

DEPARTMENT OF HUMAN SERVICES, MENTAL HEALTH AND
DEVELOPMENTAL DISABILITY SERVICES

DIVISION 43
INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED AND
OTHER DEVELOPMENTALLY DISABLED PERSONS (ICF/MR)

Residential Training Centers

309-043-0230 Statement of Purpose, Mission Statement, and Statutory Authority

(Effective 01/27/1994)

(1) Purpose. These rules prescribe standards by which the Mental Health and Developmental Disability Services Division licenses Residential Training Centers (RTC) that provide 24 hour residential support services for individuals with developmental disabilities and are certified as Intermediate Care Facilities for the mentally retarded in accordance with federal standards.

(2) Mission Statement. The overall mission of the State of Oregon Mental Health and Developmental Disability Services Division is to provide support services that will enhance the quality of life of persons with developmental disabilities. RTC services are one element within the service delivery system and are critical to achieving this mission. The overall purpose of the RTC's Administrative Rule is to ensure that RTCs meet basic management, programmatic, health and safety, and human rights regulations. RTCs are responsible for developing and implementing policies and procedures and/or plans that ensure that the requirements of the rule are met. In addition, RTCs must ensure compliance with all applicable local, state and federal laws and regulations which apply to the type of services they provide.

(3) Statutory Authority. These rules are authorized by [ORS 430.041](#) and 443.400 through 433.455 and carry out the provisions of **42 CFR Part 483, Subpart I**.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0240 Definitions

(Effective 01/27/1994)

As used in these rules, the following definitions apply:

(1) "Abuse" as defined in OAR 309-116-0005(1) means any act or absence of action inconsistent with prescribed client treatment that violates the well being or dignity of the individual. This includes but is not limited to:

(a) Physical assault such as hitting, kicking, scratching, pinching or pushing;

(b) Neglect of care of the individual causing physical or psychological harm or significant risk of harm;

(c) Denying meals, clothing or aids to physical functioning;

(d) Use of derogatory or inappropriate names, phrases, profanity, ridicule, harassment, coercion, threats, cursing or intimidation;

(e) Sexual exploitation of individuals including inappropriate physical contact between staff and individuals served, or failure of staff to discourage sexual advances towards staff by individuals served;

(f) Condoning or permitting abuse of an individual by any other person including other clients; or

(g) Other similar acts or omissions.

(2) "Administration of Medication" means the act of a staff member, who is responsible for the individual's care, of placing a medication in, or on, an individual's body.

(3) "Advocate" means a person other than paid staff who has been selected by the individual or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights are at risk or have been violated.

(4) "Aid to Physical Functioning" means any special equipment prescribed for an individual by a physician, therapist, or dietitian which maintains or enhances the individual's physical functioning.

(5) "Complaint" means any allegation made to a proper authority that the RTC has taken an action which is alleged to be contrary to law, rules or policy.

(6) "Controlled Substance" means any drug classified as Schedules 1 through 5 under the Federal Controlled Substance Act.

(7) "Developmental Disability" means a disability attributable to mental retardation, autism, cerebral palsy, epilepsy or other neurological handicapping condition which requires training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual attains the age of 22 years, except that in the case of mental retardation the condition must be manifested before the age of 18; and

(b) Has continued, or can be expected to continue, indefinitely; and

(c) Constitutes a substantial handicap to the ability of the person to function in society; or

(d) Results in significant subaverage general intellectual functioning with concurrent deficits in adaptive behavior which are manifested during the developmental period. Individuals of borderline intelligence may be considered to have mental retardation if there is also serious impairment of adaptive behavior. Definitions and classification shall be consistent with the "**Manual of Terminology and Classification in Mental Retardation**" by the **American Association on Mental Deficiency, 1977 Revision**. Mental retardation is synonymous with mental deficiency.

(8) "Director" means the individual responsible for administration of the RTC program and provision of support services for individuals.

(9) "Division" means the Mental Health and Developmental Disability Services Division.

(10) "Entry" means admission to an RTC.

(11) "Exit" means termination from an RTC. Exit does not mean transfer from within the RTC.

(12) "Financial Exploitation" means mismanagement of individual's funds which may include, but is not limited to, unauthorized rate increases, borrowing from or loaning money to individuals, witnessing wills in which the RTC is beneficiary, adding RTC's name to the individual's bank accounts or other personal property, inappropriately expending individual's personal funds, commingling individual's funds with RTC or other individuals' funds, or the RTC becoming guardian or conservator.

(13) "Grievance" means any allegation made by a staff member, individual, or guardian of an individual on behalf of the individual, that the RTC participated in or allowed to happen, any action other than abuse which is alleged to or be contrary to rule or policy.

(14) "Health Care Plan" means a plan developed by the physician, in coordination with licensed nursing personnel, which addresses the health needs of individuals who are ill or medically at risk and require 24-hour licensed nursing care.

(15) "Incident Report" means a written report of any injury, death, accident, unusual acts of physical aggression or physical aggression resulting in injury, or other unusual incident involving an individual.

(16) "Individual" means a person with developmental disabilities for whom services are planned and provided by the RTC.

(17) "Integration" is defined in [ORS 427.005](#) as **"the use by persons with mental retardation or developmental disabilities of the same community resources that are used by and available to other persons and participation in the same community activities in which non-**

handicapped persons participate, together with regular contact with non-handicapped persons, and residence by persons with developmental disabilities in homes or in home-like settings which are in proximity to community resources, together with regular contact with non-handicapped persons in their community".

(18) "IDT" means the individual's Interdisciplinary Team.

(19) "Intermediate Care Facility for the Mentally Retarded" means an establishment which is licensed by the state to provide training and care to mentally retarded persons or persons with related conditions and certified by the State as an ICF/MR under Title XIX of the Social Security Act.

(20) "Legal Representative" means the parent, if the individual is under age 18, unless the court appoints another individual or agency to act as guardian. For those individuals over the age of 18 a legal representative means an attorney at law, or a person who is authorized by a court to make decisions about services for the individual.

(21) "License" means a document issued by the Mental Health and Developmental Disability Services Division to providers of RTC services which verifies that the provider is eligible to provide such services and to receive funds for these services.

(22) "Licensee" means a person or organization to whom a license is granted.

(23) "Licensing Checklist" means a checklist of Administrative Rules completed by the RTC to determine its compliance with minimum standards.

(24) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(25) "MHDDSD" means the Mental Health and Developmental Disability Services Division.

(26) "Office of Developmental Disability Services" or "DD Office" means the Office of Developmental Disabilities Services of the Mental Health and Developmental Disability Services Division.

