervision must be individual, face-to-face, and address clinical skill development. The supervision or consultation is to assist staff and volunteers to increase their treatment skills, improve quality of services to patient, and ensure compliance with program policies and procedures implementing these rules.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0075; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0080
Volunteers

An Opioid Treatment Program utilizing volunteers shall have the following standards for volunteers:

(1) Policy Required: A written policy regarding the use of volunteers that shall include:

(a) Specific tasks and responsibilities of volunteers;

(b) Procedures and criteria used in selecting volunteers, including sobriety requirements for individuals recovering from the disease of alcohol or other drug abuse;

(c) Specific accountability and reporting requirements of volunteer; and

(d) Specific procedure for reviewing the performance of volunteers and providing direct feedback to them.

(2) Orientation and Training: The program shall document that the volunteers complete an orientation and training program specific to their responsibilities before they participate in assignments. The orientation and training shall:

(a) Include a review of the program's philosophical approach to treatment;

(b) Include information on confidentiality regulations and patient's rights;

(c) Specify how volunteers are to respond to and follow procedures for unusual incidents;

(d) Explain the program's channels of communication, reporting requirements, and accountability requirements for volunteers;

(e) Explain the procedure for reviewing the volunteer's performance and providing feedback to the volunteer; and

(f) Explain the procedure for discontinuing a volunteer's participation.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0080; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0085
Building Requirements

(1) Applicable Codes: Each Opioid Treatment Program shall maintain up-to-date documentation verifying that they meet applicable building codes, and state and local fire and safety regulations. The program must check with local government to make sure all applicable local codes have been met.

(2) Space Where Services Provided: Each Opioid Treatment Program shall provide space for services including but not limited to intake, assessment and evaluation, counseling, and telephone conversations that assures the privacy and confidentiality of clients and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling.

(3) Disabled Accessibility: Programs shall be accessible to persons 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.

(4) Emergency Procedures: Programs shall 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 shall be current and posted next to the telephone used by staff. In addition, programs shall maintain a 24 hour telephone answering capability to respond to facility and patient emergencies;

(5) Disaster Plan: The program must develop and regularly update a disaster plan that outlines the program response to disasters of human or natural origin that may render the program's facility unusable. The plan must address the following;

(a) How emergency dosing will be implemented; and

(b) Identification of emergency links to other community agencies.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.010(4)(b) & 430.560 - 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0085; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 1-2003, f. 6-13-03, cert. ef. 7-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-020-0090
Variances

Requirements and standards for requesting and granting variances or exceptions are found in OAR 415-012-0090.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 183, 430.560 & 430.590
Hist.: HR 4-1988, f. & cert. ef. 5-10-88; HR 17-1993, f. & cert. ef. 7-23-93, Renumbered from 410-006-0090; ADAP 3-1995, f. 12-1-95, cert. ef. 3-1-96; ADS 2-2008, f. & cert. ef. 11-13-08

PROGRAMS FOR ALCOHOL AND DRUG PROBLEMS

DIVISION 50

STANDARDS FOR ALCOHOL DETOXIFICATION CENTERS

415-050-0000
Purpose

Purpose. These rules prescribe standards for the development and operation of alcohol detoxification centers approved by the Addictions and Mental Health Division.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(1) & (2); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0000; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0005
Definitions

As used in these rules:

(1) "Alcohol Detoxification Center" or "Center" means a publicly or privately operated nonprofit facility approved by the Division, that provides 24-hour a day non-hospital emergency care and treatment services for persons who are suffering from alcohol intoxication or its withdrawal symptoms. A center is not intended to serve as a secure holding facility for the detention of any individual.

(2) "Alcoholic" means any person who has lost the ability to control the use of alcoholic beverages, or who uses alcoholic beverages to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. An alcoholic may be physically dependent, a condition in which the body requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcoholic beverages. An alcoholic suffers from the disease of alcoholism.

(3) "Biennial Plan" means the document prepared by the Community Mental Health Program (CMHP) or direct contractor and submitted to the Division.

(4) "Client" means a person receiving services under these rules.

(5) "Community Mental Health Program" or "CMHP" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, 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 omnibus contract with the Division.

(6) "County" means the board of county commissioners or its representatives.

(7) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(8) "Evaluation" means an assessment of an individual to determine the existence of alcoholism or problem drinking, and the appropriate treatment and rehabilitation likely to overcome the problem.

(9) "Local Alcoholism Planning Committee" means a committee appointed or designated by a board of county commissioners. The committee shall identify needs and establish priorities for alcoholism services in the county. Members of the committee shall be representative of the geographic area and include a number of minority members which reasonably reflect the proportion of the need for alcoholism treatment and rehabilitation services of minorities in the community.

(10) "Physical Restraint" means a device which restricts the physical movement of a client and which cannot be removed by the person and is not a normal article of clothing, a therapy device, or a simple safety device.

(11) "Problem Drinker" means a person who habitually or periodically uses alcoholic beverages to the extent that the person's health or that of others is substantially impaired or endangered or the person's social or economic functioning is substantially disrupted.

(12) "Rehabilitation" means those services to assist in overcoming problems associated with alcoholism or problem drinking that enable the client to function at the person's highest potential, such as through vocational rehabilitation services.

(13) "Seclusion" means the placement of a client alone in a locked room.

(14) "Treatment" means the specific medical and non-medical therapeutic techniques employed to assist the client in recovering from alcoholism or problem drinking.

(15) "Treatment Staff" means paid staff directly responsible for client care and treatment.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(3); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0005; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0010
Program Approval

(1) Letter of Approval. In order to receive a Letter of Approval from the Division under the process set forth in OAR 415-012-0000 to 415-012-0090, a Center shall meet the standards set forth in these rules, those provisions of 309-014-0000 through 309-014-0040 that are applicable, and any other administrative rule applicable to the program. A Letter of Approval issued to a Center shall be effective for two years from the date of issue and may be renewed or revoked by the Division in the manner set forth in 415-012-0000 to 415-012-0090.

(2) A Center seeking approval under these rules shall establish to the satisfaction of the Division that the local alcoholism planning committee was actively involved in the planning and review of the Center as it relates to the community mental health program plan.

(3) Inspection of a Center. The Division shall inspect at least every two years each Center under these rules.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(4), (5), & (6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0010; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0015
Management of Alcohol Detoxification Center

Each Center is required to meet the following standards for management:

(1) Compliance with OAR 309-013-0120 through 309-013-0220, 309-013-0075 through 309-013-0105, and applicable sections of 309-014-0000 through 309-014-0040. In addition to items listed in 309-014-0030(3)(c), the Center's personnel policies shall include:

(a) The Center's philosophical approach to treatment;

(b) Rules of employee conduct, including ethical standards; and

(c) Standards for employee use and abuse of alcohol and other drugs.

(2) Compliance with the Civil Rights Act of 1964, as amended in 1972, Equal Pay Act of 1963, Age Discrimination in Employment Act of 1967, and any subsequent amendments.

(3) Implementation of a policy and procedure prohibiting client abuse which is consistent with OAR 407-045.

(4) Implementation of a policy and procedure for resolving employee performance problems, which shall specify the sequence of steps to be taken when performance problems arise, and identify the resources to be used in assisting employees to deal with problems which interfere with job performance.

(5) Maintenance of personnel records for each member of the Center's staff. The personnel record shall:

(a) Contain the employee's resume and/or employment application, wage and salary information, and the employee's formal performance appraisals;

(b) Contain documentation of training/development needs of the employee and identify specific methods for meeting those needs;

(c) Contain documentation of any formal corrective actions taken due to employee performance problems;

(d) Contain documentation of any actions of commendation taken for the employee; and

(e) Be maintained and utilized in such a way as to insure employee confidentiality. Records shall be retained for a period of three years following the departure of an employee.

(6) Implementation of personnel performance appraisal procedures that shall:

(a) Be based on pre-established performance criteria in terms of specific responsibilities of the position as stated in the job description;

(b) Be conducted at least annually;

(c) Require employees to review and discuss their performance appraisals with their supervisors, as evidenced by their signature on the appraisal document;

(d) Require that when the results of performance appraisal indicates there is a discrepancy between the actual performance of an employee and the criteria established for optimum job performance, the employee shall be informed of the specific deficiencies involved, in writing; and

(e) Require documentation that when deficiencies in employee performance have been found in an appraisal, a remedial plan is developed and implemented with the employee.

(7) Implementation of a development plan which addresses continuing training for staff members.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0015; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0020
Client Rights

Each Center shall provide clients the following rights and protection in addition to those described in OAR 309-016-0035:

(1) Clients shall give written informed consent to treatment. If informed consent is not a possibility due to the inability of the client to understand his or her rights, this fact shall be recorded in the client's file.

(2) The Center shall have established and implemented controls on client labor within the program. Work done as part of the client's treatment plan or standard program expectations shall be agreed to, in writing, by the client.

(3) The Center shall develop, implement and inform clients of a policy and procedure regarding grievances which provides for:

(a) Receipt of written grievances from clients or persons acting on their behalf;

(b) Investigation of the facts supporting or disproving the written grievance;

(c) The taking of necessary action on substantiated grievances within 72 hours; and

(d) Documentation in the client's record of the receipt, investigation, and any action taken regarding the written grievance.

(4) Physical restraint or seclusion of clients is not recommended. If used at all it shall only be used in extreme cases when physical injury to self or to others is otherwise unavoidable and after all other alternatives have been exhausted. Physical restraint or seclusion may only be used in accordance with these standards and the provisions of local, state, and federal laws and regulations. In the event physical restraint becomes necessary:

(a) A staff member shall remain in the same room with the client at all times;

(b) Use of physical restraint shall be reviewed within six hours by the program supervisor or manager; and

(c) Justification of the use of physical restraint shall be entered in the client's record by the program supervisor or director.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15-1983, f. 7-27-83, ef. 10-25-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0020; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0025
Admission of Clients

Each Center shall meet the following standards pertaining to admission of clients:

(1) The Center shall have written criteria for admission and for rejecting admission requests. The criteria shall be available to clients, staff, and the community and be in compliance with ORS 430.397 through 430.401.

(2) The Center shall utilize a written intake procedure. The procedure shall include:

(a) A determination that the Center's services are appropriate to the needs of the client;

(b) Steps for making referrals of individuals not admitted to the Center;

(c) Steps for accepting referrals from outside agencies; and

(d) A specific time limit within which the initial client assessment must be completed on each client.

(3) The Center shall make available, for clients and others, program orientation information. The orientation information shall include:

(a) The Center's philosophical approach to treatment;

(b) Information on clients' rights and responsibilities while receiving services from the Center;

(c) A written description of the Center's services; and

(d) Information on the rules governing client's behavior and those infractions, if any, that may result in discharge or other actions.

(4) In addition to the information required by the Division's data system, the following information shall be recorded in each client's record at the time of admission:

(a) Name, address, and telephone number;

(b) Who to contact in case of an emergency;

(c) Name of individual completing intake; and

(d) Identification of client's significant other, if any.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0025; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0030
Client Assessment and Evaluation

Each Center shall meet the following standards pertaining to client assessment and evaluation:

(1) The program shall develop and implement a written procedure for assessing and evaluating each client's treatment needs as soon as the client is able.

(2) The procedure shall specify that the assessment and evaluation be the responsibility of a member of the treatment staff and include:

(a) Alcohol/drug use and problems history;

(b) Family or interpersonal history;

(c) Educational and employment history;

(d) Medical history;

(e) Legal history;

(f) Psychological history;

(g) Presenting problem(s);

(h) History of previous treatment; and

(i) Diagnostic impression and treatment recommendations.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0030; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0035
Treatment Services

Each Center shall meet the following treatment standards:

(1) The Center shall provide individual or group motivational counseling sessions and client advocacy and case management services; all of which must be documented in client files.

(2) The Center shall encourage clients to remain in treatment for an appropriate duration as determined by the treatment plan. Also, the Center shall encourage all clients to enter programs for ongoing recovery.

(3) The Center shall refer clients to Alcoholics Anonymous, Al-Anon, Alateen, or other self-help groups when clinically indicated and to the extent available in the community.

(4) Individuals fluent in the language and sensitive to the special needs of the population served shall be provided as necessary to assist in the delivery of services.

(5) The Center shall develop an individualized treatment plan for each client accepted for treatment. The treatment plan shall be appropriate to the length of stay and condition of the client. The treatment plan shall:

(a) Identify the problems from the client assessment and evaluation;

(b) Specify objectives for the treatment of each identified client problem;

(c) Specify the treatment methods and activities to be utilized to achieve the specific objectives desired and define the responsibilities of the client and treatment staff for each activity;

(d) Specify the necessary frequency of contact for the client services and activities;

(e) Specify the participation of significant others in the treatment planning process and the specified treatment where appropriate;

(f) Document the client's participation in developing the content of the treatment plan and any modifications by, at a minimum, including the client's signature; and

(g) Document any efforts to encourage the client to remain in the Center's treatment, and efforts to encourage the client to accept referral for ongoing treatment.

(6) The client record shall document the client's involvement in treatment activities and progress toward achieving objectives contained in the client's treatment plan. The documentation shall be kept current, dated, be legible, and signed by the individual making the entry.

(7) Treatment plans shall be reviewed by the Center's supervisor and the results of the review shall be documented in the client record.

(8) The program shall conduct and document in the client's record discharge planning for clients who complete treatment. The discharge plan shall include:

(a) Referrals made to other services or agencies at the time of discharge;

(b) The client's plan for follow-up, aftercare, or other post-treatment services; and

(c) Document participation by the client in the development of the discharge plan.

(9) At discharge a treatment summary and final evaluation of the client's progress toward treatment objectives shall be entered in the client's record.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0035; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0040
Medical Services

Each Center shall meet the following standards for medical services:

(1) The Center shall have written procedures for providing immediate transportation for clients to a general hospital in case of a medical emergency.

(2) The Center shall have a written description of its medical policies and procedures. The description shall:

(a) Specify the level of medical care provided; and

(b) Include a written policy and procedure, developed by a physician, for determining the client's need for medical evaluation.

(3) The Center shall have a licensed physician available. The physician's involvement in the development and review of medical operating procedures, quarterly reviews of physicians' standing orders, and consultation in any medical emergencies shall be documented.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0040; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0045
Management of Medications

Each Center shall have:

(1) A written order signed by a physician, a physician's standing order, or a physician's order received by phone and signed by the physician at the earliest opportunity before any medication is administered to, or self-administered by any client.

(2) Assurances that medications prescribed for one client shall not be administered to, or self-administered by another client or employee.

(3) A policy that no unused, outdated, or recalled drugs shall be kept in the Center. All unused, outdated, or recalled drugs shall be disposed of in a manner that assures that they cannot be retrieved, except that drugs under the control of the Food and Drug Administration shall be mailed with the appropriate forms by express, prepaid, or registered mail, every 30 days to the Oregon Board of Pharmacy. A written record of all disposals of drugs shall be maintained in the Center and shall include:

(a) A description of the drug, including the amount;

(b) The client for whom the medication was prescribed;

(c) The reason for disposal; and

(d) The method of disposal.

(4) A policy that all prescription drugs stored in the Center shall be kept in a locked stationary container. Only those medications requiring refrigeration shall be stored in a refrigerator.

(5) A policy that in the case where a client self-administers his or her own medication, self-administration shall be recommended by the Center, approved in writing by the physician, and closely monitored by the treatment staff.

(6) Individual records which must be kept for each client for any prescription drugs administered to, or self-administered by any client. This written record shall include:

(a) Client's name;

(b) Prescribing physician's name;

(c) Description of medication, including prescribed dosage;

(d) Verification in writing by staff that the medication was taken and the times and dates administered, or self-administered;

(e) Method of administration;

(f) Any adverse reactions to the medication; and

(g) Continuing evaluation of the client's ability to self-administer the medication.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0045; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0050
Staffing Pattern

Each Center shall meet the following standards for staffing:

(1) The Center shall maintain as a minimum the ratio of paid full-time staff to bed capacity as follows:

(a) 1 through 8 beds — 1 staff person on duty;

(b) 9 through 18 beds — 2 staff persons on duty;

(c) 19 through 30 beds — 3 staff persons on duty;

(d) 31 beds and above — One additional staff person beyond the three staff required above for each additional 15 beds or part thereof.

(2) The Center shall document a staffing plan for how it will provide appropriate and adequate staff coverage for emergency and high demand situations.

