

DIVISION 12

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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 NOTE: Procedure Rules, OAR 415-001-0005 & 415-001-0010, were repealed effective 6-1-06.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 (AMH) 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 ORS 430.306; or

(6) Alcohol and drug evaluation specialists designated to do Driving Under the Influence of Intoxicants (DUI) 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 (AMH) Division of the Department of Human Services (DHS).

(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 (AMH) Division of the Department of Human Services (DHS).

(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 (DUI) 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.

[Publications: Publication(s) referenced are available from the agency.]

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 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 (AMH) Division of the Department of Human Services (DHS).

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 (AMH) Division of the Department of Human Services (DHS).

(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 Department of Human Services.

(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 Department of Human Services.

(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 (AMH) Division of the Department of Human Services (DHS).

(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.

[Publications: Publications referenced are available from the agency.]

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.

[Publications: Publications referenced are available from the agency.]

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

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 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, Renum-
bered 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.

[Publications: Publications referenced are available from the agency.]

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.

[Publications: Publications referenced are available from the agency.]

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, Renum-
bered 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 cur-

rent 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 (AMH) 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 (AMH) Division of the Department of Human Services (DHS).

(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 OAR 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 OAR 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.

[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 309-050-0070; 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 or 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 51

STANDARDS FOR OUTPATIENT AND RESIDENTIAL ALCOHOL AND DRUG TREATMENT PROGRAMS

415-051-0000

Purpose

Purpose: These rules prescribe standards for the development and operation of treatment programs (excluding synthetic opiate treatment programs) approved by the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS). Treatment programs include outpatient alcoholism treatment programs, outpatient drug-free treatment programs, Driving Under the Influence of Intoxicants (DUII) rehabilitation programs, intensive outpatient treatment programs, alcohol or other drug-free day treatment programs, corrections alcohol and drug-free day treatment programs, and residential treatment programs.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(1) & (2); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0000; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0005

Definitions

(1) "Adolescent" means a person from 12 through 17 years of age, or those persons who are determined by the program to be developmentally and clinically appropriate for youth services.

(2) "ASAM PPC 2R" means the Patient Placement Criteria for the Treatment of Substance-related Disorders, Second Edition Revised, April 2001 which is a clinical guide, published by the American Society for Addictions Medicine, used in matching clients to appropriate levels of care, and incorporated by reference in these rules.

(3) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(4) "Certificate of Completion" means a numbered certificate issued to a convicted client by a DUII treatment program when the client successfully completes the program.

(5) "Client" means a person receiving services under these rules who signed a written consent which complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2).

(6) "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 (LMHA), operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(7) "Correctional Prerelease Day Treatment" means a prerelease day treatment program for inmates of correctional institutions. Correctional day treatment programs provide intensive alcohol and other drug abuse education and coordination with follow-up community treatment for inmates who are admitted to the program and have three to six months before their parole dates.

(8) "Counselor" means program staff that hold a certification or license in addiction counseling.

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

(10) "Diagnostic and Statistical Manual of Mental Disorders" or "DSM" means Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association.

(11) "Diagnostic Assessment" means the determination of the existence and degree of an individual's alcohol or other drug abuse or dependence, ancillary or causal factors, and the appropriate treatment and rehabilitation likely to overcome the problem. It involves:

(a) Collection and assessment of data pertinent to the individual's alcohol and/or other drug use history and current problem(s) obtained through interview, observation, testing, and review of previous treatment or other written records; and concludes with

(b) An alcohol or other drug use disorder diagnosis based on current DSM criteria, and a determination of the appropriate, least restrictive level of care; or

(c) A written statement that the person is not in need of alcohol or other drug abuse treatment services.

(12) "Division" means the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

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

(14) "Drug-Dependent Person" means one who has lost the ability to control the personal use of controlled substances or other substances with abuse potential (including alcohol), or who uses 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 function 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.

(15) "DUII Client" means an individual who has signed a written consent which complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2) and is either:

(a) A violator of ORS 813.010 Driving Under the Influence of Intoxicants; or

(b) A defendant who is participating in a diversion agreement under ORS 813.200.

(16) "DUII Alcohol/Other Drug Rehabilitation Programs" mean programs of treatment and therapeutically oriented education services.

(17) "Evaluation Specialist" means an individual who possesses valid certification issued by the Division to conduct DUII evaluations.

(18) "Intensive Outpatient Treatment Services" mean structured nonresidential evaluation, treatment, and continued care services for those individuals who are abusing, or are dependent on, alcohol or other drugs and who need a greater number of therapeutic contacts per

week than are provided by traditional outpatient services. Intensive outpatient services may include, but are not limited to, day treatment, correctional day treatment, evening treatment, and partial hospitalization.

(19) "Interim Informational Services" mean services provided by a chemical dependency service provider for clients who are on a waiting list for chemical dependency services. The purposes of the services are to reduce the adverse health effects of alcohol and other drug abuse, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim information services include:

(a) Counseling and education about HIV and tuberculosis, about the risks of needle sharing and of transmission to sexual partners and infants, and about steps that can be taken to ensure that HIV and TB transmission does not occur;

(b) Referral for HIV or TB services if necessary; and

(c) For pregnant clients, counseling on the effects of alcohol and drug use on the fetus, as well as referral for prenatal care.

(20) "Intern" or "Student" means an individual who provides a program service and who is enrolled in a credentialed or accredited educational program.

(21) "Local Alcoholism and Other Drug Planning Committee" means a committee appointed or designated by a board of county commissioners. The committee shall identify needs and establish priorities for alcoholism and other drug 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 and other drug treatment and rehabilitation services of minorities in the community.

(22) "Major Alteration" means the total cost of modifications to an existing building which exceeds 25 percent of its replacement value within any 12-month period.

(23) "Medical Director" means a physician licensed to practice medicine in the State of Oregon and who is designated by the alcohol and other drug abuse treatment program to be responsible for the program's medical services.

(24) "Minorities" means persons who are members of the following racial/ethnic groups:

(a) Black/African Americans or persons having origins in any of the Black/African racial groups of Africa;

(b) Hispanic Americans or persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;

(c) Native Americans or persons who are American Indian, Eskimo, Aleut, or Native Hawaiian;

(d) Asian-Pacific Americans or persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific, or the Northern Marianas; or

(e) Asian-Indian Americans or persons whose origins are from India, Pakistan, or Bangladesh.

(25) "Minority Program" means a program that is designed to meet the unique treatment and rehabilitation needs of a minority and that provides services to a majority of clients belonging to a minority population as defined in these rules.

(26) "Outpatient Alcohol and Other Drug Abuse Treatment Program" means a publicly or privately operated program that provides assessment, treatment, and rehabilitation on a regularly scheduled basis or in response to crisis for alcohol and/or other drug abusing or dependent clients and their family members or significant others consistent with Level I and/or Level II of the ASAM PPC-2R.

(27) "Permanent Client Record" means the official legal written file for each client containing all the information required by these rules to be maintained to demonstrate compliance with these rules. Information about clients 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 official written file of the client in order to constitute a part of the permanent client record.

(28) "Program Staff" or "Treatment Staff" means:

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

(b) Any other employee of the program.

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

(30) "Residential Transition Program" means a residential program that provides a drug-free supportive living environment and provides clinical services consistent with Level III of the ASAM PPC-2R.

(31) "Residential Treatment Program" means a publicly or privately operated program as defined in ORS 430.010 that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for alcohol and other drug dependent clients, consistent with Level III of ASAM PCC-2R.

(32) "Substance Abuse Related Disorders" are defined in DSM criteria as 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 dependency and substance abuse, alcohol dependence and alcohol abuse, and substance induced disorder and alcohol induced disorders.

(33) "Successful DUII Completion" means that the DUII program has documentation in its records that for the period of service deemed necessary by the program the client has:

- (a) Met the discharge criteria approved by the Division; and
- (b) Paid all service fees (unless indigent).

(34) "Treatment" means the specific medical and nonmedical therapeutic techniques employed to assist the client in recovering from alcohol or other drug abuse or dependence.

(35) "Treatment Staff" means persons who provide individual, group, or family counseling services, and relapse prevention planning.

(36) "Urinalysis Test" means an initial test and, if positive, a confirmatory test:

(a) An initial test shall, at a minimum, include a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be by a different analytical method from that of the initial test to ensure reliability and accuracy.

(c) All urinalysis tests shall be performed by laboratories meeting the requirements of OAR 333-024-0305 to 333-024-0365.

(37) "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 nonclinical unless the individual has the required credentials to provide a clinical service.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(3); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0005; ADAP 1, 1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0010

Program Approval and Variances

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

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

(3) In addition to the grounds set forth in OAR 415-012-0060, the Division 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 Division 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 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 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(4), (5), & (6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0010; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0015

Administrative Requirements for Treatment Programs

(1) Administrative Rules: An alcohol and other drug treatment 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 contract agents, the Division and the Division of Medical Assistance Programs (DMAP) governing reimbursement for services and refunds including, but not limited to:

- (a) OAR 309-013-0020;
- (b) OAR 309-013-0075 to 013-0105;
- (c) OAR 309-014-0000 to 014-0040;
- (d) OAR 410-120-0000 through 120-1980; and
- (e) OAR 410-141-0000 through 410-141-0860.

(2) Policies and Procedures: A program shall develop and implement written policies and procedures that describe program operations. Policies and procedures shall include a Quality Assurance Plan for ensuring that clients receive appropriate treatment services and that the program is in compliance with relevant administrative rules and other reporting requirements. The Quality Assurance Plan must include:

(a) A measurement of the proportion of full-time equivalent clinical staff who are licensed and or certified as defined in this rule, and

(b) Goals for moving toward 100 percent of staff maintaining the required licensure or certification

(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, volunteers, and interns/students:

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

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

(c) Compliance with 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 program shall give individualized consideration to all applicants who, with or without reasonable accommodation, can perform the essential functions of the job position.

(4) Documentation of Qualifications: The program shall maintain a record for each treatment staff member documenting applicable qualification standards as described in OAR 415-051-0050 to 0060. The program shall maintain the record for a period of three years following the departure of a treatment staff member.

(5) Disabilities Act: Alcohol and other drug abuse treatment 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.

(6) Insurance: Each alcohol and other drug abuse treatment program shall maintain malpractice and liability insurance and be able to demonstrate evidence of current compliance with this requirement. Programs operated by a public body shall demonstrate evidence of insurance or a self-insurance fund pursuant to ORS 30.282.

(7) Client Record-keeping: Each program shall:

(a) Accurately record 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 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;

(h) Ensure that a written description of any injury or accident during program services or on program grounds involving any client is placed in the individual's record; and

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

(8) Client/Fiscal Record Retention: 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 or managed care plan administering the contract, whichever is applicable; and

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

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & cf. 10-4-77; MHD 3-1979, f. & cf. 1-16-78; MHD 14-1983, f. 7-27-83, cf. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0015; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2003, f. 7-15-03, cert. ef. 9-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0020

Client Rights

(1) Client Record Confidentiality: An alcohol and other drug treatment program shall comply with federal regulations (42 CFR part 2, 45 CFR 205.50) and ORS 179.505 and 430.399 pertaining to confidentiality of client records.