(27) "Physical Restraint" means restricting the movement of an individual or restricting the movement or normal function of a portion of the individual's body.

(28) "Plan of Improvement" means a plan developed by the RTC following completion of the licensing checklist that addresses specific activities and benchmarks for those areas identified by the RTC as not in compliance with Administrative Rules.

(29) "Protection" means the necessary actions taken by an RTC to prevent abuse or exploitation of the individual, to prevent self-destructive acts, and to safeguard an individual's person, property and funds.

(30) "Protective Services" means an investigation and may include subsequent services provided in response to complaints of abuse, neglect or exploitation of individuals who are eighteen years of age or older and are unable to protect their own interests.

(31) "Psychotropic Medication" is defined as a medication whose prescribed intent is to affect or alter thought processes, mood, or behavior. This includes, but is not limited to, anti-psychotic, antidepressants, anxiolytic (anti-anxiety), and behavior medications. Because a medication may have many different effects, its classification depends upon its stated, intended effect when prescribed.

(32) "Residential Training Center" or "RTC" means a residential training facility serving 25 or more individuals in one or more buildings on contiguous property.

(33) "Self-Administration of Medication" means the individual manages and takes his/her own medications. It includes identifying his/her medication, and the times and methods of administration, placing the medication internally in, or externally on, his or her own body without staff assistance, upon the written order of a physician, and safely maintaining the medication(s) without supervision.

(34) "Self-Assessment" means a process by which an RTC assesses their services against a set of Administrative Rule standards, and identifies and determines level of compliance and areas within the program in need of improvement.

(35) "Staff" means a paid employee of the RTC responsible for providing support and training services to individuals.

(36) "Support" means those ancillary services other than direct training which may include, but are not limited to, assisting an individual to maintain skill competencies, achieve community access and social integration, enhance productivity, increase independent functioning and enjoy a satisfying lifestyle.

(37) "Training" means the planned sequence of systematic interactions, activities, structured learning situations, or educational experiences designed to meet each individual's specific needs.

(38) "Unusual Incident" means unexpected events where there is a substantial risk of harm to the individual. These may include, but are not limited to, a sudden change in medical condition, suicide threat/attempt, attempted arson, accidents resulting in injury or risk of injury, or incidents requiring a protective services/abuse investigation.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0250 Issuance of License

(Effective 01/27/1994)

(1) License required. No person or governmental unit acting individually or jointly with any other person or governmental unit shall establish, conduct, maintain, manage or operate an RTC without being licensed.

(2) Not transferable. Each license is issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable.

(3) Terms of license. Each license is issued for a maximum of two years.

(4) RTC review. Prior to the issuance of the license the RTC shall conduct a self-assessment based upon the requirements of this rule:

(a) The RTC shall document the self-assessment information on forms provided by the DD Office;

(b) The RTC shall develop and implement a plan of improvement based upon the findings of the self-assessment; and

(c) The RTC shall submit these documents to the DD Office.

(5) DD Office review. The DD Office shall conduct a review of the RTC within 12 months of receipt of the self-assessment and plan of improvement. The review may be complete or partial at the discretion of the DD Office.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0260 Application for Initial License and License Renewals

(Effective 01/27/1994)

(1) Form. The application shall be on a form provided by the Division and shall include all information requested by the Division.

(2) Initial application. The applicant shall identify the number of individuals to be served initially by the RTC.

(3) Renewal application. To renew licensure, the RTC shall make application at least 30 days prior to the expiration date. On renewal, no increase in the number of individuals to be served shall be licensed unless specifically approved by the Division.

(4) Renewal application extends expiration date. Filing of an application for renewal at least 30 days prior to the expiration date of the license extends the effective date until the Division takes action upon such application.

(5) Incomplete or incorrect information. Failure to disclose requested information on the application or provision of incomplete or incorrect information on the application or if the State Fire Marshal or his authorized representative has given notice of non-compliance, may result in denial or revocation of the license.

(6) Demonstrated capability. Prior to issuance of the license the applicant must demonstrate to the satisfaction of the Division that the applicant is in substantial compliance with the requirements of OAR 309-043-0230 through 309-043-0580.

(7) Separate buildings. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit by the same management.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0270 License Expiration Termination of Operations, License Return

(Effective 01/27/1994)

(1) Expiration. Unless revoked or terminated earlier, each license to operate an RTC shall expire on the expiration date specified on the license, unless the license is extended by the timely filing of an application for renewal. See OAR 309-043-0260(4).

(2) Termination of operation. If an RTC operation is discontinued, the license shall be considered to have been terminated.

(3) Return of license. Each license in the possession of the RTC shall be returned to the Division immediately upon suspension or revocation of the license, or when operation is discontinued by the holder of the license.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0280 Change of Ownership, Legal Entity, Legal Status, Management Corporation

(Effective 01/27/1994)

(1) Notice of pending change in ownership, legal entity, legal status or management corporation. The RTC shall notify the Division in writing of any pending change in ownership or legal entity, legal status or management corporation.

(2) New license required. A new license shall be required upon change in ownership/legal entity or legal status. The RTC shall submit a license application at least 30 days prior to change in ownership/legal entity or legal status.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0290 Inspections and Investigations

(Effective 01/27/1994)

(1) Inspections and investigations required. All services covered by this rule shall allow the following types of investigations and inspections:

- (a) Quality assurance, license renewal and on-site inspections;
- (b) State Fire Marshal inspections;
- (c) Complaint investigations; and
- (d) Abuse investigations.

(2) Inspections and investigations by the Division, its designee or proper authority. All inspections and investigations shall be performed by the Division, its designee, or proper authority.

(3) Unannounced. Any inspection or investigation may be unannounced.

(4) Required documentation. All documentation and written reports required by this rule shall be:

(a) Open to inspection and investigation by the Division, its designee or proper authority; and

(b) Submitted to the Division within the time allotted.

(5) Priority of investigation under subsections (1)(c) through (d) of this rule. When the Division has determined to initiate an investigation pursuant to subsections (1)(c) through (d) of this rule, the RTC shall receive authorization from the Division before conducting any internal investigation. The RTC may continue to conduct necessary personnel action as required by OAR 309-043-0350(1).

(6) Plan of improvement. A plan of improvement shall be submitted to the Division for any noncompliance found during an inspection or investigation under the rule within the time period required by the Division.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0300 Alternative Methods, Variances

(Effective 01/27/1994)

(1) Criteria for a variance. Variances may be granted to an RTC when implementation of the proposed alternative services, methods, concepts or procedures would result in services or systems that meet or exceed the standards in these rules, unless a variance in the particular situation would violate state or federal law.