(3) The Center shall provide a minimum of one hour per month of personal clinical supervision and consultation for each staff person and volunteer who is responsible for the delivery of treatment services. The clinical supervision shall relate to the individual's skill level with the objective of assisting staff and volunteers to increase their treatment skills and quality of services to clients.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0050; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0055
Management Staff Qualifications

Each Center shall be directed by a person with the following qualifications at the time of hire:

(1) For an individual recovering from the disease of alcoholism and/or from other drug addiction, continuous sobriety for the immediate past three years.

(2)(a) Five years of paid full-time experience in the field of alcoholism, with at least one year in a paid administrative capacity; or

(b) A Bachelor's degree in a relevant field and four years of paid full-time experience with at least one year in a paid administrative capacity; or

(c) A Master's degree in a relevant field and three years of paid full-time experience with at least one year in a paid administrative capacity.

(3) Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0055; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0060
Staff Qualifications

Each Center shall have:

(1) An identified clinical supervisor who has the following qualifications at the time of hire:

(a) For an individual recovering from the disease of alcoholism, and/or from other drug addiction, continuous sobriety for the immediate past three years;

(b)(A) Five years of paid full-time experience in the field of alcoholism with a minimum of two years of direct alcoholism treatment experience; or

(B) A Bachelor's degree in a relevant field and four years of paid full-time experience, with a minimum of two years of direct alcoholism treatment experience; or

(C) A Master's degree in a relevant field and three years of paid full-time experience with a minimum of two years of direct alcoholism treatment experience.

(c) Knowledge and experience demonstrating competence in the treatment of the disease of alcoholism, including the management of alcohol withdrawal, client evaluation; motivational, individual, group, family and other counseling techniques; clinical supervision, including staff development, treatment planning and case management; and utilization of community resources including Alcoholics Anonymous, Al-Anon, and Alateen.

(2) If the Center's director meets the qualifications of the clinical supervisor, the director may be the Center's clinical supervisor.

(3) The Center's treatment staff shall:

(a) For individuals recovering from the disease of alcoholism and/or from other drug addiction, have maintained continuous sobriety for the immediate past two years at the time of hire;

(b) Have training knowledge and/or experience demonstrating competence in the treatment of the disease of alcoholism, including the management of alcohol withdrawal; client evaluation; motivational counseling techniques; and the taking and recording of vital signs;

(c) Within six weeks of employment, be currently certified or in process of certification in first aid methods including cardiopulmonary resuscitation.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0060; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0065
Use of Volunteers

Each Center utilizing volunteers shall have the following standards for volunteers:

(1) A written policy regarding the use of volunteers that shall include:

(a) Philosophy, goals, and objectives of the volunteer program;

(b) Specific responsibilities and tasks of volunteers;

(c) Procedures and criteria used in selecting volunteers, including sobriety requirements for individuals recovering from the disease of alcoholism;

(d) Terms of service of volunteers;

(e) Specific accountability and reporting requirements of volunteers;

(f) Specific procedure for reviewing the performance of volunteers and providing direct feedback to them; and

(g) Specific procedure for discontinuing a volunteer's participation in the program.

(2) There shall be documentation that volunteers complete an orientation and training program specific to their responsibilities before they participate in assignments. The orientation and training for volunteers shall:

(a) Include a thorough review of the Center's philosophical approach to treatment;

(b) Include information on confidentiality regulations and client's rights;

(c) Specify how volunteers are to respond to and follow procedures for unusual incidents;

(d) Explain the Center's channels of communication and reporting requirements and the accountability requirements for volunteers;

(e) Explain the procedure for reviewing the volunteer's performance and providing feedback to the volunteer; and

(f) Explain the procedure for discontinuing a volunteer's participation.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15-1983, f. 7-27-83, ef. 10-25-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0065; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0070
Building Requirements

Each Center must provide facilities which shall:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes. Written evidence of compliance shall be maintained in the Center.

(2) Have floors, walls, and ceilings which meet the interior finish requirements of the **Fire and Life Safety Code**.

(3) Provide an adequately ventilated separate dining room or area for the exclusive use of clients, employees, and invited guests.

(4) Have a separate living room or lounge area for the exclusive use of Center clients, employees, and invited guests which shall provide a minimum of 15 square feet per client, and have adequate ventilation.

(5) Have sleeping areas that are separate from the dining, living, multi-purpose, laundry, kitchen, and storage areas; have an outside room with an openable window of at least the minimum required by the State Fire Marshal; have a ceiling height of at least seven feet six inches; provide a minimum of 60 square feet per client, with at least three feet between beds; provide permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room; and provide a curtain or window shade at each window to assure privacy.

(6) Have bathrooms conveniently located in each building containing a client bedroom and that provides a minimum of one toilet for each eight clients and one bathtub or shower for each ten clients; have one handwashing sink convenient to every room containing a toilet; provide permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room; have arrangements for individual privacy for clients; provide a privacy screen at each window; have a mirror; and have adequate ventilation.

(7) Have an adequate supply of hot and cold water, installed and maintained in compliance with current rules of the Health Division, which shall be distributed to taps conveniently located throughout the facility. All plumbing shall be in compliance with the State Plumbing Code.

(8) Have, if provided, laundry facilities separate from living areas including bedrooms, kitchen and dining areas, and areas used for the storage of unrefrigerated perishable foods.

(9) Have storage areas appropriate to the size of the Center. Separate storage areas shall be provided for food, kitchen supplies and utensils, clean linens and soiled linens and clothing, and cleaning compounds and equipment, poisons, chemicals, rodenticides, insecticides and other toxic materials which shall be properly labeled, stored in the original container, and kept in a locked storage area.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0070; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0075
Client Furnishings and Linens

Each Center must provide furniture and linen for each client which shall include:

(1) A bed, including a frame, and a clean, comfortable mattress and pillow;

(2) A private dresser or similar storage area for personal belongings which is readily accessible to the resident;

(3) Access to a closet or similar storage area for clothing;

(4) Linens, including sheets, pillowcase, blankets appropriate in number and type for the season and the client's comfort, and towels and washcloth; and

(5) A locked area not readily accessible to clients for safe storage of such items as money and jewelry.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0075; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0080
Safety

Each Center shall comply with the following safety standards:

(1) A written description of any injury, accident, or unusual incident involving any client shall be placed in the individual's record.

(2) A written emergency plan shall be developed and posted next to the telephone used by employees and shall include:

(a) Instructions for the employees in the event of fire, explosion, accident, or other emergency including the telephone number of the local fire department, law enforcement agencies, hospital emergency room, and the Center's consulting physician;

(b) The telephone number of the director or treatment supervisor and other persons to be contacted in case of emergency; and

(c) Instructions for the evacuation of clients and employees in the event of fire, explosion, or other emergency.

(3) The Center's fire detection equipment shall be installed and periodically inspected as required by the State Fire Marshal.

(4) Handrails shall be provided on all stairways as required by the **Fire and Life Safety Code**.

(5) There shall be no exposed light bulbs in the Center or where there exists the possibility of being bumped, struck, or posing a fire hazard.

(6) Operating flashlights, sufficient in number, shall be readily available to the staff in case of emergency.

(7) All flammable and combustible materials shall be properly labeled and stored in the original container in accordance with the rules of the State Fire Marshal.

(8) The program shall have first aid supplies available and staff shall be familiar with the location, contents, and use of the first aid supplies.

(9) State and local **Fire and Life Safety Code** requirements.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0080; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0085
Sanitation

Each Center shall comply with the following sanitation standards:

(1) A water supply system that meets the requirements of the current rules of the Health Division governing domestic water supplies.

(2) All floors, walls, ceilings, windows, furniture, and equipment shall be kept in good repair, clean, neat, orderly, and free from odors.

(3) Each bathtub, shower, hand-washing sink, and toilet shall be kept clean and free from odors.

(4) No kitchen sink, hand-washing sink, bathtub, or shower shall be used for the disposal of cleaning waste water.

(5) All measures necessary to prevent the entry into the Center of mosquitoes and other insects shall be taken.

(6) All measures necessary to control rodents shall be taken.

(7) The grounds of the Center shall be kept orderly and free of litter, unused articles, and refuse.

(8) The garbage and refuse receptacle shall be clean, durable, watertight, insect and rodent proof, and shall be kept covered with a tight fitting lid.

(9) All garbage solid waste shall be disposed of at least weekly and in compliance with the current rules of the Department of Environmental Quality.

(10) Sewage and liquid waste shall be collected, treated, and disposed of in compliance with the current rules of the Department of Environmental Quality.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0085; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0090
Food Service

Each Center shall provide food service that shall:

(1) Provide a nourishing, well-balanced diet for all clients.

(2) Provide modified or special diets as ordered by a physician.

(3) Assure at least three meals daily.

(4) Have menus that are prepared in advance which provide a sufficient variety of foods served in adequate amounts for each client at each meal, and adjusted for seasonal changes. Records of menus as served shall be filed and maintained in the facility's record for at least 30 days.

(5) Have supplies of staple foods for a minimum of one week, and of perishable foods for a minimum of two-day periods which must be maintained on the premises.

(6) Provide food stored and served at proper temperatures.

(7) Not serve or store raw milk and home-canned vegetables, meats, and fish.

(8) Meet the requirements of the **State of Oregon Sanitary Code for Eating and Drinking Establishments** relating to the preparation, storage, and serving of food.

(9) Have all utensils, including dishes, glassware, and silverware, used in the serving or preparation of drink of food for clients effectively washed, rinsed, sanitized, and stored after each individual use to prevent contamination in accordance with Health Division standards.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0090; ADS 2-2008, f. & cert. ef. 11-13-08

415-050-0095
Variances

Requirements and standards for requesting and granting variances or exceptions are found in OAR 415-012-0090.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(7); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0095; ADS 2-2008, f. & cert. ef. 11-13-08

DIVISION 52

RECOVERY HOMES FOR PEOPLE IN RECOVERY FROM ALCOHOL AND DRUG ABUSE OR DEPENDENCY

415-052-0100
Purpose

These rules prescribe standards for providing financial assistance in the form of loans under 42 U.S.C. 300x-25 to support the establishment of recovery homes for people in recovery from alcohol and drug abuse or dependency.

Stat. Auth.: ORS 413.042 & 409.410
Stats. Implemented: ORS 90.100 - 90.459, 105.105 - 105.168, 430.265 - 430.920 & 279B
Hist.: ADS 2-2009, f. & cert. ef. 12-3-09

415-052-0105
Definitions

(1) "Alcohol or drug abuse" means repetitive, excessive use of alcohol, a drug or controlled substance short of dependence, without medical supervision, which may have a detrimental effect on the individual, the family, or society.

(2) "Alcohol or drug dependence" means the loss of a person's ability to control the personal use of controlled substances or other substances with abuse potential, including alcohol, or use of such substances or controlled substances to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic functioning of the person is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(3) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(4) "In recovery" means an individual who is recovering from alcohol or drug abuse or dependency.

(5) "Nonprofit Entity" means a charitable organization that has been approved for tax exemption by the Internal Revenue Code under Section 501(c)(3) or an affiliate of such charitable organization.

(6) "Recovery home" means a group home for individuals in recovery, as described in 42 U.S.C. 300x-25, that is developed by a nonprofit entity and prohibits the use of alcohol or any illegal drug on

the premises. Recovery homes operate consistent with the following provisions:

(a) The use of alcohol or any illegal drugs in the housing is prohibited;

(b) Any resident of the housing who violates this prohibition is immediately expelled;

(c) The costs of the housing, including fees for rent and utilities, and repayment of the loan, are paid by the residents; and

(d) The residents of the housing will, through a majority vote, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(7) "Revolving Loan Fund" or "loan" means a fund established under 42 U.S.C. 300x-25 for the purpose of making loans to cover the cost of establishing a recovery home for 6 or more persons in recovery.

Stat. Auth.: ORS 413.042 & 409.410
Stats. Implemented: ORS 90.100 - 90.459, 105.105 - 105.168, 430.265 - 430.920 & 279B
Hist.: ADS 2-2009, f. & cert. ef. 12-3-09

415-052-0110
Revolving Loan Fund

(1) **Establishment of the Revolving Loan Fund.** The Division will establish and administer a revolving loan fund to assist the establishment of recovery homes. This fund shall be known as the "Oregon Recovery Homes Revolving Loan Fund". The revolving loan fund will be established with federal funds allocated for this purpose under 42 U.S.C. 300x-25 and may be supplemented with state funds designated for this purpose.

(2) **Administration of the Revolving Loan Fund.** The Division may contract with a private, nonprofit entity to administer the revolving loan fund The private, nonprofit entity will be selected through a competitive process consistent with state contracting practices under ORS 279B. The selection of the contractor shall be based upon a review of qualifications, expertise, experience and documented capabilities relating to the administration of a revolving loan fund. The revolving loan fund will be administered consistent with all federal, state and local laws and the following requirements:

(a) The revolving loan fund will be maintained in an account that is separate and distinct from all other accounts maintained by the contractor that is selected by the Division. The account will be interest-bearing, if such an account is available, and be kept in a depository approved by the State of Oregon;

(b) The contractor will adopt policies and procedures for the administration of the revolving loan fund consistent with 42 U.S.C. 300x-25, 45 CFR 96.129 and these rules. These policies and procedures will include criteria for approving loans, collecting payments, assessing penalties, and managing loans in default. These policies and procedures will be reviewed and approved by the Division;

(c) The contractor will use forms and other written materials to provide loans. These will include, but not be limited to, a loan application form, a loan approval letter indicated loan terms, and a past due notification letter;

(d) Loans will be limited to legitimate costs relating to the establishment or relocation of a recovery home. These costs will include, but not be limited to, first month's rent, necessary furniture, facility modifications, and purchase of appliances and equipment necessary to the operation of the household

(e) Loans will not exceed $5,000. This amount will include no more than $4,000 from federal sources. No interest will be charged;

(f) The terms for the loan shall specify that repayment will occur within two years after the date on which the loan is made;

(g) The loan will be paid through monthly installments with funds collected from residents of the recovery home;

(h) A reasonable penalty will be assessed for each failure to pay the monthly installment by the due date;

(i) There will be procedures that outline liability and recourse in the case of default; and

(j) A record for each loan shall be maintained and include the application, approval documentation, payment history, correspondence, penalties, default remedies and documentation of pay-off.

(3) **Reporting Requirements.** The contractor shall provide a monthly report to the Division on the status of the revolving loan fund and assist the Division with supplying data for an annual report to the federal government on the status of the revolving loan fund.

(4) **Non-performance.** In the event of contractor non-performance, the Division may take actions necessary to remediate problems or terminate the contract for administration of the revolving loan fund. If contract termination results in a period of time when no contractor is available to administer the fund, the Division will administer the fund until such time another contractor may be selected.

Stat. Auth.: ORS 413.042 & 409.410
Stats. Implemented: ORS 90.100 - 90.459, 105.105 - 105.168, 430.265 - 430.920 & 279B
Hist.: ADS 2-2009, f. & cert. ef. 12-3-09

DIVISION 54

DUII INFORMATION PROGRAMS, MARIJUANA DIVERSION AND ALCOHOL AND DRUG EVALUATION AND SCREENING SPECIALISTS, AND DEMONSTRATION PROJECTS

415-054-0020
DUII Alcohol/Other Drug Information Program Detail

(1) A DUII information program shall include a minimum of four sessions over a four-week period and provide 12-20 hours of education.

(2) Required Content/Topics of Education Curriculum:

(a) Victim's panel when possible;

(b) A pre- and post-test that has been approved by the Division;

(c) History, use, and definition of alcohol;

(d) Alcohol as a drug;

(e) Physiological effects of alcohol;

(f) Other drugs — legal and illegal — and their effects on driving when used separately and/or in combination with alcohol;

(g) Psychological and sociological consequences of abuse of alcohol or drugs to include the effect on families;

(h) Blood alcohol concentration and effects on driving performance;

(i) Court penalties;

(j) Motor Vehicles Division laws and penalties;

(k) Alcoholism as a problem and a disease (one hour minimum); and

(l) Alternatives to drinking and driving.

(3) Urinalysis Testing: A minimum of one urinalysis sample shall be observed and collected during the first two weeks of a client's DUII information program:

(a) The sample shall be tested for at least three controlled drugs from a list of targeted drugs specified by the Division using the process set out in the definition of "urinalysis testing" in OAR 415-054-0010; and

(b) The program may use methods of testing for the presence of alcohol or other drugs in the client's body other than urinalysis tests if the program has obtained the prior review and approval of such methods by the Division.