(2) Informed Consent: Participation in an alcohol and other drug treatment program shall be voluntary. Clients shall be informed of their rights and responsibilities and give written informed consent to treatment.

(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 client shall be assured the same civil and human rights as other persons. Each program shall develop and implement and inform clients of written policies and procedures which protect clients' rights, including:

(a) Protecting client 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 abuse or sexual contact; and

(e) Providing adequate treatment or care.

(5) Services Refusal: The client 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 client, that fact must be explained verbally and in writing to the client.

(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 client shall have the right of access to the client's own records except:

(a) When the clinical supervisor determines that disclosure of records would be detrimental to the client'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 client and others of the client's choice shall be afforded an opportunity to participate in an informed way in planning the client's receipt of and involvement in services, including significant procedures, and the review of progress toward treatment goals and objectives which shall include the right to be free from retaliation for exercising such right.

(8) Informed Consent to Fees for Services: The amount and schedule of any fees to be charged must be disclosed in writing and agreed to by the client.

(9) Grievance Policy: The program shall develop, implement, and fully inform clients of policies and procedures regarding grievances that provide 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) Initiating action on substantiated grievances within five working days; and

(d) Documentation in the client'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, gender, language, illiteracy, or disability, the program shall 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 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 client.

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

(c) Referring clients to another provider if that client 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) Client Work Policy: Any client labor performed as part of the client's treatment plan or standard program expectations or in lieu of fees shall be agreed to, in writing, by the client and must comply with regulations of other agencies sharing oversight of the program.

(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 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 14-1983, f. 7-27-83, cf. 10-25-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0020; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0025

Admission Policies and Procedures

(1) Admission Criteria: The program shall have written criteria for accepting or refusing admission requests, including steps for making referrals for individuals not admitted to the program. The criteria shall be available to clients, staff, and the community and require:

(a) For persons determined to be appropriate for admission, the program to ensure that the onset of outpatient treatment occurs within five weeks of application to the program. The program shall provide interim informational services until an individual is admitted to the program. These services should include education and referral to counseling about infectious diseases (HIV, tuberculosis, hepatitis A, B, or C, sexually-transmitted diseases), referral to prenatal care for pregnant women, referral to medical care when appropriate, referral to self-help support groups, education about the effects of alcohol and other drug use on the fetus, and crisis intervention when appropriate.

(b) No person under 14 years of age may be admitted to an alcohol and other drug treatment program unless a parent, legal guardian, or responsible adult designated by the state authority (i.e., "emancipated minor" laws) completes and signs consent forms.

(c) No person under 18 years of age may be admitted to a residential program without the prior consent of the parent, guardian, or other legally authorized person.

(d) For those clients refused admission based on assessment, the program shall document the reasons for refusal and subsequent referrals within seven days following the refusal decision.

(2) Intake Procedures: The program shall utilize a written intake procedure. The procedure shall include documentation that all admissions have been found appropriate for services according to the ASAM PPC-2R, incorporated by reference into these rules.

(3) Orientation: The program shall give to the client, document the receipt of by the client, and make available to others, written program orientation information which includes:

- (a) The program's philosophical approach to treatment;
- (b) A description of the program treatment services;
- (c) Information on clients' rights and responsibilities, including confidentiality, while receiving services;

(d) Information on the rules governing clients' behavior and those infractions that may result in discharge or other actions. At a minimum, the rules shall state the consequence of alcohol and other drug use, absences from appointments, nonpayment of fees, and failure to participate in the planned treatment activities; and

- (e) Information on emergency services

(4) Client Record: The following information shall be recorded in each client's record at the time of admission:

- (a) Client name, address, and telephone number;
- (b) Whom to contact in case of an emergency, including telephone number;
- (c) Fee agreement based on the client's ability to pay, when appropriate;
- (d) Name of individual completing intake/assessment; and
- (e) If the client refuses to provide the necessary information, documentation of that fact in the client file.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813
Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0025; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0030

Client Diagnostic Assessment

(1) Written Procedure: The alcohol and drug abuse treatment program shall develop and implement a written procedure for assessing each client's treatment needs based on the ASAM PPC-2R.

(2) Assessment to Include: The diagnostic assessment shall be documented in the permanent client record. It shall consist of both the elements described in the ASAM PPC-2R and 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 attitudes toward alcohol and other drug use.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0030; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0035

Treatment Services, General

(1) Services to be Provided: The alcohol and other drug abuse treatment program shall provide to each client those clinically appropriate services and activities needed to address the problems identified from the diagnostic assessment and document the activity in the client record.

(2) Other Services: The program, to the extent of community resources available and as clinically indicated, shall provide clients with information and referral to other services, including smoking cessation services.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0035; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0037

Treatment Planning and Documentation of Treatment Progress

(1) Placement, Continued Stay, Discharge Criteria: The alcohol and other drug abuse treatment program shall develop treatment plans, progress notes, and discharge plans consistent with the ASAM PPC-2R.

(2) Treatment Plan: Individualized treatment planning shall occur and be documented in the client record no later than 30 days from admission to an outpatient treatment program and no later than 14 days from admission to a residential treatment program. The treatment plan shall:

(a) Describe the primary client-centered issue or issues as determined by the assessment;

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

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

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

(e) Document the client's participation in developing the content of the treatment plan and any subsequent modifications with, at a minimum, the client's signature.

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

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

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

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0040

Medical Services

(1) Medical Protocols: The alcohol and other drug treatment program shall have medical protocols approved by a medical director

under contract with a program and/or written reciprocal agreement with a medical practitioner under managed care. The protocols shall be in full compliance with standards, ethics, and licensure requirements of the medical profession and these rules and:

(a) Require, but not be limited to, the collection of medical histories as described in the client diagnostic assessment criteria;

(b) Designate those medical symptoms that, when found, require further investigation, physical examinations, treatment, or laboratory testing;

(c) Describe procedures for medical emergencies;

(d) Require that individuals admitted to the program who currently are injecting or intravenously using a drug, or within the past 30 days have injected or intravenously used a drug, or who are at risk of withdrawal from a drug, or who may be pregnant, must be referred for a physical examination and appropriate lab testing within 30 days admission to the program. These requirements may be waived by the medical director if these services have been received within the past 90 days and documentation is provided;

(e) Require pregnant women be referred for prenatal care within two weeks of admission to the program;

(f) Require that the program provide HIV/AIDS, tuberculosis, sexually transmitted disease, hepatitis and other infectious disease information and risk assessment, including any needed referral, within 30 days of admission; and

(g) Specify how follow up of admitted clients will be handled in the event the client is found to have any major medical problem.

(2) Implementation: The program shall adopt, maintain, and implement the policies and procedures described in this rule.

(3) Client Record Documentation: The client record shall contain documentation of all medical services provided to the client by the program.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0040; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0045

Clinical Supervision and Staffing Pattern

(1) Clinical Supervision: The alcohol and other drug abuse treatment program shall provide a minimum of two hours per month of clinical supervision or consultation for each staff person or volunteer who is responsible for the delivery of treatment services, one hour of which must be individual, face-to-face clinical skill development. The objective of clinical supervision or consultation is to assist staff and volunteers to increase their treatment skills, improve quality of services to clients, and supervise program staff and volunteers' compliance with program policies and procedures implementing these rules.

(2) Staffing Patterns: Each client admitted to the program must be assigned a primary counselor.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.240 - 430.590

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0045; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; Administrative correction 6-20-01; ADS 6-2007, f. & cert. ef. 12-11-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0050

Program Director Qualifications

(1) Competency: The program director shall:

(a) Have knowledge and experience demonstrating competence in the performance or oversight 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; and

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

(2) Recovering Individuals: For an individual recovering from a substance abuse related disorder, the performance of a program director's essential job functions in connection with staff and clients who themselves may be trying to recover from a substance abuse related

disorder demands that an applicant or person hired as program director be able to demonstrate continuous sobriety under nonresidential, independent living conditions for the immediate past two years.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0050; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0055

Clinical Supervision Staff Qualifications

(1) Qualifications: Each alcohol and other drug abuse 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 counseling; or

(b) A Bachelor's degree and four years of paid full-time experience in the social services field, with a minimum of two years of direct alcohol and other drug counseling experience; or

(c) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct alcohol and other drug counseling experience.

(2) Competency: Any supervisor 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 client 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 client 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 (5) 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.

(3) 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) 300 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.

(4) Licensure/Registration: For supervisors holding a health or allied provider license, such license/registration 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.

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

(6) Program Director as Clinical Supervisor: If the program's director meets the qualifications of the clinical supervisor, the director may be the clinical supervisor.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0055; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2003, f. 7-15-03, cert. ef. 9-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0057**Counseling and Treatment Staff Qualifications**

(1) 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 client 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 client 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; and

(c) Except as provided in section (4) or (5) 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.

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

(a) 750 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.

(3) Licensure/Registration: For treatment staff holding a health or allied provider license, such license/registration 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.

(4) Existing Staff: Existing staff of residential programs who do not hold a certificate/license that meets the standards identified in section (2) or (3) of this rule must apply to a qualified credentialing organization or state licensing board within three months of the effective date of this rule and achieve certification or licensure meeting the standards of section (2) or (3) of this rule within (24) months of the application date.

(5) New Hires: New hires need not hold a qualified certificate/license but those who do not must make application within six months of employment and receive the credential/license within (24) months of the application date.

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

(7) Interns/Students: Interns/students who do not meet the requirements of section (1) of this rule may provide clinical services if closely supervised by qualified staff pursuant to an established written plan.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2003, f. 7-15-03, cert. ef. 9-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0060**Use of Volunteers**

Each alcohol and other drug abuse treatment program utilizing volunteers shall have the following standards for volunteers:

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

(a) Specific responsibilities and tasks 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 volunteers; and

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

(2) Orientation and Training: 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 alcohol and other drug abuse treatment program'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 alcohol and other drug abuse treatment program'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 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 14-1983, f. 7-27-83, ef. 10-25-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0060; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; Administrative correction 6-20-01; ADS 2-2003, f. 7-15-03, cert. ef. 9-1-03; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0065**Building Requirements**

(1) Each alcohol and other drug abuse treatment program must provide facilities which:

(a) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes.

(b) Maintain up-to-date documentation verifying that they meet applicable local business license, zoning and building codes, and federal, state and local fire and safety regulations. It is the duty of the program to check with local government to make sure all applicable local codes have been met.

(c) Provide space for services, including but not limited to, intake, assessment, 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.

(d) Provide rest rooms for clients, visitors, and staff.

(e) 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.