(2) Variance application. The RTC requesting a variance shall submit, in writing, an application to the DD Office which contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept or procedure proposed;

(d) A description of the individual's opinion and participation in requesting the variance; and

(e) A plan and timetable for compliance with the section of the rule from which the variance is sought.

(3) Office of Developmental Disability Services review. The Assistant Administrator or designee of the DD Office shall approve or deny the request for a variance.

(4) Notification. The DD Office shall notify the RTC of the decision. This notice shall be sent within 30 days of the receipt by the DD Office with a copy to other relevant sections of the Division.

(5) Appeal application. Appeal of the denial of a variance request shall be made in writing to the Administrator of the Division, whose decision shall be final.

(6) Duration of variance. The duration of the variance shall be determined by the DD Office.

(7) Written approval. The RTC may implement a variance only after written approval from the Division.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0310 Health: Medical Services

(Effective 01/27/1994)

(1) Confidentiality. All individuals' medical records shall be kept confidential as described in OAR 309-043-0440(1) and (2).

(2) Written policies and procedures. The RTC shall have and implement written policies and procedures which describe release of any individual's information, and how the medical management system operates including

medication administration, self-administration and medication reviews, emergency medical procedures, administrative review of medication irregularities, confidentiality of medical records and drug disposal.

(3) Individual care. Individuals shall receive care that promotes their health and well-being, as follows:

(a) Individuals shall have a primary physician;

(b) Provisions shall be made for a secondary physician/clinic in the event of an emergency;

(c) The RTC shall assure that individuals are examined annually by a physician, and results of the examination shall be placed in the individual's record;

(d) The RTC shall monitor the health status and physical conditions of individuals and take action in a timely manner in response to identified changes in conditions that could lead to deterioration or harm;

(e) The RTC shall assist individuals with the use and maintenance of prosthetic devices as ordered; and

(f) When indicated by physical examination or IDT determination, the RTC shall assure that consultations by specialists/professionals are obtained.

(4) Documentation. The RTC shall maintain records on each individual to aid physicians, medical professionals and the RTC in understanding the individual's medical history and current treatment program. These records shall be kept current and organized in a manner that permits staff and medical persons to follow easily the individual's course of treatment. Such documentation shall include:

(a) A medical history provided prior to entry to the RTC that includes, where available:

(A) The results of a current valid physical exam prior to entry and the findings of a TB test made within two weeks of entry;

- (B) Results of any dental evaluation;
- (C) A record of immunizations;
- (D) Status of Hepatitis B screening; and
- (E) A record of known communicable diseases and allergies.

(b) Within 30 days after admission, the results of a comprehensive assessment or reassessment of physical development and health, nutritional status and sensorimotor development shall be available;

(c) Information on health care which includes:

- (A) Current medical conditions;
- (B) A record of all current orders for medications, treatments, special diets and prosthetic devices; and
- (C) A record of visits to medical professionals and any consultation or therapy provided.

(d) Within 30 days of admission a Health Care Plan shall be present and integrated in the IPP for individuals in need of 24 hour licensed nursing care as determined by a physician. For individuals certified as not needing a Health Care Plan, an annual nursing assessment, and quarterly physical examination of health care status conducted by a licensed nurse shall be present and result in any action indicated by the examination findings.

(5) Written physician's order. All medications, treatments, diets and therapies shall:

- (a) Have a written order, signed by a physician or physician designee, before any medication, prescription or non-prescription, regularly scheduled or PRN (i.e., as needed), is administered to or self-administered by an individual; and
- (b) Be followed per written orders.

(6) PRN/Psychotropic medication prohibited. Standing PRN orders shall not be allowed for psychotropic medication.

(7) Requirements for medications. All medications and biologicals shall be:

(a) Properly labeled;

(b) Kept in a secured locked container and stored as prescribed; and

(c) Recorded on an individualized Medication and or Treatment Administration Record (MAR/TAR) including treatments and PRN orders. The MAR/TAR shall include:

(A) The name of the individual;

(B) The brand name and/or generic name of the medication, including the prescribed dosage and frequency of administration as contained on the physician order;

(C) Times and dates of administration or self-administration of the medication;

(D) The signature of the staff administering the medication or monitoring the self-administration of the medication;

(E) Method of administration;

(F) Documentation of any adverse reactions to the medication;

(G) Documentation and an explanation of why a PRN medication was administered and the results of such administration; and

(H) An explanation of any medication administration irregularity with documentation of administrative review.

(8) Adverse effects safeguards. Safeguards to prevent adverse medication reactions shall be utilized that include:

(a) Obtaining all prescription medications for each individual from a single pharmacy (except in the case of an after hours emergency), which maintains a medication profile for him or her;

(b) Reviewing each individual's medications at least every 90 days by a pharmacist. Medication reviews shall include an analysis of all medications, potential side-effects or contraindications and identifying potential irregularities;

(c) Maintaining information about each prescribed medication's effects and side-effects; and

(d) Assuring that medications prescribed for one individual shall not be administered to, or self-administered by, another individual or staff member.

(9) Unused, outdated or recalled drugs. No unused, outdated, or recalled drugs shall be kept in the residence. All unused, outdated, or recalled controlled substances shall be disposed of in a manner consistent with federal statutes and designed to prevent the illegal diversion of these substances into the possession of people other than for whom it was prescribed. A written record shall be maintained by the RTC of all disposed drugs and shall include:

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

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

(c) The reason for disposal;

(d) The method of disposal; and

(e) Signature of staff disposing.

(10) Self-administration of medication. For any individual who is self-administering medication the RTC must:

(a) Have documentation that a training program was initiated with approval of the individual's IDT team and physician (signed physician

order required) or that training for the individual is unnecessary (signed physician order required);

(b) Have a training program that provides for retraining when there is a change in dosage, medication and/or time of delivery; and

(c) Provide for a review, yearly at a minimum, as part of the IPP process, upon completion of the training program.

(11) Self-administration medications locked. The RTC shall assure that individuals able to self-administer medications keep them in a locked place accessible to the individual but unavailable to other individuals residing in the same residence and store them as prescribed.

(12) Nursing care. The RTC shall assure licensed nursing services that are:

(a) Sufficient to care for individuals' health needs including those with a Health Care Plan; and

(b) In accordance with standard and scope of practice for any licensed practical nurse and registered nurse.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0320 Health: Food and Nutrition

(Effective 01/27/1994)

(1) Well-balanced and nourishing diet. A nourishing well-balanced diet shall be provided to all individuals in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, or physician's order.

