

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form..

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [upon filing] by the
Date prior to or same as filing date

Department of Human Services, Seniors and People with Disabilities Division 411

Agency and Division Administrative Rules Chapter Number

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Salem, OR 97301-1074

Rules Coordinator Address Telephone

to become effective [January 1, 2010] through [June 30, 2010].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Residential Care and Assisted Living Facilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

411-054-0133

AMEND:

411-054-0005, 411-054-0016, 411-054-0025, 411-054-0065, 411-054-0105,
411-054-0120

SUSPEND:

Stat. Auth.: ORS 410.070 & 443.450

Other Auth.: House Bill 2139 (2009), Chapter 539 (2009 Oregon Laws), House Bill 2442 (2009), Chapter 837 (2009 Oregon Laws)

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

RULE SUMMARY

To comply with the 2009 legislative changes from House Bill 2139 and House Bill 2442, the Department of Human Services, Seniors and People with Disabilities Division (SPD) is temporarily amending the residential care and assisted living facility rules in OAR chapter 411, division 054 to:

- Expand the definition of abuse for incidents occurring on or after January 1, 2010;
- Provide a list of crimes that will prohibit an individual convicted of a specific crime from working in any capacity in a residential care or assisted living facility;
- Provide that SPD's Central Office shall issue a written notice of findings for each allegation of wrongdoing;
- Require the provider to post and make available to the residents, their families, and the general public written notice that finds substantiated abuse;
- Increase the civil penalty amount for certain incidents of abuse; and
- Authorize the appointment of a temporary manager.

Signed Catherine A. Cooper, Deputy Assistant Director

December 31, 2009

Signature

Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Human Services, Seniors and People with Disabilities Division 411

Agency and Division

Administrative Rules Chapter Number

In the Matter of: The temporary adoption of 411-054-0133 and the temporary amendment of 411-054-0005, 411-054-0016, 411-054-0025, 411-054-0065, 411-054-0105, and 411-054-0120 relating to residential care and assisted living facilities.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Residential Care and Assisted Living Facilities

Statutory Authority: ORS 410.070 & 443.450

Other Authority: House Bill 2139 (2009), Chapter 539 (2009 Oregon Laws), House Bill 2442 (2009), Chapter 837 (2009 Oregon Laws)

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

Need for the Temporary Rule(s):

To comply with the 2009 legislative changes from House Bill 2139 and House Bill 2442, SPD is temporarily amending the residential care and assisted living facility rules in OAR chapter 411, division 054 to:

- Expand the definition of abuse for incidents occurring on or after January 1, 2010;
- Provide a list of crimes that will prohibit an individual convicted of a specific crime from working in any capacity in a residential care or assisted living facility;
- Provide that SPD's Central Office shall issue a written notice of findings for each allegation of wrongdoing;
- Require the provider to post and make available to the residents, their families, and the general public written notice that finds substantiated abuse; and
- Increase the civil penalty amount for certain incidents of abuse;
- Authorize the appointment of a temporary manager.

Documents Relied Upon, and where they are available:

1. House Bill 2139 (2009)

Available at: <http://www.leg.state.or.us/09reg/measpdf/hb2100.dir/hb2139.en.pdf>

2. Chapter 539 (2009 Oregon Laws)

Available at: http://www.leg.state.or.us/bills_laws/

3. House Bill 2442 (2009)

Available at: <http://www.leg.state.or.us/09reg/measpdf/hb2400.dir/hb2442.en.pdf>

4. Chapter 837 (2009 Oregon Laws)

Available at: http://www.leg.state.or.us/bills_laws/

Justification of Temporary Rule(s):

Failure to act promptly will result in serious prejudice to seniors, people with physical disabilities, residents of SPD licensed care facilities, and SPD.

The temporary rulemaking needs to be promptly adopted to implement or correspond to the expectations of legislation passed during the 2009 session. The intent of the related legislations was, directly or indirectly, to increase the protection from abuse afforded to seniors, people with disabilities, and residents of SPD licensed care facilities.

Failure to immediately adopt the temporary rulemaking would delay the implementation of the 2009 legislation intended to increase SPD's ability to prevent and respond to abusive behavior.

Signed Catherine A. Cooper, Deputy Assistant Director

December 31, 2009

Signature

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 945-2005

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 54**

RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES

411-054-0005 Definitions

(Temporary Effective 1/1/2010 – 6/30/2010)

For the purpose of these rules, the following definitions apply:

(1) "Area Agency on Aging (AAA)" as defined in ORS 410.040 means the Department of Human Services designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and B Area Agencies on Aging that contract with the Department of Human Services to perform specific activities in relation to residential care and assisted living facilities including:

- (a) Conducting inspections and investigations regarding protective service, abuse, and neglect;
- (b) Monitoring; and
- (c) Making recommendations to the Seniors and People with Disabilities Division regarding facility license approval, denial, revocation, suspension, non-renewal, and civil penalties.

(2) "Abuse" [for incidents that occur on or before December 31, 2009.](#) means:

- (a) Any physical injury to a resident that has been caused by other than accidental means. This includes injuries that a reasonable and prudent person would be able to prevent, such as those resulting from hitting, pinching, striking, rough handling, or corporal

punishment. These instances of abuse are presumed to cause physical injury, including pain, to all residents, including those in a coma or those who are otherwise incapable of expressing injury or pain.

(b) Failure to provide basic care or services to a resident that results in physical harm, unreasonable discomfort, or serious loss of human dignity. Abuse under this definition includes abandonment.