(4) Client Evaluation and Rehabilitation Services: The DUII information program shall establish and follow a procedure to assure communication with the evaluation specialist about whether a client should be referred to a rehabilitation program. Clients who test positive for illicit drugs must be referred to a DUII rehabilitation program for assessment and further treatment.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHD 6-1981(Temp), f. & ef. 11-25-81; MHD 10-1982, f. & ef. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0020; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0030
Program Approval

(1) Letter of Approval: In order to receive a Letter of Approval from the Division under the process set forth in OAR 415-012-0000 to 415-012-0090, a DUII information program shall meet the standards set forth in these rules and any other administrative rules applicable to the program.

(2) A DUII information program seeking approval under these rules shall establish to the satisfaction of the Division that the local alcoholism and other drug planning committee was actively involved

in the review of the DUII information program as it relates to the CMHP plan.

(3) Inspection: The Division shall inspect at least every two years each information program under these rules.

(4) Renewals: The renewal of a letter of approval shall be governed by OAR 415-012-0040.

(5) Denial, Revocation, Nonrenewal, or Suspension: The denial, revocation, nonrenewal, or suspension of a letter of approval/license for an information program may be based on any of the grounds set forth in OAR 415-012-0060.

(6) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew, or suspend a letter of approval when he or she determines that the issuance or continuation of the letter of approval would be inconsistent with the public interest. In determining the public interest, the Assistant Director shall consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, clinical supervisor, or staff:

(a) Any convictions under any federal or state law relating to any controlled substance;

(b) Furnishing of false, misleading, or fraudulent material in any application for a letter of approval; or

(c) Any other factors relevant to, and consistent with, the public health or safety.

(7) Without the approval of the Assistant Director, no agency or person may provide DUII information program services to a client who has also been referred by a judge to the same agency or person for a DUII related diagnostic assessment. Failure to comply with this section will be considered a violation of ORS Chapter 813. If the Assistant Director finds such a violation, the Assistant Director may deny, suspend, revoke, or refuse to renew a Letter of Approval.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHD 6-1981(Temp), f. & ef. 11-25-81; MHD 10-1982, f. & ef. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0030; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0040
Variances

A variance from these rules may be granted to any agency in accordance with the procedures described in OAR 415-012-0090.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHD 10-1982, f. & ef. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0040; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

Standards for Certification as an Alcohol and Other DrugScreening Specialist (ADSS)

415-054-0400
Purpose

These rules prescribe the standards and requirements for DUII Information Programs, for certification and services provided by Alcohol and Drug Evaluation and Screening Specialists and for approval to establish a demonstration project, both related to individuals ordered by the court for DUII screening, diagnostic and referral to treatment services.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.206
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0410
Definitions

(1) "Alcohol and Drug Evaluation and Screening Specialist" (ADES) means an individual who possesses a valid certificate issued by the Addictions and Mental Health Division (Division) of the Oregon Health Authority (Authority), as prescribed in these rules.

(2) "Assistant Director" means the Assistant Director of the Addictions and Mental Health Division of the Oregon Health Authority.

(3) "Certificate" means a document issued to a person by the Division which authorizes the person to practice as an ADES.

(4) "CFR 42 Part 2" means the Code of Federal Regulations, Title 42, Volume 1, Chapter 1, Part 2 entitled Confidentiality of Alcohol and Drug Abuse Patient Records.

(5) "Conflict of Interest" means use of a personal relationship to obtain financial gain or avoidance of financial detriment; making business decisions which create a pattern of biased or preferential treatment; or initiating a professional role with someone with whom there was a pre-existing personal relationship. The conflict of interest may be actual or potential.

(6) "Diversion Agreement" means a petition approved by the court meeting the criteria established in ORS 813.200 through 813.260.

(7) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(8) "DUII" means driving under the influence of intoxicants.

(9) "DUII Diagnostic Assessment" means an examination by an ADES to determine if a person has a problem condition involving alcohol or controlled substance as described in ORS 813.040.

(10) "DUII Demonstration Project" means an agency approved by the Assistant Director to demonstrate the effectiveness of combining diagnostic assessment and treatment services in a single agency or organization for persons charged with the offense of driving under the influence of intoxicants.

(11) "DUII Information Program" means a short term (12-20) hours in duration), didactic alcohol and drug education program which meets the minimum curriculum, instructor and hourly standards established by the Division.

(12) "Individual" means any person being considered for or receiving services regulated by these rules including adolescents referred pursuant to ORS 419C.443.

(13) "Individual Record" means the confidential, permanent individual record including all documentation, written or electronic, from the point of entry through service conclusion.

(14) "Marijuana Diversion Agreement" means a petition approved by the court pursuant to ORS 135.907 through 135.921.

(15) "Re-referral" means a referral which occurs after an individual disengages from initial treatment and then receives a new referral to the same or different treatment program.

(16) "Risk" means an individual's use of alcohol or drugs is a problem indicated by a substantial impairment or endangerment to the individual's health or that of others, or because the individual's social or economic function is substantially disrupted.

(17) "Screening Interview" means determining the most appropriate treatment provider and making a referral to that provider for an individual convicted of a DUII.

(18) "Single Agency or Organization" means any one person or business entity, any combination of persons or business entities acting together as a program, an agency or any other arrangement which provides or has a financial interest in providing DUII diagnostic assessment and screening interview services approved by the Assistant Director under OAR 415-054 and any DUII treatment services defined in OAR 309-032.

(19) "Transfer" means an individual is referred from one approved DUII treatment program to another as requested by the individual, the ADES or the first treatment program.

(20) "Treatment Program" means an approved alcohol and drug treatment program which meets all standards established by the Division evidenced by a current letter of approval and which specializes in services to individuals with court ordered DUII convictions or diversions, or marijuana diversions.

(21) "Treatment Services" means those services provided by the treatment program which are individualized, planned and medically appropriate and which are designed to remediate the problem condition involving alcohol or drugs.

(22) "Variance" means an exception from a requirement in these rules, granted in writing by the Division on a case by case basis.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 419C.443, 409.410, 813.021, 813.206, 813.040
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0420
Screening and Referral

(1) Each individual shall be assured the same civil and human rights as other persons. The ADES shall provide services in a manner that protects individual privacy and dignity.

(2) The ADES must provide the rights to the individual in written form or in a requested primary language or other alternative format, explain the rights and respond to the individual's related questions.

(3) The ADES must place in the individual record the individual's signed acknowledgement that the individual received these rights.

(4) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Participate in the selection of the treatment program;

(b) Have the role of the court, treatment program and ADES monitoring process explained where the DUII system is concerned;

(c) Confidentiality and the right to consent to disclosure in accordance with 42 CFR Part 2.

(d) Give informed consent in writing prior to the start of services, except as otherwise permitted by law;

(e) Pursuant to ORS 179.505, inspect all parts of their individual record which originated from the ADES within five working days of the request. The individual must obtain copies of documents which originated from other sources from the original source. The individual may be responsible for the cost of duplication.

(f) Receive prior notice of service conclusion or transfer, unless the circumstances necessitating service conclusion or transfer pose a threat to health and safety;

(g) Be free from harassment, abuse or neglect and to report any incident of harassment, abuse or neglect without being subject to retaliation;

(h) Have religious freedom;

(i) Be informed of the policies and procedures, service agreements and fees applicable to the services provided;

(j) Have a custodial parent, guardian or representative assist with understanding any information presented;

(k) Receive a copy of the ADES's or demonstration project's grievance process which shall include the Division and Disability Rights of Oregon telephone numbers. The individual shall:

(A) File a written grievance without any form of reprisal;

(B) Receive a written response to the grievance within 30 days and

(C) File an appeal with the Division if dissatisfied with the ADES's response.

(l) Exercise all rights described in this rule without any form of reprisal or punishment

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 109.675, 179.505, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.055 & 813.200 - 813.270
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0430
Administrative Requirements for Information Programs

(1) An information program that contracts directly with the Division or indirectly with the Division through the (CMHP) administered by the Division shall comply with the contracting rules of the Division and contract agents governing reimbursement for services and refunds.

(2) An information program shall develop and implement written policies and procedures that describe program operations. Policies and procedures shall include a quality assurance process ensuring that clients receive appropriate services and that the program is in compliance with relevant administrative rules.

(3) Instructors shall have one year of education, experience, and/or training in one or more of the following areas: social science, psychology, counseling, alcohol/drug rehabilitation, education, or other related field approved by the Division.

(4) If two or more staff provide services, the program shall have and implement the personnel policies and procedures which address:

(a) Rules of conduct and standards for ethical practices of program practitioners, including conflict of interest;

(b) The requirement of a Drug Free Workplace with procedures for managing incidents of use and abuse and

(c) Compliance with the federal and state personnel regulations including the Civil Rights Act of 1964 as amended in 1972, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act, Oregon civil rights laws related to employment practices, and any subsequent amendments effective on or before the effective date of these rules. The DUII information program shall give individualized consideration to all applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.

(5) Personnel records for each member of the program's staff, volunteers, and interns/students shall be kept and shall include:

(a) Résumé and/or employment application and job description;

(b) Documentation of applicable qualification standards and requirements;

(c) Annual performance appraisals based on pre-established performance criteria founded on the specific responsibilities of the position as stated in the job description;

(d) Documentation of any performance problem and formal corrective action taken due to the problem and

(e) For volunteers or interns/students, the record need only include information required by subsections (5)(a) and (5)(d) of this rule and the written work plan for such person.

(6) Records shall be maintained and utilized in such a way as to ensure program staff confidentiality and shall be retained for a period of three years following the departure of a program staff person.

(7) Information programs receiving public funds must comply with Title 2 of the Americans with Disabilities Act of 1990, 42 USC § 1231 et seq. after July 26, 1992.

(8) Each program shall maintain the following client record requirements:

(a) Each record shall include all information about clients as required by these rules in permanent client records;

(b) Maintain each client record to assure permanency, identification, accessibility, uniform organization, and completeness of all components required by these rules and in a manner to protect against damage or separation from the permanent client or program record;

(c) Keep all documentation in the permanent client record current (unless specified otherwise), within seven days of delivering the service or obtaining the information;

(d) Include the signature of the person providing the documentation and service;

(e) Not falsify, alter, or destroy any client information required by these rules to be maintained in a client record or program records;

(f) Document all procedures in these rules requiring client consent and the provision of information to the client on forms describing what the client has been asked to consent to or been informed of, and signed and dated by the client. If the program does not obtain documentation of consent or provision of required information, the reasons must be specified in the client record and signed by the person responsible for providing the service to the client;

(g) Require that errors in the permanent client record shall be corrected by lining out the incorrect data with a single line in ink, adding the correct information, and dating and initialing the correction. Errors may not be corrected by removal or obliteration through the use of correction fluid or tape so they cannot be read; and

(h) Permit inspection of client records upon request by the Division to determine compliance with these rules.

(9) Client records shall be kept for a minimum of seven years. If a program is taken over or acquired by another program, the original program is responsible for assuring compliance with the requirements of 42 CFR § 2.19(a)(1) and/or (b), whichever is applicable. If a program discontinues operations, the program is responsible for:

(a) Transferring fiscal records required to be maintained under section (1) of this rule to the Division if it is a direct contract or to the CMHP administering the contract, whichever is applicable; and

(b) Destroying client records or, with client consent, transferring client records to another program.

Stat. Auth.: ORS 409.010, 409.050, 409.410
Stats. Implemented: ORS 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0440
Information Program Detail

(1) A DUII information program shall include a minimum of four sessions over a four-week period and shall include 12-20 hours of education.

(2) Required Content/Topics of Education Curriculum:

(a) Victim's panel when possible;

(b) A pre- and post-test that has been approved by the Division;

(c) History, use, and definition of alcohol;
(d) Alcohol as a drug;
(e) Physiological effects of alcohol;
(f) Other drugs — legal and illegal — and their effects on driving when used separately and/or in combination with alcohol;
(g) Psychological and sociological consequences of abuse of alcohol or drugs to include the effect on families;
(h) Blood alcohol concentration and effects on driving performance;
(i) Court penalties;
(j) Motor Vehicles Division laws and penalties;
(k) Alcoholism as a problem and a disease (one hour minimum); and
(l) Alternatives to drinking and driving.

(3) A minimum of one urinalysis sample shall be observed and collected during the first two weeks of a client's DUII information program:

(a) The sample shall be tested for at least three controlled drugs from a list of targeted drugs specified by the Division using the process set out in the definition of "urinalysis testing" in OAR 415-054-0010; and

(b) The program may use methods of testing for the presence of alcohol or other drugs in the client's body other than urinalysis tests if the program has obtained the prior review and approval of such methods by the Division.

(4) The DUII information program shall establish and follow a procedure to assure communication with the evaluation specialist about whether a client should be referred to a rehabilitation program. Clients who test positive for illicit drugs must be referred to a DUII rehabilitation program for assessment and further treatment.

Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0450
Information Program Approval

(1) In order to receive a Letter of Approval (LOA) from the Division, a DUII information program shall meet the standards set forth in these rules and any other administrative rules applicable to the program.

(2) A DUII information program seeking approval under these rules shall establish to the satisfaction of the Division that the local alcoholism and other drug planning committee was actively involved in the review of the DUII information program as it relates to the CMHP plan.

(3) The Division shall inspect at least every two years each information program under these rules.

(4) The renewal of a letter of approval shall be governed by OAR 415-012-0040.

(5) The denial, revocation, nonrenewal, or suspension of a letter of approval/license for an information program may be based on any of the grounds set forth in OAR 415-012-0060.

(6) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew or suspend a letter of approval when he or she determines that the issuance or continuation of the letter of approval would be inconsistent with the public interest. In determining the public interest, the Assistant Director shall consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, clinical supervisor, or staff:

(a) Any convictions under any federal or state law relating to any controlled substance;

(b) Furnishing of false, misleading, or fraudulent material in an application for a letter of approval; or

(c) Any other factors relevant to, and consistent with, the public health or safety.

(7) Without the approval of the Assistant Director, no agency or person may provide DUII information program services to a client who has also been referred by a judge to the same agency or person for a DUII related diagnostic assessment. Failure to comply with this section will be considered a violation of ORS Chapter 813. If the Assistant Director finds such a violation, the Assistant Director may deny, suspend, revoke, or refuse to renew a Letter of Approval.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0460
ADES Application and Certification Process

(1) Minimum qualifications for ADES certification include:

(a) A Bachelor Degree in social sciences, psychology, sociology, substance abuse or a related subject with course work specific to alcohol or other drug treatment; or

(b) Four years of full time supervised experience in alcohol or drug evaluation, treatment or counseling; or

(c) A combination of two years of education or training in alcohol or drug treatment, evaluation, education or counseling and two years of full-time supervised experience in alcohol or drug service delivery.

(2) A person who wishes to be certified as an ADES must submit a packet of information which includes at minimum an application, three letters of reference, the completed conflict of interest form designated by the Division and a written court Designation that explains the need for an additional ADES in that court's jurisdiction. Examples of need are an increased number of DUII cases or the need for an ADES with specific language proficiency.

(3) An applicant may be denied a certificate for reasons which include but are not limited to insufficient education or experience, poor reference feedback, a confirmed or potential conflict of interest or if the Division determines a lack of need for an ADES in the applicant's geographical area.

(4) Prior to final certification the applicant must have completed ADES specific training curriculum pre-approved by the Division, which includes the following subjects:

(a) The scope, authorities and responsibilities of the ADES as addressed in related Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR) and Division policies and procedures;

(b) A summary of related roles of the court and the treatment provider and how their roles differ from those of the ADES;

(c) A review of professional issues such as conflict of interest, other ethics standards, confidentiality, releases of information and individuals' rights;

(d) The process of conducting screening interviews, diagnostic assessments, interpreting court and other legal documents, determining risk and formulating a screening summary, referral procedures and reporting requirements;

(e) Determining the appropriate treatment provider for each case based upon the screening or diagnostic assessment results and individual needs and referral procedures;

(f) Interpretation of toxicology and urinalysis tests results and

(g) Standards and requirements of individual permanent records.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0470
Other Requirements

(1) The ADES shall fully cooperate with program reviews conducted by the Division and with all corrective actions required by the Division.

(2) During all working hours the ADES shall not be under the influence of nor use or have present in any amounts in his or her body any alcohol or drugs to include controlled substances, unless pursuant to a current prescription from a licensed physician.

(3) The ADES must serve a minimum of twelve individuals over the calendar year.

(4) The ADES must comply with Title 2 of the Americans With Disabilities Act of 1990, 42 USC Section 12131 et seq.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0480
Screening Interview and Diagnostic Assessments

(1) The ADES must perform a screening interview for individuals convicted of a DUII to determine the most appropriate DUII treat-

ment provider in making a referral to that provider. The ADES must use documents and procedures designated by the Division.