(2) Modified, special diets. All modified or special diets shall be ordered by a physician.

(3) Registered dietitian. A dietitian, registered by the American Dietetic Association, shall be employed either full-time, part-time or on a consultant basis.

(4) Number of meals. At least three meals shall be provided for or arranged daily.

(5) Need and preference of individual. Foods shall be served in a form consistent with the individual's need, while providing him/her with opportunities for choice in food selection.

(6) Dining areas and staff supervision. The RTC shall:

(a) Serve meals for all individuals in dining areas unless otherwise specified by the IDT team or a physician;

(b) Provide dining areas with chairs, tables, eating utensils and dishes designed to meet the developmental needs of each individual; and

(c) Staff shall supervise dining rooms adequately to assure individuals receive enough food and beverages; and eat in a manner consistent with his or her developmental level.

(7) Special diets and menu requirements. Menus including special diets shall:

(a) Be prepared a week in advance;

(b) Provide a sufficient variety of foods;

(c) Be adjusted for seasonal change;

(d) Be retained for at least 30 days; and

(e) Indicate any modifications made.

(8) Food and supplies on hand. There shall be adequate food and supplies maintained in the RTC with at least a two days supply of perishable fruits and vegetables and a week's supply of staple foods.

(9) Prohibited food items. Raw milk and home canned vegetables, meat and fish shall not be served or stored at the RTC.

(10) Temperature and sanitation. Food shall be prepared, served and stored at proper temperatures and in a sanitary manner.

(11) Utensils and dishes. All utensils, including dishes, glassware and silverware, used in the serving or preparation of food or drink for individuals shall be:

(a) Thoroughly washed and rinsed after each use; and

(b) Stored in such a manner as to assure that they are kept free of dust, insects and contamination.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0330 Health: Physical Environment

(Effective 01/27/1994)

(1) Clean and in good repair. All floors, walls, ceilings, windows, furniture and fixtures shall be kept in good repair, clean and free from odors.

(2) Water and sewage. The water supply and sewage disposal shall meet the requirements of the current rules of the Oregon Health Division governing domestic water supply.

(3) Room temperature. The temperature within the residence shall be maintained within a normal comfort range.

(4) Insects and rodents. All measures necessary shall be taken to prevent the entry of insects and rodents.

(5) Garbage. The interior and exterior of the residence shall be kept free of litter, garbage and refuse.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0340 Safety: General

(Effective 01/27/1994)

(1) Physical attributes of RTC's. All physical attributes of these facilities shall comply with the Occupational Health and Safety Act, the **Uniform Building Code, Uniform Mechanical Code, National Electrical Code, Uniform Fire Code**, and the **National Fire Protection Association 101 Life Safety Code** for whichever is the most restrictive.

(2) Window coverings for privacy. Window shades, curtains, or other coverings shall be provided on all bedroom and bathroom windows to assure privacy.

(3) Hot water temperature. Hot water except for dishwashers and washing machines shall not exceed 110 degrees F.

(4) Flashlights. Operative flashlights, at least one per floor, shall be readily available to staff in case of emergency.

(5) First-aid kit and manual. First-aid kits and first-aid manuals shall be readily available to staff in case of an emergency.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0350 Safety: Personnel

(Effective 01/27/1994)

(1) Basic personnel policies and procedures. The RTC shall have in place personnel policies and procedures which address disciplinary and/or termination from employment procedures when a staff member, through action or inaction, endangers the health, safety or welfare of individuals.

(2) Director qualifications. The RTC shall be operated under the supervision of a Director/Superintendent who has a minimum of a bachelor's degree and four years experience, including supervision, in a

related field; or eight years of experience, including supervision, in the field of developmental disabilities or a social service/mental health field. The eight years experience shall include four years of management experience in a public or private organization which included responsibility for:

- (a) Development of program rules and policies;
- (b) Development of long- and short-range goals and plans;
- (c) Program evaluation; and
- (d) Budget preparation;
- (e) Graduate-level courses in management may be substituted for one year of the required experience.

(3) Staff qualifications. Any staff who supervise individuals shall be at least 18 years of age and capable of performing the duties of the job as described in a current job description which he/she signed and dated.

(4) CPR and first aid. The RTC shall have at least one staff, who has been certified to give CPR and First Aid by a recognized training agency, available on the premises of each residence when individuals are present.

(5) Personnel files. The RTC shall maintain a personnel file on each staff person. In addition, the RTC shall maintain the following information on each staff person in a file available to the Division or its designee for inspection:

- (a) Written documentation that references and qualifications were checked;
- (b) Written documentation of a criminal record clearance by the Division;
- (c) Written documentation of a TB test upon hiring;
- (d) Written documentation of any substantiated abuse allegation/complaints filed against the staff person and the results of the grievance process, including, if any, disciplinary action; and

(e) Written documentation of any licenses required to perform duties.

(6) Training records. The RTC shall maintain a training record on each staff person that includes:

(a) CPR and first-aid certification, as applicable, obtained within six months of employment and kept current;

(b) The facility must provide each employee with initial training focusing on skills and competencies directed toward clients' developmental, behavioral, and health needs that enables the employee to perform his or her duties effectively, efficiently, and competently; and

(c) The facility must provide each employee with continuing training focusing on skills and competencies directed toward clients' developmental, behavioral, and health needs that enables the employee to perform his or her duties effectively, efficiently, and competently.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0360 Safety: Staffing Requirements

(Effective 01/27/1994)

(1) Facility professional staffing requirements. Each individual shall receive the professional program services needed to implement the individual's program plan:

(a) Each individual's program plan shall be integrated, coordinated and monitored by a qualified mental retardation professional;

(b) The RTC shall have available enough qualified professional staff to carry out and monitor the various professional interventions stated in every individual's program plan;

(c) Professional staff shall participate as members of the IDT in relevant aspects of the individual's program plan;

(d) Professional staff shall participate in ongoing staff development and training;

(e) The RTC shall maintain proof of required license, registration or certification of professional staff upon employment and at required intervals.

(2) General staffing requirements. Each RTC shall provide staff appropriate to the number of individuals served, as follows:

(a) There shall be responsible direct care staff on duty and awake on a 24-hour basis, when individuals are present, to take prompt, appropriate action in case of injury, illness, fire or other emergency, in each defined residential living unit housing.

(b) The RTC shall provide sufficient support staff so that direct care staff are not required to perform support services to the extent that these duties interfere with the exercise of their primary care duties.

