

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	Address	Administrative Rules Chapter Number
Christina Hartman	500 Summer Street NE, E-10 Salem, OR 97301-1074	(503) 945-6398

Rules Coordinator	Address	Telephone
-------------------	---------	-----------

to become effective **[upon filing]** through **[May 29, 2012]**.
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

AFH-DD: Emergency Plan Summary and Notice of Exit or Transfer

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:

AMEND:
411-360-0130, 411-360-0170, 411-360-0190

SUSPEND:

Stat. Auth.: **ORS 409.050 & 410.070**

Other Auth.:

Stats. Implemented: **ORS 443.705 to 443.825**

RULE SUMMARY

The Department of Human Services (Department) is temporarily amending:

- OAR 411-360-0130 to remove the requirement that providers of adult foster homes for individuals with developmental disabilities (AFH-DD) submit a one page Emergency Plan Summary to the Department annually each January 15th; and
- OAR 411-360-0170 and 411-360-0190 to correctly implement the standards for AFH-DD transfers and exits to assure compliance with ORS 443.738 to 443.739.

Signed Mary Lee Fay, Developmental Disability Services Administrator	December 1, 2011
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 amendment of 411-360-0130, 411-360-0170, and 411-360-0190 relating to adult foster homes for individuals with developmental disabilities.**

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

AFH-DD: Emergency Plan Summary and Notice of Exit or Transfer

Statutory Authority: **ORS 409.050 & 410.070**

Other Authority:

Stats. Implemented: **ORS 443.705 to 443.825**

Need for the Temporary Rule(s):

The Department needs to temporarily amend:

- **OAR 411-360-0130 to remove the requirement that AFH-DD providers submit a one page Emergency Plan Summary to the Department annually each January 15th. This rule change reduces the workload impact for providers, community developmental disability programs (CDDPs), and the Department which is prudent during these times of fiscal reductions.**
- **OAR 411-360-0170 and 411-360-0190 to correctly implement the standards for AFH-DD transfers and exits to assure compliance with ORS 443.738 to 443.739. In a recent review of AFH-DD notice of exit standards and need for field follow up and communication, it was determined that the current rule language exceeds the requirements relating to written notice of exit as stated in ORS 443.738 to 443.739 by including reference to the transfer standards for nursing facilities. These temporary rule changes assure compliance with ORS 443.738 to 443.739 by eliminating the higher standards of nursing facility transfers and exits which reduces the expectation and cost to providers, CDDPs, and the Department.**

Documents Relied Upon, and where they are available:

1. OAR chapter 411, division 360 relating to adult foster homes for individuals with developmental disabilities

Available at: http://www.dhs.state.or.us/policy/spd/rules/411_360.pdf

2. OAR chapter 411, division 050 relating to the licensure of adult foster homes

Available at: http://www.dhs.state.or.us/policy/spd/rules/411_050.pdf

3. OAR chapter 411, division 088 relating to nursing facility transfers

Available at: http://www.dhs.state.or.us/policy/spd/rules/411_088.pdf

4. ORS 443.705 to 443.825 relating to adult foster homes

Available at: <http://www.leg.state.or.us/ors/443.html>

Justification of Temporary Rule(s):

Failure to promptly remove the requirement that providers submit a one page Emergency Plan Summary to the Department annually will result in serious prejudice to AFH-DD providers, CDDPs, and the Department. OAR 411-360-0130 needs to be amended promptly to eliminate the submissions of over 800 Emergency Plan Summaries to the Department. This elimination is prudent for providers, CDDPs, and the Department during these times of fiscal reductions.

Failure to correctly implement the standards for AFH-DD transfers and exits to assure compliance with ORS 443.738 to 443.739 will result in serious prejudice to individuals, providers, CDDPs, and the Department. To correctly implement legislative intent, OARs 411-360-0170 and 411-360-0190 need to be amended promptly to eliminate the higher standards of nursing facility transfers and exits. This elimination assures the Department's compliance with ORS 443.738 to 443.739.

These rule changes cannot wait to be implemented after the full 49-day permanent rulemaking procedure because these changes must be implemented immediately.

Signed Mary Lee Fay, Developmental Disability Services Administrator

December 1, 2011

Signature

Date

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

**CHAPTER 411
DIVISION 360**

**ADULT FOSTER HOMES FOR PERSONS WITH
DEVELOPMENTAL DISABILITIES**

411-360-0130 Facility Standards

(Temporary Effective 12/1/2011 – 5/29/2012)

In order to qualify for or renew a license, an AFH-DD must meet the following provisions.

(1) GENERAL CONDITIONS.

(a) Each AFH-DD must maintain up-to-date documentation verifying they meet applicable local business license, zoning, building and housing codes, and state and local fire and safety regulations for a single-family residence. It is the duty of the provider to check with local government to be sure all applicable local codes have been met. A current floor plan of the house must be on file with the local CDDP.

(b) The building and furnishings must be clean and in good repair and grounds must be maintained. Walls, ceilings, and floors must be of such character to permit frequent washing, cleaning, or painting. There must be no accumulation of garbage, debris, rubbish, or offensive odors.