(2) The ADES must perform a diagnostic assessment for individuals under a DUII Diversion Agreement to determine if the individual has a problem condition involving alcohol or drugs including controlled substances and to determine the most appropriate DUII treatment provider. In making the referral to that provider the ADES must use documents and procedures designated by the Division.

(3) Screening interviews and diagnostic assessments shall be conducted in a face-to-face interview whenever possible. If a telephone interview is used the ADES shall document in the individual's record a full explanation for the absence of a face-to-face interview.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0490
Referrals

(1) The ADES shall perform the referral process by thoroughly completing all documents and following all procedures designated by the Division.

(2) The ADES shall provide to the individual a list of all Division approved treatment programs:

(a) Within the geographic area preferred by the individual and

(b) Those treatment programs in any other geographic area capable of responding to a specific need including, but not limited to ability to pay or seek reimbursement through insurance, primary language or hours of treatment which allow an individual to maintain a work schedule.

(3) The process of selecting the treatment program shall be collaborative between the ADES and the

individual, however the ADES shall make the final determination in referring the individual to an approved DUII information or treatment program. The ADES shall explain the rationale for the information or treatment program which the ADES believes most closely provides services specific to the individual's treatment needs, including the individual's request for a restricted driver's license.

(a) The ADES shall confirm that the individual participated in the selection of the information or treatment program by documenting in a statement which must be co-signed by the individual and placed in the individual record.

(4) The ADES may not refer an individual to a program if doing so may cause an actual or potential conflict of interest.

(5) Whenever possible referrals of adolescents shall be to programs that specialize in treatment for adolescents.

(6) Within five days of the screening the ADES shall forward to the selected information or treatment program a copy of the referral form, the screening cover sheet and the completed screening instrument.

(7) If the individual has a court approved Marijuana Diversion Agreement the screening and referral process is identical to those for individuals referred for DUII charges.

(8) If the screening results indicate the individual does not have a problem condition as defined in ORS 813.040 for the use of marijuana the ADES shall indicate so on the screening instrument and then refer the individual back to court.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021,813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0500
Transfers, Re-Referrals and Out-of-State Offenders

(1) When a transfer from one treatment program to another is requested by the individual or the current treatment program, the ADES shall consider and document the logistic, financial or other reasons for the request and the rationale for either an acceptance or denial of the request.

(2) A transfer may not be approved if the individual refuses to sign a release of information which permits an exchange of verbal and written communications between the current and the proposed next treatment program.

(3) When the individual resides in a state other than Oregon, the ADES may refer the individual to a treatment program licensed by and located in the individual's home state.

(4) The ADES' roles concerning out-of-state offenders shall be identical as those for Oregon residents.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0510
Monitoring

The ADES shall monitor the individual throughout the information or treatment process by:

(1) Verifying the individual began the information or program within 30 days of the referral;

(2) Verifying whether or not the individual satisfactorily completed all requirements of the program;

(3) Notifying the court concerning the individual's compliance with program requirements and

(4) Documenting in the individual record each contact with the program and the court.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0520
Individual Records and Fees

(1) The ADES must develop and maintain a confidential permanent individual record for each individual. The record must, at minimum include a copy of:

(a) All legal documents received;

(b) A form signed by the individual acknowledging receipt of confidentiality rights pursuant to 42 CFR Part 2;

(c) All completed documents required in these rules and any related Division procedures;

(d) Documentation of each contact related to the individual's case;

(e) All status reports and other documents received from the DUII approved treatment program;

(f) All documents related to any re-referral or request for transfer from one treatment program to another and

(g) All documents related to any out-of-state referrals.

(2) Any errors in the individual record shall be corrected by drawing a single ink line through the error and adding the correction date and ADES's initials. The use of correction fluid or tape or any other attempt to make the error illegible is unacceptable.

(3) The ADES shall maintain each individual record for seven years in a location which assures accessibility, organization, the individuals' confidentiality and which protects against damage or loss.

(4) Pursuant to ORS 813.021 and 813.240, the ADES may charge $150.00 for their services to each individual.

(a) The ADES must itemize in the individual record all fees received by the individual, indicating the service(s) provided and any outstanding fees.

(5) The ADES shall permit the Division to inspect all permanent records to determine compliance with these rules.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 4-2010(Temp), f. & cert. ef. 9-20-10 thru 3-9-11; ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0530
Reporting Requirements

(1) By the 10th of each month, the ADES shall send to the Division the monthly report of DUII and marijuana diversion individuals served by the ADES caseload.

(2) Any potential or actual conflict of interest must immediately be declared to the Division on the designated form.

(3) An ADES who decides to close the business voluntarily must notify the Division in writing within 60 days of the proposed closure with a plan for:

(a) Transferring service responsibility for each individual the ADES is currently monitoring to another ADES, who agrees in writing to the plan and

(b) Secure storage of all individual records less than seven years old, pursuant to OAR 166.040. The Division may approve a plan to transfer the records to another ADES within the same court jurisdic-

tion who indicates in writing the willingness to accept responsibility for their secure storage.

(4) When a program is discontinued, its current certificate is immediately void and shall be returned to the Division. A discontinued program is one which has terminated its services for which it had been approved or licensed.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0540
Revocation, Non-renewal or Suspension of the ADES Certificate

The Division may deny a request for a certificate renewal, or may revoke or temporarily suspend an existing ADES certificate when it finds any of the following:

(1) The ADES has substantially failed to comply with applicable administrative rules, state or federal law or with local codes or ordinances;

(2) Failure to demonstrate competencies specified in these rules;

(3) Received a prior denial, suspension, revocation or refused renewal of any other Authority license or certificate;

(4) The applicant or ADES submits fraudulent or untrue information to the Division;

(5) The applicant or ADES has a history of, or currently demonstrates financial insolvency including but not limited to filing for bankruptcy, a foreclosure or failure to pay taxes;

(6) The applicant or ADES refuses to allow immediate access and onsite inspection by the Division;

(7) The applicant or ADES is found to have permitted, aided or abetted the commitment of an unlawful act;

(8) Deviation by the ADES from the plan or operation originally approved and certified which, in the judgment of the Division, adversely affects the quality or scope of the intended services;

(9) Does not meet the minimum requirement of serving a minimum of one individual per month over the course of one year;

(10) Failure to allow an individual to exercise rights as defined in these rules;

(11) Failure to declare in writing any potential or actual conflict of interest or

(12) Failure to fully comply with any corrective action plan designated by the Division.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0550
Demonstration Project Approval Process

(1) Only an ADES with a valid certificate and a single agency or organization with a valid letter of approval to provide treatment services may be approved as a demonstration project.

(2) Requests for approval under these rules must include a narrative which describes or otherwise addresses the following:

(a) That a clearly defined and significant problem exists in the separate provision of diagnostic assessment, information and treatment services as defined in these rules;

(b) The problem cannot be resolved as long as the diagnostic assessment, information and treatment functions are performed by separate agencies or organizations;

(c) There is relevant research or other data which shows that a particular method for combining the performance of these functions in a single agency is an effective and appropriate means of resolving the problem;

(d) The person or agency proposing to conduct a demonstration of the particular method has, and can maintain for the duration of the project:

(A) The appropriate clinical and managerial knowledge, skills and abilities required by administrative rule for ADES services, information and treatment programs and

(B) A process to evaluate the effectiveness of the demonstration project which:

(i) Is conducted independent of the demonstration project;

(ii) Compares the demonstration project program with non-project programs;

(iii) Compares outcomes of post-project service recipients to those in a control group;

(iv) Includes the cost effectiveness of the demonstration project and

(v) Includes cost savings to service recipients.

(e) An assurance the applicant has not previously failed to resolve problems or satisfactorily conduct or complete other programs or projects for private or public entities;

(f) The effect on other ADES, information and treatment programs and whether referrals will also be made to outside agencies and

(g) The geographic location to be served; the participating persons or agencies and their respective roles in the proposed project; the length of time proposed for the project and the expected outcomes.

(3) The application packet must also include:

(a) Letters of endorsement from courts and other relevant persons or agencies;

(b) Written assurances of participation by each proposed participant;

(c) Documentation that the request for approval has been reviewed and a recommendation made by the Community Mental Health Program director of the proposed geographic area and the local alcoholism and drug planning committee and

(d) Any additional information requested by the Division.

(4) Approval of a demonstration project is at the discretion of the Assistant Director. The Division shall review requests and shall notify the requestor of the approval or denial within 60 days of the date the request is received by the Assistant Director.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0560
Demonstration Project General Requirements

(1) The approved demonstration project must comply with all ADES, information and treatment program requirements detailed in OAR 415-054 and 309-032.

(2) The effectiveness of the approved demonstration project must be evaluated as agreed upon between the applicant and the Division.

(3) Results of the program evaluation must be submitted to the Division within timelines approved by the Assistant Director.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0570
Revocation or Denial of Approval for Demonstration Projects

(1) Approval of an application for a demonstration project is at the Assistant Director's discretion.

(2) The Assistant Director may deny, revoke or refuse to renew approval for any of the reasons detailed in OAR 415-054 or due to a finding that the demonstration project is not resolving the problems explained in the original application.

(3) The Assistant Director may refuse to renew approval if the program evaluation required under these rules fails to demonstrate the effectiveness of combining the diagnostic assessment and the treatment functions within a single agency or organization.

(4) When a request for approval to operate a demonstration project is denied, a current approval is suspended or revoked, or renewal is denied, notice of the action shall be sent by certified mail and shall include information about contested case hearings.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

415-054-0580
Variances

(1) A variance request must be submitted to the Division in writing and must include:

(a) The section of the rule for which the variance is sought;

(b) The reason for the request and the proposed alternative plan and

(c) If temporary in nature, a timetable for compliance with the related rule.

(2) If the request is denied an appeal may be made to the Assistant Director whose decision shall be final.

(3) The document from the Division granting a variance must remain in the ADES's permanent business file.

Stat. Auth.: ORS 409.410, 413.042
Stats. Implemented: ORS 409.410, 813.021, 813.260
Hist.: ADS 2-2011. f. 3-8-11, cert. ef. 3-9-11

DIVISION 55

RECOMMENDATIONS FOR RESTRICTED LICENSE FOR DRIVING UNDER THE INFLUENCE OF INTOXICANTS AND OTHER RELATED SUSPENSIONS AND/OR REVOCATIONS

415-055-0000
Purpose

The purpose of these rules is to prescribe standards and procedures for approval of outpatient alcoholism and drug-dependence treatment programs which make recommendations to the Division of Motor Vehicles (DMV) regarding persons seeking a restricted operator's license.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0000; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0005
Definitions

As used in these rules:

(1) "Assistant Director" means the Assistant Director of the Addictions and Mental Health Division of the Oregon Health Authority.

(2) "Client" means a person receiving services under these rules, and who has signed a consent form which complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2).

(3) "Community Mental Health Program" OR "CMHP" means the organization of all services for persons 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 Addictions and Mental Health Division.

(4) "Court" means the last convicting court unless specifically noted.

(5) "DMV" means the Driver and Motor Vehicle Services Branch of the Department of Transportation.

(6) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(7) "Drug-dependent person" means a person who has lost the ability to control the use of controlled substances or other substances with abuse potential, or who uses such substances to the extent that the person's health or that of others is substantially impaired or endangered or the person's social or economic function is substantially disrupted. A drug-dependent person may be physically dependent, a condition in which the body requires a continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a drug or controlled substance.

(8) "Driving under the influence of intoxicants (DUII) Information Program" means a short-term (12-20 hours in duration), didactic, alcohol and driving education program which meets the minimum curriculum, instructor, and hourly standards established in OAR 415-054-0005 through 415-054-0040, Standards for DUII Information Programs.

(9) "DUII Rehabilitation Program" means programs of treatment and therapeutically oriented education services that meet the minimum standards established by the Division.

(11) "Restricted license" means a hardship or probationary license issued by the DMV.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93; Renumbered from 309-055-0005; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0010
Application for Program Approval

(1) New programs seeking Division approval to make recommendations to DMV regarding restricted driving licenses shall:

(a) Comply with applicable rules including OAR 415-012-0000 through 415-012-0090 and 415-051-0000 through 415-051-0150;

(b) Be currently holding a two-year DUII Rehabilitation Program Letter of Approval; and

(c) Have maintained a DUII Rehabilitation Program Letter of Approval from the Division for four continuous years prior to making application.

(2) The application must be accompanied by documentation that the application has been reviewed by the local alcoholism and drug planning committee and the CMHP.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0010; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0015
Standards for Assessment Services

(1) Assessment Procedure: An approved program shall develop and implement a written procedure for assessing and evaluating each client's treatment needs and extent of the client's alcohol abuse or drug-dependent problem in accordance with the requirements of 415-051-0030. Facts upon which the clinical conclusion is based shall be documented in the client's chart. Recent prior assessments by another program may be honored or disregarded by the program in which the client is presently enrolled.

(2) Determinations: Based on the assessment, one of the following four determinations shall be made and recorded in the client's record:

(a) The client does not have an alcohol or other drug abuse problem: The program shall obtain from the client a written consent to release information and shall notify the last convicting court and DMV, in writing, of its determination and recommend that the client, at a minimum, participate in a DUII information program which has been approved by the Division

(b) The client's participation in the assessment has been too limited to make a determination: The program shall make no recommendations to DMV for a restricted license until a complete assessment has occurred.

(c) The client has an alcohol or drug abuse problem:

(A) After obtaining from the client a written consent to release information, the program shall notify the court, if requested by the court, in writing, that the client has an alcohol or other drug problem, and that the client has agreed to accept the treatment plan and participate in treatment; and

(B) The program must follow the requirements of OAR 415-055-0020 in making recommendations for a restricted license.

(d) The client will not participate in selecting an adequate plan, or the client will not agree to follow a plan proposed by the program:

(A) The facts upon which this conclusion is based shall be documented in the client record; and

(B) Upon request by the court and after obtaining a written consent to release information, the facts upon which this conclusion is based shall be specified in a written report to the court; and

(C) The program shall make no recommendation to DMV for a restricted driver's license.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0015; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0020
Recommendations for Restricted License

(1) First Offense: When the court or DMV requires a recommendation for a restricted license for a client convicted of a first offense, the treatment provider shall obtain client consent to comply with the following documentation procedures and shall:

(a) Send a written recommendation to DMV regarding the issuance of a restricted license;

(b) Complete evaluation of the client as described in OAR 415-051-0000 through 415-051-0030;

(c) Send a copy of the recommendation to the court;

(d) Document the minimum period of cooperative participation required of the client and, when appropriate, participation in a program of antabuse or urinalysis monitoring;

(e) Document enrollment by the client in a DUII information or rehabilitation program unless there is written documentation that the client has completed a similar program within the last 12 months. If the current incident followed completion of an information program, the client shall be evaluated and could be required to participate in more intense treatment;

(f) Obtain written commitment from the client stating that the client will remain abstinent from alcohol and illicit drugs throughout the entire period of the restricted license; and

(g) Obtain written agreement that the client understands the program will withdraw its recommendation if the client fails to continue in treatment or moves from the county.

(2) Second Offense: When the court or DMV requires a recommendation for a restricted license for a client who has a second conviction or a first conviction with previous participation in an alcohol rehabilitation or diversion program, the treatment provider shall, in addition to the requirements in section (1)(a) through (g) of this rule:

(a) Ensure that a recommendation for a restricted license is not provided until a 90-day waiting period has elapsed.

(A) This 90-day period begins on the effective date of the license suspension for driving under the influence of intoxicants; and

(B) If the applicant is suspended by the court on the date of conviction, and the court notifies DMV of this court-ordered suspension, the 90-day waiting period will begin on the conviction date.

(b) Document required cooperative participation in the treatment plan for a minimum of the first 8 contact hours or 30 days, whichever is greater, unless an earlier recommendation is justified by the client's occupation and approved by the program director. The client record must clearly document this justification.

(c) Document follow-up when a client has completed treatment, but is still driving on a restricted license:

(A) The program must document contact with the client at least once a month for the first 18 months; and

(B) Document contact no less than once every 90 days thereafter while the person is driving on the recommendation of that treatment program.

(3) Third or More Offense: When the court or DMV requires a recommendation for a restricted license for a client who has a third or subsequent suspension for DUII, the treatment provider shall, in addition to the requirements in section (1)(a) through (g) of this rule:

(a) Ensure that a recommendation for a restricted license is not provided until a one-year waiting period has elapsed.

(A) This one-year waiting period begins on the effective date of the license suspension for driving under the influence of intoxicants.