(3) Direct care (residential living unit) staff. The RTC shall provide sufficient direct care staff present and on duty to manage and supervise individuals in accordance with their individual program plan. Direct care staff shall be provided by the RTC in the following minimum ratios calculated over all shifts in a 24 hour period for each residential unit:

(a) For each defined residential living unit serving individuals who are profoundly disabled, have severe physical disabilities, or who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior the staff ratio is 1 to 3.2;

(b) For each defined residential living unit serving individuals with moderate disabilities, the staff ratio is 1 to 4;

(c) For each defined residential living unit serving individuals within the range of mild disabilities, the staff ratio of 1 to 6.4; and

(d) When there are no individuals present on the living unit, a responsible staff member shall be available by telephone.

Stat. Auth.: [ORS 430](#).041
Stats. Implemented:

309-043-0370 Safety: Individual Records

(Effective 01/27/1994)

A record shall be maintained for each individual receiving services from the RTC. The record shall include:

- (1) The individual's name, previous address, date of entry into the facility, date of birth, sex, marital status, social security number, social security beneficiary account number, religious preference, preferred hospital, AFS number where applicable, guardianship status; and
- (2) The name, address and telephone number of:
 - (a) The individual's legal representative, family, advocate or other significant person;
 - (b) The individual's preferred physician;
 - (c) The individual's preferred dentist;
 - (d) The individual's day program, or employer, if any;
 - (e) Other agency representatives providing services to the individual.

Stat. Auth.: [ORS 430](#).041
Stats. Implemented:

309-0043-0380 Safety: Incident Reports and Emergency Notifications

(Effective 01/27/1994)

- (1) Incident reports. Written incident reports shall be maintained by the RTC. Sufficient documentation shall be maintained in the individual's record so that the report can be retrieved by licensing teams, certification surveyors, and other authorized individuals. Such description shall include:

- (a) Conditions prior to or leading to the incident;
- (b) A description of the incident;
- (c) Staff response at the time; and
- (d) Administrative review and follow-up.

(2) Immediate notification. In the case of a serious illness, accident, death or abuse of an individual, the RTC shall immediately notify:

- (a) The individual's legal guardian or conservator, parent, next of kin or other significant person; and
- (b) Any agency responsible for the individual.

(3) Missing notification. In the case of an individual who is missing, absent without supervision beyond the timeframes established by the IDT, the RTC shall immediately notify:

- (a) The individual's guardian, if any, or nearest responsible relative;
- (b) The appropriate police jurisdiction; and
- (c) Any agency responsible for the individual.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0390 Safety: Vehicles and Drivers

(Effective 01/27/1994)

Vehicles operated by the RTC that transport individuals shall:

- (1) Maintain the vehicles in a safe operating condition;
- (2) Comply with Department of Motor Vehicles laws;
- (3) Maintain insurance coverage; and

(4) Carry in vehicles a fire extinguisher, Universal Precaution Kit, and first-aid kit.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0400 Safety: Emergency Plan and Safety Review

(Effective 01/27/1994)

(1) Written plan. A written emergency plan shall be developed and implemented and shall include instructions for staff in the event of fire, explosion, accident, or other emergency including evacuation of individuals served.

(2) Posting of emergency information. Emergency telephone numbers shall be posted as follows:

(a) The telephone numbers of the local fire, police department and ambulance service, if not served by a 911 or other special emergency service, TTY numbers or OTRS relay number (if applicable), posted by the staff telephone; and

(b) The telephone number of the administrator, emergency physician and other persons to be contacted in case of an emergency posted by the staff telephone.

(3) Monthly safety review. A documented safety review shall be conducted monthly to assure that the residence is free of hazards. These reports shall be kept by the RTC for three years.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0410 Safety: General Fire Training Requirements

(Effective 01/27/1994)

(1) Training. The RTC shall train all individuals immediately upon entry to leave the residence in response to an alarm and to cooperate with assistance to exit the residence.

(2) Level of license. To ensure that fire safety requirements can be met, the residence shall not admit individuals functioning below the level indicated on the license.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0420 Safety: Evacuation Drills and Fire Safety

(Effective 01/27/1994)

(1) General drill requirements. Each residence shall conduct monthly fire drills:

(a) At least once every three months the drill will be conducted during normal sleeping hours;

(b) Exit routes shall vary based on the location of a simulated fire;

(c) Any individual failing to evacuate the residence unassisted within the established time limits for the RTC shall be provided specialized training in evacuation procedures which shall be included in their IPP;

(d) Written documentation shall be made at the time of the drill, kept by the RTC for at least two years following the drill. It shall include:

(A) The date and time of the drill;

(B) The location of the simulated fire;

(C) The number of staff present on the premises at the time of the drill and the number of individuals evacuated;

(D) The amount of time required to evacuate the building;

(E) Notation of any individual with problems in evacuating the premises; and

(F) The signature of the staff conducting the drill.

(2) Drill requirements for individuals residing at the RTC who are medically fragile or have severe physical limitations. In RTCs providing services to individuals who are medically fragile or have severe physical limitations, requirements of fire drill conduct may be modified. The modified plan shall:

(a) Be developed with the local fire authority, the administrator; and

(b) Be presented as a variance request per OAR 309-043-0300.

(3) Fire detectors and protection equipment. Fire detectors and protection equipment shall be inspected and documentation of inspections maintained as recommended by the State Fire Marshal.

(4) Adaptations required for sensory or physically impaired. The RTC shall provide necessary adaptations to ensure fire safety for sensory and physically impaired individuals.

(5) State and local codes. The RTC shall comply with all applicable state and local building, electrical, plumbing and zoning codes appropriate to the individuals served.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0430 Rights: General

(Effective 01/27/1994)

(1) Policies and procedures. The program shall have and implement written policies and procedures which protect individuals' rights and encourage and assist individuals to understand and exercise these rights. These policies and procedures shall at a minimum provide for:

(a) Assurance that each individual has the same civil and human rights accorded to other citizens;

- (b) Adequate food, housing, clothing, medical and health care, supportive services and training;
- (c) Visits to and from family members, friends, advocates, and when necessary legal and medical professionals;
- (d) Confidential communication including personal mail and telephone;
- (e) Personal property and fostering of personal control and freedom regarding that property;
- (f) Privacy;
- (g) Protection from abuse and neglect;
- (h) Freedom from unauthorized training, treatment and physical restraints or drugs in doses that interfere with daily living activities;
- (i) Freedom to choose whether or not to participate in religious activity;
- (j) The opportunity to vote and training in the voting process;
- (k) Expression of sexuality, to marry and to have children;
- (l) Access to community resources, including recreation, agency services, employment and alternatives to employment programs, educational opportunities and health care resources;
- (m) Transfer of individuals to alternate residences within an RTC;
- (n) Individual choice that allows control of their personal affairs;
- (o) Appropriate services which promote independence, dignity and self-esteem and are also appropriate to the age and preferences of the individual;
- (p) Individual choice to consent to or refuse treatment;

(q) Individual choice to participate in community activities;

(r) Equal pay for equal work; and

(s) Freedom from placing restrictions on an individual's movement by seclusion in a locked room (under any circumstance); restriction to an area of the residence or access to ordinarily accessible areas, unless arranged for and agreed to on the individual's program plan.