(c) Sexual contact with a resident, including fondling, by an employee or agent of a facility by:

(A) Physical force;

(B) Physical or verbal threat of harm or deprivation to the resident or others;

(C) Use of position, authority, or misinformation to compel a resident to do what the resident would not otherwise do; or

(D) Where the resident has no reasonable ability to consent. For the purpose of this rule, consent means a voluntary agreement or concurrence of wills. Mere failure of the resident to object does not, in and of itself, constitute an expression of consent.

(d) Theft or diversion of a resident's property, including:

(A) Money, personal property, and medications;

(B) Illegal or improper use of a resident's resources for the personal benefit, profit, or gain of another person;

(C) Borrowing resident funds;

(D) Spending resident funds without the resident's consent;

(E) If the resident is not capable of consenting, spending resident funds for items or services that the resident cannot benefit from or appreciate; or

(F) Spending resident funds to acquire items for use in common areas when such purchase is not initiated by the resident.

(e) Verbal or mental abuse.

(A) Verbal or mental abuse includes, in extreme forms:

(i) The use of oral, written, or gestured communication that willfully includes disparaging and derogatory terms to the resident, or within their hearing distance, regardless of their age, ability to comprehend, or disability;

(ii) Humiliation;

(iii) Intimidation;

(iv) Harassment;

(v) Threats of punishment or deprivation directed toward the resident; and

(vi) Unwanted or inappropriate crude or sexual language, questions, comments, or other communication.

(B) Examples of verbal and mental abuse include but are not limited to:

(i) Threats of harm;

(ii) Saying things to frighten a resident, such as telling a resident that the resident may never be able to see the resident's family again; and

(iii) Making unwanted sexual comments.

(C) Verbal and mental abuse is distinguished from resident rights violations by the extreme or offensive nature of the communication.

(f) Involuntary seclusion for convenience or discipline.

(A) Involuntary seclusion is defined as the separation of a resident from other residents or from their room or confinement to their room (with or without roommates) against the resident's will or the will of the resident's legal representative.

(B) Emergency or short-term, monitored separation from other residents may not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention until professional staff develop a plan of care to meet the resident's needs, or as part of an inter-disciplinary care plan after other interventions have been attempted.

(3) "Abuse" for incidents that occur on or after January 1, 2010, means any of the following:

(a) Physical abuse, including:

(A) The use of physical force that may result in bodily injury, physical pain, or impairment.

(B) Any physical injury to a resident caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(i) Conduct resulting in a physical injury caused by other than accidental means may include but is not limited to:

(I) Acts of violence such as striking (with or without an object), hitting, beating, punching, shoving, shaking, kicking, pinching, choking, or burning; or

(II) The use of force-feeding or physical punishment.

(ii) Physical abuse is presumed to cause physical injury, including pain, to residents in a coma or residents otherwise incapable of expressing injury or pain.

(b) Neglect, including:

(A) The failure of a person who is responsible to provide care or services to make a reasonable effort to protect a resident from abuse; or

(B) Failure to provide the care, supervision, or services necessary to maintain the physical and mental health of a resident that results in, or creates a serious risk of, physical harm or significant emotional harm to the resident.

(i) Such failure may occur whether intentional, careless, or due to inadequate experience, training, or skill, and may include the administration of an incorrect medication or dose of medication by other than accidental means.

(ii) The expectation for care, supervision, or services may exist as a result of an assumed responsibility or a legal or contractual agreement, including but not limited to where a person has a fiduciary responsibility to assure the continuation of necessary care.

(iii) A failure to maintain the mental health of a resident, for the purposes of this definition, may mean active or passive failure to maintain the emotional well-being of the resident, including but not limited to causing unreasonable discomfort or serious loss of personal dignity, but is not intended to establish an expectation for providing professional mental health services where such services are not expected or intended.

(c) Abandonment, including:

(A) Desertion or willful forsaking of a resident for any period of time by a person who has assumed responsibility for providing care, when that desertion or forsaking would place the resident at serious risk of harm; or

(B) The withdrawal or neglect of duties and obligations owed a resident by a person who is responsible to provide care or

services, when that withdrawal or neglect of duties would place the resident at serious risk of harm.

(d) Verbal abuse.

(A) Verbal abuse includes threatening significant physical or emotional harm to a resident through the use of:

(i) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or

(ii) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(B) For the purposes of this definition:

(i) Conduct that may be considered verbal abuse includes but is not limited to the use of oral, written, or gestured communication that is directed to a resident or within their hearing distance, regardless of their ability to comprehend; or

(ii) The emotional harm that may result from verbal abuse may include but is not limited to anguish, distress, or fear.

(e) Financial exploitation, including:

(A) Wrongfully taking, by means including but not limited to deceit, trickery, subterfuge, coercion, harassment, duress, fraud, or undue influence, the assets, funds, property, or medications belonging to or intended for the use of a resident;

(B) Alarming a resident by conveying a threat to wrongfully take or appropriate money or property of the resident if the resident would reasonably believe that the threat conveyed would be carried out;

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by a resident; or

(D) Failing to use the income or assets of a resident effectively for the support and maintenance of the resident;

(i) Effectively, for the purposes of this definition, means in a manner that is for the benefit of the person;

(ii) In a facility, such failure includes but is not limited to:

(I) An owner or employee borrowing from a resident;

(II) If the resident is not capable of consenting, spending resident funds for items or services that the resident cannot benefit from or appreciate; or

(III) Spending resident funds to acquire items for use in common areas when such purchase is not initiated by the resident.

(f) Sexual abuse, including:

(A) Sexual contact with a non-consenting resident or with a resident considered incapable of consenting to a sexual act. Consent, for purposes of this definition, means a voluntary agreement or concurrence of wills. Mere failure to object does not, in and of itself, constitute an expression of consent;

(B) Sexual harassment or sexual exploitation of a resident, or inappropriately exposing a resident to, or making a resident the subject of, sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and a resident served by the facility or caregiver, unless a pre-existing relationship existed. Sexual abuse does not include consensual sexual contact between a resident and a paid caregiver who is the spouse or domestic partner of the resident;

(D) Any sexual contact between a resident and a relative of the resident other than a spouse, where relative means a parent, grandparent, children, brother, sister, uncle, aunt, nieces, nephews, half brothers, half sisters, stepparents, or stepchildren;

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

(F) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, or 163.467.

(g) Involuntary seclusion of a resident for the convenience of a caregiver or to discipline the resident.

(A) Involuntary seclusion may include:

(i) Confinement of a resident to his or her room;

(ii) Placing restrictions on a resident's ability to associate, interact, or communicate with other individuals; or

(iii) Placing restrictions on a resident's freedom of movement by restriction to a specific area.

(B) Emergency or short-term, monitored separation from other residents may not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff may develop a plan of care to meet the resident's needs, or as part of the care plan.

(h) A wrongful use of a physical or chemical restraint of a resident.

(A) A wrongful use of a physical restraint, including the wrongful use of a supportive device with restraining qualities, includes situations where:

(i) The resident has not requested or approved of the device;

(ii) A licensed health professional has not conducted a thorough assessment; or

(iii) Less restrictive alternatives have not been evaluated prior to the use of the device.

(B) A wrongful use of a chemical restraint includes but is not limited to the wrongful use of a medication or controlled substance for the purpose of sedation.

(34) "Activities of Daily Living (ADL)" means those personal functional activities required by an individual for continued well being, health, and safety. Activities consist of eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition/behavior.

(45) "Administrator" means the person who is designated by the licensee that is responsible for the daily operation and maintenance of the facility.

(56) "Advance Directive" means a document that contains a health care instruction or a power of attorney for health care.

(67) "Assistant Director" means the assistant director of the Department of Human Services, Seniors and People with Disabilities Division, or that individual's designee.

(78) "Assisted Living Facility" means a building, complex, or distinct part thereof, consisting of fully, self-contained, individual living units where six or more seniors and adult persons with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.

| (89) "Applicant" means the person, persons, or entity, required to complete a facility application for license. Applicant includes a sole proprietor, each partner in a partnership, and each member in a limited liability company, corporation, or entity that owns the residential care or assisted living facility business. Applicant also includes the sole proprietor, each partner in a partnership, and each member in a limited liability company, corporation, or entity that operates the assisted living or residential care facility on behalf of the facility business owner.

| (910) "Caregiver" means a facility employee who is trained in accordance with OAR 411-054-0070 to provide personal care services to residents. The employee may be either a direct care staff or universal worker as defined in this rule.

| (4011) "Change of Condition – Short Term" means a change in the resident's health or functioning that is expected to resolve or be reversed with minimal intervention or is an established, predictable, cyclical pattern associated with a previously diagnosed condition.

| (4412) "Change of Condition - Significant" means a major deviation from the most recent evaluation that may affect multiple areas of functioning or health that is not expected to be short term and imposes significant risk to the resident. Examples of significant change of condition include but are not limited to:

(a) Broken bones;

(b) Stroke, heart attack, or other acute illness or condition onset;

(c) Unmanaged high blood sugar levels;

(d) Uncontrolled pain;

(e) Fast decline in activities of daily living;

(f) Significant unplanned weight loss;

(g) Pattern of refusing to eat;

(h) Level of consciousness change; and

(i) Pressure ulcers (stage 2 or greater).

| (4213) "Choice" means a resident has viable options that enable the resident to exercise greater control over his or her life. Choice is supported by the provision of sufficient private and common space within the facility that allows residents to select where and how to spend time and receive personal assistance.

| (4314) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

| (4415) "DHS" means the Department of Human Services.

| (4516) "Dignity" means providing support in such a way as to validate the self-worth of the individual. Creating an environment that allows personal assistance to be provided in privacy, supports dignity as does delivering services in a manner that shows courtesy and respect.

| (4617) "Direct Care Staff" means a facility employee whose primary responsibility is to provide personal care services to residents. These personal care services may include:

(a) Medication administration;

(b) Resident-focused activities;

(c) Assistance with activities of daily living;

(d) Supervision and support of residents; and

(e) Serving meals, but not meal preparation.

| (4718) "Directly Supervised" means that a qualified staff member maintains visual contact with the supervised person.

| (4819) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade that

renders the licensee unable to operate the facility or the facility is uninhabitable.

| [\(1920\)](#) “Disclosure” means the written information the facility is required to provide to consumers to enhance the understanding of facility costs, services, and operations.

| [\(2021\)](#) “Entity” means an individual, a trust, an estate, a partnership, a corporation, or a state or governmental unit, including associations, joint stock companies, and insurance companies, a state, or a political subdivision, or instrumentality including a municipal corporation.

| [\(2122\)](#) "Exception" means a written variance granted by the Seniors and People with Disabilities Division from a regulation or provision of these rules.

| [\(2223\)](#) “Facility” means the residential care or assisted living facility licensee and the operations, policies, procedures, and employees of the residential care or assisted living facility.

| [\(2324\)](#) “FPS” means the Facilities Planning and Safety Program within the Department of Human Services, Public Health Division.

| [\(2425\)](#) “Homelike Environment” means a living environment that creates an atmosphere supportive of the resident's preferred lifestyle. Homelike environment is also supported by the use of residential building materials and furnishings.

| [\(2526\)](#) “Incident of Ownership” means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interest.

| [\(2627\)](#) "Independence" means supporting resident capabilities and facilitating the use of those abilities. Creating barrier free structures and careful use of assistive devices supports independence.

| [\(2728\)](#) “Indirect Ownership Interest” means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

| (2829) "Individuality" means recognizing variability in residents' needs and preferences and having flexibility to organize services in response to different needs and preferences.

| (2930) "Licensed Nurse" means an Oregon licensed practical or registered nurse.

| (3031) "Licensee" means the entity that owns the residential care or assisted living facility business, and to whom an assisted living or residential care facility license has been issued.

| (3132) "Managed Risk" means a process by which a resident's high-risk behavior or choices are reviewed with the resident. Alternatives to and consequences of the behavior or choices are explained to the resident and the resident's decision to modify behavior or accept the consequences is documented.

| (3233) "Management" or "Operator" means possessing the right to exercise operational or management control over, or directly or indirectly conduct, the day-to-day operation of a facility.

| (3334) "Modified Special Diet" means a diet ordered by a physician or other licensed health care professional that may be required to treat a medical condition (e.g., heart disease or diabetes).

(a) Modified special diets include but are not limited to:

(A) Small frequent meals;

(B) No added salt;

(C) Reduced or no added sugar; and

(D) Simple textural modifications.

(b) Medically complex diets are not included.

| (3435) "New Construction" means:

- (a) A new building;
- (b) An existing building or part of a building that is not currently licensed;
- (c) A major alteration to an existing building; or
- (d) Additions, conversions, renovations, or remodeling of existing buildings.

| [\(3536\)](#) "Nursing Care" means the practice of nursing as governed by ORS chapter 678 and OAR chapter 851, division 047.

| [\(3637\)](#) "Owner" means a person with an ownership interest.

| [\(3738\)](#) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.

| [\(3839\)](#) "Personal Incidental Funds (PIF)" means the monthly amount allowed each Medicaid resident for personal incidental needs. For purposes of this definition, personal incidental funds include monthly payments, as allowed, and previously accumulated resident savings.

| [\(3940\)](#) "Privacy" means a specific area or time over which the resident maintains a large degree of control. Privacy is supported with services that are delivered with respect for the resident's civil rights.

| [\(4041\)](#) "P.R.N." means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.

| [\(4142\)](#) "Psychoactive Medications" means medications used to alter mood, level of anxiety, behavior, or cognitive processes. Psychoactive medications include antidepressants, anti-psychotics, sedatives, hypnotics, and anti-anxiety medications.

| [\(4243\)](#) "Resident" means any person who is receiving room, board, care, and services on a 24-hour basis in a residential care or assisted living facility for compensation.

| [\(4344\)](#) "Residential Care Facility" means a building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding where six or more seniors and adult persons with disabilities may reside. The residential care facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.

| [\(4445\)](#) "Restraint" means any physical device that the resident cannot manipulate that is used to restrict movement or normal access to the resident's body.

| [\(4546\)](#) "Retaliation" means to threaten or intimidate, or take an action that is detrimental to a person (e.g., harassment, abuse, coercion, etc.)

| [\(4647\)](#) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

| [\(4748\)](#) "Service Plan" means a written, individualized plan for services developed by a service planning team and the resident, or the resident's legal representative, that reflects the resident's capabilities, choices, and if applicable, measurable goals, and managed risk issues. The service plan defines the division of responsibility in the implementation of the services.

| [\(4849\)](#) "Service Planning Team" means two or more individuals, as set forth in OAR 411-054-0036 that assist the resident in determining what services and care are needed, preferred, and may be provided to the resident.

| [\(4950\)](#) "Services" means supervision or assistance provided in support of a resident's needs, preferences, and comfort, including health care and activities of daily living, that help develop, increase, maintain, or maximize the resident's level of independent, psychosocial, and physical functioning.

| [\(5051\)](#) "Supportive Device" means a device that may have restraining qualities that supports and improves a resident's physical functioning.

| [\(5152\)](#) "These Rules" means the rules in OAR chapter 411, division 054.

| [\(5253\)](#) “Underserved” means services are significantly unavailable within the service area in a comparable setting for:

(a) The general public;

(b) A specific population, including residents with dementia or traumatic brain injury; or

(c) Recipients of Medicaid.

| [\(5354\)](#) “Unit” means an individual living space constructed as a completely private apartment, including living and sleeping space, kitchen area, bathroom, and adequate storage areas.

| [\(5455\)](#) “Universal Worker” means a facility employee whose assignments include other tasks (e.g., housekeeping, laundry, food service, etc.) in addition to providing direct resident services. Universal worker does not include administrators, clerical or administrative staff, building maintenance staff, or licensed nurses who provide services as specified in OAR 411-054-0034.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0016 New Applicant Qualifications

(Temporary Effective 1/1/2010 – 6/30/2010)

For the purpose of this rule, “applicant” means each person, as defined in ORS 442.015, who holds ten percent or greater incident of ownership in the facility. Applicants for licensure (excluding license renewal, but including all changes of ownership, and management or operator) must meet the following criteria:

| (1) CRIMINAL [HISTORYRECORDS](#). Each applicant [may not have convictions of any of the crimes described in OAR 411-054-0025\(2\) and must complete a Criminal History Records Check conducted by DHS in accordance with OAR ~~chapter 407, division 007~~\[407-007-0200 to 407-007-0370\]\(#\)](#).

(2) PERFORMANCE HISTORY. SPD ~~will~~shall consider an applicant's performance history, including repeat sanctions or rule violations, before issuing a license.

(a) Each applicant must be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill, or persons with disabilities that had its license or certification involuntarily suspended or voluntarily terminated during any state or federal sanction process during the past five years;

(b) Applicants must be free of incident of ownership history in any facility in any state that had its license or certification involuntarily suspended or voluntarily terminated during any state or federal sanction process during the past five years;

(c) Failure to provide accurate information or demonstrate required performance history could result in SPD's denial of a license.

(3) FINANCIAL HISTORY. Each applicant must:

(a) Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years;

(b) Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, utilities or other costs necessary for facility operation during the past five years;

(c) Have a record of good credit as evidenced by a credit check done by SPD;

(d) Submit proof of fiscal responsibility, including an auditor's certified financial statement, and other verifiable documentary evidence of fiscal solvency documenting that the prospective licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered

"liquid assets," but may be considered "financial resources." Liquid assets may be demonstrated by:

- (A) An unencumbered line of credit;
- (B) A performance bond; or
- (C) Any other method satisfactory to SPD.

(e) Provide a pro forma (revenues, expenditures and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.

(4) EXPERIENCE. If an applicant does not have experience in the management of nursing facilities, assisted living or residential care, the applicant must employ the services of a consultant or management company with experience in the provision of assisted living or residential care for a period of at least six months. The consultant and the terms and length of employment are subject to the approval of SPD.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0025 Facility Administration

(Temporary Effective 1/1/2010 – 6/30/2010)

(1) FACILITY OPERATION. The licensee is responsible for the operation of the facility and the quality of care rendered in the facility.

(2) CRIMINAL RECORDS CHECK REQUIREMENTS.

(a) On or after January 1, 2010, no person may be a licensee, or employed in any capacity in a residential care or assisted living facility, who has a conviction for the delivery or manufacture of drugs in the past ten years.

(b) On or after January 1, 2010, no person may be approved to be a licensee, or employed in any capacity, who has ever been convicted:

(A) Of a crime listed in Exhibit 54-1;

(B) Of an attempt, conspiracy, or solicitation to commit a crime listed in Exhibit 54-1; or

(C) Of a crime in another jurisdiction that is substantially equivalent to a crime listed in Exhibit 54-1:

(3) EMPLOYMENT APPLICATION. An application for employment in any capacity at a facility must include a question asking whether the applicant has been found to have committed abuse.

(4) Reasonable precautions must be exercised against any condition that could threaten the health, safety, or welfare of residents.

(a) The licensee is responsible for the supervision, training, and overall conduct of staff when acting within the scope of their employment duties.

(b) The licensee must obtain a criminal records check from any person 16 years of age or older, who operates, receives training, or works in a facility. A criminal records check must be submitted to an authorized division representative for a criminal fitness determination in accordance with the criminal records check rules in OAR chapter 407, division 007.

(c) The licensee is responsible for ensuring that the facility complies with the tuberculosis screening recommendations in OAR 333-019-0041.

(25) REQUIRED POSTINGS. Required postings must be posted in a routinely accessible and conspicuous location to residents and visitors and be available for inspection at all times. The licensee is responsible for posting the following:

(a) Facility license;

(b) The name of the administrator or designee in charge. The designee in charge must be posted by shift or whenever the administrator is out of the facility;

(c) The current facility-staffing plan;

(d) A copy of the most recent survey and plan of correction as applicable;

(e) The Division's written notice issued under OAR 411-054-0105;
and

(df) Other notices relevant to residents or visitors required by state or federal law.

(36) NOTIFICATION. The facility must notify SPD program staff in Salem Central Office immediately by telephone, fax, or email, (if telephone communication is used the facility must follow-up within 72 hours by written or electronic confirmation) of the following:

(a) Any change of the administrator of record.

(b) Severe interruption of physical plant services in which the health or safety of residents is endangered, such as the provision of heat, light, power, water, or food;

(c) Occurrence of epidemic disease in the facility. The facility must also notify the Local Public Health Authority as applicable;

(d) Facility fire or any catastrophic event that requires residents to be evacuated from the facility;

(e) Unusual resident death or suicide; or

(f) A resident who has eloped from the facility and has not been found within 24 hours.

(47) POLICIES AND PROCEDURES. The facility must develop and implement written policies and procedures that promote high quality services, health and safety for residents, and incorporate the community-based care principles of individuality, independence, dignity, privacy, choice, and a homelike environment.

(a) The facility must develop and implement a policy on the possession of firearms and ammunition within the facility. The policy must be disclosed in writing and by one other means of communication commonly used by the resident or potential resident in their daily living.

(b) The facility must develop and implement a written policy that prohibits sexual relations between any facility employee and a resident who did not have a pre-existing relationship.

(c) The facility must develop and implement effective methods of responding to and resolving resident complaints.

(d) The facility must develop all additional requirements for written policies and procedures as established in OAR 411-054-0012 (Requirements for New Construction or Initial Licensure), OAR 411-054-0040 (Change of Condition Monitoring), OAR 411-054-0045 (Resident Health Services), and OAR 411-054-0085 (Refunds and Financial Management).

(e) The facility must develop and implement a policy on smoking.

(A) The smoking policy must be in accordance with:

(i) The Oregon Indoor Clean Air Act, ORS 433.835 to 433.875;

(ii) The rules in OAR chapter 333, division 015; and

(iii) Any other applicable state and local laws.

(B) The facility may designate itself as non-smoking.

| (58) RECORDS. The facility must ensure the preparation, completeness, accuracy, and preservation of resident records.

(a) The facility must develop and implement a written policy that prohibits the falsification of records.

(b) Resident records must be kept for a minimum of three years after the resident is no longer in the facility.

(c) Upon closure of a facility the licensee must provide SPD with written notification of the location of all records.

| (69) QUALITY IMPROVEMENT PROGRAM. The facility must develop and conduct an ongoing quality improvement program that evaluates services, resident outcomes, and resident satisfaction.

| (710) DISCLOSURE - RESIDENCY AGREEMENT. The facility must provide a SPD designated Uniform Disclosure Statement (form SDS 9098A) to each person who requests information about the facility. The residency agreement and the disclosure information described in section (7)(a) of this rule are required to be provided to all potential residents prior to move-in. All disclosure information and residency agreements must be written in compliance with these rules.

(a) The residency agreement and the following disclosure information must be reviewed by SPD prior to distribution and must include the following:

(A) Terms of occupancy, including policy on the possession of firearms and ammunition;

(B) Payment provisions, including the basic rental rate, and what it includes, cost of additional services, billing method, payment system and due dates, deposits, and non-refundable fees, if applicable;

(C) The method for evaluating a resident's service needs and assessing the costs for the services provided;

(D) Policy for increases, additions, or changes to the rate structure. Disclosure must address the minimum requirement of 30 days prior written notice of any facility-wide increases or changes and the requirement for immediate written notice for individual resident rate changes that occur as a result of changes in the service plan;

(E) Refund and proration conditions;

(F) A description of the scope of services available according to OAR 411-054-0030 (Resident Services);

(G) A description of the service planning process;

(H) Additional available services;

(I) The philosophy of how health care and ADL services are provided to the resident;

(J) Resident rights and responsibilities;

(K) The facility system for packaging medications and that residents may choose a pharmacy that meets the requirements of ORS 443.437;

(L) Criteria, actions, circumstances, or conditions that may result in a move-out notification or intra-facility move;

(M) Resident's rights pertaining to notification of involuntary move-out;

(N) Notice that DHS has the authority to examine resident records as part of the evaluation of the facility; and

(O) Staffing plan.

(b) The facility may not include any provision in the residency agreement or disclosure information that is in conflict with these rules and may not ask or require a resident to waive any of the resident's rights or the facility's liability for negligence;

(c) The facility must retain a copy of the original and any subsequent signed and dated residency agreements and must provide copies to the resident or to their designated representative; and

(d) The facility must give residents 30 days prior written notice of any additions or changes to the residency agreement. Changes to the residency agreement must be faxed or mailed to SPD before distribution.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0065 Administrator Qualifications and Requirements

(Temporary Effective 1/1/2010 – 6/30/2010)

(1) FULL-TIME ADMINISTRATOR. Each licensed residential care and assisted living facility must employ a full-time administrator. The administrator must be scheduled to be on-site in the facility at least 40 hours per week.

(2) ADMINISTRATOR QUALIFICATIONS:

(a) Be at least 21 years of age, and possess a high school diploma or equivalent; and have at least two years professional or management experience that has occurred within the last five years, in a health or social service related field or program, or have a combination of experience and education; or

(b) Possess an accredited Bachelors Degree in a health or social service related field.

(3) ADMINISTRATOR REQUIREMENTS:

(a) Facility administrators must meet the following training requirements prior to employment:

(A) Complete a SPD approved classroom administrator-training program of at least 40 hours; or

(B) Complete a SPD approved administrator-training program that includes both a classroom training of less than 40 hours and a SPD approved 40-hour internship program with a SPD approved administrator; or

(C) Complete another SPD approved administrator-training program.

(b) CONTINUING EDUCATION. Administrators must have 20 hours of documented SPD approved continuing education credits each year. The approved administrator-training program fulfills the 20-hour continuing education requirement for the first year.

(c) Individuals who have met SPD approved training program requirements but have been absent from an administrator position for five years or less, do not have to re-take the administrator training, but must provide evidence of 20 hours of continuing education annually.

(d) Prior to employment as administrator of a facility, individuals must complete the requirements of OAR ~~chapter 407, division 007~~[407-007-0200 to 407-007-0370](#) (Criminal History Check Rules) and comply with OAR 333-019-0041 (Tuberculosis). [An administrator of a facility may not have convictions of any of the crimes described in OAR 411-054-0025\(2\).](#)

(e) ADMINISTRATOR REFERENCE SUMMARY. Newly hired administrators are responsible for the completion of form SDS 0566, Administrator Reference Summary, and are required to fax the completed form to SPD upon hire. SPD may reject a form that has been falsified or is incomplete.

(f) DESIGNEE. The administrator must appoint a staff member as designee to oversee the operation of the facility in the administrator's absence. The administrator or a designee must be in charge on site at all times and ensure there are sufficient, qualified staff and that the care, health, and safety needs of the residents are met at all times.

(4) ADMINISTRATOR TRAINING COURSE STANDARDS.

(a) The training curriculum for the administrator training must be approved by SPD and ~~will~~[shall](#) be re-evaluated by SPD at periodic intervals.

(b) Individuals, companies or organizations providing the administrator training course must be approved by SPD. SPD may withdraw approval under the following conditions:

- (A) Failure to follow SPD approved curriculum;
- (B) The trainer demonstrates lack of competency in training;
- (C) There is insufficient frequency of training to meet the need;
or
- (D) Facilities owned or operated by the training entity have a pattern of substantial non-compliance with these rules.

(c) Approved training must be open and available to all applicants and must not be used to orient trainees to a specific company's management or operating procedures.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0105 Inspections and Investigations

(Temporary Effective 1/1/2010 – 6/30/2010)

(1) The facility must cooperate with SPD personnel in inspections, complaint investigations, planning for resident care, application procedures, and other necessary activities.

(a) Records must be made available to SPD upon request. SPD personnel must have access to all resident and facility records and may conduct private interviews with residents. Failure to comply with this requirement shall result in regulatory action.

(b) The State Long Term Care Ombudsman must have access to all resident and facility records that relate to an investigation. Certified Ombudsman volunteers may have access to facility records that relate to an investigation and access to resident records with written permission from the resident or guardian.

(c) The State Fire Marshal or authorized representative must be permitted access to the facility and records pertinent to resident evacuation and fire safety.

(2) Staff of SPD shall visit and inspect every facility at least, but not limited to, once every two years to determine whether it is maintained and operated in accordance with these rules.

(a) Facilities not in compliance with these rules must submit a plan of correction that satisfies SPD, within ten days of receipt of the inspection report.

(b) In addition, SPD may impose sanctions for failure to comply with these rules.

(3) SPD staff may consult with and advise the facility administrator concerning methods of care, records, housing, equipment, and other areas of operation.

(4) A copy of the most current inspection report and any conditions placed upon the license must be posted with the facility's license in public view near the main entrance to the facility.

(5) WRITTEN NOTIFICATION. Within 60 days of receipt by SPD Central Office of a complainant investigation report, the Division shall issue a written notice of its findings.

(a) CONTENT. The written notice shall:

(A) Explain the nature of each allegation;

(B) Include the date and time of each occurrence;

(C) For each allegation, include a determination of whether the allegation is substantiated, unsubstantiated, or inconclusive;

(D) For each substantiated allegation, state whether the violation was abuse or another rule violation;

(E) Include a copy of the complaint investigation report;

(F) State that the complainant, any person reported to have committed wrongdoing, and the facility have 15 days to provide additional or different information; and

(G) For each allegation, explain the applicable appeal rights available.

(b) DISTRIBUTION.

(A) The written notice shall be mailed to the facility, any person reported to have committed wrongdoing, the complainant (if known), and the SPD or Type B AAA office; and

(B) A copy of the written notice shall be placed in the Division's facility complaint file.

(c) REVISION.

(A) The Division may reinvestigate a complaint or issue a revised written notice if the Division determines further information provided by the complainant or facility merits such action.

(B) If the Division issues a revised notice, the notice shall be distributed to all persons identified in section (5)(b) of this rule.

(6) Upon receipt of a notice that substantiates abuse, the provider must make the report and findings readily accessible to residents, staff, family members, and the general public. The notice must be posted in public view at all times.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

411-054-0120 Civil Penalties

(Temporary Effective 1/1/2010 – 6/30/2010)

(1) For purposes of imposing civil penalties, facilities licensed under ORS 443.400 to 443.455 and subsection (2) of ORS 443.991 are considered to be long-term care facilities subject to ORS 441.705 to 441.745.

(2) For purposes of this rule, "person" means a licensee under ORS 443.420 or a person who the Assistant Director of the Seniors and People with Disabilities Division finds ~~should~~ shall be so licensed but is not; but does not include any employee of such licensee or person.

(3) For purposes of this rule, "resident rights" means that each resident must be assured the same civil and human rights accorded to other citizens as described in OAR 411-054-0027 (Resident Rights and Protections).

(4) SPD ~~will~~ shall exercise the powers under ORS 441.705 to 441.745 and thereby issues the following schedule of penalties applicable to residential care and assisted living facilities:

(a) A Class I violation exists when there is non-compliance involving direct resident care or feeding, adequate staff, sanitation involving direct resident care or resident rights. A Class I violation may result in imposition of a fine for first and subsequent violations of no less than \$5 and no more than \$500 per occurrence, per day, not to exceed \$6,000 in any calendar quarter. However, if the Department investigates and makes a finding of abuse arising from deliberate or other than accidental action or inaction that is likely to cause a negative outcome, and if the abuse resulted in the death, serious injury, rape, or sexual abuse of a resident, the Department shall impose a civil penalty of not less than \$2,500 for each occurrence of substantiated abuse, not to exceed \$15,000 in any 90-day period. For the purposes of this rule, the following definitions apply:

(A) "Serious Injury" means physical injury that creates a substantial risk of death or that causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(B) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(C) "Sexual Abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing and sexual harassment.

(b) A Class II violation exists when there is non-compliance with the license requirements relating to a license required, the license requirements relating to administrative management, personal services (care) and activities. Class II violations may result in imposition of a fine for violations found on two consecutive monitorings of the facility. The fine may be no less than \$5 and no more than \$300 per occurrence, per day, not to exceed \$6,000 in any calendar quarter; and

(c) A Class III violation exists when there is non-compliance with the license requirements relating to building requirements and resident furnishings. Class III violations may result in imposition of a fine for violations found on two consecutive monitorings of the residential care facility. The fine may be no less than \$5 and no more than \$150 per occurrence, per day, not to exceed \$6,000 in any calendar quarter.

(5) For purposes of this rule, a monitoring occurs when a residential care or assisted living facility is surveyed, inspected or investigated by an employee or designee of SPD or an employee or designee of the State Fire Marshal.

(6) In imposing a penalty pursuant to the schedule published in section (4) of this rule, the Department's Assistant Director of the Seniors and People with Disabilities Division, or a designee, must consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to residential care or assisted living facilities;

(c) The economic and financial conditions of the person incurring the penalty; and

(d) The immediacy and extent that the violation threatens the health, safety, and well-being of residents.

(7) Any civil penalty imposed under ORS 443.455 and 441.710 ~~will~~ shall become due and payable when the person incurring the penalty receives a notice in writing from the Department's Assistant Director of Seniors and People with Disabilities Division or a designee. The notice referred to in this rule ~~will~~ shall be sent by registered or certified mail and ~~will~~ shall include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the party's right to request a hearing.

(8) The person to whom the notice is addressed ~~will~~ shall have ten days from the date of mailing the notice to make written application for a hearing before SPD.

(9) All hearings ~~will~~ shall be conducted pursuant to the applicable provisions of ORS chapter 183.

(10) If the person notified fails to request a hearing within ten days, an order may be entered by SPD assessing a civil penalty.

(11) If, after a hearing, the person is found to be in violation of a license, rule, or order listed in ORS 441.710(1), an order may be entered by the SPD assessing a civil penalty.

(12) A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Department's Assistant Director of Seniors and People with Disabilities Division considers proper and consistent with the public health and safety.

(13) If the order is not appealed, the amount of the penalty is payable within ten days after the order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within ten days after the court decision. The order, if not appealed or sustained on appeal, ~~will~~shall constitute a judgment and may be filed in accordance with the provisions of ORS 18.005 to 18.428. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(14) A violation of any general order or final order pertaining to a residential care or assisted living facility issued by the Department's Assistant Director of Seniors and People with Disabilities Division is subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(15) Judicial review of civil penalties imposed under ORS 441.710 ~~will~~shall be as provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(16) All penalties recovered under ORS 443.455 and 441.710 to 441.740 ~~will~~shall be paid ~~into the State Treasury and credited~~ to the General Quality Care Fund.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 441.705 to 441.745, 443.400 to 443.455 & 443.991

411-054-0133 Temporary Manager

(Temporary Effective 1/1/2010 – 6/30/2010)

(1) APPOINTMENT. SPD, with the consent of the licensee, may appoint a temporary manager to assume control of the day-to-day operation of the facility in accordance with Oregon Laws 2009, chapter 539, sections 14 through 18. The appointment may be for a period not to exceed six months.

(2) CRITERIA. A temporary manager may be appointed if SPD determines that the health or safety of residents in the facility are, or in the immediate future shall be, in jeopardy based upon:

(a) The licensee's unwillingness or inability to comply with DHS rules in the operation of the facility;

(b) The imminent insolvency of the facility;

(c) SPD's revocation or suspension of the license of the facility; or

(d) SPD's determination that the licensee intends to cease operations and to close the facility without adequate arrangements for the relocation of the residents.

(3) DUTIES AND POWERS. The temporary manager has all of the duties and powers, as agreed upon between SPD and the licensee, that are necessary to ensure the safety and well-being of the residents and the continued operation of the facility.

(4) QUALIFICATIONS. In order to qualify for appointment as temporary manager, the prospective appointee must:

(a) Be, or employ a person who is, qualified to serve as administrator for the type of facility being served;

(b) Be familiar with SPD's rules for the operation of the facility to be served;

(c) Be familiar with the needs of the resident population in the facility to be served; and

(d) Have a demonstrated history (five year minimum) of operating and managing a similar facility in substantial compliance with DHS rules.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 to 443.455 & 443.991

Exhibit 54-1

(Temporary Effective 1/1/2010 – 6/30/2010)

ORS 163.095	Aggravated murder	ORS 163.537	Buying or selling a person under 18 years of age
ORS 163.115	Murder	ORS 163.670	Using a child in display of sexually explicit conduct
ORS 163.118	Manslaughter I	ORS 163.680	Paying for viewing a child's sexually explicit conduct
ORS 163.125	Manslaughter II	ORS 163.684	Encouraging child sexual abuse I
ORS 163.145	Criminally negligent homicide	ORS 163.686	Encouraging child sexual abuse II
ORS 163.149	Aggravated vehicular homicide	ORS 163.687	Encouraging child sexual abuse III
ORS 163.165	Assault III	ORS 163.688	Possession of materials depicting sexually explicit conduct of a child I
ORS 163.175	Assault II	ORS 163.689	Possession of materials depicting sexually explicit conduct of a child II
ORS 163.185	Assault I	ORS 163.700	Invasion of personal privacy
ORS 163.187	Strangulation	ORS 164.055	Theft I
ORS 163.200	Criminal mistreatment II	ORS 164.057	Aggravated Theft I
ORS 163.205	Criminal mistreatment I	ORS 164.098	Organized retail theft
ORS 163.225	Kidnapping II	ORS 164.125	Theft of services, if charged as a felony
ORS 163.235	Kidnapping I	ORS 164.215	Burglary II
ORS 163.263	Subjecting another person to involuntary servitude II	ORS 164.225	Burglary I
ORS 163.264	Subjecting another person to involuntary servitude I	ORS 164.325	Arson I
ORS 163.266	Trafficking in persons	ORS 164.377	Computer crime, if charged with a felony
ORS 163.275	Coercion	ORS 164.405	Robbery II
ORS 163.355	Rape III	ORS 164.415	Robbery I
ORS 163.365	Rape II	ORS 165.022	Criminal possession of a forged instrument I
ORS 163.375	Rape I	ORS 165.032	Criminal possession of a forgery device
ORS 163.385	Sodomy III	ORS 165.800	Identity theft
ORS 163.395	Sodomy II	ORS 165.803	Aggravated identity theft
ORS 163.405	Sodomy I	ORS 167.012	Promoting prostitution
ORS 163.408	Unlawful sexual penetration II	ORS 167.017	Compelling prostitution
ORS 163.411	Unlawful sexual penetration I	ORS 167.054	Furnishing sexually explicit material to a child
ORS 163.415	Sexual Abuse III	ORS 167.057	Luring a minor
ORS 163.425	Sexual Abuse II	ORS 181.594	Sex crimes, including: Transporting child pornography into the state
ORS 163.427	Sexual Abuse I		
ORS 163.432	Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender		
ORS 163.432	Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender		
ORS 163.435	Contributing to the sexual delinquency of a minor		
ORS 163.445	Sexual misconduct, if the offender is at least 18 years of age		
ORS 163.465	Public Indecency		
ORS 163.467	Private Indecency		
ORS 163.525	Incest with a child victim		
ORS 163.535	Abandonment of a child		