(2) Tobacco Use: Outpatient programs shall not allow tobacco use on program facilities and grounds. Residential programs shall not allow tobacco use in program facilities.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: MHD 47(Temp), f. & ef. 10-4-77; MHD 3-1979, f. & ef. 1-16-78; MHD 14-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0020(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-051-0065; ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0067**Building Requirements for Residential Programs**

In addition to the building requirements contained in OAR 415-051-0065, residential programs must meet the following standards:

(1) Construction and Alteration: Prior to construction of a new building or major alteration of, or addition to, an existing building:

(a) One set of plans and specifications shall be submitted to the State Fire Marshal for approval;

(b) Plans shall be in accordance with the current edition of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations;

(c) Construction containing 4,000 square feet or more shall be prepared and bear the stamp of an Oregon licensed architect or engineer; and

(d) The water supply, sewage, and garbage disposal system shall be approved by the agency having jurisdiction.

(2) Interiors: All rooms used by clients shall have floors, walls, and ceilings which meet the interior finish requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations.

(3) Dining Room: A separate dining room or area shall be provided for exclusive use of clients, employees, and invited guests, and shall:

(a) Seat at least one-half of the clients at a time with a minimum of 15 square feet per occupant; and

(b) Be provided with adequate ventilation.

(4) Living Room: A separate living room or lounge area shall be provided for the exclusive use of clients, employees, and invited guests and shall:

(a) Provide a minimum of 15 square feet per occupant; and

(b) Be provided with adequate ventilation.

(5) Bedrooms: Bedrooms shall be provided for all clients and shall:

(a) Be separate from the dining, living, multi-purpose, laundry, kitchen, and storage areas;

(b) Be an outside room with an openable window of at least the minimum required by the State Fire Marshal;

(c) Have a ceiling height of at least seven feet, six inches;

(d) Provide a minimum of 60 square feet per client, with at least three feet between beds;

(e) Provide permanently wired light fixtures located and maintained so as to give light to all parts of the room; and

(f) Provide a curtain or window shade at each window to assure privacy.

(6) Bathrooms: Bathrooms shall be provided and conveniently located in each building containing a client bedroom and shall:

(a) Provide a minimum of one toilet and one handwashing sink for each eight clients, and one bathtub or shower for each ten clients;

(b) Provide one handwashing sink convenient to every room containing a toilet;

(c) Provide permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room;

(d) Provide arrangements for individual privacy for clients;

(e) Provide a privacy screen at each window;

(f) Provide a mirror; and

(g) Be provided with adequate ventilation.

(7) Plumbing: A supply of hot and cold water, installed and maintained in compliance with current rules of the Department of Human Services, Health Services, Office of Public Health Systems, shall be distributed to taps conveniently located throughout the residential program. All plumbing shall be in compliance with applicable codes.

(8) Laundry Facilities: Laundry facilities, when provided, shall be separate from:

(a) Client living areas, including bedrooms;

(b) Kitchen and dining areas; and

(c) Areas used for the storage of unrefrigerated perishable foods.

(9) Storage Areas: Storage areas shall be provided appropriate to the size of the residential program. Separate storage areas shall be provided for:

(a) Food, kitchen supplies, and utensils;

(b) Clean linens;

(c) Soiled linens and clothing;

(d) Cleaning compounds and equipment; and

(e) 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.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00, Renumbered from 415-051-0150; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0069

Client Furnishings

(1) Furniture: Furniture shall be provided for each client and shall include:

(a) A bed with a frame and a clean mattress and pillow;

(b) A private dresser or similar storage area for personal belongings which is readily accessible to the client; and

(c) Access to a closet or similar storage area for clothing.

(2) Linens: Linens shall be provided for each client and shall include:

(a) Sheets and pillowcases;

(b) Blankets, appropriate in number and type for the season and the individual client's comfort; and

(c) Towel and washcloth.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00, Renumbered from 415-051-0160; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0072

Food Service

(1) A residential program shall meet the requirements of the State of Oregon Sanitary Code for Eating and Drinking Establishments relating to the preparation, storage, and serving of food.

(2) Menus: Menus shall be prepared in advance to provide a sufficient variety of foods served in adequate amounts for each client at each meal and shall be adjusted for seasonal changes.

(a) Records of menus as served shall be filed and maintained in the residential program records for at least 30 days;

(b) All modified or special diets shall be ordered by a physician; and

(c) At least three meals shall be provided daily.

(3) Food Storage: Supplies of staple foods for a minimum of one week and of perishable foods for a minimum of a two-day period shall be maintained on the premises.

(4) Food shall be stored and served at proper temperature.

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

(6) Forbidden Foods: Raw milk and home-canned vegetables, meats, and fish shall not be served or stored in a residential program.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00, Renumbered from 415-051-0170; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0075

Safety

(1) Approved Capacity: At no time shall the number of clients served exceed the approved capacity.

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

(a) Instructions for the employee or designated client (s) in the event of fire, explosion, accident, death, or other emergency and the telephone numbers of the local fire department, law enforcement agencies, hospital emergency rooms, and the residential program's designated physician and on-call back-up treatment staff;

(b) The telephone number of the program director or clinical 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; and

(3) Fire Safety: The residential program shall provide fire safety equipment appropriate to the number of clients served, and meeting the requirements of the State of **Oregon Structural Specialty Code and Fire and Life Safety Regulations**.

(4) Fire detection and protection equipment shall be inspected as required by the State Fire Marshal.

(5) 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.

(6) The residential program shall conduct unannounced fire evacuation drills at least monthly. At least once every three months the monthly drill shall occur between 10 p.m. and 6 a.m. Written documentation of the dates and times of the drills, time elapsed to evacuate, and staff conducting the drills shall be maintained.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813
Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00, Renumbered from 415-051-0180; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0077**Sanitation**

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

(2) Each bathtub, shower, handwashing sink, and toilet shall be kept clean and free from odors.

(3) Water Supply: The water supply in the residential program shall meet the requirements of the current rules of the Health Division governing domestic water supplies.

(4) Laundry: Soiled linens and clothing shall be stored in an area separate from kitchens, dining areas, clean linens and clothing, and unrefrigerated food.

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

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

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

(8) Garbage/Sewage:

(a) Garbage and refuse receptacles shall be clean, durable, water-tight, insect- and rodent-proof, and kept covered with a tight-fitting lid;

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

(c) 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 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00, Renumbered from 415-051-0190; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0080**Corrections Prerelease Day Treatment Programs**

(1) Exceptions: Corrections prerelease day treatment programs for alcohol and drug abuse problems are required to comply with the general standards for alcohol and other drug abuse treatment programs, OAR 415-051-0000 to 051-0070, with the following exceptions:

(a) Grievance policy, client work policy, and voter registration policy (OAR 415-051-0020(9), (11), and (12));

(b) Placement, continued stay, and discharge criteria and treatment planning and review (OAR 415-051-0037(1), (2), and (4)); and

(c) Medical services (OAR 415-051-0040).

(2) Corrections Department Records: Where the required assessment, treatment, and other services are provided by the Department of Corrections, the corrections prerelease day treatment program shall have access to that information in the client's corrections institution file.

(3) Assessment: Corrections prerelease day treatment programs shall provide a client diagnostic assessment which includes:

(a) Alcohol and other drug use and problem history;

(b) Family and interpersonal history;

(c) Educational history, including learning disabilities, if applicable;

(d) Employment and vocational history;

(e) History of previous treatment, including course of treatment, outcomes of treatment, and client attitude toward previous treatment; and

(f) Presenting problems (client report of why he or she needs treatment).

(4) Treatment Services: The program shall provide structured therapeutic counseling and alcohol and other drug specific education services as required in the Department of Corrections contract.

(5) Transition Services: The program shall provide systematic coordination and transition from institution to the community including:

(a) Development of interagency contracts with community corrections agencies wherein both parties agree to prioritize certain clients and closely coordinate services for those clients; and

(b) Transition services which begin, at a minimum, at least two weeks prior to the client's discharge from the institution. These services shall include at least one case staffing (in person or by telephone) between the supervising officer and a member of the community follow-up program treatment staff.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; Administrative correction 6-20-01; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0090**Minority Programs**

In addition to the general alcohol and other drug abuse treatment program standards described in OAR 415-051-0000 through 051-0070 and the ASAM PPC-2R, programs approved and designated as minority programs shall meet the following criteria:

(1) Treat a majority of clients representing the targeted minority population as described in OAR 415-051-0005.

(2) Governing Board: Develop and maintain a governing or advisory board that shall:

(a) Have a majority representation of the target minority group being served;

(b) Receive training concerning the significance of culturally relevant treatment services; and

(c) Meet at least quarterly.

(3) Accessibility: Maintain accessibility to minority populations including:

(a) The physical location of the program shall be within close proximity to the target minority populations;

(b) Where available, public transportation shall be within close proximity to the program;

(c) Hours of service, telephone contact, and other client-related accessibility issues shall be appropriate for the target population; and

(d) The physical facility within which the minority treatment services are delivered shall be psychologically comfortable for the target group including:

(A) Materials displayed shall be culturally relevant;

(B) Mass media programming (radio, television, etc.) shall be sensitive to cultural background; and

(C) Other cultural differences shall be considered and accommodated when possible (e.g., the need or desire to bring family members to the facility, play areas for small children, etc.).

(4) Staff Qualifications: Counseling and treatment staff shall have knowledge, experience, training, and demonstrated competence in cultural aspects of the target group and, where appropriate, be bilingual.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0100**Adolescent Treatment Services**

In addition to the general standards for alcohol and other drug abuse treatment programs under OAR 415-051-0000 through 415-051-0070 the programs approved to provide adolescent treatment services or those with adolescent designated treatment funding shall meet the following standards:

(1) Participation of Family/Agencies: Treatment planning/case management services shall include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate.

(2) Treatment Services: Treatment services should include:

(a) Family treatment;

(b) Recreation and leisure time skills training;

(c) Academic education services or referral;

(d) Smoking cessation treatment; and

(e) Gender-specific treatment.

(3) Continuing Care: Continuing care services shall be of appropriate duration and designed to maximize recovery opportunities. The services shall include:

(a) Reintegration services and coordination with family and schools;

(b) Support groups and/or other peer support groups provided at school sites;

(c) Youth dominated self-help groups where available;

(d) Referral to emancipation services when appropriate; and

(e) Referral to physical or sexual abuse treatment when appropriate.

(4) Staff Qualifications: Staff shall have formal training in adolescent development and family counseling and demonstrate competence in the gender-specific alcohol and other drug abuse treatment of adolescents and their families.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0105

Admission and Treatment of Children in Residential Treatment Programs

If a residential treatment program offers services to children, then in addition to the requirements of OAR 415-051-0000 through 415-051-0070 and 415-051-0100, a program must meet the following requirements related to the treatment of children:

(1) The residential program shall be licensed by the Department of Human Services, Children, Adults and Families (CAF) Division in cooperation with the Division.

(2) Staffing: Staff coverage must be provided 24 hours per day, seven days per week.

(3) There shall be employed a sufficient number of qualified treatment staff to ensure a ratio of at least one treatment staff per eight clients.