(B) If the applicant is suspended by the court on the date of conviction, and the court notifies DMV of this court-ordered suspension, the one-year waiting period will begin on the conviction date.

(b) Document cooperative participation in the treatment plan for a minimum of the first 24 contact hours or 90 days, whichever is greater.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0020; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0025
Withdrawal of Recommendation for Restricted License

(1) The program shall notify the court, when requested, and shall withdraw its recommendation to the DMV if the program becomes aware of any of the following:

(a) The client fails to demonstrate progress in the planned course of treatment or follow-up care to which the client agreed;

(b) The client moves from the treatment area. The client and DMV must be notified that a new letter of recommendation must be secured from the new location treatment provider. Both the client and DMV must be notified of the date upon which the current letter of recommendation expires;

(c) The client uses alcohol or drugs; or

(d) The client violates any of the conditions which apply to restricted licenses which have been established by the DMV. Such conditions are contained in OAR 735-064-0005 through 735-064-0237.

(2) The basis upon which the program withdraws its recommendations are to be entered into the client's record and shall identify and document specifically which of the conditions enumerated in sections (1)(a)-(d) of this rule were applicable.

(3) The program must notify the client of the program's decision, and the basis upon which the withdrawal was made. The client may appeal the revocation decision to withdraw the letter of recommendation as provided under OAR 415-055-0030 of these rules.

(4) If the program receives notice from the DMV of a violation of restricted license, the program will review the case to consider withdrawal of the recommendation, and document the review in the client's record.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0025; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0030
Appeal Process

(1) The program shall establish a procedure for clients to appeal licensing recommendations made by the program or to register complaints. The program is responsible for explaining the appeal process to clients and applicants. A written copy of the process must be available for clients.

(2) The appeal process may be quite informal at the preliminary stage but should be simple, expedient, and readily accessible. For example, the program could plan for review of the client's file by a member of the staff who had no previous contact with the client and provide an opportunity for the client to meet with that staff member.

(a) The appeal process for licensing recommendations shall be conducted as provided for under OAR 735-064-0110.

(b) The appeal process for registering complaints shall be conducted as provided for under OAR 415-012-0080.

(3) The appeal process shall include but not be limited to recourse to the staff supervisor, program director, and CMHP director. Complaints which are unresolved may be referred to the Division for review.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0030; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-055-0035
Variances

Requirements and standards for requesting and granting variances or exceptions are found in OAR 415-012-0090.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 813.500, 813.510 & 813.520
Hist.: MHD 20-1983, f. & ef. 10-12-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-055-0035; ADAP 3-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

DIVISION 56

SUBSTANCE ABUSE AND PROBLEM GAMBLING PREVENTION PROGRAMS

415-056-0030
Purpose and Scope

These rules prescribe standards and procedures for substance abuse and problem gambling prevention providers approved by the Addictions and Mental Health Division (AMH). These rules establish standards for community substance abuse and problem gambling prevention and provide that a full continuum of services be available to Oregonians either directly or through written agreements or contracts.

Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 430.240 - 430.415
Hist.: ADS 1-2012, f. & cert. ef. 2-9-12

415-056-0035
Definitions

(1) "Approval" means the Letter of Approval issued by the Division to indicate that the substance abuse prevention and/or problem

gambling program has been found in compliance with all relevant federal and Oregon laws and Oregon Administrative Rules (OAR).

(2) "Community Mental Health Program (CMHP)" means an entity that is responsible for planning and delivery of services for individuals with substance use disorders or a mental health diagnosis, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(3) "Coordinator" means the designated county or tribal program coordinator hired to oversee prevention services.

(4) "Cultural Competence" means the process by which individuals and systems respond respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientation 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.

(5) "Deputy Director" means the Deputy Director of AMH.

(6) "Division" means the AMH Division of the Oregon Health Authority.

(7) "Evidenced-Based Practices" (EBP) means practices for which there is consistent scientific evidence that produce positive outcomes. An EBP must meet the criteria set forth by the Division.

(8) "Gender-Specific Services" means services which comprehensively address the needs of a gender group and foster positive gender identity development.

(9) "Letter of Approval" means the "Approval" as defined in 415-056-0035.

(10) "Institute of Medicine Model" means the framework that defines the target groups and activities addressed by various prevention efforts and includes the following:

(a) Promotion: Strategies that typically address the entire population. Strategies are aimed to enhance individuals' ability to achieve developmentally appropriate tasks (competence) and a positive sense of self-esteem, mastery, well-being and social inclusion, and strengthen their ability to cope with adversity;

(b) Universal Prevention: Universal strategies address the entire population with messages and programs aimed at preventing or delaying the substance abuse and/or problem gambling.

(c) Selective Prevention: Selective prevention strategies target subsets of the total population that are deemed to be at-risk for substance abuse or problem gambling by virtue of the membership in a particular population segment; and

(d) Indicated Prevention: Indicated prevention strategies are designed to prevent the onset of substance abuse or problem gambling in individuals who do not meet criteria for addiction but who are showing early danger signs.

(11) "Local Alcohol and Drug Planning Committee" (LADPC), means a committee appointed or designated by a board of county commissioners. The committee identifies needs and establishes priorities for substance abuse prevention, treatment and recovery services in the county. Members of the committee must be representative of the geographic area and include a number of minority members to reasonably reflect the proportion of need for minority services in the community.

(12) "Minority" means a participant whose cultural, ethnic or racial characteristics constitute a distinct demographic population including but not limited to members of differing cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders or sexual orientations.

(13) "Minority Program" means a program that is designed to meet the unique prevention needs of a minority group and that provides services to individuals belonging to a minority population as defined in these rules.

(14) "Participant" means an individual who receives services under these rules.

(15) "Prevention Provider" means a governmental entity, an organization or federally recognized tribe that undertakes to establish, operate or contract for prevention services.

(16) "Prevention Service" means an integrated combination of strategies designed to prevent substance abuse and/or problem gambling and associated effects regardless of the age of participants.

(17) "Strategy" means activities targeted to a specific population or the larger community that are designed to be implemented before the onset of problems as a means to prevent substance abuse and problem gambling or detrimental effects from occurring. The Center for Substance Abuse Prevention's strategies are defined below:

(a) Information Dissemination: This strategy provides knowledge and increases awareness of the nature and extent of alcohol and other drug use, abuse and addiction, as well as their effects on individuals, families and communities. It also provides knowledge and increases awareness of available prevention and treatment programs and services. It is characterized by one-way communication from the source to the audience with limited contact between the two;

(b) Education: This strategy builds skills through structured learning processes. Critical life and social skills include decision making, peer resistance, coping with stress, problem solving, interpersonal communication and systematic and judgmental abilities. There is more interaction between facilitators and participants than in the information dissemination strategy;

(c) Alternatives: This strategy provides participation in activities that exclude alcohol and other drugs and gambling. The purpose is to identify and offer healthy activities and to discourage the use of gambling, alcohol and drugs through these activities;

(d) Problem Identification and Referral: This strategy aims at identification of individuals who have indulged in illegal or age-inappropriate use of tobacco or alcohol or gambling and those individuals who have indulged in the first use of illicit drugs in order to assess if the individual's behavior can be reversed through education;

(e) Community Based Processes: This strategy provides ongoing networking activities and technical assistance to community groups or agencies. It encompasses neighborhood-based or industry led, grassroots, empowerment models using action planning and collaborative systems planning; and

(f) Environmental: This strategy establishes or changes written and unwritten community standards, codes and attitudes, thereby influencing alcohol and other drug use and gambling by the general population.

(18) "Tribal Authority" means an individual or group identified by the tribe that approves the prevention plan. Examples include a Tribal Council, Health Director or Prevention Supervisor.

Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 430.240 - 430.415
Hist.: ADS 1-2012, f. & cert. ef. 2-9-12

415-056-0040
Administrative Requirements

(1) A prevention provider that contracts directly or indirectly with the Division must comply with all related administrative rules.

(2) Subcontracted agencies must be administered by staff in accordance with standards set forth in OAR 309-014-0000 through 0025 and 309-014-0030(3) through 0040.

(3) A fee schedule may be established that approximates actual cost of service delivery. The fee schedule must assess the cost to the participant for the service in accordance with the participant's ability to pay.

(4) A prevention provider must establish comprehensive written policies and procedures which describe program operations and compliance with these rules, and shall at minimum address the following:

(a) A mission, vision and values statement;

(b) An organizational management chart;

(c) The prevention framework that guides the program's prevention efforts;

(d) An anti-discrimination policy;

(e) A cultural competency plan;

(f) Gender specific services;

(g) The use of substances by program participants and staff during program activities;

(h) Gambling by program participants and staff during program activities;

(i) The protection and safety of service recipients and

(j) A process for referring individuals who are not appropriate for prevention services to more applicable resources such as emergency and crisis services, detoxification, mental health treatment and other services within the continuum of care.

(5) A request for certification will be considered by the Division after the CMHP or tribal authority, and the LADPC or other applicable committee has reviewed and commented on the request.

(6) Prevention providers must provide services that incorporate evidence based practices as defined in OAR 415-056-0035.

(7) Printed materials utilized by the program must be:

(a) Written with consideration to the demographic make-up of the program and in cultural competent language;

(b) In the participant's native language; and

(c) Reflective of current substance abuse and gambling prevention research and practice.

(8) The provider must report to the Division on approved standardized forms. All reporting must be done in accordance with Federal Confidentiality Regulations (42 CFR Part 2).

(9) The provider must ensure the privacy and safety of participants where appropriate and necessary.

(10) Providers must document coordination of activities with related community partners.

Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 430.240 - 430.415
Hist.: ADS 1-2012, f. & cert. ef. 2-9-12

415-056-0045
Staff Requirements

(1) The substance abuse and/or problem gambling prevention program must be administered by staff in accordance with standards set forth in these rules.

(2) The Coordinator is qualified by virtue of knowledge, training, experience and skills. The Coordinator must be certified by the Addiction Counselor Certification Board of Oregon (ACCBO) as a Certified Prevention Specialist (CPS), or must acquire certification within two years from the date of hire.

(3) The Coordinator shall be employed greater than .50 FTE to carry out their responsibilities.

(4) Roles and authorities of the Coordinator include:

(a) Development, monitoring and oversight of the Prevention Implementation Plan, which shall be in compliance with the requirements set forth by the Division.

(b) Implementation of the defined strategies;

(c) Management of the program staff;

(d) Administration of funds;

(e) Accountability for the oversight and quality of prevention services; and

(f) Supervision of other staff related to their skill level with the goal of achieving the objectives of the prevention program and assisting staff to increase their knowledge, skills and abilities.

(5) Program staff providing more than .5 FTE hours of direct prevention services must:

(a) Have a CPS certification, or must acquire the certification within two years of hire;

(b) Have a workforce development plan utilized to assure compliance with these rules and to ensure each staff has opportunities to advance their prevention knowledge and skills; and

(c) Be culturally competent to serve the identified populations. Agencies who contract for the delivery of direct prevention services must assure that the contractors meet the requirements for prevention staff described in these rules.

(6) The number and responsibilities of the prevention staff must be sufficient to provide the services required under these rules, for the number of participants the program intends to serve.

Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 430.240 - 430.415
Hist.: ADS 1-2012, f. & cert. ef. 2-9-12

415-056-0050
Variances

Requirements and standards for requesting and granting variances or exceptions are found in OAR 415-012-0090.

Stat. Auth.: ORS 409.410 & 413.042
Stats. Implemented: ORS 430.240 - 430.415
Hist.: ADS 1-2012, f. & cert. ef. 2-9-12

DIVISION 57

STANDARDS FOR DEPARTMENT OF CORRECTIONS PRISON-BASED ALCOHOL AND OTHER DRUGS TREATMENT PROGRAMS

415-057-0000
Purpose

These rules prescribe standards for the development and operation of adult prison-based Alcohol and other drugs Treatment Programs for the Department of Corrections (DOC) approved by the Addictions and Mental Health Division.

Stat. Auth.: ORS 409.050, 409.410 & ORS 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0010
Definitions

(1) "Assistant Director" means the Assistant Director of the Addictions and Mental Health Division of the Oregon Health Authority, or their designee.

(2) "ASAM PPC-2R" means the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, Second Edition Revised, April 2001, which is a clinical guide used in matching individuals to appropriate levels of care, and incorporated by reference in these rules.

(3) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the Doc institution transition representatives, 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 the program and the community.

(4) "Client" means a person receiving services in an Oregon prison-based Alcohol and Other Drugs treatment program under these rules and who has signed a written consent that complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2).

(5) "Co-occurring Disorders" or "COD" means co-occurring substance use and mental health disorders.

(6) "Comprehensive Diagnostic Assessment" means the process for obtaining all pertinent information, ancillary and causal factors, as identified by the individual, family and collateral sources used to determine a diagnosis and develop the individualized treatment plan.

(7) "Criminal Risk Factor Assessment" of the Oregon Accountability Model (OAM) means the assessment process implemented by the Oregon DOC. The outcome is a corrections plan for every inmate that is tracked throughout an inmate's incarceration and supervision in the community.

(8) "Criminal Risk Factors" means factors that predict criminal behavior. The risk factors are assessed at DOC central intake and integrated in the corrections plan for each inmate.

(9) "Department of Corrections Prison-Based Alcohol and Other Drugs Treatment Program" means a treatment program for adult inmates of state correctional institutions who are within the last six to twelve months of release from incarceration. The program provides Alcohol and Other Drugs treatment and recovery services and collaborates with partners to ensure a seamless re-entry into the community.

(10) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(11) "DOC" means the Oregon Department of Corrections.

(12) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders", published by the American Psychiatric Association.

(13) "DSM Five-axis Diagnosis" means the multi-axial diagnosis, consistent with the *Diagnostic and Statistical Manual of Mental Disorders*, resulting from the assessment.

(14) "Evidence Based Practice (EBP)" means clinical Alcohol and Other Drugs treatment practices that are based on generally accepted scientific research. Treatment programs document efforts to assure fidelity to a practice and measure the impact of a practice on the clients, participants and communities.

(15) "Intern or student" means an individual who is supervised by a qualified supervisor defined in section 415-057-0120 of this rule, provides a clinical or non-clinical program service, and who is enrolled in a credentialed or accredited educational program.

(16) "Oregon Accountability Model (OAM)" means the simultaneous, coordinated and efficient implementation of DOC initiatives and projects that provide a foundation for inmates to lead productive lives upon re-entry into the community.

(17) "Oregon Corrections Plan" means the specific activities the inmate performs to learn skills in order to mitigate the risk factors identified through the assessment process.

(18) "Permanent client record" means the official clinical written file for each client containing all information required by these rules. The permanent client record is maintained to demonstrate compliance with these rules.

(19) "Primary Counselor" means a program staff person who is assigned to the client and follows the case throughout the treatment process.

(20) "Program" means the Alcohol and Other Drugs Prison-Based Treatment Program.

(21) "Quality assurance" means the process of objectively and systematically monitoring and evaluating the appropriateness of client care to identify and resolve identified problems.

(22) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a Qualified Mental Health Professional (QMHP) and meeting the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) A bachelor's degree in a behavioral sciences field or a combination of at least three years relevant work, education, training or experience; and

(b) Who has the competencies necessary to:

(A) Communicate effectively;

(B) Understand mental health assessment, treatment and service terminology and to apply these concepts; and

(C) Provide psychosocial skills development and the ability to implement interventions prescribed in a treatment plan within the scope of his or her practice.

(23) "Qualified Mental Health Professional (QMHP)" means a Licensed Medical Practitioner (LMP) or any other person meeting the following minimum qualifications as documented by the LMHA or designee:

(a) A graduate degree in social work, psychology, a behavioral science field or recreational, art or music therapy; or

(b) A bachelor's degree in nursing and licensed by the State of Oregon; or Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(c) Education and experience demonstrating the competencies to identify precipitating events; gather histories of mental and physical disabilities, recognizing and understanding alcohol and drug use, past mental health services and criminal justice contacts; assessing family, social and work relationships; conducting a mental status examination; documenting a multiaxial DSM diagnosis; writing and supervising a treatment plan; conducting a Comprehensive Mental Health Assessment; and providing individual, family, and group therapy within the scope of his or her practice.

(24) "Responsivity factors" means individual factors that facilitate or interfere with learning and are focused on personal characteristics that regulate an individual's ability and motivation to learn and change behavior.

(25) "Substance related disorders" are defined in DSM criteria as disorders related to taking a drug, including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance dependency and substance abuse, alcohol dependence and alcohol abuse, and substance induced disorders and alcohol induced disorders.