(2) Notification of policies and procedures. The RTC shall inform each individual and parent/guardian/advocate orally and in writing of its rights, policy and procedures at time of entry and as changes occur.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0440 Rights: Confidentiality

(Effective 01/27/1994)

All individuals' records are confidential except as otherwise indicated by applicable rule or laws.

(1) For the purpose of disclosure from individual medical records under these rules, service providers under these rules shall be considered "providers" as defined in [ORS 179.505](#) shall be applicable.

(2) For the purposes of disclosure from non-medical individual records, both the general exemption applicable to disclosure of "information of a personal nature" and limitations to the prohibition in [ORS 192.502\(2\)](#) shall be applicable.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0450 Rights: Abuse

(Effective 01/27/1994)

(1) Policies and procedures. The RTC shall develop and implement policies and procedures governing the reporting, investigation and resolution of allegations of abuse.

(2) Investigation. Allegations of abuse shall be investigated within five working days of receipt of the allegation.

(3) Consequences. Appropriate disciplinary or other action shall be taken on all substantiated cases.

(4) Maintaining documentation. The RTC shall maintain documentation of each abuse allegation and its resolution.

(5) State-Operated Training Centers. State-Operated Training Centers shall be in compliance with OAR 309-116-0000 through 309-116-0025 as they relate to abuse.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0460 Rights: Grievances

(Effective 01/27/1994)

(1) Policies and procedures. The RTC shall implement written policies and procedures for individuals' grievances. These policies and procedures shall, at a minimum, provide for:

(a) Receipt of grievances from individual(s) or others acting on his/her behalf;

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

(c) Appropriate action taken on substantiated cases;

(d) Review of each action by the next higher authority until resolution, to include the RTC Administration and MHDDSD; and

(e) Documentation of each grievance and its resolution in the grievant's record.

(2) Notification of policy and procedures. The RTC shall inform each individual and parent/guardian/advocate orally and in writing of its grievance policy and procedures at time of entry and as changes occur.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0470 Rights: Behavior Intervention

(Effective 01/27/1994)

(1) Written policy. The RTC shall have and implement a written policy concerning behavior intervention procedures.

(2) Notification of policy and procedures. The RTC shall inform the individual and parent/guardian/advocate orally and in writing of its behavior intervention policy and procedures at the time of entry and as changes occur.

(3) Implementation of a program to alter an individual's behavior. A decision to implement a program to alter an individual's behavior shall be made by the IDT and the program shall be described fully in the individual's IPP. The program shall:

(a) Emphasize the development of the functional alternative behavior and positive approaches and positive behavior intervention;

(b) Use the least intervention possible;

(c) Assure that abusive or demeaning intervention shall never be used; and

(d) Be evaluated by the RTC through timely review of specific data on the progress and effectiveness of the procedures.

(4) Documentation requirements. Documentation regarding the behavior program shall include:

(a) Documentation that the individual, the guardian, and IDT are fully aware of and consent to the program in accordance with the IPP process;

(b) Documentation of all informal and/or positive; programs used to develop an alternative behavior; and

(c) A written record of a functional analysis of the behavior which is defined as:

(A) A clear, measurable description of the behavior to include frequency, duration, intensity and severity of the behavior;

(B) A clear description of the need to alter the behavior;

(C) An assessment of the meaning of the behavior, which includes the possibility that the behavior is:

(i) An effort to communicate;

(ii) The result of medical conditions;

(iii) The result of environmental causes; or

(iv) The result of other factors.

(d) A description of the conditions which precede the behavior in question;

(e) A description of what reinforces and maintains the behavior; and

(f) A clear and measurable procedure which will be used to alter the behavior and develop the functional alternative behavior.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0480 Rights: Physical Restraints

(Effective 01/27/1994)

(1) Circumstances when physical restraint allowed. The RTC shall only employ physical restraint:

(a) As part of an IPP where the restraint is used as a last resort after less restrictive alternatives have been attempted and that is intended to lead to less restrictive means of intervening in and altering the behavior for which the restraint is applied;

(b) As an emergency measure, but only if absolutely necessary to protect the individual or others from immediate injury; or

(c) As a health-related protection prescribed by a physician, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for individual protection during the time that a medical condition exists.

(2) Staff training. Staff members who reasonably anticipate needing to apply restraint as part of an individual's on-going training program shall be trained by a Division approved trainer. Documentation verifying such training shall be maintained in his/her training record.

(3) Physical restraints in emergency situations. Physical restraints in emergency situations shall:

(a) Be authorized by the Director/Superintendent or designee, or physician;

(b) Be authorized as soon as individual is restrained or stable; and

(c) Be used only until the individual is calm.

(4) Avoid physical injury. Physical restraint shall be designed to avoid physical injury to the individual and to minimize physical and psychological discomfort.

(5) Documentation. All use of physical restraint shall be documented. The documentation shall include:

- (a) The name of the individual to whom the restraint was applied;
- (b) The date, type, and length of time of restraint application;
- (c) The name and position of the person authorizing the use of the restraint;
- (d) The name of the staff member(s) applying the restraint; and
- (e) Description of the incident requiring the emergency restraint.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0490 Psychotropic Medications

(Effective 01/27/1994)

(1) Requirements. Medications treating the symptoms of mental illness shall be:

- (a) Prescribed by the physician through a written order:
 - (A) As an emergency measure; or
 - (B) As an integral part of the individual's program that is directed specifically toward the reduction of and eventual elimination of the symptoms for which the medication has been prescribed.
- (b) Recommended by the IDT; and
- (c) Approved by guardian or in absence of a guardian, the Director/Superintendent, or their designee. In State Operated Training Centers the approval of the Chief Medical Officer or designee, is also required.

(2) Risk vs. Risk. Drugs used for the control of behavior shall not be used until it can be justified that the harmful effects of the behavior clearly

outweigh the potential harmful effects of the drugs. Documentation shall be available in the individual's record which includes:

- (a) A description of the treatment being considered;
- (b) A statement documenting review by the IDT of the risks of the treatment versus the risks of not implementing the treatment including less restrictive alternatives; and
- (c) Conclusions and rationale of IDT recommendations.