(4) Individualized treatment plans for children admitted for treatment shall:

(a) Be developed by the residential program in cooperation with child care workers, other involved professionals, and the child and the child's family as appropriate;

(b) Include an educational component. The educational component should, as appropriate, provide the child with educational opportunities while in treatment, and shall include a plan for phasing the child into a community education program if appropriate and as soon as reasonable;

(c) Include recreational and leisure-time activities appropriate to the child; and

(d) Include access to self-help groups predominantly composed of, and focused on, children.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00, Renumbered from 415-051-0200; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0110

Women's Treatment Services

In addition to the general standards for alcohol and other drug abuse treatment programs, under OAR 415-051-0000 through 415-051-0070, programs approved and designated to primarily provide treatment services to women shall meet the following standards:

(1) Women-Specific Problems: The client record shall contain an evaluation that identifies and assesses problems specific to women's issues in treatment such as social isolation, self-reliance, parenting issues, domestic violence, and housing and financial problems.

(2) Treatment Plan: The client's treatment plan shall address problems identified above as well as alcohol and other drug abuse and other treatment issues.

(3) Special Needs: The program shall provide or coordinate services that meet the special access needs of this population such as child care, mental health services, and transportation.

(4) Treatment Services: Treatment services shall include the following unless clinically contraindicated:

(a) Gender specific treatment;

(b) Family treatment;

(c) Reintegration with family services;

(d) Smoking cessation treatment;

(e) Housing; and

(f) Transportation.

(5) Treatment planning and treatment services shall include the participation of significant others as appropriate (e.g., social service, child welfare, or corrections agencies).

(6) Referral Services: The program shall make available or provide referrals to the following services if indicated:

(a) Sexual or physical abuse treatment; and

(b) Parenting training; and

(c) Domestic violence counseling.

(7) Staff Training: The treatment staff shall have formal training and education in women's treatment needs and family counseling and demonstrate competence in the treatment of alcohol and other drug abuse by women.

(8) Continuing Care: Continuing care treatment services shall be consistent with the ASAM PPC 2R and shall include referrals to female dominated support groups where available.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813

Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; Administrative correction 6-20-01; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

451-051-0130

DUII Alcohol/Other Drug Rehabilitation Programs

In addition to the general standards for alcohol and other drug treatment programs under OAR 415-051-0000 through 051-0070, and other standards as appropriate under OAR 415-051-0090 through 051-0110, programs approved to provide DUII rehabilitation services shall meet the following standards:

(1) DUII Treatment Services: DUII rehabilitation programs will assess clients referred for treatment by the evaluation specialist. Placement, continued stay and discharge of clients will be based on the criteria described in the ASAM PPC-2R, subject to the following additional terms and conditions

(2) Abstinence: Client must demonstrate continuous abstinence for a minimum of 90 days prior to discharge as documented by urinalysis tests and other evidence.

(3) Treatment Completion: Residential or inpatient programs may not certify the completion of DUII treatment. Only DUII rehabilitation programs may certify treatment completion.

(4) Residential Treatment: Using the ASAM PPC-2R, the DUII program's assessment may indicate that the client requires treatment in a residential program. It will be the responsibility of the DUII program to:

(a) Monitor the case carefully while the client is in residential treatment by confirming that the client entered the program and that the client completed the program;

(b) Provide or monitor outpatient and/or follow-up services when the client is discharged from the residential program; and

(c) Verify completion of residential treatment and follow-up outpatient treatment.

(5) Urinalysis Testing: A minimum of two urinalysis samples shall be collected during the period of service deemed necessary by a client's DUII rehabilitation program:

(a) Using the process defined in OAR 415-051-0005(35), the samples shall be tested for at least three controlled drugs.

(b) At least one of the two samples is to be collected and tested in the first two weeks of the program and at least one is to be collected and tested in the last two weeks of the program.

(c) If the first sample is positive, two or more samples must be collected and tested, including one sample within the last two weeks before discharge.

(d) Programs may use methods of testing for the presence of alcohol and other drugs in the client's body other than urinalysis tests if they have obtained the prior review and approval of such methods by the Division.

(6) Reporting: The program will report:

(a) To the Division on forms prescribed by the Division;

(b) To the evaluation specialist within 30 days from the date of the referral by the specialist. Subsequent reports must be provided within 30 days of discharge or within 10 days of the time that the client enters non compliant status; and

(c) To the appropriate evaluation specialist, case manager, court, and/or other agency as required when requested concerning client

cooperation, attendance, treatment progress, utilized modalities, and fee payment.

(7) **Certifying Completion:** The program shall send a numbered Certificate of Completion to the Department of Motor Vehicles to verify the completion of convicted clients. Payment for treatment may be considered a requirement for compliance and treatment completion. A certificate of completion shall not be issued until the client has satisfied the abstinence requirements of section (2) of this rule.

(8) **Records:** The DUII rehabilitation program shall maintain in the permanent client file, urinalysis results and all information necessary to determine whether the program is being, or has been, successfully completed.

(9) **Separation of Assessment/Rehabilitation Functions:** Without the approval of the Assistant Director, consistent with the criteria in OAR 415-054-0200 to 0240, no agency or person may provide DUII rehabilitation 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 430.265-335, 430.345-380, 430.405 -700 & 813
Hist.: ADAP 1-1995, f. & cert. ef. 7-25-95; ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0140

Residential Treatment Services

In addition to the general standards for alcohol and other drug abuse treatment programs under OAR 415-051-0000 through 415-051-0070, including the ASAM PPC-2R, programs approved to provide residential treatment services shall meet the following standards:

(1) **Behavior Problems Policy:** The residential program shall develop, implement, and inform clients of policy and procedure regarding the management of behavior problems which:

- (a) Prohibits physical punishment;
- (b) Prohibits seclusion in a locked room;
- (c) Prohibits the withholding of shelter, regular meals, clothing, or aids to physical functioning; and
- (d) Prohibits the disciplining of one client by another.

(2) **Client Rights:** The residential program shall develop, implement and inform clients of policies and procedures to protect client rights. In addition to the requirements listed in OAR 415-051-0020, the policies and procedures must protect client rights that include:

- (a) Adequate food, housing, personal services, and treatment or care;
- (b) Visits to and from family members, friends, advocates, and legal and medical professionals, consistent with treatment plans and reasonable written program rules;
- (c) Access to community resources, including recreation activities, social service agencies, employment and vocational services, and self help groups, consistent with the client's treatment plan and reasonable written program rules;
- (d) The right to confidential communications;
- (e) Personal property consistent with reasonable written program rules;
- (f) Freedom from involuntary treatment, unless the person has been involuntarily committed by appropriate court order;
- (g) Religious practices as personally preferred, consistent with treatment plans and reasonable written program rules;
- (h) Voting; and
- (i) Access to community resources, including recreation activities, social service agencies, employment and vocational services, and self-help groups consistent with the client's treatment plan and reasonable written program rules.

(3) **Administration of Medications:** The following guidelines must be followed in policies on administration of medications:

(a) A written order signed by a physician, or a program medical policy approved in writing by a licensed physician, is required before any medication can be administered to, or self-administered by, any client;

(b) Medications prescribed for one client shall not be administered to, or self-administered by, another client or employee; and

(c) In the cases where a client self-administers medication, self-administration shall be approved in writing by a physician, and closely monitored by the residential program staff.

(4) **Unused or Outdated Drugs:** No unused, outdated, or recalled drugs shall be kept in the residential program. On a monthly basis, any unused, outdated, or recalled drugs shall be disposed of in a manner that assures they cannot be retrieved.

(5) **Documentation of Drug Disposal:** A written record of all disposals of drugs shall be maintained in the residential program 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.

(6) **Storage of Prescription Drugs:** All prescription drugs stored in the residential program shall be kept in a locked stationary container. Those medications requiring refrigeration shall be stored in a refrigerator using a locked container which need not be stationary.

(7) **Individual Prescription Drug Records:** Individual records shall be kept for each client for any prescription drugs administered to, or self-administered by any client. The record will include:

- (a) The client's name;
- (b) Prescribing physician's name;
- (c) Description of medication, including prescribed dosage;
- (d) Verification in writing by treatment 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.

(8) **First-Aid:** A residential program shall ensure that for all 24 hours per day at least one treatment staff person is onsite, on duty, and certified by the Red Cross or other appropriate entity in first-aid methods including cardiopulmonary resuscitation.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.265-335, 430.345-380, 430.405-700 & 813
Hist.: ADAP 1-2000(Temp), f. 5-11-00, cert. ef. 6-1-00 thru 11-27-00; ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0155

Residential Transition Programs

In addition to the general standards for alcohol and other drug abuse treatment programs under OAR 415-051-0000 through 415-051-0140, residential transition programs shall, during hours when there is no on-site staff coverage, provide for coverage by at least one client designated by the program director as being capable of managing emergencies and other situations that require immediate attention.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.265-430.335, 430.345-380, 430.405-700 & 813
Hist.: ADAP 2-2000, f. 11-22-00, cert. ef. 11-27-00; ADAP 1-2002, f. 8-1-02, cert. ef. 9-1-02; ADS 2-2008, f. & cert. ef. 11-13-08

415-051-0165

Variances

Requirements and standards for requesting and granting variances or exceptions to these rules for alcohol and drug abuse treatment programs are found in OAR 415-012-0090.

Stat. Auth.: ORS 409.410 & 409.420
Stats. Implemented: ORS 430.265-430.335, 430.345-380, 430.405-700 & 813
Hist.: ADS 2-2008, f. & cert. ef. 11-13-08

DIVISION 54

STANDARDS FOR APPROVAL OF DUII ALCOHOL/OTHER DRUG INFORMATION AND DUII ALCOHOL/OTHER DRUG REHABILITATION PROGRAMS

415-054-0005

Purpose

Purpose. These rules prescribe standards and procedures for approval of DUII information programs.

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 309-054-0005; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0010**Definitions**

(1) "Agency" means any organization or individual that undertakes to establish and operate a DUII alcohol/other drug information program for Driving Under the Influence of Intoxicants offenders.

(2) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(3) "Certificate of Completion" means a numbered certificate issued to a convicted client by a DUII information or rehabilitation program when the client successfully completes the program.

(4) "Client" means an individual who has applied for or is receiving services at a DUII information program and is either:

(a) A violator of ORS 813.010; or

(b) A defendant who is participating in a diversion agreement under ORS 813.200.

(5) "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 (LMHA), operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(6) "Division" means the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(7) "DUII Alcohol/Other Drug Information Programs" mean short-term (12-20 hours in duration), didactic, alcohol and drug education programs which meet the minimum curriculum, instructor, and hourly standards established by the Division.

(8) "DUII Alcohol/Other Drug Rehabilitation Programs" mean programs of treatment and therapeutically oriented education services.

(9) "Evaluation Specialist" means an individual who possesses valid certification issued by the Division to conduct DUII evaluations.

(10) "Local alcoholism and other drug planning committee" means a committee appointed or designated by a board of county commissioners. The committee shall identify needs and establish priorities for alcoholism and other drug 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 and other drug treatment and rehabilitation services of minorities in the community.

(11) "Permanent client record" means the official legal written file for each client containing all the information required by these rules to be maintained to demonstrate compliance with these rules. Information about clients 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 official written file of the client in order to constitute a part of the permanent client record.

(12) "Program staff" or "Staff" means:

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

(b) Any other employee of the program.