(c) Stairways (interior and exterior) must have handrails and be adequately lighted. Yard and exterior steps must be accessible and appropriate to the needs of individuals.

(d) Adequate lighting must be provided in each room, internal and external stairways, and internal and external exit ways. Incandescent light bulbs and florescent tubes must be protected and installed per manufacturer's directions.

(e) The heating system must be in working order. Areas of the AFH-DD used by individuals must be maintained at no less than 68 degrees F during the day (when individuals are home) and 60 degrees F during sleeping hours. During times of extreme summer heat, the provider must make every reasonable effort to make the individuals comfortable and safe using ventilation, fans, or air conditioners.

(f) There must be at least 150 square feet of common space, and sufficient comfortable furniture in the AFH-DD to accommodate the recreational and socialization needs of the occupants at one time. Common space may not be located in the basement or garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space may be required if wheelchairs are to be accommodated.

(g) Providers may not permit individuals to access or use swimming or other pools, hot tubs, saunas, or spas on the premise without supervision. Swimming pools, hot tubs, spas, or saunas must be equipped with sufficient safety barriers or devices designed to prevent accidental injury or unsupervised access.

(h) Interior doorways used by individuals must be wide enough to accommodate wheelchairs and walkers if used by individuals.

(i) Marijuana must not be grown in or on the premises of the AFH-DD. Individuals with Oregon Medical Marijuana Program (OMMP) registry cards must arrange for and obtain their own supply of medical marijuana from a designated grower as authorized by OMMP. The licensed provider, the caregiver, other employee, or any occupant in or on the premises must not be designated as the individual's grower and must not deliver marijuana from the supplier.

(2) SANITATION.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, it must be tested for coliform bacteria by a certified agent yearly, and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, pending weekly removal.

(d) Prior to laundering, soiled linens and clothing must be stored in containers in an area separate from food storage, kitchen, and dining areas. Special pre-wash attention must be given to soiled and wet bed linens.

(e) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by a licensed veterinarian must be maintained on the premises for household pets. Pets not confined in enclosures must be under control and must not present a danger to individuals or guests.

(f) There must be adequate control of insects and rodents, including screens in good repair on doors and windows used for ventilation.

(g) Universal precautions for infection control must be followed in care to individuals. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.

(h) All caregivers must take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. After they are used, disposable syringes and needles, scalpel blades, and other sharp items must be placed in puncture-resistant containers for disposal. The puncture-resistant containers must be located as close as practical to the use area. Disposal must be according to local regulations and resources (ORS 459.386 to 459.405).

(3) BATHROOMS.

(a) Must provide for individual privacy and have a finished interior, a mirror, an openable window or other means of ventilation, and a

window covering. No person must have to walk through another person's bedroom to get to a bathroom;

(b) Must be clean and free of objectionable odors;

(c) Must have tubs or showers, toilets, and sinks in good repair, and hot and cold water. A sink must be located near each toilet. A toilet and sink must be provided on each floor where rooms of non-ambulatory individuals or individuals with limited mobility are located. There must be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;

(d) Must have hot and cold water in sufficient supply to meet the needs of individuals for personal hygiene. Hot water temperature sources for bathing areas may not exceed 120 degrees F;

(e) Must have shower enclosures with nonporous surfaces. Glass shower doors must be tempered safety glass. Shower curtains must be clean and in good condition. Non-slip floor surfaces must be provided in tubs and showers;

(f) Must have grab bars for toilets, tubs, and showers for individual's safety as required by individual's disabilities;

(g) Must have barrier-free access to toilet and bathing facilities with appropriate fixtures if there are non-ambulatory individuals. Alternative arrangements for non-ambulatory individuals must be appropriate to individual needs for maintaining good personal hygiene; and

(h) Must have adequate supplies of toilet paper for each toilet and soap for each sink. Individuals must be provided with individual towels and wash cloths that are laundered in hot water at least weekly or more often if necessary. Individuals must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, individuals must be provided with individually dispensed paper towels.

(4) BEDROOMS.

(a) Bedrooms for all household occupants must:

(A) Have been constructed as a bedroom when the home was built or remodeled under permit;

(B) Be finished, with walls or partitions of standard construction that go from floor to ceiling, and a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;

(C) Be adequately ventilated, heated, and lighted with at least one openable window that meets fire regulations subsection (7)(a) of this rule;

(D) Have at least 70 square feet of usable floor space for each individual or 120 square feet for two individuals; and

(E) Have no more than two persons per room.

(b) Providers, resident managers, or family members must not sleep in areas designated as common use living areas, nor share bedrooms with service recipients.

(c) There must be an individual bed for each individual consisting of a mattress and box springs at least 36 inches wide. Cots, rollaways, bunks, trundles, couches, futons, and folding beds must not be used for individuals. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Sheets and pillowcases must be laundered at least weekly, and more often if necessary. Waterproof mattress covers must be used for incontinent individuals. Individual's beds must not be used by day care persons.