(26) "Supportive Persons" means any person approved by the DOC that the client identifies as being supportive to the recovery process of the client, including but not limited to a spouse, domestic partner, parent, child, relative, mentor, recovery coach, elder, or representative from a faith-based organization or self-help community organization.

(27) "Unusual Incidents" means an incident or circumstance involving any DOC inmate participating in the program that constitutes an immediate threat to the life or health of self, staff, another inmate, private citizen, or to the property of the DOC.

(28) "Treatment" means the specific medical and non-medical therapeutic techniques employed to assist the client in recovering from substance related disorders.

(29) "Volunteer" means an individual who provides an Alcohol and Other Drugs treatment program service or who takes part in an Alcohol and Other Drugs treatment program service and who is not an employee of the program and is not paid for services.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0020
Program Approval and Variances

(1) In order to receive a Letter of Approval or license from the Division, a program will meet the standards of OAR 415-012-0000 to 415-012-0090 and any other administrative rules applicable to the program.

(2) Requirements and standards for requesting and granting variances or exceptions to these rules for programs are found in OAR 415-012-0090.

(3) The denial, revocation, or suspension of a letter of approval or license for the program may be based on any of the grounds set forth in OAR 415-012-0060.

(4) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew, or suspend a letter of approval or license when he or she determines that the issuance or continuation of the letter of approval or license would be inconsistent with the public interest. In determining the public interest, the assistant Director will consider the following factors, or any one of them, which apply to the applicant, licensee, or any person holding a 5 percent or greater financial interest in the program or which apply to the medical director, program manager, clinical supervisor, or program staff:

(a) Any convictions under any federal or state law relating to any controlled substance or related to such person's involvement in the administration of a state-or federally-funded public assistance or treatment program;

(b) Furnishing of false or fraudulent material in any application for a letter of approval; or

(c) Any other factors relevant to, and consistent with, the public health or safety.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0030
Administrative Requirements for Treatment Programs

(1) The program will implement written policies and procedures to ensure compliance with these administrative rules, including program operations, quality assurance and reporting procedures. The policies and procedures will describe how the program will deliver treatment that ensures desired outcomes. The Quality Assurance Plan must:

(a) Include a measurement of the proportion of full-time equivalent program staff who are licensed and or certified as defined in this rule;

(b) Have and follow a supervision plan for program staff; and

(c) Have an audit process that includes:

(A) Monitoring treatment groups and program activities to evaluate fidelity and effectiveness;

(B) Reviewing clinical charts to ensure permanent records are accurate, legible and meet documentation requirements set forth in these rules;

(C) Providing a formal mechanism for clients to give input into the delivery of treatment services and program structure that at a minimum includes client satisfaction surveys; and

(D) Providing a written policy and procedure for reporting unusual incidents to the designated DOC administrator and AMH that includes a detailed description of the event, the persons involved and the final resolution of the incident.

(2) The program will have and implement the following written personnel policies and procedures, which are applicable to all program staff, volunteers, and interns or students:

(a) Rules of conduct and standards for ethical practices of program staff, including written procedures to report misconduct to the appropriate authority;

(b) Managing incidents of alcohol and drug use by program staff that, at a minimum, comply with Drug Free Workplace Standards; and

(c) Compliance with the federal and state personnel regulations including the Civil Rights Act of 1964 as amended in 1972, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title I of the Americans with Disabilities Act, Oregon civil rights laws relat-

ed to employment practices, and any subsequent amendments to these laws effective on or before the effective date of these rules. The program will give individualized consideration to all applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.

(3) The program will maintain a personnel record for each program staff documenting applicable qualification standards as described in OAR 415-057-0110 to 0130 and 415-057-0150. The program will maintain the record for a period of three years following the departure of a program staff.

(4) The program receiving public funds must comply with Title 2 of the Americans with Disabilities Act of 1990, 42 USC § 1231 et seq. after July 26, 1992.

(5) The program will maintain malpractice and liability insurance and be able to demonstrate evidence of current compliance with this requirement. Programs operated by a public body will demonstrate evidence of insurance or a self-insurance fund pursuant to ORS 30.282.

(6) The program will:

(a) Comply with federal regulations (42 CFR § 2 and 45 CFR § 205.50) and state statutes including ORS 179.505 and 430.399 pertaining to confidentiality of permanent client records;

(b) Accurately record all information about the client as required by these rules in the permanent client record and unless specified otherwise, within seven days of delivering the service or obtaining the information;

(c) Maintain each permanent client record to assure identification, permanency, accessibility, uniform organization, and completeness of all components required by these rules and in a manner to protect against damage or separation from the permanent client or program record;

(d) Keep all documentation legible and current;

(e) Include the date that the service was provided;

(f) Include the signature and credentials of the person providing the service and include the date of the signature;

(g) Not falsify, alter, or destroy any client information required by these rules to be maintained in the permanent client record or program records;

(h) Require that errors in the permanent client record be corrected by lining out the incorrect information with a single line in ink, adding the correct information, dating, and initialing the correction. Errors may not be corrected by removal or obliteration through the use of correction fluid or tape;

(i) Provide written description in the permanent client record of any injury, accident or unusual incident involving any client occurring during program services or on program grounds; and

(j) Permit inspection of permanent client records upon request by the Division to determine compliance with these rules.

(7) Permanent client records will be kept for a minimum of seven years. If a program is acquired by another program, the original program is responsible for assuring compliance with the requirements of 42 CFR § 2.19(a)(1) or (b), whichever is applicable.

(8) If a program discontinues operations, the program is responsible for: Transferring permanent client records to the DOC records administrator; and

(9) When a program discontinues operations, the identified DOC records administrator is responsible for:

(a) Assuring compliance with the requirement of 42 CFR §2.19(a)(1) or (b), whichever is applicable for transferred permanent client records;

(b) Keeping all transferred permanent client records for a minimum of seven years; or

(c) With client consent, transferring permanent client records to another program.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0040
Client Rights

(1) Participation in the program will be voluntary. Clients will have their rights, responsibilities, and services explained, including expected outcomes and possible risks. The program will document informed consent in writing, assure the document is signed and dated by the client, and placed in the permanent client record prior to the start of services.

(2) The client will have the right to refuse services, including any specific procedure. Any consequence that may result from refusing the service, such as termination from the program or referral to a person having supervisory authority over the client, will be explained verbally and in writing to the client. The document will be signed and dated by both the client and the program representative, and placed in the client's permanent record.

(3) No person will be denied services or discriminated against on the basis of age, ethnicity, gender identity, sexual orientation, religion, disability or diagnostic category unless restricted by predetermined program criteria.

(4) Each client will be assured civil rights as defined by laws that govern DOC and be assured the same human rights as other persons. The program will develop, implement and inform clients of written policies and procedures which protect clients' rights, including:

(a) Protecting client's privacy and dignity;

(b) Assuring confidentiality of records consistent with federal and state laws;

(c) Prohibiting physical punishment or physical abuse;

(d) Protecting clients from sexual activity, sexual assault, sexual coercion, sexual solicitation and sexual harassment; and

(e) Providing adequate treatment or care.

(5) Any client labor performed as part of the client's treatment plan or standard program expectations will be agreed to, in writing, by the client, documented in the client permanent record and must comply with regulations of other agencies sharing oversight of the program.

(6) The client has the right to obtain a copy of the permanent client record defined in OAR 415-057-0010(19) within thirty calendar days of a documented request. The program will have a written procedure for client requests to review the permanent client record. Payment for cost of duplication may be required. The client will have the right to access his or her own permanent record except:

(a) When the clinical supervisor determines that disclosure of permanent client records would be detrimental to the client's treatment;

(b) If confidential information has been provided to the program on the basis that the information not be re-disclosed; or

(c) When collateral records in the permanent client record originated outside the program, the client will make the request for those records directly to the originating source.

(7) The client has the right to include any DOC-approved client-identified supportive persons in the treatment planning process.

(8) The program will develop, implement, and inform clients of policies and procedures regarding grievances specific to the program that provide for:

(a) Specific steps for clients to follow the grievance to conclusion;

(b) An opportunity for discussion of the grievance with their primary counselor;

(c) Receipt of written grievances from clients or persons acting on their behalf;

(d) Investigation of the facts supporting or disproving the written grievance;

(e) Initiating action to resolve substantiated grievances within five working days of documented receipt of grievance for clients currently in the treatment program;

(f) Initiating action to resolve substantiated grievances within thirty calendar days of documented receipt of grievance, for clients released from the DOC;

(g) Documentation in the permanent client record of the receipt, investigation, and any action taken regarding the written grievance; and

(h) Specifying contact information for the Division for further investigation if a satisfactory conclusion is not reached.

(9) Where there are barriers to services due to culture, language, gender, illiteracy, or disability, the program will develop a holistic treatment approach including support services available to address or overcome those barriers including:

(a) Making reasonable modifications in policies, practices, and procedures to avoid discrimination, unless the program can demon-

strate that doing so would fundamentally alter the nature of the program, service, or activity, such as:

(A) Providing individuals to assist the program in minimizing barriers, such as interpreters;

(B) Translating of written materials to appropriate language or method of communication;

(C) To the degree possible, providing assistive devices which minimize the impact of the barriers; and

(D) Acknowledging cultural and other values which are important to the client.

(b) Not charging clients for costs of any measure, such as the provision of interpreters, that are required to provide nondiscriminatory treatment to the client; and

(c) Referring the client to the DOC program liaison for re-consideration of treatment placement should the program have a barrier providing appropriate treatment services.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0050
Admission Policies and Procedures

(1) The program will have a written policy and procedure that describes criteria to admit clients to the program. The policy and procedure will be made available to clients, program staff, and the community. The written procedure will include:

(a) Criteria for accepting or refusing admission based on the DOC individual Oregon Corrections Plan and DSM-IV criteria;

(b) Documentation that all admissions have been found appropriate for services according to the DOC individual Oregon Corrections Plan and DSM-IV criteria; and

(c) Guidelines for making referrals for individuals not admitted to the program.

(2) The program will give orientation materials to the client upon arrival to the program and document client receipt of orientation materials in the permanent client record. Written program orientation materials include:

(a) The program's philosophical approach to treatment;

(b) A description of the treatment services;

(c) Information on clients' rights and responsibilities, including confidentiality; and

(d) Information on the rules governing clients' behavior and those infractions that may result in removal from the program or other actions. At a minimum, the rules will state the consequence of using Alcohol and Other Drugs, absences from appointments, and failure to participate in the planned treatment activities.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0060
Comprehensive Diagnostic Assessment

(1) Written Procedure: The program will develop and implement a written procedure for assessing each client's treatment needs that includes collection and assessing data obtained through interview, observation, testing, and review of previous treatment or other written records.

(2) Assessment: The diagnostic assessment will be documented in the permanent client record. The assessment will include:

(a) Clinical formulation of presenting problems; the six dimensions of the ASAM PPC 2-R; important biological, psychological and social factors; medical and trauma history; clinical events and course of substance use or mental illness including onset, duration and severity of presenting concerns; consumer or family expectations for recovery; justification for treatment services and prognosis; current medication regime; and data to support a DSM Five-axis Diagnosis;

(b) A Criminal Risk Factor Assessment and the individual Oregon Corrections Plan;

(c) Documentation of the client's self-identified cultural background, including level of acculturation, knowledge of own culture, primary language, spiritual or religious interests, and cultural attitude about Alcohol and Other Drugs use;

(d) The date of the assessment;

(e) The signature, signature date, and credentials of the program staff member completing the assessment; and

(f) If Alcohol and Other Drugs treatment is not appropriate or contraindicated, include a written statement justifying the determination.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0070
Treatment Planning and Documentation of Treatment Progress

(1) An individualized treatment plan will be developed and placed in the client record no later than 14 days from placement in the program. The treatment plan will include:

(a) The primary client-centered problems and strengths as determined by the client, the DOC individual Oregon Corrections Plan and the comprehensive diagnostic assessment;

(b) Individualized treatment objectives that were developed in collaboration with the client;

(c) Applicable service and support delivery details including frequency and duration of each service;

(d) Documentation of participation of any supportive person involved in the development of the treatment plan or client's refusal to include any supportive person;

(e) The date and signature of the client; and

(f) The signature of the program staff with credentials and date of the signature.

(2) At a minimum of once every seven days, program staff will document in the permanent record a comprehensive summary of the client's progress toward achieving the individualized treatment objectives in the client's treatment plan and any current obstacles to recovery and include documentation of any participation of the supportive person in treatment services or activities, and their input of client's progress toward individualized treatment objectives.

(3) The individual treatment plan will be reviewed and modified with the client, assigned program staff and any supportive person every 30 days, or more often as clinically appropriate.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0080
Continuing Care Planning

(1) Continuing care planning will begin no less than 45 days prior to the client's anticipated discharge from the program. Continuing care planning will include:

(a) At least one continuing care staffing, in person or by telephone, between the client, treatment program representatives, DOC institution transition representatives, a post-prison community corrections representative, community-based continuing care representatives, and any supportive person (s);

(b) Referrals to continuing care community-based Alcohol and Other Drugs and mental health treatment providers; and

(c) Documentation that contact was made with the community continuing care services provider to schedule an appointment within seven days of the client's anticipated release from the program.

(2) No less than 14 days prior to the client's anticipated discharge from the program, a comprehensive treatment summary will be written and placed in the permanent client record. Copies of the document will be sent to the DOC institution transition staff, continuing care provider and to the community corrections representative. The summary will include:

(a) A copy of a valid Consent To Release Information form;

(b) A copy of the comprehensive diagnostic assessment and latest treatment plan;

(c) A summary of the client's treatment history, progress in meeting individualized treatment objectives and any unresolved problem areas client is continuing to address from the treatment plan;

(d) A current level of care assessment that is consistent with the six dimensions of the ASAM PPC 2-R adult level of care index and includes documentation of any co-occurring substance related and mental health disorders (COD);

(e) The criminogenic risk level as indicated in the DOC individual Oregon Corrections Plan;

(f) The legal status of the client;

(g) The client's current stage of change and recommendations on how best to engage the client;

(h) Any client responsivity factors that should be considered in treatment planning and community-based continuing care provider staff assignments;

(i) A relapse prevention plan; and

(j) Recommendations for an initial community-based treatment plan.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0090
Treatment Services

(1) The program will provide to each client clinically appropriate services based on best practices for prison-based Alcohol and Other Drugs programs that facilitate desired service outcomes as identified by the individual, and family, when applicable, and address the objectives identified in the treatment plan.

(2) Treatment services provided for clients in prison-based Alcohol and Other Drugs treatment programs will be evidence-based and at a minimum include:

(a) Cognitive behavioral interventions;

(b) Motivational interventions;

(c) Relapse prevention;

(d) Gender specific services;

(e) Cultural relevance;

(f) Healthy relationship education related to parenting, family, significant others, employers, and the community;

(g) Services that address special needs such as trauma, domestic violence, sexual or physical abuse, and self sufficiency; and

(h) Therapeutic community model for residential programs.

(3) Each client admitted to the program will be assigned a primary counselor.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0100
Clinical Supervision

Persons providing services to program clients in accordance with this rule will receive supervision by a qualified Clinical Supervisor, as defined in these rules, related to the development, implementation and outcome of services.

(1) The objective of clinical supervision is to assist staff, interns, students and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff, interns, students and volunteers' compliance with program policies and procedures.

(2) Clinical Supervision will be specified through a current written agreement, job description, or similar type of binding arrangement between the Clinical Supervisor and the program staff, intern, student or volunteer which describes the Clinical Supervisor's oversight responsibility, including documentation of supervision no less than two hours per month. The two hours will include one hour of face-to-face contact for each person supervised, or a proportional level of supervision for part-time staff.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0110
Program Staff

(1)(a) Program staff will at the time of hire:

(b) Have documented competence in the following essential job functions in an Alcohol and Other Drugs program including:

(A) Conducting comprehensive diagnostic Alcohol and Other Drugs assessment, developing treatment plans, providing care coordination, providing individual and group counseling, and following documentation policy and procedures set forth in these rules; and

(B) Except as provided in section (4) of this rule, hold a current certification or license in Alcohol and Other Drugs counseling or hold a current license as a health or allied provider issued by a state licensing body.

(2) For program staff holding a certification or license in Alcohol and Other Drugs counseling, qualifications for the certificate or license must have included at least:

(a) 750 hours of supervised experience in Alcohol and Other Drugs counseling;

(b) 150 hours of alcohol and drug education and training; and

(c) Successful completion of a written objective examination or portfolio review by the certifying body.