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

(14) "Successful completion" means that the DUII information program has documentation in its records that for the period of service deemed necessary by the program the client has:

(a) Participated appropriately;

(b) Passed tests specified and approved by the Division reflecting satisfactory knowledge gained;

(c) Paid all service fees (unless indigent); and

(d) Produced no evidence of the consumption of alcohol or controlled substances, other than those prescribed by a licensed physician, while enrolled in the information program.

(15) "Urinalysis test" means an initial test and, if positive, a confirmatory test:

(a) An initial test shall, at a minimum, include a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration;

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be by a different analytical method from that of the initial test to ensure reliability and accuracy;

(c) All urinalysis tests shall be performed by laboratories licensed under OAR 333-024-0305 to 333-024-0365; further, all tests must include at least three controlled drugs from a list of targeted drugs specified by the Division.

(16) "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 nonclinical unless the individual has the required credentials to provide a clinical service.

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 309-054-0010; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0015**Administrative Requirements for Information Programs**

(1) Administrative Rules: 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 including, but not limited to:

(a) OAR 309-013-0120 to 309-013-0220;

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

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

(2) Policies and Procedures: 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) Instructor Qualifications: For DUII information programs, instructors shall have one year of education, experience, and/or training in one or more of the following: social science, psychology, counseling, alcohol/drug rehabilitation, education, traffic safety, or other related field.

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

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

(b) Standards for use and abuse of alcohol and other drugs with procedures for managing incidents 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 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: 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 as described in section 3 of this rule;

(c) Documentation of annual performance appraisals based on preestablished 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 (a) and (d) of this rule and the written work plan for such person.

(6) Personnel Record Confidentiality and Retention: 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) Disabilities Act: 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) Client Record-keeping: Each program shall:

(a) Accurately record 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/Fiscal Record Retention: 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.

[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. & cf. 11-25-81; MHD 10-1982, f. & cf. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0015; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0017

Reimbursement for Services to Indigent Clients

(1) A DUII information program is eligible to seek reimbursement in the manner required by the Division for services provided to an indigent client under these rules if the following is in the client record:

(a) Documentation, dated and signed by the Children, Adults and Families (CAF) Division, verifying the client's eligibility for the federal food stamp program or documentation dated and signed by a Native American tribal official certifying eligibility for the Federal Food Commodities program, or other documentation approved by the Division;

(b) Indigent and partial indigent documentation must meet current Division verification criteria; and

(c) Documentation that the crime or violation committed by the client leading to the need for the services for which reimbursement is sought was driving while under the influence of intoxicants.

(2) Reimbursement for services under this rule is subject to the availability of funds for that purpose under Oregon Laws, and to the maximum number of units of service or maximum rate per unit of service approved by the Ways and Means Committee or Emergency Board of the Oregon Legislative Assembly for this purpose.

(3) The information program will promptly and fully return any payment made when an Division audit reveals that the payment was for service to an ineligible client.

(4) Programs receiving reimbursement for services to indigent clients under these rules must comply with all administrative rule requirements contained in OAR 415-054-0015.

Stat. Auth.: ORS 409.410 & 409.420

Stats. Implemented: ORS 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93; ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0018

Client Rights

(1) Client Record Confidentiality: A DUII alcohol and other drug information program shall comply with federal regulations (**42 CFR part 2, 45 CFR 205.50**) and ORS 179.505 and 426.460 pertaining to confidentiality of client records.

(2) Informed Consent: Participation in a DUII alcohol and other drug information program shall be voluntary, although clients should be fully informed regarding the possible consequences of failure to comply with court mandates. Clients shall be informed of their rights and responsibilities and give written informed consent to treatment.

(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 client shall be assured the same civil and human rights as other persons. Each program shall develop and implement and inform clients of written policies and procedures which protect clients' rights, including:

(a) Protecting client 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 clients and program staff, including volunteers and interns/students; and

(e) Providing adequate treatment or care.

(5) Services Refusal: The client 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 client, that fact must be explained verbally and in writing to the client.

(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 client shall have the right of access to the client's own records.

(7) Informed Consent to Fees for Services: The amount and schedule of any fees to be charged must be disclosed in writing and agreed to by the client.

(8) Grievance Policy: The program shall develop, implement, and fully inform clients of policies and procedures regarding grievances that provide 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) Initiating action on substantiated grievances within five working days; and

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

(9) Barriers to Treatment: Where there is a barrier to services due to culture, language, illiteracy, or disability, the information program shall 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 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 client.

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

(c) Referring clients to another provider if that client 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.

(10) Client Work Policy: Any client labor performed as part of the client's treatment plan or standard program expectations or in lieu of fees shall be agreed to, in writing, by the client and must comply with regulations of other agencies sharing oversight of the program.

(11) 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 813.010 - 813.052 & 813.200 - 813.270

Hist.: ADAP 1-1996, f. & cert. ef. 5-17-96; ADS 2-2008, f. & cert. ef. 11-13-08

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 Drug Evaluation Specialist

415-054-0045

Purpose

Purpose: These rules prescribe standards and procedures for certification as an Alcohol and Drug Evaluation Specialist.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 813.206

Hist.: MHD 7-1981(Temp), f. & ef. 11-25-81; MHD 9-1982, f. & ef. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0045; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0050

Definitions

As used in these rules unless the context requires otherwise:

(1) "Alcohol and Drug Evaluation Specialist" means an individual who possesses a valid certificate issued under these rules.

(2) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(3) "Certificate" means a letter issued to an individual by the Division under these rules, which states that the individual is in compliance with relevant administrative rules.

(4) “Client” means an individual who has signed a written consent which complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2) and is either:

(a) A violator of ORS 813.010 Driving Under the Influence of Intoxicants; or

(b) A defendant who is participating in a diversion agreement under ORS 813.200.

(5) “Driving under the influence of intoxicants diversion agreement” means a petition meeting the criteria established in ORS 813.200 through 813.260.

(6) “Division” means the Addictions and Mental Health (AMH) Division of the Department of Human Services.

(7) “DUII Information Programs” mean short-term (12-20 hours in duration), didactic, alcohol and other drug education programs which meet the minimum curriculum, instructor, and hourly standards established by the Division.

(8) “DUII Rehabilitation Programs” mean programs of treatment and therapeutically-oriented education services that meet the minimum standards established by the Division.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 813.206

Hist.: MHD 7-1981(Temp), f. & ef. 11-25-81; MHD 9-1982, f. & ef. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0050; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0055

Required Duties of an Evaluation Specialist

(1) Evaluation: An evaluation specialist shall promptly and personally evaluate referred clients using, at a minimum, assessment instruments designated by the Assistant Director.

(2) Referral: On the basis of the evaluation, the evaluation specialist shall promptly refer the client to a program providing the appropriate information or rehabilitation services. The referrals must be made in accordance with the following standards:

(a) All referrals must be made on a form approved by the Division.

(b) Referrals must be made in accordance with referral criteria established by the Division.

(c) In making referrals, the evaluation specialist must document that the screening evaluation included consideration of the following factors:

(A) Any clinical need for a particular type of treatment; and

(B) Accessibility or proximity of the information or rehabilitation program.

(d) All referrals must be made in accordance with the referral policies and procedures contained in the DUII Evaluation Manual provided by the Division.

(3) Monitoring: The evaluation specialist shall:

(a) Verify the client’s entry into the information or rehabilitation program and document such verification in the client record;

(b) Document contact with each client’s service provider at least once every 90 days to verify that the client is fully participating in the service program and complying with its requirements. Documentation of monitoring contacts must be in the client’s file in the form of written inquiries and reports or written records of telephone contacts; and

(c) Communicate promptly with appropriate judicial or other justice system staff concerning the client’s compliance with service program requirements in a manner satisfactory to the local court system and document the communications in the client record.

(4) Records: The evaluation specialist shall maintain a file on each individual which includes:

(a) Evaluation results and evaluation instruments used in the evaluation including all evaluation instruments required by the Division;

(b) Evidence of an interview with the client in the form of a written narrative summary of information obtained in the interview;

(c) A copy of the driving record of the client;

(d) Documentation of the client’s Blood Alcohol Content (BAC) at the time of the DUII arrest;

(e) A copy of the Diagnostic and Referral Report;

(f) Copies of reports on the client made to the Division;

(g) A copy of the written consent signed by the client for compliance with Section 2.35 of 42 CFR Part 2;

(h) Written report from the information or rehabilitation program verifying completion of the information or rehabilitation program;

(i) Documentation that the client has been provided with information on community mental health resources when the client need for information is clinically indicated; and

(j) Other relevant information as required by the Division.

(5) Reports: The evaluation specialist shall send complete reports to the Division on forms and by dates prescribed by the Division.

(6) Continuing Education: The evaluation specialist shall fulfill all reasonable continuing education requirements prescribed by the Division.

(7) Cooperation: The evaluation specialist shall assist the Division by:

(a) Providing all information requested by the Division at the time and place and in the form designated by the Division;

(b) Assisting in the conduct of all reviews of the evaluation specialist’s job performance and compliance with these rules; and

(c) Promptly undertaking and completing all corrective actions required in writing by the Division.

(8) Sobriety: During all working hours, an evaluation specialist shall not be under the influence of nor use or have present in any amounts in his or her body any alcohol or controlled substance, unless pursuant to a current prescription from a licensed physician.

(9) Disabilities Act: All evaluation specialists must comply with Title 2 of the **Americans With Disabilities Act of 1990, 42 USC § 12131 et seq.**

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 813.206

Hist.: MHD 7-1981(Temp), f. & ef. 11-25-81; MHD 9-1982, f. & ef. 5-7-82; ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93, Renumbered from 309-054-0055; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0060

Applications and Requirements

(1) Any applicant requesting a certificate as an evaluation specialist must submit an application form which demonstrates compliance with the following:

(a) Education or Experience:

(A) Graduation from an accredited four-year college or university with a Bachelors degree in social sciences, psychology, sociology, substance abuse, or related field with course work specific to alcohol or other drug education, treatment, or counseling; or

(B) Four years of full-time supervised experience in alcohol or other drug treatment, evaluation, education, 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.

(b) Reference Letters: Three acceptable letters of reference from persons in the human services field with personal knowledge of the applicant who attest to the applicant’s character, work habits, and qualifications.

(c) Court Designation: A written statement, from the court or courts, which designates the applicant to perform alcohol and drug evaluations. A separate application is required for each county where the applicant intends to operate.

(2) Any applicant requesting a certificate as an evaluation specialist must complete the training required in 415-054-0070.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 813.206

Hist.: ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0070

Approval for Training; Training

(1) The Division shall review applications for compliance with applicable requirements and notify the applicant within 60 days after review as to whether the applicant has been approved for training.

(2) An applicant who is approved for training must receive training by the Division on the following subjects:

(a) Alcohol and drug evaluation techniques;

(b) Methods for determining appropriate education or treatment;

(c) Referral procedures and reports;

(d) Client supervision and monitoring;

(e) Data reporting and program evaluation;

(f) Confidentiality laws;

(g) The criminal justice systems;

- (h) Urinalysis monitoring;
- (i) Criminal and administrative statutes related to driving under the influence of intoxicants; and
- (j) Other information as appropriate.
- (3) The frequency of training provided by the Division is at the discretion of the Division.
- (4) The Division may require re-training or additional training at intervals to be determined by the Division.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 813.206
Hist.: ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0075

Administrative Requirements

(1) Client Record-keeping: Each Alcohol and Drug Evaluation Specialist shall:

- (a) Accurately record 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 current, unless specified otherwise, within seven days of delivering the service or obtaining the information;

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

(e) 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;

(f) 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

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

(2) Client Record Retention: Client records shall be kept for a minimum of seven years.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 813.206
Hist.: ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0076

Client Rights

(1) Client Record Confidentiality: An Alcohol and Drug Evaluation Specialist shall comply with federal regulations (42 CFR part 2) and state statutes (ORS 179.505 and 426.460) pertaining to confidentiality of client records.

(2) Client Rights & Dignity: Each client shall be assured the same civil and human rights as other persons. The evaluation specialist shall provide services in a manner that protects client privacy and dignity.

(3) Sexual Contact: Sexual abuse of clients or sexual contact with clients is prohibited.

(4) 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 client shall have the right of access to the client's own records except if confidential information has been provided to the Alcohol and Drug Evaluation Specialist on the basis that the information not be redisclosed.

(5) Barriers to Treatment: Where there is a barrier to services due to culture, language, illiteracy, or disability, the Alcohol and Drug Evaluation Specialist shall:

(a) Make reasonable modifications in policies, practices, and procedures to avoid discrimination, unless the Alcohol and Drug Evaluation Specialist 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 client.

(b) Not charging clients for costs of the measures, such as the provision of interpreters, that are required to provide nondiscriminatory services to the client.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 813.206
Hist.: ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0080

Program Approval

(1) Certificate: In order to receive a certificate from the Division under the process set forth in OAR 415-012-0000 to 0090 an Alcohol and Drug Evaluation Specialist shall meet the standards set forth in these rules and any other administrative rules applicable to the program.

(2) Inspection: The Division shall inspect at least every two years each Alcohol and Drug Evaluation Specialist under these rules.

(3) Renewals: The renewal of a certificate shall be governed by OAR 415-012-0040.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 813.206
Hist.: ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0090

Denial, Revocation, Nonrenewal, or Suspension of Certification

(1) The denial, revocation, nonrenewal, or suspension of a certificate for an Alcohol and Drug Evaluation Specialist may be based on any of the grounds set forth in OAR 415-012-0060.

(2) In addition to the grounds set forth in OAR 415-012-0060, the Assistant Director may deny, revoke, refuse to renew, or suspend a certificate when he or she determines that the issuance or continuation of the certificate would be inconsistent with the public interest. In determining the public interest, the Assistant Director shall consider any factors relevant to the public health or safety.

(3) An applicant or holder of a certificate may be considered to be in violation of ORS Chapter 813 if the Assistant Director finds that the applicant or holder has provided DUII information or rehabilitation services to a client who was referred by a judge to the same applicant or holder for DUII diagnostic assessment services. The Assistant Director may deny, suspend, revoke or refuse to renew a certificate under this rule unless:

(a) The Assistant Director has determined that a lack of alternative agencies or organizations in the service area makes it necessary to allow the same agency or organization to perform both diagnostic assessment and DUII information or rehabilitation functions; or

(b) An agency or organization has applied to and been authorized by the Assistant Director to operate a demonstration project which combines the diagnostic assessment services and DUII information or rehabilitation program services.

(4) The Assistant Director shall deny, suspend, revoke, or refuse to renew a certificate where he or she finds that:

(a) There has been repeated failure to apply the Division-approved classification and referral criteria in making screening decisions; or

(b) The Alcohol and Drug Evaluation Specialist has failed to demonstrate competency in the areas of training specified in OAR 415-054-0070; or

(c) The Alcohol and Drug Evaluation Specialist fails to correspond appropriately with the court and/or treatment providers.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 813.206
Hist.: ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0100

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 813.206
Hist.: ADAP 3-1992, f. 12-3-92, cert. ef. 3-31-93; ADAP 2-1997, f. & cert. ef. 12-18-97; ADS 2-2008, f. & cert. ef. 11-13-08

Standards for Driving Under the Influence of Intoxicants Demonstration Projects

415-054-0200

Purpose

Purpose: These rules prescribe standards for the approval of Driving Under the Influence of Intoxicants Demonstration Projects that combine diagnostic assessment and treatment services in a single agency or organization.

Stat. Auth.: ORS 409.410 & 813.025

Stats. Implemented: ORS 813.025

Hist.: ADAP 1-1993, f. & cert. ef. 9-14-93; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0210

Definitions

(1) "Alcohol and Drug Evaluation Specialist" means an individual who possesses valid certification issued by the Division.

(2) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(3) "Division" means the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(4) "DUI Demonstration Project" means a project approved by the Assistant Director for the purpose of demonstrating 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.

(5) "DUI Diagnostic Assessment" means an examination by an Alcohol and Drug Evaluation Specialist to determine if a person has a problem condition involving alcohol or a controlled substance as described in ORS 813.040.

(6) "DUI Alcohol/Other Drug Information Program" means a short-term (12 - 20 hours in duration), didactic, alcohol and drug education program which has a current letter of approval from the Assistant Director or his/her designee indicating that the program meets the minimum curriculum, instructor, and hourly standards established by rule.

(7) "DUI Alcohol/Other Drug Rehabilitation Program" means a program of treatment and therapeutically oriented education services that has a current letter of approval from the Assistant Director or his/her designee indicating that the program meets the minimum curriculum, counselor, and hourly standards established by administrative rule.

(8) "Single Agency or Organization" means any one person or business entity, or any combination of persons or business entities acting together as a program, an agency, or in any other arrangement, which provides, or has a financial interest in the provision of, DUI diagnostic assessment services approved by the Assistant Director under OAR 415-054-0045 through 415-054-0100 and any DUI treatment services defined in 415-054-0005 through 415-054-0040.

(9) "Treatment Services" means services provided by a DUI Alcohol/Other Drug Information Program or by a Alcohol/Other Drug Rehabilitation Program.

Stat. Auth.: ORS 409.410 & 813.025

Stats. Implemented: ORS 813.025

Hist.: ADAP 1-1993, f. & cert. ef. 9-14-93; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0220

Approval Process

(1) Eligible Provider: Only persons, agencies, and organizations holding an unconditional letter of approval issued by the Assistant Director to provide DUI diagnostic assessment or treatment services at the time of their application under these rules may be approved.

(2) Submission of Request: Eligible providers may submit a request to the Assistant Director for approval to operate a DUI demonstration project.

(3) Required Content of Request: Requests for approval under these rules must contain information that addresses the following items:

(a) That clearly defined and significant problem exists in the provision of DUI diagnostic assessment and treatment services;

(b) That the problem cannot be resolved as long as the assessment and treatment functions are performed by separate agencies or organizations;

(c) That 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) That 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 Alcohol and Drug Evaluation Specialists and DUI treatment programs; and

(B) A means of evaluating the effectiveness of the project that is independent of the applicant and uses generally accepted research practices in comparing the program and post-program performances of project service recipients to those of either persons served prior to initiation of the project or persons served in a control group during the project. The evaluation must include the cost effectiveness of the project and any cost savings to clients.

(e) That there is no evidence that the applicant has failed to satisfactorily conduct and/or complete other programs or projects for private or public entities or that the applicant has been uncooperative in resolving problems identified by such entities;

(f) The effect on other programs and whether referrals will be made to outside agencies or only internally within the program;

(g) The geographic location to be served, the participating persons, agencies and organizations and their respective roles in the proposed project, the length of time proposed for the project, and the expected outcomes;

(h) Letters of endorsement from courts and relevant persons and agencies and written assurances of participation by the proposed service participants;

(i) Documentation that the request for approval has been reviewed and a recommendation made by the Community Mental Health Program (CMHP) director and the local alcoholism and drug planning committee;

(j) Any additional information relevant to the application requested by the Division.

(4) Conditions for Approval: Approval of a demonstration project is within the discretion of the Assistant Director. The Division shall review requests for approval for compliance with requirements and make appropriate notification to the requesting person or agency within 60 days of the date the request is received by the Assistant Director.

(5) Term of Approval: The Assistant Director's approval under these rules is for no longer than the period of time agreed to by the Assistant Director for the conduct of the DUI demonstration project, or until the Assistant Director revokes approval for the project or its DUI Services, whichever occurs sooner.

Stat. Auth.: ORS 409.410 & 813.025

Stats. Implemented: ORS 813.025

Hist.: ADAP 1-1993, f. & cert. ef. 9-14-93; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0230

General Requirements

(1) The approved demonstration project must comply with the requirements for DUI treatment services in accordance with OAR 415-054-0005 through 415-054-0040 and the requirements for diagnostic assessment in 415-054-0045 through 415-054-0100.

(2) The approved demonstration project must ensure that the effectiveness of the project is evaluated by the means proposed within the request for approval.

(3) The approved demonstration project must ensure that a written report of the results of the evaluation of the program is submitted to the Division within timelines approved by the Assistant Director.

Stat. Auth.: ORS 409.410 & 813.025

Stats. Implemented: ORS 813.025

Hist.: ADAP 1-1993, f. & cert. ef. 9-14-93; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0240

Revocation or Denial of Approval

(1) The Assistant Director shall deny, revoke, or refuse to renew approval where it is found that there has been a substantial failure to comply with part or all of these rules or there has been substantial non-compliance with relevant federal or state law.

(2) Approval of an application for a demonstration project is within the discretion of the Assistant Director. The Division may deny,

revoke, or refuse to renew approval where it finds that any of the conditions in these rules are not met.

(3) The Division shall refuse to renew approval if the written report of the evaluation of the program required under these rules fails to demonstrate the effectiveness of combining the diagnostic assessment and the treatment functions within a single agency.

(4) When a letter of approval to operate a demonstration project is denied, suspended, or revoked, or the Division refuses to renew it, notice of that action shall be sent by certified mail and shall include a statement that a contested case hearing to challenge the action may be requested, but that such request must be made within 21 days of the date of mailing of the notice.

Stat. Auth.: ORS 409.410 & 813.025

Stats. Implemented: ORS 813.025

Hist.: ADAP 1-1993, f. & cert. ef. 9-14-93; ADS 2-2008, f. & cert. ef. 11-13-08

Standards for Marijuana Evaluation Specialists

415-054-0300

Definitions

As used in these rules, unless the context requires otherwise:

(1) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(2) "Client" means an individual who is a first-time violator of ORS 475.864 and who has signed a written consent which complies with Section 2.35 of the federal confidentiality regulations (42 CFR Part 2), and is either:

(a) An adult who has a Marijuana Diversion Agreement; or

(b) A juvenile who has been referred under ORS 419C.443.

(3) "Evaluation Specialist" means an individual who possesses a valid Letter of Approval issued under this Division.

(4) "Letter of Approval" means the letter issued to an individual by the Division which states that the person meets the standards set out by these rules.

(5) "Level I Services" means certain designated education services approved by the Division for use in a marijuana education program under OAR .

(6) "Level II Services" means certain designated education and treatment services approved by the Division for use in a marijuana treatment program under OAR .

(7) "Marijuana Diversion Agreement" means a petition for possession of marijuana agreement which has been signed and dated by a court pursuant to ORS 135.907 to 135.921.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0000 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0310

Required Duties of an Evaluation Specialist

(1) Evaluation: An evaluation specialist shall promptly evaluate referred clients using, at a minimum, assessment instruments designated by the Assistant Director. Based upon the evaluation, the evaluation specialist shall determine whether Level I or Level II services are appropriate for a client and what program meets the client's needs.

(2) Referral: On the basis of the evaluation, the evaluation specialist shall promptly refer the client to a program providing the appropriate Level I services or Level II services. Whenever possible, referrals of juveniles to programs providing Level II services shall be to programs with juvenile treatment capacity. All referrals must be made on a form approved by the Division. If the service provider and the evaluation specialist disagree as to the appropriate level of treatment for a client, the service provider and the evaluation specialist shall collectively agree on an appropriate program for the client.

(3) Monitoring: The evaluation specialist shall:

(a) Directly contact each client's service provider at least once a month to verify that the client is fully participating in the service program and complying with its requirements;

(b) Communicate promptly with appropriate judicial or other justice system staff concerning the client's compliance with service program requirements; and

(c) Where a client is in a Level I services program, confer with the service provider between the third and sixth week of service to

determine if the client should be placed in a Level II services program, and take appropriate actions, if necessary.

(4) Records: The evaluation specialist shall maintain a file on each individual which includes:

(a) Evaluation results and evaluation instruments used in the evaluation;

(b) Evidence of indigency, if appropriate, consisting of a document signed and dated by the Adult and Family Services Division indicating eligibility for the federal food stamp program;

(c) A record of the fee payments made and balance owed on the client's account;

(d) Documentation showing compliance with all provisions of this Division;

(e) Copies of reports on the client made to the Division; and

(f) A copy of the written consent signed by the client for compliance with Section 2.35 of 42 CFR Part 2;

(g) Other relevant information as required by the Division.

(5) Record Retention: The evaluation specialist shall retain all records regarding each client for a period of seven years following the date of completion or discontinuance of treatment or services.

(6) Reports: The evaluation specialist shall send complete reports to the Division on forms and by dates prescribed by the Division.

(7) Confidentiality: The evaluation specialist shall comply with all federal and state confidentiality laws, including those contained in 42 CFR Part 2.

(8) Continuing Education: The evaluation specialist shall fulfill all continuing education requirements prescribed by the Division.

(9) Cooperation: The evaluation specialist shall assist the Division by:

(a) Providing all information requested by the Division at the time and place and in the form designated by the Division;

(b) Assisting in the conduct of all reviews of the evaluation specialist's job performance and compliance with this Division;

(c) Promptly undertaking and completing all corrective actions required in writing by the Division.

(10) Sobriety: During all working hours, an evaluation specialist shall not be under the influence of nor use or have present in any amounts in his or her body any alcohol or controlled substance, unless pursuant to a current prescription from a licensed physician.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 135.907-135.921, 419C.443 & 475.864

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0005 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0320

Reimbursement for Service to Indigent Clients

(1) A marijuana evaluation specialist is eligible to seek reimbursement in the manner required by the Division for services provided to an indigent client under this Division if the following is in the client's record:

(a) Documentation, dated and signed by the Adult and Family Services Division, verifying the client's eligibility for the federal food stamp program over the period included in the reimbursement request; and

(b) Documentation that the crime or violation committed by the client leading to the need for the evaluation for which reimbursement is sought was possession of less than an ounce of marijuana.

(2) Reimbursement for evaluation under this rule is subject to the availability of funds for that purpose under Chapter 1075, Oregon Laws 1989, (Enrolled House Bill 2479), and to the maximum rate for evaluation approved by the Ways and Means Committee and/or Emergency Board of the Oregon Legislative Assembly for this purpose.

(3) The marijuana evaluation specialist will promptly and fully return any payments made when a Division audit reveals that the program was ineligible to seek reimbursement for service to a client.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 135.907-135.921, 419C.443 & 475.864

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0010 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0330

Applications and Requirements

Any applicant requesting a Letter of Approval as an Evaluation Specialist must submit an application form which demonstrates compliance with the following:

(1) Education or Experience:

(a) Graduation from an accredited four-year college or university with a Bachelors degree in social sciences, psychology, sociology, substance abuse, or related field with course work specific to alcohol or other drug education, treatment, or counseling; or

(b) Two years of full-time supervised experience in alcohol or other drug treatment, evaluation, education, or counseling; or

(c) Two years of training in alcohol or drug treatment, evaluation, education, or counseling.

(2) Reference Letters: Three acceptable letters of reference from persons in the human services field with personal knowledge of the applicant who attest to the applicant's character, work habits, and qualifications. An applicant proposing to serve adolescents under this Division must submit, as one of the three letters, a letter of recommendation from a youth serving agency.

(3) Court Designation: A written statement from a court which designates the applicant to perform marijuana evaluations for the court.

(4) Sobriety Requirement: A statement that the applicant is not suffering from acute alcoholism or drug dependency.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 135.907-135.921, 419C.443 & 475.864

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0015 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0340

Approval for Training; Training

(1) The Division shall review applications for compliance with applicable requirements and notify the applicant within 60 days of the date the application is received as to whether the applicant has been approved for training.

(2) An applicant who is approved for training may receive training by the Division on the following subjects:

(a) Evaluation techniques for use with adult and adolescent offenders;

(b) Methods for determining appropriate education and treatment service levels;

(c) Referral procedures and reports;

(d) Client supervision and monitoring;

(e) Data reporting and program evaluation;

(f) Confidentiality laws;

(g) The criminal justice and juvenile court systems;

(h) Urinalysis monitoring; and

(i) Other information as appropriate.

Stat. Auth.: ORS 409.050

Stats. Implemented: 409.050

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0020 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0350

Letters of Approval; Renewal

(1) After approval of an applicant for training and successful completion of a training program outlined in OAR 415-054-0340, the Division may issue a Letter of Approval which is valid for six months from the date of issuance.

(2) During the six-month period, the Division will review the evaluation specialist's job performance and compliance with this Division. If the job performance and compliance with this Division are satisfactory, the Division may extend the validity of the Letter of Approval for an additional period, not to exceed 18 months.

(3) Prior to expiration of a Letter of Approval, an evaluation specialist may request renewal of any Letter of Approval which has been extended pursuant to section (2) of this rule or previously renewed. Unless revoked, suspended, or denied under OAR 415-054-0360, the Division may renew a Letter of Approval for a two-year period.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 135.907-135.921, 419C.443 & 475.864

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0025 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0360

Revocation; Suspension, or Denial of Letter of Approval; Appeal

(1) The Division shall deny, suspend, revoke, or refuse to renew a Letter of Approval where it finds that:

(a) There has been substantial failure to comply with part or all of any rules in this Division or there has been a substantial noncompliance with relevant federal or state law;

(b) The applicant, 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.

(c) The applicant has entered into within the past three years, a diversion agreement under ORS 813.230 or section 7 of 1989 Oregon Laws Chapter 1075, or a diversion agreement under a substantially similar law in any other state;

(d) Subsequent to the time of issuance of any letter of Approval, and regardless of the current validity of that letter, the person who was issued the letter is convicted of any of the crimes or violations referred to in subsection (1)(b) or (c) of this rule.

(2) The Division may deny, suspend, revoke or refuse to renew a Letter of Approval where it finds that an applicant or holder of a Letter of Approval:

(a) Submits fraudulent or untrue information to the Division;

(b) Has a prior denial, suspension, revocation, or refusal to renew a Letter of Approval;

(c) Has jeopardized or injured the health, safety, or welfare of any client; or

(d) Has at any time been convicted of any of the crimes or violations referred to in subsection (1)(b) or (c) of this rule.

(3) When a Letter of Approval is denied, suspended, or revoked, or the Division refuses to renew it, notice of that action shall be sent by certified mail, and shall include a statement that a contested case hearing to challenge the action may be requested, but that such request must be made within 15 days of the date of mailing of the letter.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 135.907-135.921, 419C.443 & 475.864

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0030 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-054-0370

Variances

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

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 135.907-135.921, 419C.443 & 475.864

Hist.: HR 2-1989(Temp), f. & cert. ef. 10-16-89; HR 11-1990, f. & cert. ef. 4-13-90; Renumbered from 410-008-0035 by ADS 3-2007, f. & cert. ef. 5-25-07; ADS 2-2008, f. & cert. ef. 11-13-08

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 (AMH) Division of the Department of Human Services (DHS).

(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 (AMH) 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 (AMH) Division of the Department of Human Services (DHS).

(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 (DUI) 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 DUI Information Programs.

(9) “DUI 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 DUI Rehabilitation Program Letter of Approval; and

(c) Have maintained a DUI 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 DUI 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 DUI 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

STANDARDS FOR APPROVAL OF SUBSTANCE ABUSE PREVENTION PROGRAMS

415-056-0000

Purpose

The purpose of these rules is to prescribe standards and procedures for operating substance abuse prevention agencies approved by the Addictions and Mental Health Division. These rules establish standards for community substance abuse prevention and provide that a full continuum of substance abuse prevention services be available to Oregonians either directly or through written agreements or contracts.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 430.240 - 430.415

Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0000; ADS 1-2007, f. & cert. ef. 3-8-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-056-0005

Definitions

Definitions. As used in these rules:

(1) "Assistant Director" means the Assistant Director of the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(2) "Agency" means any organization, association, or federally recognized tribal entity that undertakes to establish and operate a substance abuse prevention program. Agency does not include individuals or community coalitions that implement substance abuse prevention services or strategies.

(3) "Approval or Certificate" means the Letter of Approval issued by the Division to indicate that the substance abuse prevention agency has been found to be in compliance with all relevant federal and Oregon laws and Oregon administrative rules.

(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) "Division" means the Addictions and Mental Health (AMH) Division of the Department of Human Services (DHS).

(6) "Evidenced-Based Practices" (EBP) mean practices for which there is consistent scientific evidence that produce positive outcomes. An EBP must meet the following criteria:

(a) Has been studied, using appropriate scientific methodology;

(b) Has been replicated in more than one geographic or practice setting, with consistent results;

(c) Has been recognized in scientific journals by one or more published articles;

(d) Documents standards that outline the parameters of the practice or strategy; and

(e) Produces specific outcomes.

(7) "Gender-Specific Services" means services which comprehensively address the needs of a gender group and foster positive gender identity development. They intentionally allow gender to affect and guide the services that are responsive to the unique developmental issues and needs of the females and males receiving them.

(8) "Letter of Approval" means the "Approval or Certificate" as defined in 415-056-0005

(9) Institute of Medicine Model: This framework defines the types of activities and target groups addressed by various prevention efforts:

(a) Universal Prevention: Universal strategies address the entire population with messages and programs aimed at preventing or delaying the abuse of alcohol, tobacco and other drugs;

(b) Selective Prevention: Selective prevention strategies target subsets of the total population that are deemed to be at-risk for substance abuse by virtue of the membership in a particular population segment;

(c) Indicated Prevention: Indicated prevention strategies are designed to prevent the onset of substance abuse in individuals who do not meet criteria for addiction but who are showing early danger signs.

(10) "Local Alcoholism Planning Committee" 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.

(11) "Minority" means a participant whose cultural, ethnic, or racial characteristics constitute a distinct demographic population living within a larger society, including but not limited to members of differing cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, or sexual orientations.

(12) "Minority Program" means a program that is designed to meet the unique prevention needs of a minority group and that provides services to persons belonging to a minority population as defined in these rules.

(13) "Participant" means a person receiving services under these rules.

(14) "Population-based Prevention Program" means a program consisting of planned activities designed to impact individuals or groups of any age with a potential for developing alcohol and/or other drug-related problems but who have not yet developed significant problems. Such strategies inhibit or delay the onset of problems related to an individual's use of alcohol and other drugs.

(15) "Prevention Service" means an integrated combination of strategies designed to prevent substance abuse and associated effects regardless of the age of participants.

(16) "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 or detrimental effects from occurring: The six primary prevention 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. The purpose is to meet the needs filled by alcohol and other drugs with healthy activities, and to discourage the use of alcohol and drugs through these activities;

(d) Problem Identification and Referral: This strategy aims at identification of those who have indulged in illegal or age-inappropriate use of tobacco or alcohol and those individuals who have indulged in the first use of illicit drugs in order to assess if their 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;

(f) Environmental: This strategy establishes or changes written and unwritten community standards, codes, and attitudes, thereby influencing alcohol and other drug use by the general population.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 430.240 - 430.415

Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0005; ADS 1-2007, f. & cert. ef. 3-8-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-056-0010

Administrative Requirements for Prevention Providers

(1) Administrative Rules: A prevention agency that contracts directly or indirectly with the Division must comply with the contracting rules of the Division, including, but not limited to:

(a) OAR 309-013-0120 to 309-013-0220;

(b) OAR 309-013-0075 to 13-0105; and

(c) OAR 309-014-0000 to 14-0040.

(2) Policies and Procedures: A prevention agency must establish comprehensive written policies and procedures stating that services will be available and accessible and that no person will be denied service or discriminated against on the basis of sex, race, color, creed, sexual orientation, disability, or age in compliance with local, state and federal laws. Written policies and procedures must describe agency operations and compliance with these rules, including but not limited to:

(a) Prevention framework to guide efforts;

(b) Current mission, vision, and values statement;

(c) Organizational management chart;

(d) Anti-discrimination policy;

(e) Cultural competency plan;

(f) Policy for addressing gender specific services;

(g) Use of substances by program participants;

(h) Protection and safety of service recipients.

(3) Monitoring of Sub-Contractors: If the agency subcontracts prevention services, it will ensure compliance with all requirements referenced in these rules.

(4) Agency Approval or Certificate. An agency may operate a substance abuse prevention program and may request a Letter of Approval from the Division after review and comment by the community mental health authority and the local alcoholism planning committee, or appropriate drug abuse planning committee. Funding from the Division will only be paid to an agency approved by the Division. A federally recognized Tribal entity may operate a substance abuse prevention program and may request a Letter of Approval from the Division after review and comment by their tribal authority.

(5) Standards for Evidenced-Based Practices. As is appropriate, prevention providers must implement programs and provide services that incorporate evidence based practices, as defined in OAR 415-056-0005.

(6) Printed Materials. The agency must establish and maintain printed materials pertaining to the program. Materials developed for participants must be in the participant's native language. The agency personnel must demonstrate the relevancy of materials transmitted to participants. The agency must consider materials utilized for cultural relevancy and demographic or professional background of participants. Materials must reflect current substance abuse prevention research and practice.

(7) Agency Reporting. The agency must report to the Division on approved standardized forms. All reporting must be done in accordance with Federal Confidentiality Regulations (42 CFR Part 2).

(8) Physical Environment. The agency must operate the program in facilities that ensure the privacy and safety of participants where appropriate and necessary.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 430.240 - 430.415

Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0010; ADS 1-2007, f. & cert. ef. 3-8-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-056-0015**Letter of Approval Applications**

To receive a Letter of Approval from the Division, a substance abuse prevention agency must meet the standards set forth in OAR 415-012-0000 through 415-012-0090, the provisions set forth in 309-014-0000 through 309-014-0040, and any other administrative rules applicable to the agency. A Letter of Approval issued to a substance abuse prevention agency under these rules may be effective for up to three years from the date of issue and may be renewed or revoked by the Division in the manner set forth in OAR 415-012-0000 through 415-012-0090. An agency seeking approval under these rules must establish to the satisfaction of the Division that the following requirements have been met:

- (1) A Community Needs Assessment establishing:
 - (a) The need for substance abuse prevention services, using a Division approved process to determine need;
 - (b) The process used to determine the appropriate prevention strategy to meet assessed needs and assessment of other current resources to meet assessed needs; and
 - (c) Access to resources to implement the strategy and ongoing technical assistance during program implementation.
- (2) Identification of the target population establishing:
 - (a) Susceptibility to substance abuse;
 - (b) Size;
 - (c) Accessibility;
 - (d) The process for isolating the target group; and
 - (e) Selection criteria or use of other identifying characteristics.
- (3) Written information relating to the delivery of services establishing:
 - (a) The philosophy of the program;
 - (b) The prevention strategy to be implemented and the objectives to be met;
 - (c) Research that supports use of the strategy with the identified population;
 - (d) The program activities and informational content that includes the number of contact hours, the characteristics of people receiving services, the setting, and other relevant factors; and
 - (e) The tools used by the agency to measure fidelity to the strategy applied to the selected population.
- (4) Evaluation of the impact of the strategy establishing:
 - (a) The knowledge to be gained or the behavior to be changed;
 - (b) The relationship of behavioral change to substance abuse prevention;
 - (c) The components of the evaluation, including:
 - (A) A mechanism to record the amount and type of services provided; and
 - (B) Records of attendance of participants.
 - (5) Where appropriate, the following information must be included:
 - (a) Pre-and post-tests or other inquiries at the time a service is delivered to indicate knowledge gained by participants;
 - (b) Measures of community and participant satisfaction with services received;
 - (c) Behavior change measurement instruments; and
 - (d) Other methods of measurement used.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 430.240 - 430.415

Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0015; ADS 1-2007, f. & cert. ef. 3-8-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-056-0020**Administration**

- (1) Administration of Program. The substance abuse prevention agency must be administered by staff in accordance with standards set forth in OAR 309-014-0000 through 309-014-0040 which relate to subcontract agencies, except 309-014-0030(1) and (2).
- (2) Qualifications of Director. A program director must be designated who is qualified by virtue of knowledge, training, experience, and skills, to perform the defined services, implement the defined strategies, and administer requested funds if appropriate. The program

director must manage the program and be accountable for the quality of service provided.

(3) Referral. As part of the written program, a written policy must exist establishing a referral process to be used to refer individuals that are not appropriate participants for the agency to other appropriate agencies or services.

(4) Coordination. Program staff must document evidence concerning coordination of activities with other related community agencies, such as schools, parent groups, juvenile services department, alcohol and drug abuse treatment agencies.

(5) Crisis Procedures. Staff of the agency must have written procedures for referral to emergency and crisis services, including procedures for referring participants to detoxification, crisis intervention and other elements in the continuum of care.

(6) Requirements for Staff:

(a) Accountability. Accountability for the management and quality of service of the substance abuse prevention agency must reside with the agency director;

(b) Supervision. Supervision and consultation must be available to all staff related to their skill level with the objective of achieving the objectives of the program and assisting staff to increase their skills;

(c) Qualification. The County or Tribal designated coordinator or contact person who is wholly responsible for developing, monitoring, and overseeing the substance abuse prevention plan, must be qualified by demonstrated competency in substance abuse prevention techniques through experience and training as specified in these rules. The roles, functions, competencies and skills required of staff must include the following:

(A) 2,000 hours of substance abuse prevention related experience;

(B) 150 education hours in the following prevention-specific topics:

(i) 20 hours minimum in substance abuse education, such as drug 101, alcohol 101, marijuana, methamphetamine, inhalants, hallucinogens, opiates;

(ii) 50 hours minimum in substance abuse prevention education curricula;

(iii) 10 hours minimum in risk & protective factor education, assets & resiliency;

(iv) 70 hours of general prevention topics which include: delinquency, teen pregnancy, school dropout, violence prevention, sexually transmitted diseases, positive youth development, cultural competence; and

(v) Demonstration of competency by completing and passing the certification exam.

(d) Training. Personnel methods must be utilized to assure that the requirements of this section are met and that a staff development program is instituted to maintain and upgrade staff skills:

(e) Current Staff. Prevention program staff who do not hold a certificate that meets the prevention specialist criteria must achieve the Certified Prevention Specialist Credential within (24) months of the application date;

(f) New Hires. New hires need not hold the Certified Prevention Specialist Credential but those who do not must make application within 12 months of employment and receive the Certified Prevention Specialist Credential within 24 months of the application date;

(g) Staffing Pattern. The number and responsibilities of agency staff must be sufficient to provide the services required under these rules for the number of participants the agency intends to serve. Agency staff must be culturally competent to serve identified populations.

(7) Fee Schedule. 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.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 430.240 - 430.415

Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0020; ADS 1-2007, f. & cert. ef. 3-8-07; ADS 2-2008, f. & cert. ef. 11-13-08

415-056-0025**Variances**

A variance from these rules may be granted to an agency in the following manner:

(1) An agency requesting a variance must submit, in writing, through the community mental health authority to the Division:

- (a) The section of the rule from which the variance is sought;
 - (b) The reason for the proposed variance;
 - (c) The alternative practice proposed;
 - (d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and
 - (e) Signed documentation from the local mental health authority indicating its position on the proposed variance.
- (2) The Division shall approve or deny the request for variance.
- (3) The Division shall notify the community mental health authority of the decision. The community mental health authority will forward the decision and reasons therefore to the program requesting the variance. This notice must be given to the program within 30 days of receipt of the request by the Division.
- (4) Appeal of the denial of a variance request must be made to the Assistant Director, whose decision shall be final.
- (5) A variance granted by the Division must be attached to, and become part of, the contract for that year.

Stat. Auth.: ORS 409.410

Stats. Implemented: ORS 430.240 - 430.415

Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renum-
bered from 309-056-0025; ADS 1-2007, f. & cert. ef. 3-8-07; ADS 2-2008, f. & cert.
ef. 11-13-08

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 (AMH) Division of the Department of Human Services (DHS).

(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 located a vending machine from which tobacco products in any form are dispensed in any place legally accessible to persons under 18 years of age except taverns and cocktail lounges, industrial plants, hotels and motels; and

(b) This is a violation punishable by a fine of 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

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 range 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 Department of Human Services 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