(d) Each bedroom must have sufficient separate, private dresser and closet space for each individual's clothing and personal effects, including hygiene and grooming supplies. Individuals must be allowed to keep and use reasonable amounts of personal belongings, and to have private, secure storage space. Drapes or shades for windows must be in good condition and allow privacy for individuals.

(e) Bedrooms must be on ground level for individuals who are non-ambulatory or have impaired mobility.

(f) Individual bedrooms must be in close enough proximity to provider to alert provider to nighttime needs or emergencies, or be equipped with an intercom, or audio monitor as approved by the ISP team.

(g) Bedrooms must have at least one window or exterior door that readily opens from the inside without special tools and that provides a clear opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 22 inches in height or 20 inches in width. Sill height must not be more than 44 inches from the floor level or there must be approved steps or other aids to window egress that may be used by individuals. Windows with a clear opening of not less than 5.0 square feet or 720 square inches with sill heights of 48 inches may be accepted when approved by the State Fire Marshal or designee.

(h) For AFH-DD homes with one or more employees, smoking regulations in compliance with Oregon's Smokefree Workplace Law must be adopted to allow smoking only in designated areas. Smoking is not permitted in any bedroom including that of an individual, provider, resident manager, caregiver, boarder, or family member.

(5) MEALS.

(a) Three nutritious meals must be served daily at times consistent with those in the community. Each daily menu must include food from the four basic food groups and fresh fruit and vegetables in season unless otherwise specified in writing by the physician. There must be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements. Consideration must be given to cultural and ethnic backgrounds, as well as, food preferences of individuals in food preparation. Special consideration must be given to individuals with chewing difficulties and other eating limitations. Food may not be used as an inducement to control the behavior of an individual.

(b) Menus for the coming week that consider individual preferences must be prepared and posted weekly in a location that is accessible

to individuals and families. Menu substitutions in compliance with subsection (5)(a) of this rule are acceptable.

(c) MODIFIED OR SPECIAL DIETS. For individuals with physician or health care provider ordered modified or special diets, the provider must:

(A) Have menus for the current week that provide food and beverages that consider the individual's preferences and are appropriate to the modified or special diet; and

(B) Maintain documentation that identifies how modified texture or special diets are prepared and served to individuals.

(d) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Food storage must be such that food is protected from dirt and contamination and maintained at proper temperatures to prevent spoilage.

(e) Utensils, dishes, glassware, and food supplies must not be stored in bedrooms, bathrooms, or living areas.

(f) Meals must be prepared and served in the AFH-DD where individuals live. Payment for meals eaten away from the AFH-DD for the convenience of the provider (e.g. restaurants, senior meal sites) is the responsibility of the provider. Meals and snacks as part of an individual recreational outing are the responsibility of the individual.

(g) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with sani-cycle is recommended.

(h) Food storage and preparation areas and equipment must be clean, free of obnoxious odors, and in good repair.

(i) Home-canned foods must be processed according to the current guidelines of the Oregon Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

(6) TELEPHONE.

(a) A telephone must be provided in the AFH-DD that is available and accessible for individuals' use for incoming and outgoing calls. Telephone lines must be unblocked to allow for access.

(b) Emergency telephone numbers for the local CDDP, police, fire, medical if not served by 911, an emergency number to reach a provider who does not live in the AFH-DD, and any emergency physician and additional persons to be contacted in the case of an emergency, must be posted in close proximity to all phones utilized by the licensee, resident manager, individuals, and caregivers.

(c) Telephone numbers for making complaints or a report of alleged abuse to the [Division Department](#), the local CDDP, and Disability Rights Oregon must also be posted.

(d) Limitations on the use of the telephone by individuals are to be specified in the written house rules. Individual restrictions must be specified in the ISP. In all cases, a telephone must be accessible to individuals for outgoing calls (emergencies) 24 hours a day.

(e) AFH-DD telephone numbers must be listed in the local telephone directory.

(f) The licensee must notify the [Division Department](#) and the [Division's Department's](#) designee, individuals, individuals' families, legal representatives, and service coordinators, as applicable, of any change in the adult foster home's telephone number within 24 hours of the change.

(7) SAFETY.

(a) Buildings must meet all applicable state and local building, mechanical, and housing codes for fire and life safety. The AFH-DD may be inspected for fire safety by the State Fire Marshall's office at the request of the [Division Department](#) using the standards in these rules as appropriate.

(b) Heating in accordance with manufacturer's specifications and electrical equipment, including wood stoves, must be installed in

accordance with all applicable fire and life safety codes. Such equipment must be used and maintained properly and be in good repair. Providers who do not have a permit verifying proper installation of an existing wood stove must have the wood stove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule. Protective glass screens or metal mesh curtains attached top and bottom are required on fireplaces. The installation of a non-combustible heat resistant safety barrier may be required to be installed 36 inches around wood stoves to prevent individuals with ambulation or confusion problems from coming in contact with the stove. Un-vented portable oil, gas, or kerosene heaters are prohibited. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used when approved by the authority having jurisdiction.

(c) Extension cord wiring must not be used in place of permanent wiring.

(d) Hardware for all exit doors and interior doors used for exit purposes must have simple hardware that cannot be locked against exit and must have an obvious method of single action operation. Hasps, sliding bolts, hooks and eyes, and double key deadbolts are not permitted. Homes with one or more individuals who have impaired judgment and are known to wander away from their place of residence must have a functional and activated alarm system to alert a caregiver of an unsupervised exit by an individual.

(e) EMERGENCY PROCEDURES.

(A) GENERAL FIRE DRILL REQUIREMENTS. The provider must conduct unannounced evacuation drills when individuals are present, once every quarter with at least one drill per year occurring during the hours of sleep. Drills must occur at different times of the day, evening, and night, with exit routes being varied based on the location of a simulated fire. All residents must participate in the evacuation drills.

(B) WRITTEN FIRE DRILL DOCUMENTATION REQUIRED.

Written documentation must be made at the time of the fire drill and kept by the provider for at least two years following the drill.

Fire drill documentation must include:

- (i) The date and time of the drill or simulated drill;
- (ii) The location of the simulated fire and exit route;
- (iii) The last names of all individuals and providers present on the premises at the time of the drill;
- (iv) The type of evacuation assistance provided by providers to individuals;
- (v) The amount of time required by each individual to evacuate; and
- (vi) The signature of the provider conducting the drill.

(C) The ISP must document that, within 24 hours of arrival, each new individual receives an orientation to basic safety and is shown how to respond to a fire alarm, and how to exit from the AFH-DD in an emergency.

(D) The provider must demonstrate the ability to evacuate all individuals from the AFH-DD within three minutes. If there are problems in demonstrating this evacuation time, the licensing authority may apply conditions to the license that include but are not limited to reduction of individuals under care, additional staffing, increased fire protection, or revocation of the license.

(E) The provider must provide, keep updated, and post a floor plan on each floor containing room sizes, location of each individual's bed, window, exit doors, resident manager or provider's sleeping room, smoke detectors, fire extinguishers, escape routes, and wheelchair ramps. A copy of the floor plan must be submitted with the application and updated to reflect any change.

(F) There must be at least one plug-in rechargeable flashlight available for emergency lighting in a readily accessible area on each floor including basement.

(f) SMOKE DETECTORS. Battery operated smoke alarms with a 10-year battery life and hush feature must be installed in accordance with the manufacturer's listing, in each bedroom, adjacent hallways, common living areas, basements, and in two-story homes, at the top of each stairway. Ceiling placement of smoke alarms is recommended. If wall mounted, smoke alarms must be between 6 inches and 12 inches from the ceiling and not within 12 inches of a corner. Alarms must be equipped with a device that warns of low battery condition when battery operated. All smoke alarms are to be maintained in functional condition.

(g) PORTABLE FIRE FIGHTING EQUIPMENT. At least one 2A-10BC rated fire extinguisher must be in a visible and readily accessible location on each floor, including basements, and must be inspected at least once a year by a qualified worker that is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose and documentation maintained.

(h) SPECIAL HAZARDS

(A) Flammable and combustible liquids and hazardous materials must be safely and properly stored in original, properly labeled containers, or safety containers, and secured to prevent tampering by individuals and vandals. To protect the safety of an individual in an AFH-DD, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the individuals in the home.

(B) Smoking regulations must be adopted to allow smoking only in designated areas in compliance with Oregon's Smokefree Workplace Law. Smoking is prohibited in sleeping rooms. Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted.

(C) Cleaning supplies, medical sharps containers, poisons, and insecticides must be properly stored in original, properly labeled containers in a safe area away from food, preparation and storage, dining areas, and medications.

(8) EMERGENCY PLANNING.

(a) EFFECTIVE DATE. The emergency planning requirements listed in section (8) of this rule shall be effective January 1, 2011.

(b) If an individual accesses the community independently, the provider must provide the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(c) WRITTEN EMERGENCY PLAN. Providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all the individuals in the event of an emergency or disaster. The Emergency Plan must:

(A) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the duties or a discussion exercise dealing with the hypothetical event, commonly known as a tabletop exercise.

(B) Consider the needs of the individuals being served and address all natural and human-caused events identified as a significant risk for the home such as a pandemic or an earthquake.

(C) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three days under the following conditions:

(i) Extended utility outage;

(ii) No running water;

(iii) Inability to replace food supplies; and

(iv) Caregivers unable to report as scheduled.

(D) Include provisions for evacuation and relocation that identifies:

(i) The duties of caregivers during evacuation, transporting, and housing of individuals including instructions to caregivers to notify the [Division Department](#) or the [Division's Department's](#) designee and local CDDP of the plan to evacuate or the evacuation of the home as soon as the emergency or disaster reasonably allows;

(ii) The method and source of transportation;

(iii) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals in the home;

(iv) A method that provides persons unknown to the individual the ability to identify each individual by the individual's name, and to identify the name of the individual's supporting provider; and

(v) A method for tracking and reporting to the [Division Department](#), or the [Division's Department's](#) designee, and the local CDDP the physical location of each individual until a different entity resumes responsibility for the individual,

(E) Address the needs of the individuals including provisions to provide:

(i) Immediate and continued access to medical treatment with the evacuation of the individual summary sheet and the individual's emergency information identified in OAR 411-360-0170, and other information necessary to obtain care, treatment, food, and fluids for individuals;

(ii) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(iii) Behavior support needs anticipated during an emergency; and

(iv) Adequate staffing to meet the life-sustaining and safety needs of the individuals.

(d) Providers must instruct and provide training to all caregivers about the caregivers' duties and responsibilities for implementing the Emergency Plan.

(A) Documentation of caregiver training must be kept on record by the provider.

(B) The provider must re-evaluate the Emergency Plan at least annually or when there is a significant change in the home.

~~(C) The Emergency Plan Summary, on the form supplied by the Division, must be sent to the Division annually and upon change of licensee or location of the AFH-DD.~~

(e) Applicable parts of the Emergency Plan must coordinate with each applicable Employment, Alternative to Employment, or Day Program provider to address the possibility of an emergency or disaster during day time hours.

Stat. Auth.: ORS 409.050, ~~&~~ 410.070, ~~&~~ ~~443.450~~

Stats. Implemented: ORS 443.705 - 443.825

411-360-0170 Documentation and Record Requirements

(Temporary Effective 12/1/2011 – 5/29/2012)

(1) INDIVIDUAL RECORDS. A record must be developed, kept current, and available on the premises for each individual admitted to the AFH-DD.

(a) The provider must maintain a summary sheet for each individual in the home. The record must include:

(A) The individual's name, current and previous address, date of entry into AFH-DD, date of birth, gender, marital status, religious preference, preferred hospital, Medicaid prime and private insurance number if applicable, and guardianship status; and

(B) The name, address, and telephone number of:

(i) The individual's legal representative, family, advocate, or other significant person;

(ii) The individual's preferred primary health care provider and designated back up health care provider or clinic;

(iii) The individual's preferred dentist;

(iv) The individual's day program or employer; if any;

(v) The individual's services coordinator; and

(vi) Other agency representatives providing services to the individual.

(b) EMERGENCY INFORMATION. The AFH-DD provider must maintain emergency information for each individual receiving services in the AFH-DD in addition to an individual summary sheet identified in section (1)(a) of this rule. The emergency information must be kept current and must include:

(A) The individual's name;

(B) The provider's name, address, and telephone number;

(C) The address and telephone number of the AFH-DD where the individual resides if different from that of the licensee;

(D) The individual's physical description, which could include a picture and the date it was taken, and identification of:

(i) The individual's race, gender, height, weight range, hair, and eye color; and

(ii) Any other identifying characteristics that may assist in identifying the individual should the need arise, such as marks or scars, tattoos, or body piercings.

(E) Information on the individual's abilities and characteristics including:

(i) How the individual communicates;

(ii) The language the individual uses and understands;

(iii) The ability of the individual to know how to take care of bodily functions; and

(iv) Any additional information that could assist a person not familiar with the individual to understand what the individual can do for him or herself.

(F) The individual's health support needs including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person would need to know when taking care of the individual;

(iv) Special dietary or nutritional needs such as requirements around textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking, that may be an aspiration risk or other risk for the individual;

(vi) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(vii) Physical limitations that may affect the individual's ability to communicate, respond to instructions, or follow directions; and

(viii) Specialized equipment needed for mobility, positioning, or other health related needs.

(G) The individual's emotional and behavioral support needs including:

(i) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(ii) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(H) Any court ordered or guardian authorized contacts or limitations;

(I) The individual's supervision requirements and why; and

(J) Any additional pertinent information the provider has that may assist in the care and support of the individual should a natural or man-made disaster occur.

(c) Individual records must be available to representatives of the [DivisionDepartment](#), or the [Division's Department's](#) designee, conducting inspections or investigations, as well as to individuals to whom the information pertains, their authorized representative, or other legally authorized persons;

(d) **INDIVIDUAL RECORDS.** Individual records must be kept by the provider, for a period of at least three years. When an individual

moves or the AFH-DD closes, copies of pertinent information must be transferred to the individual's new place of residence; and

(e) In all other matters pertaining to confidential records and release of information, providers must comply with ORS 179.505.

(2) **INDIVIDUAL ACCOUNT RECORDS.** For those individuals not yet capable of managing their own money, as determined by the ISP Team or guardian, the provider must prepare, maintain, and keep current a separate and accurate written record for each individual of all money received or disbursed on behalf of or by the individual.

(a) The record must include:

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

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

(C) Signature of the provider making each entry.

(b) Purchases of \$10.00 or more made on behalf of an individual must be documented by receipts unless an alternate amount is otherwise specified by the ISP team.

(c) Personal Incidental Funds (PIF) for individuals are to be used at the discretion of the individual for such things as clothing, tobacco, and snacks (not part of daily diet) and addressed in the ISP.

(d) Each record must include the disposition of the room and board fee that the individual pays to the provider at the beginning of each month.

(e) **REIMBURSEMENT TO INDIVIDUAL.** The provider must reimburse the individual any funds that are missing due to theft, or mismanagement on the part of the provider, resident manager, or caregiver of the AFH-DD or for any funds within the custody of the provider that are missing. Such reimbursement must be made within 10 working days of the verification that funds are missing.

(f) Financial records must be maintained for at least seven years.

(3) INDIVIDUALS' PERSONAL PROPERTY RECORD. The provider must prepare and maintain an accurate individual written record of personal property that has significant or monetary value to each individual as determined by a documented ISP team or guardian decision. The record must include:

- (a) The description and identifying number, if any;
- (b) Date of inclusion in the record;
- (c) Date and reason for removal from record;
- (d) Signature of provider making each entry; and
- (e) A signed and dated annual review of the record for accuracy.

(4) INDIVIDUAL SUPPORT PLAN. A health and safety transition plan must be developed at the time of admission for the first 60 days of service. A complete ISP must be developed by the end of 60 days. It must be updated at a minimum annually, and more often when the individual's support needs change.

(a) A completed ISP must be documented on the [Division/Department](#)-mandated Foster Care ISP Form that includes the following:

- (A) What is most important to the individual and what works and doesn't work;
- (B) The individual's support needs (as identified on the Support Needs Assessment Profile (SNAP) (if applicable));
- (C) The type and frequency of supports to be provided;
- (D) The person responsible for carrying out the supports: and
- (E) A copy of the Employment, Alternatives to Employment, or Day Program provider's plan must be integrated or attached to

the AFH-DD ISP for persons also served in an employment or other Department-funded day service.

(b) The ISP must include at least six hours of activities each week that are of interest to the individual, not including television or movies made available by the provider. Activities available in the community and made available or offered by the provider or the CDDP may include but are not limited to:

- (A) Habilitation services;
- (B) Rehabilitation services;
- (C) Educational services;
- (D) Vocational services;
- (E) Recreational and leisure activities; and
- (F) Other services required to meet an individual's needs as defined in the ISP.

(5) HOUSE RULES. The provider must document that a copy of the written house rules has been provided and discussed with the individual annually. House rules must be in compliance with sections (9)(a-s) of this rule governing the rights of individuals. House rules established by the provider must:

(a) Include any restrictions the AFH-DD may have on the use of alcohol, tobacco in compliance with Oregon's Smokefree Workplace Law, medical marijuana (if applicable), pets, visiting hours, dietary restrictions, or religious preference.

(b) Include house rules specific to the presence and use of medical marijuana on the AFH-DD premises, if applicable. The home's medical marijuana rules must be reviewed and approved by the [Division-Department](#) or the [Division's-Department's](#) designee.

(c) Not be in conflict with the individual's Bill of Rights, the family atmosphere of the home, or any of these rules.

(d) Include house rules specific to the immediate notification of substantiated abuse as described in OAR 411-360-0210(16)(a-d).

(e) Be reviewed and approved by the ~~Division-Department~~ or the ~~Division's-Department's~~ designee prior to the issuance of a license and prior to implementing changes.

(f) Be readily available to be seen and read by individuals and visitors.

(6) UNUSUAL INCIDENTS. A written report of all unusual incidents relating to an individual must be sent to the CDDP within five working days of the incident. The report must include how and when the incident occurred, who was involved, what action was taken by the provider or caregiver and the outcome to the individual, and what action is being taken to prevent the reoccurrence of the incident.

(7) GENERAL INFORMATION. The provider must maintain all other information or correspondence pertaining to the individual.

(8) MONTHLY PROGRESS NOTES. The provider must maintain and keep current, at minimum monthly progress notes for each individual residing in the home, regarding the progress of the ISP supports, any medical, behavioral, or safety issues or any other events that are significant to the individual.

(9) INDIVIDUAL'S BILL OF RIGHTS. The provider must abide by the Individual's Bill of Rights and post them in a location that is accessible to individuals and individuals' parents, guardians, or legal representatives. The provider must give a copy of the Individual's Bill of Rights along with a description of how to exercise these rights to each individual and the individual's parent, guardian, or legal representative. The Individual's Bill of Rights must be reviewed annually or as changes occur by the provider with the individual and any parent, guardian, or legal representative. The Individual's Bill of Rights states each individual has the right to:

(a) Be treated as an adult with respect and dignity;

- (b) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote;
- (c) Receive appropriate care and services, prompt health care as needed;
- (d) Have adequate personal privacy and privacy to associate and communicate privately with any person of choice, such as family members, friends, advocates, and legal, social service, and medical professionals, send and receive personal mail unopened, and engage in telephone conversations as explained in OAR 411-360-0130(6)(a-f);
- (e) Have access to and participate in activities of social, religious, and community groups;
- (f) Be able to keep and use personal clothing and possessions as space permits;
- (g) Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion;
- (h) Manage his or her financial affairs unless determined unable by the ISP team or legally restricted;
- (i) Have a safe and secure environment;
- (j) Have a written agreement regarding services to be provided;
- (k) Voice grievance without fear of retaliation;
- (l) Have freedom from training, treatment, chemical or protective physical interventions except as agreed to, in writing, in a individual's ISP;
- (m) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to individuals in an age appropriate manner;

(n) Have an opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(o) Be free from punishment. Behavior intervention programs must be approved in writing on the individual's ISP;

(p) Be free from abuse and neglect;

(q) Have the opportunity to contribute to the maintenance and normal activities of the household;

(r) Have access and opportunity to interact with persons with or without disabilities; and

(s) Have the right not to be transferred or moved without advance notice as provided in ORS 443.739~~(18)~~ and OAR 411-088-0070, and the opportunity for a hearing as provided in ORS 443.738~~(11)(b)~~ and OAR 411-088-0080.

(10) AFH-DD records must be kept current and maintained by the AFH-DD provider and be available for inspection upon request. AFH-DD records must include but not be limited to proof that the provider, resident manager, and any other caregivers have met the minimum qualifications as required by OAR 411-360-0110. The following documentation must be available for review upon request:

(a) Completed employment applications, including the names, addresses, and telephone numbers of all caregivers employed by the provider. All employment applications for persons hired to provide care in an AFH-DD must ask if the applicant has ever been found to have committed abuse.

(b) Proof that the provider has the Department's approval for each subject individual, who is 16 years of age and older, to have contact with adults who are elderly or physically disabled or developmentally disabled as a result of a criminal records check.

(c) Proof of required training according to OAR 411-360-0120. Documentation must include the date of each training, subject matter,

name of agency or organization providing the training, and number of training hours.

(d) A certificate to document completion of the [Division's Department's](#) Basic Training Course for the provider, resident manager, and all caregivers.

(e) Proof of mandatory abuse report training for all caregivers.

(f) Proof of any additional training required for resident managers and caregivers.

(g) Documentation of caregiver orientation to the AFH-DD, training of emergency procedures, training on individual's ISP's, and training on behavior supports and Nursing Care Plan (if applicable).

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 443.705 - 443.825

411-360-0190 Standards for Admission, Transfers, Respite, Crisis Placements, Exit, and Closures

(Temporary Effective 12/1/2011 – 5/29/2012)

(1) ADMISSION. All individuals considered for admission into the AFH-DD must:

(a) Not be discriminated against because of race, color, creed, age, disability, gender, sexual orientation, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law; and

(b) Be determined to have a developmental disability by the [Division Department](#) or the [Division's Department's](#) designee; and

(c) Be referred by the CDDP or have prior written approval of the CDDP or [Division Department](#) if the individual's services are paid for by the [Division Department](#); or

(d) Be placed with the agreement of the CDDP if the individual is either private pay or not developmentally disabled.

(2) INFORMATION REQUIRED FOR ADMISSION. At the time of the referral, the provider must be given:

(a) A copy of the individual's eligibility determination document;

(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 for bathing and washing;

(c) A brief written history of any behavioral challenges including supervision and support needs;

(d) A medical history and information on health care supports that includes where available:

(A) The results of a physical exam made within 90 days prior to entry;

(B) The results of any dental evaluation;

(C) A record of immunizations;

(D) A record of known communicable diseases and allergies;
and

(E) A record of major illnesses and hospitalizations.

(e) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning;

(f) Copies of documents relating to guardianship or conservatorship or any other legal restrictions on the rights of the individual, if applicable; and

(g) A copy of the most recent Functional Behavioral Assessment, Behavior Support Plan, ISP, and Individual Education Plan if applicable.

(3) **ADMISSION MEETING.** An ISP team meeting must be conducted prior to the onset of services to the individual. The findings of the meeting must be recorded in the individual's file and include at a minimum:

- (a) The name of the individual proposed for services;
- (b) The date of the meeting and the date determined to be the date of entry;
- (c) The names and role of the participants at the meeting;
- (d) Documentation of the pre-admission information required by section (2)(a-g) of this rule;
- (e) Documentation of the decision to serve or not serve the individual requesting service, with reasons; and
- (f) A written Transition Plan to include all medical, behavior, and safety supports needed by the individual, to be provided to the individual for no longer than 60 days, if the decision was made to serve.

(4) The provider must retain the right to deny admission of any individual if they feel the individual's support needs may not be met by the AFH-DD provider, or for any other reason specifically prohibited by these rules.

(5) AFH-DD homes may not be used as a site for foster care for children, adults from other agencies, or any other type of shelter or day care without the written approval of the CDDP or the [DivisionDepartment](#).

(6) **TRANSFERS.**

- (a) An individual may not be transferred by a provider to another AFH-DD or moved out of the AFH-DD without 30 days advance written notice to the individual, the individual's legal representative, guardian, or conservator, and the CDDP stating reasons for the transfer as provided in ORS 443.739~~(18)~~ and ~~OAR 411-088-0070,~~ and the individual's right to a hearing as provided in ORS 443.738~~(11)(b)~~ and ~~OAR 411-088-0080~~, except for a medical emergency, or to protect the welfare of the

individual or other individuals. Individuals may only be transferred by a provider for the following reasons:

- (A) Behavior that poses a significant danger to the individual or others;
- (B) Failure to make payment for care;
- (C) The AFH-DD has had its license suspended, revoked, not renewed, or the provider voluntarily surrendered their license;
- (D) The individual's care needs exceed the ability of the provider; or
- (E) There is a mutual decision made by the individual and the ISP team that a transfer is in the individual's best interest and all team members agree.

(b) Individuals who object to the transfer by the AFH-DD provider must be given the opportunity for hearing as provided in ORS 443.738(11)(b) and ~~OAR 411-088-0080~~. Participants may include the individual, and at the individual's request, the provider, a family member, and the CDDP. If a hearing is requested to appeal a transfer, the individual must continue to receive the same services until the appeal is resolved.

(7) RESPITE. Providers may not exceed the licensed capacity of their AFH-DD. However, respite care of no longer than 14 days duration may be provided to one or more individuals if the addition of the respite individual does not cause the total number of individuals to exceed five. Thus, a provider may exceed the licensed number of individuals by one or more respite individuals, for 14 days or less, if approved by the CDDP or the DivisionDepartment, and:

- (a) If the total number of individuals does not exceed five;
- (b) There is adequate bedroom and living space available in the AFH-DD; and

(c) The provider has information sufficient to provide for the health and safety of individuals receiving respite.

(8) CRISIS SERVICES. All individuals considered for crisis services received in an AFH-DD must:

(a) Be referred by the CDDP or Division/Department;

(b) Be determined to have a developmental disability by the Division/Department or the Division's/Department's designee;

(c) Be determined to be eligible for developmental disability services as defined in OAR 411-360-0020 or any subsequent revision thereof;

(d) Not be discriminated against because of race, color, creed, age, disability, gender, sexual orientation, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law; and

(e) Have a written Crisis Plan developed by the CDDP or Regional Crisis Diversion Program that serves as the justification for, and the authorization of, supports and expenditures pertaining to an individual receiving crisis services provided under this rule.

(9) SUPPORT SERVICES PLAN OF CARE AND CRISIS ADDENDUM REQUIRED. Individuals receiving support services under OAR chapter 411, division 340, and receiving crisis services in an AFH-DD must have a Support Services Plan of Care and a Crisis Addendum upon admission to the AFH-DD.

(10) PLAN OF CARE. Individuals, not enrolled in support services, receiving crisis services for less than 90 consecutive days must have a Transition Plan on admission that addresses any critical information relevant to the individual's health and safety including current physicians' orders.

(11) ADMISSION MEETING REQUIRED. Admission meetings are required for individuals receiving crisis services.

(12) EXIT MEETING REQUIRED. Exit meetings are required for individuals receiving crisis services.

(13) WAIVER OF APPEAL RIGHTS FOR EXIT. Individuals receiving crisis services do not have appeal rights regarding exit upon completion of the Crisis Plan.

(14) EXIT.

(a) A provider may only exit an individual for valid reasons equivalent to those for transfers stated in sections (6)(a)(A-E) of this rule. The provider must give at least 30 days written notice to an individual, the CDDP services coordinator, and the Department or the Department's designee before termination of residency, except where undue delay might jeopardize the health, safety, or well-being of the individual or others. If an individual requests a hearing to appeal the exit from an AFH-DD, the individual must receive the same services until the grievance is resolved.

(b) The provider must promptly notify the CDDP in writing if an individual gives notice or plans to leave the AFH-DD or if an individual abruptly leaves. An individual is not required to give notice to an AFH-DD provider if they choose to exit the AFH-DD.

(15) EXIT MEETING. Each individual considered for exit must have a meeting by the ISP team before any decision to exit is made. Findings of such a meeting must 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 discussion of strategies to prevent an exit from the AFH-DD unless the individual, or individual's guardian is requesting exit;

(f) Documentation of the decision regarding exit including verification of a majority agreement of the meeting participants regarding the decision; and

(g) Documentation of the proposed plan for services to the individual after the exit.

(16) REQUIREMENTS FOR WAIVER OF EXIT MEETING. Requirements for an exit meeting may be waived if an individual is immediately removed from the AFH-DD under the following conditions:

(a) The individual and the individual's guardian or legal representative request an immediate move from the AFH-DD home; or

(b) The individual is removed by a legal authority acting pursuant to civil or criminal proceedings.

(17) CLOSING. Providers must notify the [Division-Department](#) in writing prior to a voluntary closure of an AFH-DD, and give individuals, families, and the CDDP, 30 days written notice, except in circumstances where undue delay might jeopardize the health, safety, or well-being of individuals, providers, or caregivers. If a provider has more than one AFH-DD, individuals may not be shifted from one house to another house without the same period of notice unless prior approval is given and agreement obtained from individuals, family members, and the CDDP. A provider must return the AFH-DD license to the Department if the home closes prior to the expiration of the license.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 443.705 - 443.825