(3) For program staff holding a health or allied provider license, such license or registration will have been issued by one of the following state bodies and the program staff person will possess documentation of at least 60 contact hours of academic or continuing professional education in the treatment of substance related disorders:

(a) The Board of Medical Examiners;

(b) The Board of Psychologist Examiners;

(c) The Board of Licensed Social Workers;

(d) The Board of Licensed Professional Counselors and Therapists; or

(e) The Board of Nursing.

(4) Program staff who do not hold a certificate or license that meets the standards identified in sections (2) or (3) of this rule will apply to a qualified credentialing organization or state licensing board within three months of the date of hire and achieve certification or licensure meeting the standards of sections (2) or (3) of this rule within 24 months of the application date.

(5) Additional Training Requirements:

(a) Within the first six months of hire, program staff will receive training on evidenced-based practices for clients with criminal behavior; and

(b) At least 10 hours of professional development toward recertification credits every two years specific to offenders with substance related disorders.

(6) Recovering program staff: Any program staff, clinical supervisor, program manager, student, intern or volunteer applying or hired to provide services who are recovering from substance related disorders must be able to demonstrate continuous sobriety under nonresidential, independent living conditions for the immediate past two years.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0120
Clinical Supervisor

(1) The program will have an identified clinical supervisor who has:

(a) A Bachelor's degree in social services and four years of paid full-time experience in direct Alcohol and Other Drugs counseling; or

(b) A Master's degree in social services and two years of paid full-time experience in direct Alcohol and Other Drugs counseling; or

(c) Holds a current certification or license in Alcohol and Other Drugs counseling; or

(d) Holds a current license as a health or allied provider issued by a state licensing body; and

(e) Has documented training or education in evidence-based treatment interventions for clients with criminal behavior.

(2) For clinical supervisors holding a certification or license in Alcohol and Other Drugs counseling, qualifications for the certificate or license must have included at least:

(a) 300 alcohol and drug education and training hours;

(b) 4,000 hours of supervised experience in Alcohol and Other Drugs counseling; and

(c) Successful completion of a written objective examination or portfolio review by the certifying body.

(3) For clinical supervisors holding a health or allied provider license, such license or registration will have been issued by one of the following state bodies and the supervisor will possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of substance related disorders:

(a) The Board of Medical Examiners;

(b) The Board of Psychologist Examiners;

(c) The Board of Licensed Social Workers;

(d) The Board of Licensed Professional Counselors and Therapists; or

(e) The Board of Nursing.

(4) Any clinical supervisor will have knowledge and experience demonstrating competence in the performance of the following essential job functions for clients with criminal behavior including:

(a) The process to accept clients into the program;

(b) Conducting comprehensive diagnostic assessments in coordination with the DOC individual inmate Corrections Plan;

(c) Providing individual, group, family, and other counseling;

(d) Providing regular observation and monitoring of program staff and giving feedback to improve service delivery quality and program staff performance;

(e) Coordinating development opportunities for program staff who conduct the comprehensive diagnostic assessment, developing the treatment plans, providing care coordination, and collaborating with community resources including self-help groups; and

(f) Assuring the clinical integrity of all permanent client records assigned to program staff under their supervision, including timely entry of documentation, correctness of information, assuring appropriate clinical rationale for assessment, treatment plans, progress notes, and continuing care planning consistent with policies and procedures in these rules.

(5) If the program's manager meets the qualifications of the Clinical Supervisor, the manager may be the clinical supervisor.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0130
Program Manager

(1) The program will have a program manager who:

(a) Oversees the day to day program operations;

(b) Is responsible for compliance with the requirements of these rules; and

(c) Is located at the site specific to the letter of approval or license.

(2) The program manager will have knowledge and paid full-time experience demonstrating competence in the performance or oversight of the following essential job functions:

(a) For contracted programs, planning, budgeting, and fiscal management;

(b) Supervision of program staff;

(c) Personnel management including employee performance assessment;

(d) Data collection, program evaluation and quality assurance; and

(e) Meeting reporting requirements.

(3) The program manager will have paid full-time experience working with offenders for a minimum of three years that includes implementing evidence-based practices for clients with criminal behavior.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0140
Use of Volunteers

Volunteers may provide only non-clinical services unless the individual has the required credentials to provide a clinical service. A Program utilizing volunteers will have the following:

(1) A written policy regarding volunteers that includes:

(a) Specific responsibilities and tasks of volunteers, based on their credentials;

(b) Procedures and criteria used in selecting volunteers, including sobriety requirements for individuals recovering from substance related disorders consistent with DOC policy;

(c) Specific accountability and reporting requirements of volunteers; and

(d) Specific procedure for reviewing the performance of volunteers and providing direct feedback to them by a supervisor.

(2) Volunteers will complete an orientation and training program specific to their responsibilities before they participate in program assignments. The orientation and training for volunteers will:

(a) Include a thorough review of the program's philosophical approach to treatment;

(b) Include information on clients' rights including confidentiality regulations;

(c) Explain procedures for reviewing performance and providing feedback to volunteers;

(d) Explain procedure for discontinuing a volunteer's participation; and

(e) Document each volunteer's completion of orientation in program records.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

415-057-0150
Co-occurring Substance Related and Mental Health Disorders (COD)

(1)(a) In addition to the general standards for prison-based Alcohol and Other Drugs treatment programs under OAR 415-057-0000 through 415-057-0140, programs approved and designated to primarily provide treatment services for people with COD will meet the following standards:

(b) The program will develop written policies and procedures that include program philosophy, acceptance criteria, program content, and providing concurrent substance related treatment and mental health interventions documented in one integrated client record.

(2) COD Program Content: The program for people with COD will include at a minimum an array of treatment options including:

(a) Individual medication evaluation and treatment;

(b) Motivational strategies;

(c) Symptom and medication management;

(d) Care coordination;

(e) Wellness management; and

(f) Relapse prevention.

(3) COD Program Staffing Patterns: The program that provides services and activities to persons with COD will have at a minimum, one full-time QMHP on staff. Caseloads will average 12 clients for each program staff member. Additional masters level practitioners and QMHAs will be scheduled with the consideration of client mental health needs.

(4) COD Program Staffing Qualifications: Staff demonstrate competency in the treatment of co-occurring mental health and substance related disorders. Competencies will include ability to evaluate:

(a) If there is a chronic condition that creates risk or complicates treatment;

(b) If there is cognitive, emotional or behavioral condition severe enough to warrant specific mental health treatment;

(c) Ability of client to manage activities of daily living; and

(d) Ability of the client to cope with emotional, behavioral and cognitive problems.

(5) Additional Training Requirements: Of the 10 hours required in section 415-057-0130(4)(b), at least 8 hours of professional development toward recertification credits every two years specific to COD.

(6) Program Clinical Supervision Staff Qualifications: Clinical Supervision and case consultation is provided on-site by individuals with both CADC and QMHP credentials.

Stat. Auth.: ORS 413.042, 409.410 & 409.420
Stats. Implemented: ORS 430.240 - 430.640, 430.850 - 430.955, 813.010 - 813.052 & 813.200 - 813.270
Hist.: ADS 2-2010, f. & cert. ef. 5-6-10

DIVISION 60

STANDARDS FOR REDUCING TOBACCO USE BY MINORS

415-060-0010
Purpose

The purpose of these rules (Oar 415-060-0010 to 0050) is to adopt procedures concerning random and targeted inspections of outlets that sell tobacco products consistent with Section 202, PL 102-321, (1992) 106 stat.394-95, codified at 42 USC §300x-26, which requires enforcement of laws to reduce tobacco use by minors as a condition of full block grant funding.

Stat. Auth.: ORS 409.410 & 431.853
Stats. Implemented: ORS 409.420, 431.853
Hist.: ADAP 2-1994, f. & cert. ef. 8-23-94; ADS 2-2008, f. & cert. ef. 11-13-08

415-060-0020
Definitions

(1) "Block Grant" means federal block grants to states for Prevention and Treatment of Substance Abuse pursuant to 42 USC 300x21e et seq.

(2) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(3) "Outlet" means any location which sells at retail or otherwise distributes tobacco products to consumers including, but not limited to, locations that sell such products over the counter or through vending machines.

(4) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(5) "Smoking Device" means any device in which tobacco is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke into the human body including but not limited to pipes, cigarette rolling papers, and rolling machines.

(6) "Tobacco Product" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, and shall include cigarettes as defined in ORS 323.010(1).

Stat. Auth.: ORS 409.410 & 431.853
Stats. Implemented: ORS 409.420, 431.853
Hist.: ADAP 2-1994, f. & cert. ef. 8-23-94; ADS 2-2008, f. & cert. ef. 11-13-08

415-060-0030
Laws Designed to Discourage Use of Tobacco by Minors

(1) Tobacco Sales to Minors: Pursuant to ORS 163.575:

(a) Any person who knowingly distributes, sells, or causes to be sold, tobacco in any form to a person under 18 years commits the crime of endangering the welfare of a minor; and

(b) Supplying tobacco to a minor is a violation punishable by a fine of not less than $100 or more than $500.

(2) Other Tobacco Produce Violation: Pursuant to ORS 431.840, it is unlawful to:

(a) Distribute free tobacco products to person under 18 years of age as part of a marketing strategy to encourage the use of tobacco products;

(b) Fail to post a notice in a location clearly visible to the seller and the purchaser that sale of tobacco products to persons under 18 years of age is prohibited;

(c) Sell cigarettes in any form other than a sealed package; and

(d) The civil penalty for violation of any of these provisions shall not be less than $100 or exceed $500.

(3) Vending Machines: Pursuant to ORS 167.402:

(a) No person shall locate a vending machine from which tobacco products in any form are dispensed in any place except in an establishment where the premises are posted as permanently and entirely off-limits to minors under rules adopted by the Oregon Liquor Control Commission; and

(b) This is a violation punishable by a fine or not more than $250. Each day of violation constitutes a separate offense.

(4) Tobacco Possession by Minors: Pursuant to ORS 167.400;

(a) It is unlawful for any person under 18 years of age to possess tobacco products; and

(b) This is a violation punishable by a fine of not more than $100.

(5) Devices for Smoking: Pursuant to ORS 163.575:

(a) A person commits the crime of endangering the welfare of a minor if the person knowingly sells to a person under 18 years of age any smoking device.; and

(b) This is a violation punishable by a fine of not less than $100 nor more than $500.

(6) Posting of Signs Concerning Smoking Devices: Pursuant to ORS 163.580;

(a) Any person who sells smoking devices shall display a sign clearly stating that the sale of such devices to persons under 18 years of age is prohibited by law; and

(b) Any person who violates this section commits a Class B violation.

Stat. Auth.: ORS 409.410 & 431.853
Stats. Implemented: ORS 409.420 & 431.853
Hist.: ADAP 2-1994, f. & cert. ef. 8-23-94; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 1-2009, f. 11-30-09, cert. ef. 1-1-10

415-060-0040
Enforcement to Reduce Tobacco Use by Minors

(1) The Division is required to coordinate with law enforcement agencies to conduct annual, random and targeted, unannounced inspections of over-the counter and vending machine outlets to insure compliance with, and to enforce, Oregon laws designed to discourage the use of tobacco by minors. Nothing in these rules shall preempt local jurisdictions from passing ordinances to conduct unannounced inspections.

(2) Random Sample Procedures: Annual random, unannounced inspections will be based on the following methodological procedures:

(a) Cover a rage of outlets, not to be preselected on the basis of prior violations, to measure overall levels of compliance as well as to identify violations.

(b) Be conducted annually.

(c) Be conducted in such a way as to ensure a scientifically sound estimate to the success of enforcement actions being taken throughout the state;

(d) Use reliable methodological design and adequate sample design to reflect:

(A) Distribution of the population of those under 18 throughout the state;

(B) Distribution of outlets throughout the state; and

(C) Must further reflect that, because of location (e.g. near schools) or other factors, some outlets are more likely to be used by minors.

(e) Conduct inspections at times when minors are likely to purchase tobacco products

(3) Targeted Inspections: Pursuant to ORS 431.853(2)(c), targeted inspections are to focus on outlets where a compliance problem exists or is suspected. Information gained in targeted inspection will not be included in data used to determine rate of offense in random inspections.

(4) Conducting Inspections: Inspections may take place:

(a) Only in areas open to the public;

(b) Only during hours that tobacco products are sold or distributed; and

(c) No more frequently once a month in any single unless a compliance problem exists or is suspected. For purposes of this rule, a "single outlet" refers to a specific address location of an outlet, regardless of ownership.

(d) Using minors shall be at the discretion of the law enforcement officer or the Division.

Stat. Auth.: ORS 409.410 & 431.853
Stats. Implemented: ORS 409.420, 431.853
Hist.: ADAP 2-1994, f. & cert. ef. 8-23-94; ADS 2-2008, f. & cert. ef. 11-13-08

415-060-0050
Annual Report on Reduction of Tobacco Use by Minors

(1) Contents of Report: The Division will annually submit a report to the Oregon Legislature and, to the secretary, a report along with the state's application for block grant funding. The report will include:

(a) A description of the state's activities to enforce the laws described in these rules during the fiscal year preceding the fiscal year for which the state is seeking the grant;

(b) A description outlining the overall success the state has achieved during the previous fiscal year in reducing the availability of tobacco products to individuals under the age of 18, showing;

(A) Results of the random and targeted unannounced inspections;

(B) Results of over-the-counter and vending machine outlet inspections reported separately;

(c) A description of how the unannounced inspections were conducted and the methods used to identify outlets; and

(d) Strategies to be utilized by the state for enforcing such laws during the fiscal year for which the grant is sought.

(2) Public Comment required: The annual report shall be made public and public comment shall be obtained and considered before submitting the report to the secretary.

Stat. Auth.: ORS 409.410 & 431.853
Stats. Implemented: ORS 409.420, 431.853
Hist.: ADAP 2-1994, f. & cert. ef. 8-23-94; ADS 2-2008, f. & cert. ef. 11-13-08

DIVISION 65

HEALTH PROFESSIONALS' SERVICES PROGRAM

415-065-0005
Purpose, Intent and Scope

The purpose of these rules is to establish a consolidated, statewide health professionals' monitoring program for licensees of participating health licensing boards, as required by ORS 676.190, who are unable to practice with professional skill and safety due to substance use disorders, mental health disorders, or both types of disorders. The program shall provide non-treatment compliance monitoring and reporting services.

Stat. Auth.: ORS 413.042 & ORS 676.190
Stats. Implemented: ORS 676.185 to 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10

415-065-0010
Definitions

The following terms mean:

(1) "Admitted to the hospital for mental illness" for purposes of ORS 676.190 means admitted to the hospital for treatment of a mental health disorder that gives rise to concerns about the licensee's ability or willingness to participate in the program. Admission for evaluation or diagnosis does not constitute being admitted to the hospital for mental illness.

(2) "Assessment or evaluation" means the process an independent third-party evaluator uses to diagnose the licensee and to recommend treatment options for the licensee.

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

(4) "Board" means a health professional regulatory board as defined in ORS 676.160 or the Oregon Health Licensing Agency for a board, council or program listed in 676.606.

(5) "Business day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. Pacific Time, except legal holidays as defined in ORS 187.010 or 187.020.

(6) "Comply Continuously" means to have been:

(a) Enrolled in the program for at least two uninterrupted years without any reports of substantial noncompliance involving significant violations of the monitoring agreement and

(b) Deemed by the contractor if self-referred, or by the licensee's board if board referred, to have otherwise successfully complied with all terms of the monitoring agreement.

(7) "Contractor" means the entity that has contracted with the Division to conduct the program.

(8) "Diagnosis" means the principal mental health or substance use diagnosis listed in the 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.

(9) "Division" means the Oregon Health Authority, Addictions and Mental Health Division.

(10) "DSM" means the Diagnostic and Statistical Manual of Mental Disorders-IV-R, published by the American Psychiatric Association.

(11) "Family" means any natural, formal, or informal support persons identified as important by the licensee.

(12) "Federal regulations" means:

(a) As used in ORS 676.190(1)(f)(D), a "positive toxicology test result as determined by federal regulations pertaining to drug testing" means test results meet or exceed the cutoff concentrations shown in 49 CFR § 40.87 (2009) for the substances listed there.

(b) As used in ORS 676.190(4)(i), requiring a "licensee to submit to random drug or alcohol testing in accordance with federal regulations" means licensees are selected for random testing by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with licensees' unique identification numbers or other comparable identifying numbers. Under the selection process used, each covered licensee shall have an equal chance of being tested each time selections are made, as described in 49 CFR § 199.105(c)(5)(2009). Random drug tests must be unannounced and the dates for administering random tests must be spread reasonably throughout the calendar year, as described in 49 CFR § 199.105(c)(7)(2009).

(13) "Fitness to practice evaluation" means the process a qualified, independent third-party evaluator uses to determine if the licensee can safely perform the essential functions of the licensee's health practice.

(14) "Independent third-party evaluator" means an individual who is approved by a licensee's board to evaluate, diagnose, and offer treatment options for substance use disorders, mental health disorders, or co-occurring disorders.

(15) "Individual service record" means the official permanent program documentation, written or electronic, for each licensee, which contains all information required by these rules and maintained by the program to demonstrate compliance with these rules

(16) "Licensee" means a health professional who is licensed or certified by or registered with a board and the professional is receiving services in the program under these rules.

(17) "Mental health disorder" means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress or disability or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom that is identified in the DSM. "Mental health disorder" includes gambling disorders.

(18) "Monitoring agreement" means an individualized agreement between a licensee and the contractor that meets the requirements for a diversion agreement set by ORS 676.190.

(19) "Non-treatment compliance monitoring" means the non-medical, non-therapeutic services employed by the contractor to track and report the licensee's compliance with the monitoring agreement.

(20) "Peer" means another licensee currently enrolled in the program.

(21) "Provisional enrollment" means temporary enrollment, pending verification that a self-referred licensee meets all program eligibility criteria.

(22) "Self-referred licensee" means a licensee who seeks to participate in the program without a referral from the board.

(23) "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, as well as substance induced psychotic disorder, mood disorder and other disorders, as defined in DSM criteria.

(24) "Substantial non-compliance" means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee's ability or willingness to participate in the program. Substantial non-compliance and non-compliance include, but are not limited to, the factors listed in ORS 676.190(1)(f). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(25) "Successful completion" means that for the period of service deemed necessary by the contractor or by the licensee's board by rule, the licensee has complied with the licensee's monitoring agreement to the satisfaction of the program, and has met the terms of the fee agreement between the program and the licensee.

(26) "Toxicology testing" means urine testing or alternative chemical monitoring including but not limited to blood, saliva, hair or breath.

(27) "Treatment" means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder, mental health disorder or both types of disorders.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 3-2011, f. & cert. ef. 8-16-11; ADS 2-2012, f. & cert. ef. 2-9-12; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0015
Clinical Council

(1) The Division, in collaboration with the boards, may establish a Clinical Council that provides clinical guidance and advice to the contractor, in light of evidenced-based research and data about substance use disorders, mental health disorders or both types of disorders.

(2) The Clinical Council shall consist of eight members. The Division shall appoint one member and the boards, in consultation with the Division, shall appoint seven members.

(3) The Clinical Council shall select a chairperson from among its members.

(4) To be eligible for appointment to the Clinical Council, an individual must be a resident of Oregon and must have expertise in the recognition, intervention, assessment and treatment of persons who have a substance use disorders, mental health disorders or both types of disorders.

(5) In recruiting and selecting members for the Clinical Council, the Division and the boards shall seek members who have expertise with a range of culturally appropriate treatment options for people with substance use disorders, mental health disorders or both types of disorders.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 3-2011, f. & cert. ef. 8-16-11; ADS 2-2012, f. & cert. ef. 2-9-12

415-065-0020
Audits

(1) The Division shall arrange for an independent third-party to audit the program and to ensure compliance with the program guidelines.

(2) The Division shall report the results of the audit to the Legislative Assembly, the Governor, and the boards.

(3) The Division's report may not contain individually identifiable information about the licensees.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0025
Record Maintenance and Disposition

(1) If the contractor discontinues operations, the contractor shall transfer the individual service records and the program service records to the Division.

(2) The Division shall identify a records administrator, who is responsible for:

(a) Assuring compliance with 42 CFR § 2.19 and other applicable state and federal regulations;

(b) Keeping the transferred individual service records consistent with the applicable records retention schedule; and

(c) With a licensee's written consent, transferring individual service records to another contractor.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-12

415-065-0030
Administration Fee

(1) Each board that participates in the program shall pay the Division a fee for participating in the program.

(2) The Division shall calculate the total fee based on all the contractor costs and administration expenses, including but not limited to, Division personnel costs and ancillary expenses, and fees paid to the contractor and auditor.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-12; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0035
Board Referrals

(1) A board that refers a licensee to the program must make the referral in writing. The referral must include:

(a) A copy of a report from an independent third-party evaluator who diagnosed the licensee with a substance use disorder, a mental health disorder or both types of disorder, stating the diagnosis and the applicable diagnostic code from the DSM;

(b) The treatment options developed by the independent third-party evaluator;

(c) A statement that the board has investigated the licensee's professional practice and has determined whether the licensee's professional practice, while impaired, presents or has presented a danger to the public;

(d) A description of any restrictions imposed by the board or recommended by the board on the licensee's professional practice;

(e) A statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the board within three business days after the licensee is arrested or convicted; and

(f) A written statement from the licensee agreeing to enter the program and agreeing to abide by all terms and conditions established by the contractor.

(2) A board-referred licensee is enrolled in the program effective on the date the contractor receives the licensee's signed consents and the monitoring agreement including payment of fees as required by ORS 676.190.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-12; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0040
Self-Referrals

(1) Provisional Enrollment. To be provisionally enrolled in the program, a self-referred licensee must:

(a) Sign a written consent allowing disclosure and exchange of information between the contractor, the licensee's employer, independent third-party evaluators, and treatment providers;

(b) Sign a written consent allowing disclosure and exchange of information between the contractor, the board, the licensee's employer, independent third-party evaluators and treatment providers in the event the contractor determines the licensee to be in substantial noncompliance with his or her monitoring agreement. The purpose of the disclosure is to permit the contractor to notify the board if the contractor determines the licensee to be in substantial non-compliance with his or her monitoring agreement;

(c) Sign a written statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the contractor within three business days after the licensee is arrested or convicted;

(d) Attest that the licensee is not, to the best of the licensee's knowledge, under investigation by his or her board; and

(e) Agree to and sign a monitoring agreement.

(2) Enrollment: To move from provisional enrollment to enrollment in the program, a self-referred licensee must:

(a) Obtain at the licensee's own expense and provide to the contractor, an independent third-party evaluator's written evaluation containing a DSM diagnosis and diagnostic code and treatment recommendations;

(b) Agree to cooperate with the contractor's investigation to determine whether the licensee's practice while impaired presents or has presented a danger to the public; and

(c) Enter into an amended monitoring agreement, if required by the contractor.

(3) Once a contractor provisionally enrolls a self-referred licensee in the program failure to complete enrollment may constitute substantial non-compliance and may be reported to the board.

(4) The program may not report a self-referred licensee's enrollment in or successful completion of the program to the licensee's board.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-12; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0045
Licensee Responsibilities

(1) Board-referred licensees must:

(a) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice, for at least two years or longer, as specified by the board by rule or order; and

(b) Be responsible for the cost of evaluations, toxicology testing and treatment.

(2) Self-referred licensees must:

(a) Provide to the contractor a copy of a report of the licensee's criminal history periodically, as required by the contractor;

(b) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice, for at least two years or longer, as specified by the board by rule or order; and

(c) Be responsible for the cost of evaluations, toxicology testing and treatment.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-12

415-065-0050
Unique Identification Number

(1) The contractor shall assign a unique licensee identification number to each licensee the contractor enrolls in the program:

(a) The contractor and the Division shall use the same number and shall include the number in any communications or data exchanges involving the licensee;

(b) The contractor shall not assign the identification number to any other licensee enrolled in the program;

(c) The contractor shall retire the number when the licensee is no longer enrolled in the program; and

(d) The contractor shall reassign the number to the licensee if the contractor reenrolls the licensee at a later date.

(2) The contractor may not use all or a portion of a licensee's social security number as the unique identification number.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-122; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0055
Program Requirements

The contractor shall:

(1) Inform the licensee about the program services, requirements, benefits, risks, and confidentiality limitations and ensure that the licensee has signed a consent for services. The consent for services explains:

(a) Information the contractor will give to the board and under what circumstances;

(b) That the board may take action to suspend, restrict, modify, or revoke the licensee's license or end the licensee's participation in the program based on information from the contractor.

(2) Enter into a monitoring agreement with the licensee;

(3) Assess the licensee's compliance with his or her monitoring agreement;

(4) Assess the ability of the licensee's employer, when an employer exists to supervise the licensee, and require the employer to establish minimum training requirements for the licensee's supervisor;

(5) Report the licensee's substantial noncompliance with his or her monitoring agreement to a noncompliant licensee's board within one business day after the contractor learns of any substantial noncompliance; and

(6) At least weekly, submit to licensees' boards:

(a) A list of licensees who were referred to the program by the health profession licensing board and who are enrolled in the program; and

(b) A list of licensees who were referred to the program by the health profession licensing board and who successfully completed the program.

(7) The lists submitted under section 6(a)(b) are exempt from disclosure as a public record under ORS 192.140 to 192.505.

(8) Seek a court order authorizing the contractor to release identifying information to a licensee's board, including a report of substantial noncompliance as is described in OAR 415-065-0060, if a self-referred licensee enrolled in the program, or a provisionally enrolled licensee with a qualifying diagnosis, revokes his or her consent to report substantial noncompliance to the licensee's board.

(a) The contractor shall file documents with the court seeking a court order as soon as possible but no later than three business days from the date it was notified that the licensee revoked consent to report substantial noncompliance.

(b) The contractor shall comply with 42 USC & 290dd-2(b)(2); 42 CFR Part 2; the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-191, 45 CFR Parts 160, 162 and 164 and ORS 179.505, 192.518–192.524 in seeking such a court order.

(c) The contractor shall disclose to the licensee's board, within one (1) business day, any information the court authorizes it to disclose.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 1-2011(Temp), f. & cert. ef. 2-11-11 thru 8-5-11; ADS 3-2011, f. & cert. ef. 8-16-11; ADS 2-2012, f. & cert. ef. 2-9-122; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0060
Reports of Substantial Noncompliance

(1) Unless otherwise prohibited by law, when the contractor reports a licensee's substantial noncompliance to a licensee's board, the report shall include:

(a) A description of the noncompliance;

(b) A copy of the report from the independent third-party evaluator who diagnosed the licensee stating the licensee's diagnosis;

(c) A copy of the licensee's monitoring agreement; and

(d) The licensee's practice or employment status.

(2) The contractor may report substantial noncompliance directly to the licensee's board.

(3) The contractor and the licensee's board may also exchange information in the absence of substantial noncompliance, consistent with the licensee's consent to disclose information.

(4) A positive toxicology result as determined by 49 CFR § 40.87 (2009) must be reported as substantial non-compliance, but positive toxicology results for other drugs and for alcohol may also constitute and may be reported as substantial non-compliance

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-122; ADS 3-2012, f. 6-27-12, cert. ef. 7-1-12

415-065-0065
Program Services

The contractor shall provide the following services:

(1) Safe Practice Investigations of Self-referred Licensees:

(a) The contractor shall conduct a focused safe-practice investigation of a self-referred licensee to determine whether the licensee's practice while impaired presents or has presented a danger to the public. The investigation may include contractor interviews with the licensee's employer, supervisor, co-workers, family, or significant others.

(b) The contractor shall complete the safe-practice investigation within 15 business days of the contractor's receipt of the independent third party's evaluation with a qualifying diagnosis. The licensee remains provisionally enrolled in the program during this process.

(2) Monitoring Agreements:

(a) The contractor shall develop and the licensee shall sign an individualized, written monitoring agreement that is based on the contractor's comprehensive review of the independent third-party's evaluation and treatment recommendations and any other relevant and appropriate information, which may include information from employers, supervisors, co-workers, family, and significant others.

(b) The contractor shall amend the monitoring agreement as necessary to respond to changes in the licensee's situation, with the goal of protecting the public.

(c) The contractor shall give the licensee and their employer, when an employer exists, a copy of the licensee's monitoring agreement, including any amendments, and shall immediately place a copy of the monitoring agreement, including any amendments, in the licensee's individual service record.

(d) The monitoring agreement shall:

(A) Require the licensee to participate in the program for at least two years or longer, as specified by board rule or order;

(B) Require the licensee to participate in a treatment provider's treatment plan;

(C) Outline the limits on the licensee's health profession practice by the contractor and the board;

(D) Notify the licensee that the program, in its discretion, may require the licensee to obtain an evaluation of the licensee's fitness to practice before the program removes limits on the licensee's health profession practice;

(E) Outline methods for the licensee's employer to monitor and report on the licensee's safe practice;

(F) Based on the independent third-party evaluator's evaluation, require the licensee to abstain from all mind-altering or intoxicating substances or potentially addictive drugs, unless the program approves the licensee to use a particular drug prescribed for the

licensee by a person authorized by law to prescribe for the licensee's documented medical condition;

(G) Require the licensee to report to the program the licensee's use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours of the licensee's use of the substances or drugs;

(H) Require the licensee to submit to random toxicology testing, per an individualized schedule;

(I) Require the licensee to report his or her arrest for or conviction of a misdemeanor or felony crime to the contractor within three business days if the licensee is arrested or convicted;

(J) Require the licensee to report to the contractor any of the licensee's applications for licensure in other states, changes in employment, changes in practice setting, and changes in residence;

(K) Require the licensee to report at least weekly to the program regarding the licensee's compliance with the agreement; and

(L) Require the licensee to attend compliance consultation group meetings on an individualized schedule based on the contractor's assessment of the licensee's need for additional accountability and structure and based on board's monitoring requirements.

(e) Boards may provide other requirements by rule, including allowing for practice supervision of sole practice licensees or other licensees not in an employment setting.

(3) Compliance Consultation Group Meetings. If required by a board's rules, a licensee identified by the board must attend compliance consultation group meetings. Any board-referred or self-referred licensee may elect to attend the meetings. There may be a fee for the meetings.

(a) The contractor shall conduct or arrange for non-treatment compliance consultation group meetings in which a monitoring consultant meets face-to-face, either directly or by tele-video, with licensees identified by a board to determine the licensee's overall compliance with his or her monitoring agreement and for the licensee to gain peer support for his or her compliance efforts.

(b) A monitoring consultant shall conduct each compliance consultation group meeting.

(c) The monitoring consultants shall assess the licensee's progress with his or her monitoring agreement and provide holistic progress reports to the contractor regarding the licensee's status in relation to, but not limited to, his or her: compliance with the monitoring agreement, compliance with the treatment provider's treatment plan, recovery activities, emotional and physical health, work-place dynamics, and relationship and boundary concerns.

(d) The licensee's board may elect to pay for the licensee's participation in the compliance consultation group meetings or the board may require the licensee to pay for the service.

(4) Toxicology Testing. The contractor shall ensure that:

(a) The licensee receives a baseline toxicology test within five business days of the date the contractor enrolls the licensee in the program;

(b) The licensee receives a final toxicology test before the licensee is deemed to successfully complete the program;

(c) All monitoring agreements contain provisions requiring three types of toxicology testing:

(A) Testing customized to the licensee's circumstances, including where appropriate requiring expanded toxicology testing drug panels and long-acting alcohol consumption toxicology testing;

(B) Random testing; and

(C) Testing that is required when the contractor has reason to believe that the licensee may have used alcohol or other drugs in violation of the licensee's monitoring agreement.

(d) The contractor's toxicology testing laboratory is certified by the Substance Abuse and Mental Health Services Administration and accredited through the College of American Pathologists Forensic Drug Testing Accreditation Program.

(e) In addition, the laboratory shall perform testing in compliance with OAR 333-024-0305 through 333-024-0350.

(f) Urinalysis specimens are collected in a way that preserves the integrity of the specimen. Unless otherwise provided by the licensee's board by rule, the person collecting the sample must be able to see the licensee void.

(g) If the contractor suspects that the licensee has used alcohol or other drugs in violation of the licensee's monitoring agreement or suspects that the licensee has attempted to provide a false or dilute urine sample, the licensee may be required to provide a directly observed urine specimen under the procedures described in 49 CFR 40.67(g) through (k), including:

(A) A person of the same gender as the licensee must ask the licensee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist, and lower clothing and underpants to demonstrate, by turning around, that the licensee does not have a prosthetic device to dispense urine; and

(B) A person of the same gender as the licensee must watch the urine go from the licensee's body into the specimen collection container.

Stat. Auth.: ORS 413.042 & 676.190
Stats. Implemented: ORS 676.185 - 676.200
Hist.: ADS 3-2010, f. & cert. ef. 7-1-10; ADS 2-2012, f. & cert. ef. 2-9-12