(3) Monitoring and review. Medications for behavior shall be:

- (a) Monitored quarterly by the prescribing physician and IDT for desired responses and adverse consequences; and
- (b) Gradually withdrawn at least annually in a carefully monitored program conducted in conjunction with the IDT, unless clinical evidence justifies that this is contraindicated.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0500 Rights: Handling and Managing Individual's Money

(Effective 01/27/1994)

(1) Financial exploitations. The RTC shall ensure that financial exploitation of individuals is prohibited and take appropriate actions to prevent.

(2) Policies and procedures. The RTC shall have and implement written policies and procedures for the handling and management of individuals' money. Such policies and procedures shall provide for:

- (a) The individual to manage his/her own funds unless the IPP documents and justifies limitations to self-management;
- (b) Safeguarding of an individual's funds;
- (c) Individuals receiving and spending money;

(d) Taking into account the individual's interests and preferences.

(3) Individual written record. Individuals shall be encouraged to independently manage their own money. For those individuals not yet capable of managing their own money, as determined by the IDT, the RTC shall be responsible for the accurate preparation and maintenance of an individual written record for each individual of all money received or disbursed on behalf of or by the individual which includes:

(a) The date, amount and source of income received;

(b) The date, amount and purpose of funds disbursed; and

(c) Signature of the staff making each entry.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0510 Rights: Individual's Personal Property

(Effective 01/27/1994)

(1) Record of personal property. The RTC shall prepare and maintain an accurate individual written record of each individual's personal property showing:

(a) The description and identifying number, if any;

(b) Date of inclusion in the record;

(c) Date and reason for removal from the record;

(d) Signature of staff making each entry; and

(e) A signed and dated review of the record for accuracy at six month intervals.

(2) Choice. The RTC shall encourage and support individuals having possessions which reflect the interest and choices of the individual.

Stat. Auth.: [ORS 430.041](#)
Stats. Implemented:

309-043-0520 Entry and Exit

(Effective 01/27/1994)

(1) Last resort. Entry into a State-Operated Residential Training Center shall be only considered as a last resort when other less restrictive community options are not available.

(2) Qualifications for RTC services. All individuals considered for RTC services shall:

(a) Be determined to have a developmental disability by the Division or its designee;

(b) Be at least 21 years of age unless an exception is granted by the Assistant Administrator of the DD Office; and

(c) Not be discriminated against because of race, color, creed, handicapping condition, national origin, gender, religion, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law.

(3) Written information required. Written information shall be provided to the RTC by the person, his/her guardian or the agency requesting the entry prior to the entry meeting. This written information shall include:

(a) Written documentation that the individual has been determined to have a developmental disability;

(b) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device and adjusting water temperature;

(c) A brief written history of any medical conditions or behavioral challenges;

(d) Documentation from a physician of the individual's current physical condition, including a written record of any current or recommended medications, treatments, diet and aids to physical functioning;

(e) Documentation of the individual's financial resources; and

(f) Documentation of any guardian or conservator, or any other legal restriction on the rights of the individual, if applicable.

(4) Entry meeting. An entry meeting shall be conducted prior to the initiation of services to the individual; the findings of the entry meeting shall be recorded in the individual's file and include at a minimum:

(a) The name of the individual proposed for service;

(b) The date of the meeting;

(c) The date determined to be the date of entry;

(d) Documentation of the participants at the meeting; and

(e) Documentation of the pre-entry information required by subsection (3)(c) - (f) of this rule.

(5) Not optimal placement. In those cases where admission to the RTC is not the optimal service for the individual, but is the most appropriate service available, the inappropriateness shall be documented in the individual's record, and:

(a) Plans shall be implemented for the continued and active exploration of a more appropriate service; and

(b) The entry shall be time-limited to the period of time necessary to secure a more appropriate service.

(6) Assessment of functional skills prior to exit meeting. Each individual considered for exit from an RTC shall have an assessment of his/her functional skills within 30 days prior to the exit unless the individual's annual assessment has been made within 90 days prior to the exit.

(7) Exit meeting. Each individual considered for exit shall have a meeting by the IDT before any decision to exit is made. Findings of such a meeting shall be recorded in the individual's file and include at a minimum:

- (a) The name of the individual considered for exit;
- (b) The date of the meeting;
- (c) Documentation of the participants included in the meeting;
- (d) Documentation of the circumstances leading to the proposed exit;
- (e) Documentation of the decision regarding exit including verification of a majority agreement of the meeting participants with the decision; and
- (f) Documentation of the proposed plan for services for the individual after the exit.

(8) Requirements for waiver of exit meeting. Requirements for an exit meeting may be waived if an individual is immediately removed from the RTC under the following conditions:

- (a) The individual and his/her guardian request an immediate exit from the RTC; or
- (b) The individual is removed by a legal authority acting pursuant to civil or criminal proceedings; or
- (c) The individual is absent without authorization from the RTC for a period exceeding five consecutive days.

(9) Transfer meeting. Transfer of an individual shall be preceded by a meeting of the IOT before any decision to transfer is made. Findings of such a meeting shall be recorded in the individual's file and include, at a minimum:

- (a) The name of the individual considered for transfer;

- (b) The date of the meeting;
- (c) Documentation of the participants included in the meeting;
- (d) Documentation of the circumstances leading to the proposed transfer;
- (e) Documentation of the alternatives considered instead of transfer;
- (f) Documentation of the reasons any preferences of the individual, legal representative and/or family members cannot be honored;
- (g) Documentation of a majority agreement of the participants with the decision; and
- (h) The written plan for services to the individual after transfer.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0530 Plan and Assessment

(Effective 01/27/1994)

(1) Assessment of individual support needs available. Within 30 days after admission, the IDT must perform accurate assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission. The comprehensive functional assessment must take into consideration the individual's age (for example young adult or elderly person) and the implications for active treatment at each stage, as applicable, and must:

- (a) Identify the presenting problems and disabilities and where possible, their causes;
- (b) Identify the individual's specific developmental strengths;
- (c) Identify the individual's developmental and behavior management needs;

(d) Identify the individual's needs for service without regard to the actual availability of the services needed; and

(e) Include:

(A) Affective development;

(B) Speech and language development;

(C) Auditory functioning;

(D) Cognitive development;

(E) Social development;

(F) Adaptive behaviors or independent living skills necessary for the individual to be able to function in the community; and

(G) As applicable, vocational skills.

(2) Individual program plan available. Within 30 days after admission, the IDT must prepare for each individual an "individual program plan" (IPP). The IPP shall:

(a) State specific objectives;

(b) Be implemented as specified; and

(c) Include the collection of relevant and measurable data.

(3) Individual program plan review and revision. The IPP shall be reviewed and revised at a minimum when:

(a) An objective is completed; and/or

(b) The individual is regressing or losing skills; and/or

(c) The individual is failing to progress, and/or

(d) The individual is being considered for training toward a new objective.

(4) Annual review of Individual Program Plan by Inter-Disciplinary Team. The IPP shall include at a minimum an annual review by the IDT.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0540 Individual Furnishings

(Effective 01/27/1994)

(1) Bedroom furniture. Bedroom furniture shall be provided, or arranged for each individual and shall include:

(a) A bed, including a frame, and a clean comfortable mattress, waterproof mattress cover if the individual is incontinent and a pillow;

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

(c) A closet or similar storage area for clothing which is readily accessible to the individual.

(2) Linens. No less than two sets of linens shall be provided, or arranged, for each individual and shall include:

(a) Sheets and pillowcases;

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

(c) Towels and washcloths.

(3) Personal hygiene equipment and supplies. Each individual shall have his/her own personal hygiene equipment and supplies which shall be stored in a sanitary manner.

Stat. Auth.: [ORS 430](#).041

Stats. Implemented:

309-043-0550 Program Management

(Effective 01/27/1994)

(1) Non-discrimination. The RTC shall comply with all applicable state and federal statutes in regard to non-discrimination in employment practices.

(2) No retaliation. The RTC shall have a policy prohibiting discrimination or retaliation against an employee or individual who makes a good faith abuse report to state authorities or participates in an abuse investigation or proceeding.

(3) Documentation requirements. All entries required by this rule unless stated otherwise, shall:

(a) Be prepared at the time, or immediately following the event being recorded;

(b) Be legible, dated and signed by the person(s) making the entry;
and

(c) Be maintained for no less than three years.

(4) Dissolution of RTC. Prior to the dissolution of an RTC, a representative of the RTC shall notify the Division 30 days in advance in writing and make appropriate arrangements for the transfer of individual's records.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0560 Civil Penalties

(Effective 01/27/1994)

(1) Long-term care facility statute applicable. For purposes of imposing civil penalties, RTCs licensed under [ORS 443.440](#) to [443.455](#) and subsection (2) of [ORS 443.991](#) are considered to be long-term care facilities subject to [ORS 441.705](#) through [441.745](#).

(2) Sections of rule subject to civil penalties. Violations of any requirement within any part of the following sections of the rule may result in a civil penalty up to \$500 per day for each violation not to exceed \$6,000 for all violations for any licensed RTC within a 90 day period: OAR 309-043-0310(3)(5); 309-043-0320; 309-043-0330; 309-043-0340; 309-043-0350; 309-043-0360; 309-043-0380; 309-043-0390; 309-043-0400; 309-043-0410; 309-043-0420; 309-043-0430, 309-043-0440, 309-043-0450, 309-043-0460, 309-043-0470, 309-043-0480, 309-043-0490; 309-043-0540(1) and (2); and 309-043-0550(2).

(3) Penalty imposed for other rule violations. Civil penalties of up to \$300 per day per violation may be imposed for violations of any section of this rule not listed in section (2) of this rule if a violation has been cited on two consecutive inspections or surveys of an RTC where such surveys are conducted by an employee of the Division. Penalties assessed under this section shall not exceed \$6,000 within a 90 day period.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0570 License Denial, Suspension, Revocation

(Effective 01/27/1994)

(1) Conditions. A license may be denied or revoked by the Division when it finds the applicant, or any person holding five percent or greater financial interest in the applicant:

(a) Demonstrates substantial failure to comply with these rules such that the health, safety or welfare of individuals is jeopardized and fails to correct the non-compliance within 30 calendar days of such finding; or

(b) Has demonstrated a substantial failure to comply with these rules such that the health, safety or welfare of individuals is jeopardized during three inspections within a six-month period (for the purpose of this subsection, "inspection" means an on-site visit to the RTC by the Division for the purpose of investigation or licensing); or

(c) Has demonstrated a failure to comply with applicable laws relating to safety from fire; or

(d) Has been convicted of a felony; or

(e) Has been convicted of a misdemeanor associated with the operation of an RTC; or

(f) Falsifies information required by the Division regarding care of individuals, RTC finances or individuals' funds; or

(g) Has been found to have permitted, aided or abetted any illegal act which has had significant adverse impact on individual health, safety or welfare.

(2) Immediate suspension or license denial. In any case where the Division finds an imminent danger to the health and safety of the residents and sets forth the specific reasons for such findings, the Division may suspend or refuse to renew a license without a pre-termination or pre-suspension hearing, and the RTC may not continue operation.

(3) Notice of intent to revoke or deny license. Following a Division finding that there is a substantial failure to comply with these rules such that the health, safety or welfare of individuals is jeopardized, or any other reason listed in section (1) of this rule, the Division may issue a notice of intent to revoke or deny license.

(4) Informal conference. Following the notice issued pursuant to section (3) of this rule, the Division shall provide the licensee an opportunity for an informal conference within ten calendar days from the date of the notice.

(5) Hearing. Following issuance of a notice of intent to revoke or deny license, the Division shall provide the opportunity for a hearing pursuant to OAR 309-043-0580.

Stat. Auth.: [ORS 430.041](#)

Stats. Implemented:

309-043-0580 Hearings

(Effective 01/27/1994)

(1) Request for hearing. Upon written notification by the Division of intent to revoke or deny a license, pursuant to OAR 309-043-0570(1), the licensee shall be entitled to a hearing in accordance with ORS Chapter 183 if a hearing is requested in writing within 60 days from the written notification. The request for hearing shall include an admission or denial of each factual matter alleged by the Division and shall affirmatively allege a short plain statement of each relevant affirmative defense the licensee may have.

(2) Hearing rights under OAR 309-043-0570(2). The immediate suspension or denial of a license under OAR 309-043-0570(2) is made pending a fair hearing not later than the tenth day after such suspension or denial.

(3) Issue at hearing after immediate suspension or denial pursuant to OAR 309-043-0570(1)(a). The issue at the fair hearing on immediate license denial or suspension pursuant to OAR 309-043-0570(1)(a) is limited to whether there was an imminent danger to the health and safety of the residents. Further hearing rights are controlled by ORS 183.430(2).

Stat. Auth.: [ORS 430](#).041

Stats. Implemented: