

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Approval )  
of the Adult Care Home ) ORDER  
Program Administrative Rules ) 96-158  
Filed June 28, 1996 )

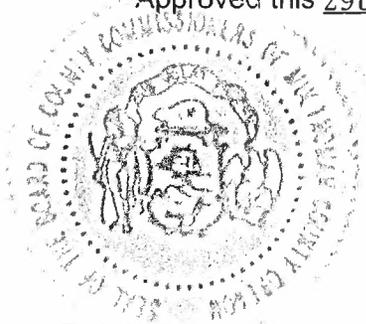
WHEREAS MCC 8.90.215 to 8.90.240 require the Board of Commissioners to conduct an appeals hearing on newly filed Adult Care Home Program Rules if a hearing is requested;

WHEREAS Adult Care Home Rules were filed with the Board , pursuant to MCC 8.90.210, on June 28, 1996;

WHEREAS a hearing was held and testimony taken on August 29, 1996;

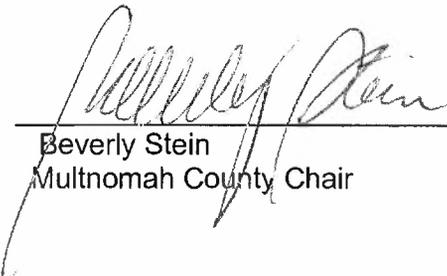
IT IS HEREBY ORDERED THAT THE REVISED Adult Care Home Program Rules are approved as filed. This Order is effective upon signing.

Approved this 29th day of August, 1996.



MULTNOMAH COUNTY, OREGON

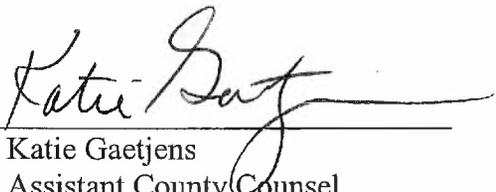
By

  
Beverly Stein  
Multnomah County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By

  
Katie Gaetjens  
Assistant County Counsel

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**MULTNOMAH COUNTY**  
**AGING SERVICES DEPARTMENT**  
**ADULT CARE HOME PROGRAM**

**ADMINISTRATIVE RULES**  
**FOR**  
**LICENSURE OF ADULT CARE HOMES**

**FILED June 28, 1996**

If you have questions, please contact:

Adult Care Home Program  
421 SW 5th Avenue  
Room 405  
Portland, Oregon 97204-2221  
Telephone: 503-248-3000



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**AGING SERVICES DEPARTMENT**  
**ADULT CARE HOME PROGRAM**

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**(Adult Foster Homes)**

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## INTRODUCTION

The Multnomah County Administrative Rules for Adult Care Homes govern the licensing and operation of Adult Care Homes in Multnomah County, Oregon. The Adult Care Home Program (ACHP) licenses Adult Care Homes and enforces the rules.

Multnomah County is an exempt county as determined by the State Department of Human Resources, Senior and Disabled Services Division. An exempt county provides a program for licensing and inspection of Adult Care Homes which is equal to or exceeds the requirements of ORS 443.705 to ORS 443.825. Exempt county licensing rules must be submitted to the Director of Senior and Disabled Services Division for review and approval prior to implementation. Multnomah County has been designated as such an exempt area on the basis of the Adult Care Home Licensure Ordinance and these rules.

\*\*\*\*\*

### **891-005-100      AUTHORITY FOR AND JURISDICTION OF ADULT CARE HOME PROGRAM (ACHP) RULES**

005-110      These rules are authorized by MCC 8.90.025, pursuant to the procedures set forth in MCC 8.90.160 through 8.90.260.

005-120      These rules are necessary for the administration and enforcement of the Multnomah County Adult Care Home Licensure Ordinance, found in Chapter 8.90 of Title 8 of the Multnomah County Code, Section 5.700 of Chapter 5 of the Code of the City of Gresham, Chapter 8.95 of Title 8 of the Code of the City of Portland, and Chapter 7.020 of Title 7 of the Code of the City of Troutdale.

005-130      These rules shall apply to all Adult Care Homes operating within Multnomah County.

### **891-010-100      PURPOSE OF THE ADULT CARE HOME RULES**

010-110      These rules set forth the standards and requirements governing Adult Care Homes and are necessary to protect the health, safety and welfare of the residents of Adult Care Homes in Multnomah County. These standards and requirements shall be consistent with the homelike atmosphere required in Adult Care Homes.

010-120      Operators, Resident Managers and caregivers of Adult Care Homes shall abide by the terms of the Multnomah County Administrative Rules.

010-130      The goal of adult foster care is to provide necessary care while emphasizing the resident's independence. To reach this goal, the care provider and the resident, resident's family member or resident's legal representative shall cooperate to protect and encourage the resident's dignity, choice and decision-making. Resident needs will be addressed in a manner that supports and enables the individual to maximize abilities and function at his/her highest level of independence.

### **891-015-100      PURPOSE OF THE ADULT CARE HOME PROGRAM (ACHP)**

The Adult Care Home Program (ACHP) has developed standards for Adult Care

Homes and the rules to be used in enforcing these standards in consultation with Operators, advocates for residents, experts in the field and others. The purpose of the Adult Care Home Program, in relation to the Multnomah County Code and these rules, is:

(a) To ensure that Adult Care Home residents are cared for in a homelike atmosphere which is friendly, safe, and secure; where the atmosphere is more like a home than a medical facility, where the resident's dignity and rights are respected, where positive interaction between members of the home is encouraged, and where the resident's independence and decision-making are protected and encouraged.

(b) To enforce the Multnomah County Administrative Rules (MCAR's) in order to protect the health, safety and welfare of residents of Adult Care Homes.

(c) To enforce the MCAR's to ensure an appropriate physical environment and at least a minimum standard of care in each home.

(d) To ensure that the public has access to the information necessary to select an appropriate Adult Care Home.

## **891-018-100 RESIDENTS' BILL OF RIGHTS**

Each resident of an Adult Care Home in Multnomah County has a right to:

- (a) be treated as an adult with respect and dignity.
- (b) live in a safe, secure, homelike environment.
- (c) be informed of all resident rights and house rules.
- (d) be encouraged and assisted to exercise rights as a citizen, including the right to vote and to act on his or her own behalf.
- (e) be given information about his or her medical condition.
- (f) consent to or refuse treatment, medication or training.
- (g) have all medical and personal information kept confidential.
- (h) receive appropriate care and services from the Adult Care Home and access to prompt medical care as needed.
- (i) be free from mental or physical abuse, neglect, abandonment, punishment, harm or sexual exploitation.
- (j) be free to make suggestions or complaints without fear of retaliation.
- (k) be free from financial exploitation, including charges for application fees or nonrefundable deposits and solicitation, acceptance or receipt of money or property by an Operator, Resident Manager or caregiver, other than the amount agreed to for services.
- (l) be free from physical or chemical restraints except as ordered by a physician or qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not used for discipline or convenience.
- (m) be free from any type of illegal discrimination.
- (n) be afforded personal privacy, the opportunity to associate and communicate privately with any person the resident chooses, to send and receive mail unopened, and to use the telephone in private.
- (o) participate in social, religious, and community activities.
- (p) to make personal decisions about such things as friends, leisure activities, choice of physician, spending personal money, food, personal schedules, and place of residence.
- (q) be allowed and encouraged to develop talents and learn new skills, relate to other residents in meaningful ways, and the choice to take part in the normal activities and upkeep of the home.
- (r) keep and use a reasonable amount of personal clothing and other belongings, and have a reasonable amount of private, secure storage space.

- (s) be free to manage financial affairs unless legally restricted.
- (t) receive a written agreement regarding the services the home shall provide and rates charged, and receive at least thirty days written notice before the home's ownership or rates change.
- (u) receive at least thirty days written notice from the Operator and an opportunity for a hearing before being involuntarily moved out of the home by an Operator, unless there is an emergency situation.
- (v) be involuntarily moved out of the home by an Operator only for the following:
  - (1) medical reasons;
  - (2) the resident's welfare;
  - (3) the welfare of other residents;
  - (4) nonpayment;
  - (5) behavior which poses an immediate threat to self or others;
  - (6) behavior which substantially interferes with the orderly operation of the home;
  - (7) the care needs of the resident exceed the ability or classification of the Operator;  
or
  - (8) the home is no longer licensed.
- (w) receive complete privacy when receiving treatment or personal care.
- (x) receive visitors free from arbitrary and unreasonable restrictions.
- (y) practice the religion of his/her choice.
- (z) not be forced to work against his/her will and to be paid for agreed upon work.

**ADMINISTRATIVE RULES  
FOR LICENSURE OF  
ADULT FOSTER HOMES**

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## PART I - LICENSING AND APPLICATIONS

### 891-020-100

### GENERAL REQUIREMENTS

020-110

A license is required for all Operators of Adult Care Homes located in Multnomah County in accordance with the Multnomah County Code and Administrative Rules for Adult Care Homes. The Multnomah County Adult Care Home Program shall license three different types of adult care homes. They are:

- (a) Adult Foster Homes;
- (b) Adult Foster Homes with a Limited License;
- (c) Room and Board Facilities.

020-120

An Adult Foster Home license is required (except as provided in MCAR 891-020-150) for any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home.

020-130

An Adult Foster Home Limited License is required for all homes or facilities that provide residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home. Part XV of these rules sets out the provisions for licensure of an Adult Foster Home with a limited license.

020-140

A Room and Board License is required for homes or facilities that provide only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provides no services except medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall not be required to provide supervision 24 hours per day in the room and board facility when one or more residents are present or are expected to be present in the home. Part XVI of these rules sets out the provisions for licensure of a room and board facility.

020-150

An Adult Care Home license is not required for the following:

- (a) A home or facility, including but not limited to residential care facilities, specialized care facilities, and long term care facilities licensed by the State of Oregon in accordance with ORS 443.400 to ORS 443.455 or any other governmental agency.
- (b) A relative foster home licensed or registered by another agency to provide care to family members eligible for State Medicaid assistance.

(c) Any other house, institution, hotel or other similar living situation that supplies:

(A) room only; or

(B) where no elderly persons or persons with disabilities reside who are provided any element of residential care for compensation.

(d) A facility where all residents are related to the Operator by blood or marriage.

(e) A facility where all residents are under age 18.

020-160 Compensation includes any sort of payment to the Operator, including in-kind payment or services.

**891-020-200 GENERAL CRITERIA FOR ADULT FOSTER HOME APPLICATION PACKETS**

020-204 Adult Foster Home application packets shall be in writing on ACHP forms, completed and submitted by the person requesting to be licensed as the Operator and who is responsible for the operation of the home.

020-208 Each Co-Operator shall complete all application packet forms. The term Co-Operator is synonymous with Operator as both are equally responsible for the home. Co-Operators shall meet all qualifications and standards for an Operator.

020-212 Application packets for an Adult Care Home which has a Resident Manager shall include all required information about the Resident Manager.

020-216 A separate application packet is required for each location where an Adult Foster Home is operated.

020-218 Operators of Adult Foster Homes shall obtain any applicable business license.

020-220 The ACHP will not process license applications until a complete application packet is received by the ACHP.

020-224 After the ACHP receives a completed application packet and the required fee, the ACHP shall review the application packet, investigate criminal records, order appropriate inspections, carry out interviews with the applicant(s), check references and inspect the home to determine compliance with ACHP rules.

020-226 As part of the application process, the ACHP may request inspections of the Adult Foster Home from local fire department representatives, the County Sanitarian, City Building and Electrical inspectors, and other persons as determined necessary by the ACHP.

020-228 The ACHP shall grant or deny a license to an applicant within 60 days of the date the ACHP receives a complete application packet.

020-232 The ACHP shall issue a license if the Adult Foster Home and Operator, Resident Manager and caregivers are in compliance with these rules and have cooperated in the application process.

020-236 Application packets are void 60 days from the date any portion of the application packet and/or fee(s) are received by the ACHP if the application packet is not complete.

- 020-240 Failure to provide accurate and complete information may result in denial of the application.
- 020-244 An applicant shall state the maximum capacity requested including the number of respite residents, room and board occupants, day care persons, and relatives needing care. The application form shall also include the total number of other occupants in the Adult Foster Home.
- 020-248 The ACHP shall determine the maximum capacity of the Adult Foster Home during the licensure process.
- 020-252 An applicant shall state the classification being requested with information and supporting documentation regarding qualifications, relevant work experience, and training of staff as required by the ACHP.
- 020-256 The ACHP shall determine the classification of the Adult Foster Home based on the requirements in MCAR 891-025-100.
- 020-264 Applicants may withdraw applications at any time during the licensure process by notifying the ACHP.
- 020-268 Applicants may receive a refund of application fees if the application is withdrawn before any of the ACHP required inspections are completed.
- 020-272 The ACHP shall not refund application fees if an application is denied after the ACHP home inspection is completed.
- 020-276 The ACHP shall credit fees toward the Operator's future license application if the home is licensed for fewer beds than the applicant paid for at the time of application.
- 020-280 An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator, shall not be permitted to make a new application for one year from the date the revocation, surrender, or denial is final, or for a longer period if specified in the order revoking or denying the license.
- 020-284 Information from a previous license or application shall be considered in processing a later application.
- 020-288 A license is void immediately upon issuance of a final order of revocation, a voluntary surrender by the Operator, or a change of ownership or location of the home. A void license shall be returned to the ACHP.
- 020-292 The ACHP shall not license an Operator who does not fully control all of the following:
- (a) hiring and firing of all the personnel in the Adult Foster Home;
  - (b) admission, discharge and transfer of any resident;
  - (c) daily operation of the Adult Foster Home.

**891-020-300****GENERAL CRITERIA FOR ADULT FOSTER HOME STAFF**

- 020-310 No person may be an Operator, Resident Manager, shift caregiver, or substitute caregiver or otherwise be employed by the Operator or reside in or on the property of an Adult Foster Home, or be in the home on a frequent basis and have contact with the residents, except for the resident or their visitors, who have not met the requirements of the criminal record section of these rules or who have been found responsible for a disqualifying type of abuse.
- 020-320 The ACHP may prohibit any person from working or being in an Adult Foster Home if the ACHP finds that his/her presence would jeopardize the health, safety or welfare of the resident(s) in the home.
- 020-330 Operators shall insure that all Resident Managers and caregivers who work in the Adult Foster Home have the necessary skills and experience to meet the needs of the residents.
- 020-340 If Operators, Resident Managers and caregivers do not meet the standards for Operators, Resident Managers and caregivers in MCAR 891-050-100 through MCAR 891-050-975, the ACHP shall deny the application of each individual.

**891-020-400****GENERAL CRITERIA FOR THE ADULT FOSTER HOME LICENSE**

- 020-406 The ACHP shall have the authority to issue an Adult Foster Home license to an approved applicant. The ACHP shall not issue a license unless the applicant and Adult Foster Home are in compliance with Multnomah County Administrative Rules.
- 020-412 The person and the Adult Foster Home that is licensed shall remain in compliance with all Multnomah County Administrative Rules for the duration of the license.
- 020-418 An Adult Foster Home license shall be valid for one year from the date the ACHP issues the license unless the license is revoked or suspended.
- 020-424 The Adult Foster Home license shall state the Operator's name and the home's address, the Resident Manager's name, type of license, maximum capacity of the home, the classification of the home and the time period for which the license is valid.
- 020-430 Operators must ensure that either the Operator or approved Resident Manager live in the home unless there is a written exception for shift caregivers granted by the ACHP.
- 020-436 By applying for and accepting an Adult Foster Home license, the Operator agrees to operate the home according to these MCAR's, including allowing unannounced licensing and monitoring visits.
- 020-442 The Operator shall post the most recent Inspection Reports available in the entry or equally prominent place and shall, upon request, provide a copy of the information to each resident of, or person applying for admission to the Adult Foster Home, or the family or legal representative of the resident or potential resident.
- 020-448 If a currently licensed Operator has more than one utility shut-off notice, or one complaint of nonpayment of rent or of lack of food or equipment, the Operator

must have at least two months of financial resources reserved.

- 020-454 The applicant shall provide the ACHP with a list of all unsatisfied judgments, liens and pending lawsuits in which a claim for money or property is made against the applicant; all bankruptcy filings by the applicant; and all unpaid taxes due from the applicant. The ACHP may require or permit the applicant to provide a current credit report to satisfy this requirement. The ACHP shall not issue an initial license to an applicant who has been adjudged bankrupt more than once. If the applicant has any unpaid judgments (other than a current judgment for support), pending lawsuits, liens or unpaid taxes, the ACHP shall require the applicant to provide proof that the applicant has the amount of resources necessary to pay those claims. If the applicant is unable to demonstrate the financial ability and resources required by these rules, the ACHP may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan as a requirement of initial licensure.
- 020-460 Operators must own, rent or lease the home to be licensed.
- 020-462 If a licensed Operator rents or leases the premises where the Adult Foster Home is located, the Operator shall not enter into a contract that requires anything other than a flat rate for the lease or rental.
- 020-466 If requesting a license to operate more than one home, the Operator must supply to the ACHP a plan for all homes covering:
- (a) administrative responsibilities for all homes,
  - (b) staffing qualifications,
  - (c) job descriptions for Resident Managers and caregivers,
  - (d) staffing plans, and
  - (e) Registered Nurse or physician monitoring.
- 020-472 The ACHP shall not issue a license to operate an additional Adult Foster Home unless the Operator has the qualifications, abilities and capacity to operate the existing licensed home(s) and proposed home(s) and has demonstrated the ability to provide care to the residents of those homes that meet the standards in the MCAR's.
- 020-484 An exception may be granted to MCAR 891-020-460 to an organization, such as a church, hospital, non-profit association or similar organization whose purposes include provision of care and services to residents to operate an Adult Foster Home. The organization must have a Board of Directors or Board of Trustees which must designate one person who meets the qualifications and functions as the Operator of the home. This individual's responsibilities must include MCAR 891-020-292 (a), (b), and (c).
- 020-490 Operators shall have written approval from the ACHP and appropriate contracting agencies before admitting any foster child for compensation in the same home with elderly persons and/or persons with disabilities.
- 020-496 If the Operator has a Medicaid contract, the Operator cannot ask a resident to move when the resident becomes eligible for Medicaid.

**ADDITIONAL CRITERIA FOR A NEW ADULT FOSTER HOME LICENSE**

- 020-510 Applicants shall have attended an ACHP orientation within the last 12 months before obtaining an application packet.
- 020-520 Applicants shall pass a pre-qualifying test to demonstrate adequate communication skills before an application packet is issued by the ACHP.
- 020-530 Application packets for new Adult Foster Home Operator's licenses returned to the ACHP shall include:
- (a) A completed ACHP application form.
  - (b) A Qualifying Test certificate.
  - (c) An Initial Training certificate.
  - (d) Criminal record check authorization forms for each person aged 16 years and over who lives or works in the home or is frequently in the home and has contact with the residents.
  - (e) A physician's statement regarding the applicant's physical and mental ability to provide care.
  - (f) A current CPR and first aid certificate for the Operator and Resident Manager.
  - (g) A completed financial information form, a budget for operating the home, including payroll expense totals, and evidence of the applicant's financial ability to operate the home.
  - (h) Evidence of the home's ownership, or a copy of the rental or lease agreement. If the home is leased or rented, the name of the owner and/or landlord must be included. In addition, there must be verification that the rent is a flat rate. Financial information about rental or lease arrangements shall not become part of the public record.
  - (i) Floor plans of the home showing the location and size of all rooms, doors and windows, as well as wheelchair ramps, smoke detectors and fire extinguishers.
  - (j) Bureau of Buildings and electrical inspection approval forms where applicable.
  - (k) A staffing plan covering staff qualifications and how the home shall be supervised and monitored, including the use of substitute caregivers and other staff. If the Operator uses a Resident Manager, a written plan on coverage for Resident Manager absences must be submitted. (See Staff Coverage/Supervision.) The staffing plan shall also include the name, address and telephone number of an approved caregiver who will be available to provide care in the absence of the Operator, Resident Manager, or other caregiver.
  - (l) If needed, completed Co-Operator and Resident Manager applications.
  - (m) Adult Foster Home license application fees.
  - (n) Three references which document applicant's hands-on care experience with elderly persons or persons with disabilities. Once submitted, these references will

be kept confidential and not released to the Operator.

(o) Copy of city business license, if applicable.

020-540 The ACHP shall not issue an initial license unless:

(a) A completed application packet is received and all fees, fines and penalties have been paid.

(b) The applicant and Adult Foster Home are in compliance with these rules.

(c) The ACHP has completed an inspection of the Adult Foster Home.

(d) The ACHP has completed a criminal record check on the applicant(s), any employee of the AFH, and any person aged 16 years and over who is in the home on a frequent basis and who will have contact with the residents , other than a resident or their visitors.

(e) The ACHP has checked the record of sanctions available from its files and State registry of nursing assistants who have been found responsible for abuse.

(f) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the Adult Foster Home. The applicant shall have a financial reserve equal to at least the amount of two months budgeted expenses.

020-550 In seeking an initial license, the burden of proof shall be on the Operator and the Adult Foster Home to establish compliance with the Multnomah County Administrative Rules.

**891-020-600 ADDITIONAL CRITERIA FOR RENEWAL OF AN ADULT FOSTER HOME LICENSE**

020-608 At least 60 days prior to the expiration of the license, an expiration notice and application packet for renewal will be sent to the Operator by the ACHP.

020-616 The Operator must submit a complete ACHP renewal application packet.

020-624 Submission of a renewal application packet prior to the expiration date will keep the license in effect until the ACHP takes action.

020-632 If the Operator does not submit a complete renewal application packet before the license expiration date, the ACHP shall treat the home as an unlicensed home. (Refer to MCAR 891-025-300.)

020-640 The ACHP shall review the renewal application materials and conduct an unannounced inspection of the Adult Foster Home. Prior to renewal, the ACHP shall interview Operators, Resident Managers, caregivers and residents; review Operator, Resident Manager and caregiver training documentation; review Adult Foster Home records; assess the homelike atmosphere; and inspect postings and safety features (fire safety equipment, etc.).

020-648 The Operator will be given a copy of the renewal ACHP Inspection Report at the time of the inspection citing any deficiencies and timeframes for correction, which shall be no longer than 60 days from the date of the inspection. The Operator

shall correct all deficiencies before the renewal license is approved. If any cited deficiencies are not corrected within the timeframe specified by the ACHP, the renewal application shall be denied. The ACHP may follow up with additional Licensing Reports citing deficiencies and timeframes for corrections.

020-656 The effective date of a renewal license shall be the day following the expiration date of the previous year's license.

020-664 The ACHP shall not renew a license unless:

(a) The ACHP has received a completed renewal application packet.

(b) The ACHP has completed an inspection of the Adult Foster Home.

(c) The home, Operator, Resident Manager and caregivers are in compliance with these rules.

(d) The ACHP has completed a criminal record check on the applicant(s), any employee of the Adult Foster Home and any person aged 16 years and over who is in the home on a frequent basis who will have contact with the residents, other than a resident or their visitors.

(e) All fines, penalties and fees have been paid unless there is a hearing pending regarding the fine or penalty.

(f) The ACHP has checked the record of sanctions available from its files and State registry of nursing assistants who have been found responsible for abuse.

(g) Copy of applicable city business license.

020-668 The ACHP shall consider requests for reclassification of the Adult Foster Home only at annual renewal.

020-672 Currently licensed Operators shall be able to demonstrate financial reserves equal to at least two month's operating expenses without relying on income from residents.

020-680 After the Adult Foster Home is in operation, the Operator may use the financial reserve if needed. If the financial reserve goes below the level required for two months of operation, the reserve must be replenished to the two months level within six months.

020-688 In seeking a renewal of a license when an Adult Foster Home has been licensed for less than 24 months, the burden of proof shall be upon the Operator and the Adult Foster Home to establish compliance with the rules of the ACHP.

020-692 In proceedings for renewal of a license when an Adult Foster Home has been licensed for at least 24 continuous months, the burden of proof shall be upon the ACHP to establish noncompliance with these rules.

#### **891-020-700**

#### **PROVISIONAL LICENSE**

Notwithstanding any other provision in the MCAR's, the ACHP may issue a provisional license for up to 60 days to a qualified person if the ACHP determines that an emergency situation exists after being notified that the licensed Operator

is no longer overseeing the operation of the Adult Foster Home. A person would be considered qualified if they are 21 years of age and meet the requirements of a substitute caregiver.

**891-020-800 OPERATOR'S RESPONSIBILITIES REGARDING Resident ManagerS**

- 020-810 Resident Managers for Adult Foster Homes shall attend orientation, the initial training course and pass the pre-qualifying test before being approved.
- 020-820 Adult Foster Home Operators which employ a Resident Manager shall submit a completed Resident Manager application packet, Resident Manager qualifying test certificate and fee to the ACHP before a Resident Manager's employment. The ACHP shall approve or deny the Resident Manager application and shall evaluate and may change the classification of the home based on the Resident Manager's qualifications.
- 020-830 If, during the period covered by the license, the Resident Manager leaves or ceases to act as the Resident Manager, the Operator must notify the ACHP. Before a new Resident Manager may start work, the Operator shall obtain approval from the ACHP. The Operator must request modification of the Adult Foster Home license to identify the change in Resident Manager.
- 020-840 If the ACHP determines that an unexpected and urgent staffing situation exists, the ACHP may permit, in writing, a person who has not attended orientation, completed the training or passed the qualifying test to act as a Resident Manager until training and testing are completed or for 60 days, whichever is shorter. The Operator shall provide a satisfactory explanation of the inability to find a qualified Resident Manager and must indicate that the person is at least 21 years of age and meets the requirements for a substitute caregiver for the Adult Foster Home, and that the Operator will provide adequate supervision.

**891-020-900 CAPACITY OF ADULT FOSTER HOMES**

- 020-910 Residents shall be limited to five persons unrelated to the Operator by blood, adoption, or marriage and who require care.
- 020-920 Respite residents are included in the licensed limit of the home.
- 020-930 The number of residents permitted to reside in an AFH will be determined by the ability of the staff to meet the care needs of the residents, the fire safety standards for evacuation, and compliance with the physical structure standards of these rules. Determination of maximum capacity must include consideration of total household composition including children and relatives requiring care and supervision. In determining maximum capacity, consideration shall be given to whether children over the age of five have a bedroom separate from their parents.
- 020-940 When there are relatives requiring care or day care residents, the allowable number of unrelated residents may continue to be the maximum capacity of five if the following criteria are met:
- (a) The Operator can demonstrate the ability to evacuate all occupants within three minutes;
  - (b) The Operator has adequate staff and has demonstrated the ability to provide appropriate care for all residents;

(c) There is an additional 40 square feet of common living space for each person above the five residents;

(d) Bedrooms and bathrooms meet the requirements of these rules;

(e) The care needs of the additional persons are within the classification of the license and any conditions imposed on the license;

(f) The well-being of the household including any children or other family members will not be jeopardized; and

(g) If day care persons are in the home, they must have arrangements for sleeping in areas other than a resident's bed or a resident's private room or space designated as common use.

020-950 The Adult Foster Home license shall state the maximum number of unrelated residents permitted to reside in the home, and the maximum number of additional persons, including relatives receiving care, day care residents and room and board residents.

020-960 The Adult Foster Home shall not exceed maximum capacity determined by the ACHP as stated on the license.

020-970 The ACHP shall review the Adult Foster Home's maximum resident capacity at each license renewal.

020-980 The ACHP shall review and may change the maximum capacity of the Adult Foster Home if there are any indications that ACHP standards of care or the health, safety or welfare of residents is at risk.

**891-025-100 CLASSIFICATION OF ADULT FOSTER HOMES (LEVELS OF CARE)**

025-105 The ACHP shall determine the classification of an Adult Foster Home during the licensure process. The classification level determines the level of care the Adult Foster Home may provide to residents.

025-110 A Class I, Class II or Class III license, except as noted in MCAR 891-025-115 and MCAR 891-025-120, will be issued by the ACHP based upon compliance with these rules and the qualifications of the Operator, Co-Operator and the Resident Manager. The lowest level of qualification of the Operator, Co-Operator and Resident Manager shall prevail in classification determination.

025-115 Homes that serve only Mentally Emotionally Disabled or Developmentally Disabled residents do not receive a classification.

025-120 Adult Foster Homes with a Limited License and Room and Board Facilities do not receive a classification. (See Parts XV and XVI.)

025-125 A Class I license may be issued if the applicant (and Resident Manager, if any) complete the required training and have the equivalent of at least one year verifiable fulltime experience within the last three years providing direct care to elderly persons or persons with disabilities (for example, feeding, bathing, transferring) or a current CNA certification and the equivalent of at least four months verifiable fulltime experience within the last three years.

- 025-130 A Class II license may be issued if the Operator (and Resident Manager, if any) complete the required training and each has the equivalent of two years of full-time verifiable experience providing direct care to elderly persons or persons with disabilities within the last five years, or a current CNA certification and the equivalent of at least 16 months fulltime verifiable experience within the last five years.
- 025-135 A Class III license may be issued if the Operator (and Resident Manager, if any) both complete the required training, have no substantiated complaints of abuse or neglect within the last three years and each:
- (a) is a health care professional with a current license, such as a Registered Nurse, licensed practical nurse (LPN), physician, occupational therapist, or physical therapist;
- or
- (b) has the equivalent of three years' verifiable full time hands-on experience within the last ten years in providing direct care to elderly persons or persons with disabilities who are dependent in four or more ADL's; and
  - (c) can provide current satisfactory references from at least two medical professionals, such as a physician and Registered Nurse, who have direct knowledge of the applicant's ability and past experience as a caregiver; and
  - (d) can demonstrate to the ACHP the ability to provide appropriate care to persons dependent in four or more activities of daily living.
- 025-140 An Operator with a Class I license may admit only residents who need assistance in four or fewer activities of daily living (ADL's). All residents must be in stable medical condition and not need skilled or continuous nursing care.
- 025-145 An Operator with a Class II license may provide care for residents who require assistance in all activities of daily living, but are not dependent in more than three activities of daily living. A Class II Operator may request an exception to provide care to one Class III resident.
- 025-150 An Operator with a Class III license may provide care for residents who are dependent in four or more activities of daily living, except that no more than one bed-care or totally dependent person may be in residence at one time.
- 025-155 Operators shall care only for residents whose impairment levels are within the classification level of the home. If the Operator wishes a more impaired resident to remain in the home, the Operator shall request in writing an exception to care for a more impaired resident.
- 025-160 Operators of Class II and Class III homes shall not admit more than one resident requiring skilled or continuous nursing care without ACHP approval. This does not include residents who only require treatments such as insulin injections or catheter changes, as long as the task was properly delegated and the residents are not in need of other skilled or continuous nursing care.
- 025-165 The ACHP may grant an exception which allows a resident whose care needs exceed the classification of the home to live in the Adult Foster Home if the Operator provides clear and convincing evidence that the following criteria are

met:

- (a) it is the choice of the resident to reside in the home;
- (b) the exception will not jeopardize the care, health, safety or welfare of any occupant;
- (c) the three minute fire evacuation standard for all occupants can be met.
- (d) the Operator is able to provide appropriate care of the resident in addition to the care of the other residents.
- (e) adequate staff are available to meet the care requirements of all occupants in the home; and
- (f) outside resources are available and obtained, if necessary, to meet the resident's care needs.

025-170 An Operators shall not admit a resident whose impairment level exceeds the license classification level of the home without prior written approval of the ACHP. The request must be made in writing.

025-175 Operators shall ensure that a Resident Manager meets or exceeds the experience and training standards for the classification of the Adult Foster Home.

025-185 The ACHP may require an RN's assessment of a resident's care needs whenever a resident's care needs change or are in question.

**891-025-200 CLOSING, MOVING OR SELLING ADULT FOSTER HOMES**

025-210 The Adult Foster Home license shall apply only to the person(s) and address specified on the Adult Foster Home license. A license shall not be transferred to another person or location.

025-220 If an Operator of an Adult Foster Home no longer wishes to be licensed, any potential new Operator shall apply to the ACHP for a license and be licensed before the change. The new potential Operator shall follow all ACHP application rules. The licensed Operator of the home shall not transfer operation of the home to the new Operator until the ACHP licenses the new Operator.

025-230 Operators shall give at least 30 days written notice to the resident, the resident's family member and to the resident's legal representative, before leaving, selling, leasing or transferring the Adult Foster Home business or the real property on which the Adult Foster Home is located.

025-240 If an Operator's license expires during a change in licensed Operators and the new potential Operator has not been approved for a license, the home shall be treated as an unlicensed home.

025-250 Operators selling the Adult Foster Home business must separate that transaction from the sale of the real estate.

025-260 The Operator shall inform real estate agents, prospective buyers, lessees and transferees in all written communications, including advertising and disclosure statements, that the license to operate an Adult Foster Home is not transferable

and shall refer them to the ACHP for information about licensing.

025-270 Operators shall notify the ACHP prior to a voluntary closure of a home, proposed sale or transfer of business or property and shall give residents, families, and case managers for Medicaid clients 30 days' written notice except in circumstances where undue delay might jeopardize the health, safety or well-being of residents, Operators, Resident Managers, or staff. If an Operator has more than one home, residents cannot be shifted from one home to another home without a thirty day written notice unless prior written approval is given and agreement is obtained from residents, family members and case managers.

025-280 If an Operator proposes to move a licensed Adult Foster Home to another location, the new location must be licensed by the ACHP prior to a resident being placed in the home.

**891-025-300 UNLICENSED HOMES**

025-310 If an Operator's license expires and no renewal application packet has been received by the ACHP, or the ACHP becomes aware of an unlicensed home providing care, the ACHP shall conduct an unannounced visit to determine the safety of the residents in the home.

025-320 The ACHP will relocate residents immediately if there is an immediate threat to their health, safety or welfare.

025-330 The ACHP may issue a 30 day written notice to all residents stating that all residents must relocate if there is no immediate threat to their health, safety or welfare. The ACHP shall monitor the home during the notice period.

025-340 The Operator of an unlicensed Adult Foster Home who is unfamiliar with the ACHP shall be informed of the licensing process.

025-350 The ACHP may impose sanctions or initiate judicial action against an unlicensed Adult Foster Home.

025-360 No person or entity shall represent themselves as an Adult Foster Home, solicit or admit a person needing care or services, or accept placement of a person without holding a current license from the Adult Care Home Program. Failure to comply with this requirement shall be grounds for administrative sanctions, which may include imposition of a fine, denial of an application for an Adult Foster Home license, and/or the initiation of legal proceedings.

025-370 The ACHP shall identify Adult Foster Homes in Multnomah County which are operating without a valid license. The ACHP shall take appropriate action to ensure that unlicensed Adult Foster Homes either become licensed or cease to operate.

**PART II - EXCEPTIONS**

**891-030-100 APPLICATIONS FOR EXCEPTIONS TO THE ADULT FOSTER HOME RULES**

030-110 Adult Foster Home license applicants or Operators must apply in writing to the ACHP for an exception to a specific requirement of the ACHP rules. The Operator must prove to the ACHP by clear and convincing evidence that such an exception does not jeopardize the care, health, welfare or safety of the residents.

Evidence must indicate that all residents' needs can be met and that all occupants can be evacuated within three minutes.

030-120

The ACHP shall not grant exceptions to certain ACHP rules, including but not limited to the rules governing:

- (a) maximum capacity requirements except as provided in MCAR 891-030-150;
- (b) mandatory inspections;
- (c) criminal history and criminal record checks (MCAR 891-050-400);
- (d) Residents' Bill of Rights;
- (e) testing requirements for Operators and Resident Managers (MCAR 891-050-600 through MCAR 891-050-850);
- (f) protection from retaliation for filing complaints;
- (g) inspection of public files;
- (h) fire safety requirements;
- (i) license application requirements; and
- (j) standards set out in MCAR 891-060-100 through MCAR 891-070-770 and MCAR 891-090-100 through MCAR 891-090-150.

030-130

The ACHP shall document the reason for granting or not granting an exception to the ACHP rules. The exception shall not be effective until granted in writing by the ACHP. Exceptions shall be granted on a case by case basis considering all relevant factors.

030-140

The ACHP shall review exceptions granted to an Adult Foster Home at each license renewal period and may deny or modify exceptions previously granted if there has been a change in the situation.

030-150

The ACHP may grant an exception to the rules to increase the maximum licensed capacity of the Adult Foster Home to allow day care residents to live in the home, if the Operator can demonstrate all of the following:

- (a) the ability to evacuate all occupants from the home to a point of safety within three minutes.
- (b) adequate staff with demonstrated ability to provide appropriate care for all residents.
- (c) an additional forty square feet of common living space for each person above the five residents.
- (d) bedrooms and bathrooms that meet ACHP facility standards.
- (e) the care needs of additional persons do not exceed the classification of the Adult Foster Home license and any conditions imposed on the license.

(f) day care residents have arrangements for daytime sleeping in areas other than a resident's bed or a resident's private room or space designated as common use.

(g) the safety of the home and the well-being and care needs of the residents, children or other family members will not be jeopardized if the ACHP grants the exception.

030-160 The decision of the ACHP regarding a request for an exception is final.

### PART III - CONTRACTS

#### 891-040-100 CONTRACTS FOR PRIVATE PAY RESIDENTS

040-110 Operators of Adult Foster Homes with private pay residents shall enter into a contract with the residents, dated and signed by the Operator and the resident or the resident's legal representative. The Operator's contract is subject to ACHP review prior to licensure. The ACHP may disapprove contracts or contract provisions which are in conflict with the ACHP rules or any law or ordinance.

040-120 Operators shall review the contract with the resident and the resident's legal representative when the resident is admitted to the home. Operators shall give a signed copy of the contract to the resident and the resident's legal representative.

040-130 The contract shall be reviewed by the Operator and the resident or the resident's legal representative at least once a year. The contract shall be updated and signed whenever the home's rate changes as a result of a change in resident care needs or if any contract provision changes.

040-140 The contract shall address, at a minimum:

(a) the specific care and services the home shall provide to the resident.

(b) the monthly rates for care and services.

(c) whether the resident's bedroom is private or shared.

(d) the due dates for payment and provisions for any late charges.

(e) the amount of refund and refund policy for any security deposits requested. The security deposit must be retained in an interest bearing account separate from the funds of the Operator.

(f) the circumstances under which the home's rates may change.

(g) the home's refund policy when a resident leaves the home before the required notice period.

(h) who shall be responsible for arranging and paying for any special services or equipment in the Adult Foster Home, including nursing delegations or care, and any fees for the resident's transportation.

(i) under what conditions the contract between Operator and resident may be ended, what notice is required from the Operator or resident to end the contract,

and that the notice requirement may be waived with the consent of both parties.

(j) the resident's right to a hearing before being moved from the home in a non-emergency situation.

(k) how the resident may recover personal property left in the home, and how and when an Operator may dispose of the resident's property if not recovered.

(l) an acknowledgement that house rules have been signed.

(m) how many days payment shall be required if a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.

(n) refunds of security deposits that allow for normal wear and tear.

040-150 If a resident's care needs change significantly, the Operator may renegotiate a higher rate to become effective in less than thirty days if the resident or the resident's legal representative voluntarily agrees to the increase.

040-160 Contracts between Operators and resident shall not require:

(a) any illegal or unenforceable provision, ask or require a resident to waive any of the resident's rights or the Operator's liability for wrongdoing.

(b) application fees or non-refundable deposits. Fees to hold a bed are permissible.

(c) if the home closes, charges to a resident beyond the date of closure or the date the resident moves from the home.

(d) advance payments for care and services beyond one month. (This does not apply to security deposits.)

(e) less than 30 days written notice of a change in the home's contract rates.

(f) payment if the resident moves out because of abuse and/or neglect which is later substantiated.

(g) payment of room charges during any period when the room has been re-rented to another person.

(h) waiver of their rights to a thirty day notice of rate increases, except for pre-established rate schedules for specified care needs.

(i) payment for more than 15 days after the resident has left the Adult Foster Home if a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.

(j) residents to pay for damages considered normal wear and tear.

891-040-200

#### **OPERATORS WITH A MEDICAID CONTRACT**

040-210

Operators who wish to serve Medicaid clients shall have a valid Medicaid contract in place and comply with the terms of the Medicaid agreement before accepting Medicaid paid residents.

040-220 The ACHP shall alert the contracting agency if an Adult Foster Home with residents who receive Medicaid payments is not in compliance with these rules.

**PART IV**

**STANDARDS FOR OPERATORS, RESIDENT MANAGERS AND CAREGIVERS**

**891-050-100 GENERAL CRITERIA FOR OPERATORS, RESIDENT MANAGERS AND CAREGIVERS**

050-110 For the purposes of these rules, Operators, Resident Managers and caregivers are defined as follows:

(a) **Operator** - The person licensed by the ACHP to operate the Adult Foster Home who has overall responsibility for the provision of residential care, who meets the standards outlined in these rules and who has been approved by the ACHP.

(b) **Co-Operator** - Synonymous with Operator as both are equally responsible for the home. All Co-Operators shall meet all qualifications and standards for an Operator.

(c) **Resident Manager** - A person employed by the Adult Foster Home Operator and approved by the ACHP who lives in the home and is directly responsible for daily operation of the home and care given to residents.

(d) **Caregiver** - Any person responsible for providing care and services to residents, including the Operator, the Resident Manager, and any temporary, substitute or supplemental staff or other person designated to provide care and services to residents.

(e) **Substitute Caregiver** - Any person other than the Operator or Resident Manager who is approved by the ACHP and is responsible for providing supervision, care and services to residents of an Adult Foster Home. In addition, substitute caregivers left in charge of a home for multiple 24-hour periods during a month or for any period that exceeds 48 hours, shall be required to meet the education requirements of a resident manager in a Class II and Class III home and may be required to meet the education, experience and training requirements of a resident manager if the licensing authority determines that such qualifications are necessary based on the resident impairment levels in the home.

050-120 Adult Foster Home Operators and Resident Managers shall be at least 21 years old.

050-130 Operators must live in the home which is to be licensed unless a Resident Manager lives in the home unless the ACHP grants a written exception to allow shift caregivers.

050-140 Caregivers, other than Operators and Resident Managers, shall be at least 18 years old. Caregivers under 21 shall not have sole responsibility for resident care or supervision for more than two hours during any twelve hour period.

050-150 Adult Foster Home Operators and Resident Managers shall provide evidence satisfactory to the ACHP regarding education, training, knowledge related to the population to be served, experience required for the classification of the home, and ability to operate an Adult Foster Home.

050-160 Operators, Resident Managers and caregivers shall have good physical health and mental health, good judgment, good personal character, including honesty, and the ability as determined necessary by the ACHP to provide 24-hour care for adults who are elderly persons or persons with disabilities.

050-170 Upon request of the ACHP, any Operator, Resident Manager or caregiver must obtain a statement from a physician or other qualified practitioner indicating they are physically, cognitively, and emotionally capable of providing care to residents.

050-180 Operators, Resident Managers and caregivers with a history of one or more substantiated episodes of substance abuse or mental illness must:

(a) provide evidence satisfactory to the ACHP of successful treatment/rehabilitation.

(b) submit references regarding current condition. References are confidential when received by the ACHP.

(c) be capable of operating, managing or providing care to elderly persons or persons with disabilities.

050-190 All Resident Managers and caregivers must meet applicable requirements for criminal record check and training.

050-195 Other persons who work, live or spend significant periods of time in the household, may be subject to the same inquiries or investigations described above. Such persons may also be required to provide satisfactory evidence, if requested, that their presence in the household does not jeopardize residents.

#### **891-050-200 COMMUNICATION SKILLS**

050-210 Operators, Resident Managers, and anyone left alone with residents shall be literate and able to demonstrate all of the following:

(a) an understanding of written and oral instructions in English, including medication instructions and doctor orders; and

(b) the ability to communicate in oral and written English with residents, health care professionals, case managers and appropriate others; and

(c) the ability to respond appropriately to emergency situations at all times.

050-215 At least one approved Operator, Resident Manager or caregiver who meets the requirements of this section shall be in the home and available to respond to residents' needs at all times.

050-220 The ACHP may grant an exception to MCAR 891-050-210 for homes where the Operators, Resident Managers and caregivers do not speak English if the Operators, other caregivers, residents and their doctors all speak the same language. The home shall have an interpreter on call 24 hours a day, and shall notify the local fire department of special rescue requirements.

#### **891-050-300 COOPERATION**

050-310 Operators, Resident Managers and caregivers shall cooperate with ACHP

personnel or other personnel providing services to the home or residents.

**891-050-400**

**CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

050-405

The criminal records check under this rule shall consist of:

(a) A check for a criminal record in the State of Oregon, and

(b) A national criminal record check if:

(1) The applicant or other person has resided in another state within the previous five years; or

(2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or

(3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.

(c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.

050-410

It shall be the responsibility of the Operator to insure that all persons aged 16 years and over who live or work in the home and frequent visitors to the home who will have contact with the residents, excluding residents and their visitors, complete, sign and submit to the ACHP a criminal record release authorization form. This shall be completed prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.

050-415

Adult Foster Home Operators shall not hire a Resident Manager or caregiver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the home on a frequent basis and have contact with the residents.

050-420

Any Operator, Resident Manager or other caregiver may work in an Adult Foster Home pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.

050-425

A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in an Adult Foster Home. The person shall pay any costs necessary to obtain these documents.

050-430

The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime.

050-435

Any person who has been convicted of one or more crimes which are substantially related to the qualifications, functions or duties of an Operator, Resident Manager, or substitute caregiver of an Adult Foster Home, except as

provided in MCAR 891-050-465, not including a resident or their visitors, shall be prohibited by the ACHP from operating, working in or being in or on the premises of an Adult Foster Home.

- 050-440 The Operator shall inform all persons aged 16 years and over, including Resident Managers and caregivers, occupants of the home and frequent visitors to the home who will have contact with the residents, not including residents, resident's families or visitors, that they must notify the Operator if arrested, charged with or convicted of a crime. A licensed Operator shall notify the ACHP immediately upon learning that anyone living, working or being in the Adult Foster Home on a frequent basis who will have contact with the residents has been arrested, charged with or convicted of a crime.
- 050-445 Any person other than a resident or their visitors who has been charged with or arrested for a crime which is substantially related to the qualifications, functions or duties of an Operator, Resident Manager or substitute caregiver may be prohibited by the ACHP from operating, working in, or being in an Adult Foster Home on a frequent basis. The ACHP shall determine the actions necessary to protect the health, safety, and welfare of residents.
- 050-450 Crimes which are substantially related to the qualifications, functions or duties of an Operator, Resident Manager or substitute caregiver include, but are not limited to the following: elder abuse, elder neglect, child abuse, child neglect, incest, abandonment of a child or dependent person, homicide, assault, kidnapping, sexual offenses and offenses against public health and decency (prostitution, offenses involving narcotics, alcohol abuse and dangerous drugs, driving under the influence of intoxicants), and crimes against property (arson, burglary, forgery, theft, embezzlement or obtaining property under false pretenses).
- 050-452 Persons who have been convicted of homicide shall be permanently disqualified from operating, working in or being in an Adult Foster Home.
- 050-455 The ACHP shall consider persons with convictions for crimes of domestic violence or other reliable evidence that they have committed domestic violence a threat to the health, safety and welfare of residents in an Adult Foster Home. The following persons shall not be involved in the operation of allowed in an Adult Foster Home:
- (a) An individual with reliable evidence of a domestic violence incident or a conviction for domestic violence during the past 5 years.
  - (b) An individual with reliable evidence of more than one domestic violence incident or conviction during the last ten (10) years.
  - (c) An individual with reliable evidence of a domestic violence incident or conviction for domestic violence in addition to any other conviction within the last ten (10) years.
- 050-460 A person who is found to have a criminal record may request an administrative conference if the ACHP denies an application or their ability to work or be in the home on a frequent basis based on the criminal record.
- 050-465 If a person was convicted of a crime other than the crimes listed in MCAR 891-050-450, or if more than ten (10) years have passed since the person was convicted of a crime, the ACHP may allow a person to operate, work, or be in a

home after considering the following:

- (a) The type of crime and number of offenses.
- (b) Whether the victim of the crime was elderly, handicapped or dependent, or under the age of 18.
- (c) Passage of time since the crime was committed.
- (d) Circumstances surrounding the commission of the crime which would demonstrate that repetition is unlikely (for example, age when crime was committed).
- (e) Activities since conviction or arrest such as employment, participation in therapy or education that indicate changes in behavior.
- (f) Character references.

050-470 Criminal offender information shall be used only for the purposes for which it was obtained by the ACHP, and shall not be given to unauthorized persons or agencies. Unless a person gives written authorization for the release of criminal records, the ACHP may only inform an Operator that a person has been approved, or denied or that conditions are imposed on the basis of criminal offender information.

050-475 The ACHP shall make every effort to expedite completion of a criminal record check for the State of Oregon when requested by a licensed Operator because of an immediate staffing need.

**891-050-500 OPERATOR, RESIDENT MANAGER AND CAREGIVER TRAINING**

050-503 Operators and Resident Managers shall successfully complete the minimum ACHP approved initial training before being licensed or approved. The minimum ACHP approved initial training hours shall include but not be limited to: demonstrations and practice in physical care giving, screening for care and service needs, appropriate behavior towards residents with disabilities, issues related to accessibility for persons with disabilities and fire safety and evacuation issues.

050-506 Each year following the Basic Training Course, Operators and Resident Managers are required to obtain at least twelve hours of ACHP approved ongoing training related to care of elderly persons and persons with disabilities. Registered Nurse delegation or consultation and CPR certification shall not count towards the required training hours.

050-509 A Resident Manager who has not completed the Basic Training Course must complete the Caregiver Preparatory Training Course approved by the ACHP before providing care to any resident or being left alone with residents. The Caregiver Preparatory Training Course will include emergency procedures, medication management, personal care procedures, food preparation, home environment and safety procedures, and residents' rights.

050-512 Operators shall orient all Resident Managers and caregivers to the physical characteristics of the home, the residents of the home and their care needs using the ACHP checklist before Resident Managers and caregivers are left alone with

residents. The Operator shall keep on file a copy of each Resident Manager's and caregiver's signed and completed ACHP checklist.

- 050-515 Operators shall train the Resident Manager and caregivers to meet the routine and emergency needs of the residents.
- 050-518 All Operators and Resident Managers shall have ACHP approved CPR certification before being licensed or beginning to work in the AFH. CPR certification shall be renewed on an annual basis.
- 050-521 All Operators and residents managers shall have current First Aid Certification before being licensed or beginning to work in the AFH.
- 050-524 All caregivers shall have a current ACHP approved CPR certificate and First Aid Certificate before being left alone with residents.
- 050-527 All caregivers other than Operators and Resident Managers shall study the ACHP Caregiver Preparatory Training Course and complete the workbook with no assistance or complete the ACHP-approved initial training, before working in the home. The caregiver training manual shall include but not be limited to the following topics: emergency procedures, medication management, personal care procedures, food preparation, home environment, safety procedures and residents' rights. Operators shall keep on file the substitute caregiver training certificate for all caregivers in the home where the caregiver works.
- 050-530 The ACHP may require other caregivers to complete annual training.
- 050-533 The ACHP may require Operators, Resident Managers and other caregivers to take part in additional training, including but not limited to training in major rule or program changes or fire and life safety standards.
- 050-536 Operators, Resident Managers and other caregivers shall record and keep on file ACHP training forms, certificates, attendance records and other training documentation. The Operator shall keep on file training documents for all Resident Managers and caregivers in the home where they work.

#### **OPERATOR AND RESIDENT MANAGER TESTING**

##### **891-050-600 QUALIFYING TEST FOR NEW APPLICANTS FOR OPERATOR OR RESIDENT MANAGER**

- 050-610 An applicant must pass the qualifying test before being licensed or becoming a Resident Manager. The examination shall evaluate the Operator's or Resident Manager's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes.
- 050-620 An applicant may take the qualifying test two times in a twelve month period. Failure to obtain a passing score on the qualifying test in two attempts will result in denial of the application and require the applicant to wait 12 months from the date of the last test before beginning the application process again.
- 050-630 If an applicant fails to obtain a passing score on the qualifying test and

demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the applicant fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the application shall be denied. Special consideration shall be granted only one time. If an applicant requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR 891-050-200.

050-640 If an applicant is granted an alternate test and fails that test, he/she must wait 12 months from the date of that test before he/she may begin the application process again.

#### **891-050-700 TESTING FOR OPERATORS**

050-706 An Operator must pass the qualifying test before the license is renewed. The examination shall evaluate the Operator's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes. This qualifying test must be passed by the Operator only one time.

050-712 An Operator who fails to obtain a passing score on the qualifying test may repeat the test one time within 60 days of the first test.

050-718 If an Operator fails to obtain a passing score on the qualifying test the first time the test is taken, a condition on the license restricting admission will be imposed. If an Operator fails to obtain a passing score on the qualifying test the second time the test is taken, the ACHP shall revoke or not renew his/her license. In this event, the Operator may not begin the application process for 12 months from the date of the last test.

050-724 If an Operator fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. The alternate test may only be taken one time. If an Operator requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR 891-050-200.

050-730 If the Operator fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the renewal application shall be denied or the license shall be revoked if it has not expired.

050-736 If an Operator fails to obtain a passing score on the qualifying test and the Resident Manager passes the qualifying test, the requirements of MCAR 891-050-718 shall apply.

050-742 If an Operator fails to obtain a passing score on the qualifying test and the Resident Manager has not yet obtained a passing score on the qualifying test, the requirements of MCAR 891-050-718 shall apply.

050-748 If neither the Operator or Resident Manager obtains a passing score on the qualifying test, the requirements of MCAR 891-050-718 shall apply.

**891-050-800****TESTING FOR RESIDENT MANAGERS**

- 050-810 A Resident Manager must pass the qualifying test before the license is renewed. The examination shall evaluate the Resident Manager's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes. This qualifying test must be passed by the Resident Manager only one time.
- 050-820 A Resident Manager who fails to obtain a passing score on the qualifying test on his/her first attempt may repeat the test one time within 60 days of the first test.
- 050-830 If a Resident Manager fails to obtain a passing score on the qualifying test on his/her first attempt, his/her status as a Resident Manager shall become probationary for a period not to exceed 60 days or the date the second test is taken. He/she may continue working as a Resident Manager in the home during this period. In addition, the Operator must demonstrate to the ACHP how the home will be adequately supervised.
- 050-840 If a Resident Manager fails the examination a second time, his/her status as a Resident Manager shall terminate. A condition on the license restricting admissions shall be imposed until a qualified Resident Manager is hired and working in the home. The current Resident Manager may continue working as a Resident Manager for a period not to exceed 30 days to ease the transition. The current Resident Manager may continue working after that 30-day period only if he/she meets the qualifications of a substitute caregiver. In this event, the Resident Manager may not begin the process to apply to be a Resident Manager for 12 months from the date of the last test.
- 050-850 If a Resident Manager fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the Resident Manager fails to demonstrate special circumstances or fails to pass an alternate test, as developed by the ACHP, his/her status as a Resident Manager shall immediately terminate. The alternate test may be taken only one time. If a Resident Manager requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR 891-050-200.

**891-050-900****STAFF COVERAGE/STAFF SUPERVISION/STAFFING CHANGES**

- 050-905 An Operator must live in the home that is to be licensed or hire an approved Resident Manager to live in the home.
- 050-910 The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home. Supervision means protective awareness of the residents' general whereabouts and functioning, including: monitoring the activities of the residents while on the premises of the home; generally ensuring residents' health, safety and welfare; and the ability and readiness to intervene on behalf of a resident if a crisis arises.
- 050-912 A resident with developmental disabilities or mental or emotional disabilities who has an Individual Service Plan (ISP) approved by the appropriate County or State

Case Manager, may be left alone in the home for the length of time specified in the ISP. If there is no case manager, a resident with developmental disabilities or mental or emotional disabilities may be left alone in the home for the length of time specified in both the written doctors orders and care plan.

- 050-915 Operators not living in the home shall be in the Adult Foster Home at least three times a week and shall monitor the resident's health, safety and welfare; record keeping; and document these visits. Operators may appoint a currently licensed Operator or person approved by the ACHP to meet this monitoring requirement.
- 050-920 The Operator shall notify the ACHP of the name of the caregiver(s) who will be responsible anytime the Operator or Resident Manager will be out of the home more than 72 hours.
- 050-925 Operators shall give the current addresses and telephone numbers of all Resident Managers and caregivers employed by the Operator to the ACHP upon request.
- 050-930 A resident shall not provide supervision, care or services, or act as a Resident Manager or other caregiver.
- 050-935 Shift caregivers may be used in lieu of a Resident Manager only if the Operator is granted a written exception by the ACHP. Use of shift caregivers detract from the intent of a home-like environment, and may only be allowed for specific resident populations with intense care needs. The type of residents served must be a specialized population with intense care needs, such as those with Alzheimer's Disease, dementia, AIDS, or head injuries. If shift caregivers are used, they must meet the standards of a Resident Manager and the classification of the home.
- 050-940 If a Resident Manager (or shift caregiver) changes during the period the license covers, the Operator must notify the ACHP immediately and identify who will be providing care. The Operator must submit a request for a change of Resident Manager to the ACHP along with a completed Resident Manager application, a criminal record authorization, and payment of the required fee. Upon a determination that the applicant meets the requirements of a Resident Manager and the applicant has completed the ACHP's required training and passed the qualifying test, a revised license will be issued with the name of the new Resident Manager. The classification of the home will be reevaluated based on the qualifications of the new Resident Manager and may be changed accordingly.
- 050-945 If the ACHP determines an unexpected and urgent staffing situation exists, the ACHP may permit, in writing, a person who has not completed the orientation, training or passed the qualifying test to act as a Resident Manager until the orientation, training and testing are completed or for 60 days, whichever is shorter. The Operator must notify the ACHP of the situation and provide:
- (a) a satisfactory explanation of the inability to find a qualified Resident Manager.
  - (b) evidence that the person is 21 years of age.
  - (c) evidence that the person meets the requirements for a substitute caregiver working in the Adult Foster Home.
  - (d) a plan that the Operator will provide adequate supervision.

- 050-950 Operators shall compensate Resident Managers and other caregivers, including respite and substitute caregivers in compliance with all applicable provisions of Federal and State wage and hour laws.
- 050-955 Operators shall keep adequate staff necessary to maintain a stable environment and to provide quality care in the home.
- 050-960 Operators shall ensure that Resident Managers and caregivers have a clear understanding of job responsibilities, have knowledge of residents' care plans, and are able to provide the care specified for each resident, including appropriate delegation or consultation by a Registered Nurse.
- 050-965 An Operator (whether or not present in the home) is responsible for the supervision, training and conduct of Resident Managers and caregivers. This applies to Resident Managers and caregivers when acting within the scope of their employment, duties, or when they are present in the home.
- 050-970 Operators shall not leave residents alone in the home with anyone who cannot communicate adequately in English and does not meet the requirements of MCAR 891-050-200.
- 050-975 Operators of Class II and Class III Adult Foster Homes shall insure monitoring of all residents by a Registered Nurse or physician at least every two months or more frequently, if medically indicated. At a minimum, monitoring shall include review of resident records, medication management, doctors orders and resident's care.

## PART V - BASIC CARE

### 891-060-100 GENERAL CRITERIA

- 060-107 Adult Foster Home Operators, Resident Managers and caregivers shall protect resident's rights and help residents to exercise them as listed in the Residents' Bill of Rights.
- 060-114 Operators, Resident Managers and caregivers shall provide a resident with the care and services as agreed to in the resident's care plan and as appropriate to meet his/her needs.
- 060-121 Operators, Resident Managers and other caregivers shall meet the night time care needs of the residents.
- 060-128 Operators, Resident Managers and caregivers shall provide care and services in a homelike atmosphere, where the dignity and rights of the residents are respected, the atmosphere is more like a home than a medical facility, positive interaction between occupants, Resident Managers and caregivers of the home is encouraged, and the residents' independence and decision-making is protected and promoted. Operators, Resident Managers and caregivers may prohibit visitors from visiting a resident if the visitors threaten the health, safety or welfare of the resident or other occupants. The event must be documented in the resident's records as an incident report and the ACHP licensor shall be immediately informed.
- 060-135 Operators, Resident Managers and other caregivers shall provide supervision for resident use of hot tub, sauna, and swimming pool. (Hot tubs and saunas may

be used only with written doctor approval.)

- 060-142 Residents shall have the right to consent to or refuse all medications, treatment or care. If a resident refuses medications, treatments or care, the refusal shall be immediately documented in the resident's records and appropriate persons notified, including the doctor, family, legal representative and case manager. Other persons involved in resident care, including the Resident Manager and caregiver, shall also be informed.
- 060-149 Operators shall immediately inform the resident, the resident's physician or nurse, family, legal representative, case manager, and any other appropriate people of changes in the resident's condition.
- 060-156 Operators, Resident Managers and caregivers shall promptly seek medical help, as needed, and continue to seek help until the resident receives the appropriate care and services. This includes persistent attempts to obtain doctor ordered prescriptions.
- 060-163 In the event of a serious medical emergency, the Operator/staff shall call 911 or the appropriate emergency number for their community. The physician/nurse practitioner, family or legal representative and the case manager (when applicable) shall also be called. The Operator shall have copies of Advance Directives, Do Not Resuscitate (DNR) orders and/or pertinent medical information available when emergency personnel arrive. Medical emergency means a change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.
- 060-170 Operators must be able to provide or arrange for appropriate resident transportation. This does not mean the Operator has to pay for transportation.
- 060-177 If the Operator manages or handles a resident's money, it shall be maintained in a separate account record in the resident's name. The Operator shall not under any circumstances commingle, borrow from, or pledge any funds of a resident. Personal Incidental Funds (PIF) for Medicaid clients are to be used at the discretion of the client for such things as clothing, tobacco, and snacks (not part of daily diet). Operators, Resident Managers or caregivers shall not influence, solicit from, or suggest to any resident that they or their family give the Operator, Resident Manager or caregiver or the Operator's, Resident Manager's or caregiver's family money or property for any purpose. The Resident Manager, Resident Manager's family, caregiver or the caregiver's family shall not accept gifts of substantial value or loans from the resident or the resident's family.
- 891-060-200 SCREENING OF RESIDENT CARE NEEDS PRIOR TO ADMISSION TO THE ADULT FOSTER HOME**
- 060-208 Operators shall screen a potential resident for care needs using a screening form before admitting a resident to the Adult Foster Home. The screening shall determine whether the care needs of the resident fall within the license classification of the home and if the Operator can meet the care needs of the resident along with meeting the care needs of the current residents of the home.
- 060-216 The screening shall include interviews with the prospective resident in person whenever possible, and, if appropriate, the resident's family, prior caregivers, and case manager. The Operator's interview may also include any physician, nurse

or other health care professional involved in the prospective resident's care.

060-224 The Operator's screening of the resident's care needs shall include but is not limited to:

(a) assessment of activities of daily living

(b) diagnosis

(c) medications

(d) a description of the prospective resident's physical and mental condition

(e) personal care needs

(f) resident's ability to communicate

(g) nursing care needs and RN delegations

(h) nutritional needs

(i) night care needs

(j) personal preferences for activities and lifestyle

(k) the prospective resident's ability to evacuate the home within three minutes along with the other home occupants.

060-230 Upon completion, a copy of the screening form shall be given to the prospective resident or his/her representative.

060-232 If the prospective resident becomes a resident in the home, the Operator's screening of a prospective resident shall be documented, a copy given to the prospective resident and any legal representative, and a copy kept with the resident's records.

060-240 Before admitting a private paying resident, the Operator shall advise the potential resident, his/her family, or his/her legal representative of the right to receive a long term care assessment. The Operator shall certify on a form provided by the ACHP that the individual has been so advised. Upon admission, the Operator shall maintain a copy of the form in the resident records.

#### **891-060-300 ADMISSION TO THE ADULT FOSTER HOME**

060-310 Upon admission to the home, the Operator shall obtain and document in resident records general information regarding the resident. The information shall include names, addresses, and telephone numbers of relatives, significant persons, case managers, and medical/mental health providers. The record shall also include the date of admission and, if available, the resident's Social Security and medical insurance numbers, birth date, and prior living situation. At an appropriate date, the Operator shall obtain mortuary information.

060-320 Upon admission to the home, the Operator shall have made every effort to obtain physician/nurse practitioner orders for medications, treatments, therapies and special diets. Any telephone orders must be followed with written signed orders

within 72 hours or the Operator must document attempts to get them. A physician, nurse practitioner, or pharmacist review of the resident's preferences for over-the-counter medications and home remedies shall also be obtained at that time and documented in the resident records. The Operator shall also obtain and place in the record any medical information available including history of accidents, illnesses, allergies, impairments or mental status that may be pertinent to the resident's care.

060-330 At the time of admission, the Operator shall ask for copies of the following documents if the resident has them: Advance Directive, letters of guardianship, letters of conservatorship, and Do Not Resuscitate (DNR) orders. The copies shall be placed in a prominent place in the resident record and sent with the resident when transferred for medical care.

060-340 At the time of admission, the Operator shall discuss with the resident and/or her/his legal representative and resident's family, if available, whether the home has a Medicaid contract, as well as the Residents' Bill of Rights, and written house rules. The discussion shall be documented by having the resident sign the house rules and the Residents' Bill of Rights. These signed documents shall be filed in the resident's record.

060-345 At the time of admission, the Operator shall list the resident possessions brought into the home.

060-350 When Operators have contracts with more than one public social service agency, including but not limited to the State of Oregon Mental Health Division -- Mental Health or Developmental Disabilities Programs, Senior and Disabilities Services Division, or Children's Services Division, the Operator shall obtain written permission from each contracting agency with clients already in the home before admitting new residents from another agency.

#### **891-060-400 CARE PLAN**

060-410 The Adult Foster Home Operator shall develop a care plan for each resident. The care plan shall be developed together with the resident and, as appropriate, the resident's family, physician, nurse, the resident's legal representative, case manager, any other appropriate people, and shall include information from the screening assessment of the resident. The intent of the care plan is to accurately reflect the resident's care needs.

060-420 During the initial 14 days following the resident's admission to the home, the Operator shall continue the assessment process which includes documenting the resident's preferences and care needs. The assessment shall include observations of the resident and the review of information obtained from the screening assessment process.

060-430 The resident care plan shall be finalized within 14 days of admission to the home. The care plan shall be signed by those who have prepared the plan.

060-440 The care plan shall be updated whenever the resident's care needs change and at least every six months. All updates must be dated and signed by the Operator. The Operators shall review care plans with the resident and/or a legal representative once a year. This review shall be documented in the resident's records.

060-450

The care plan shall be a written description of a resident's needs, preferences and capabilities, including the type of care and services needed, when and who shall provide the care, how often care and services will be provided, and what assistance the resident requires for various tasks. Specific information in the care plan shall include information about the resident's:

- (a) ability to perform activities of daily living (ADL's).
- (b) need for special equipment.
- (c) communication needs: hearing, vision, sign language, non-English speaking, and speech along with any aids used.
- (d) night needs.
- (e) medical or physical health problems relevant to care and services.
- (f) cognitive, emotional, or physical disabilities or impairments relevant to care and services.
- (g) treatments, procedures or therapies.
- (h) need for Registered Nurse consultation and delegation.
- (i) need for behavioral interventions.
- (j) social/spiritual/emotional needs including lifestyle preferences.
- (k) emergency exit ability including assistance and equipment needed.
- (l) need for use of physical restraints or psychoactive medications.
- (m) dietary needs and preferences.
- (n) weekly activities or recreation schedule.
- (o) preferences in how care is given.

060-460

The resident's care plan shall include goals for maintaining and, if possible, improving or restoring the resident's level of functioning.

**891-060-500**

**ADMINISTRATION OF MEDICATIONS**

060-504

Operators, Resident Managers and caregivers who administer medications shall demonstrate an understanding of the administration of each resident's medications. Operators, Resident Managers and caregivers shall know the reason the medication is used and any specific instructions and common side effects. Drug reference material shall be kept in the Adult Foster Home and shall be readily available.

060-508

The Operator shall obtain and place a written signed order in the resident's record for any medications, dietary supplements, treatments, and/or therapies which have been prescribed by the physician/nurse practitioner.

060-510

Prescription medications shall not be given without written doctor's orders.

- 060-512 Orders must be carried out as prescribed unless the resident or the resident's legal representative refuses consent. The physician/nurse practitioner must be notified if a resident refuses to consent to an order.
- 060-516 Over-the-counter medications or home remedies requested by the resident shall be reviewed by the resident's physician/nurse practitioner or pharmacist at admission and at least annually thereafter and documented in the resident records.
- 060-520 Changes to orders may not be made without a physician/nurse practitioner's order. Attempts to call the physician/nurse practitioner to obtain the needed changes in orders must be documented in the resident's record.
- 060-524 If an Operator, Resident Manager or caregiver has good reason to believe that medical orders are harmful to a resident, the Operator, Resident Manager or caregiver shall immediately notify the physician, nurse, resident's family, case manager, and any other appropriate people to protect the health and safety of the resident.
- 060-528 Order changes obtained by telephone shall be implemented as soon as practicable. Operators shall obtain a written physician's order within 72 hours of receiving a doctor's telephone order or verbal order for a resident's medications or the Operator must document all attempts to get the order. Operators shall make and document, in the resident's progress notes, frequent and persistent attempts to obtain the written order until it is received.
- 060-532 Prescription medications ordered to be given "as needed" or "P.R.N." must have additional directions which show what the medication is for and specifically when, how much and how often it may be administered. These written directions may be given by a physician, nurse practitioner, Registered Nurse or pharmacist.
- 060-536 An Operator shall consult with the physician, nurse practitioner, Registered Nurse or mental health professional before requesting a psychoactive medication to treat a resident's behavioral symptoms. The consultation shall include a discussion of alternative measures to medication use including behavioral interventions. These medications may be used only after documenting all other alternative considerations and only when required to treat a resident's medical symptoms or to maximize a resident's physical functioning. Psychoactive medications shall never be given to discipline a resident or for the convenience of the Adult Foster Home. Psychoactive medications as defined in these rules may be used only pursuant to a prescription that specifies the circumstances, dosage and duration of use.
- 060-540 The Operator, Resident Manager and all caregivers shall know the specific reasons for the use of the psychoactive medication for an individual resident, the common side effects and when to contact the physician, nurse practitioner, or mental health professional regarding those side effects. Operators, Resident Managers and caregivers shall also know the behavioral interventions, if any, to be used along with the medication.
- 060-544 The frequency of the reassessment of the psychoactive medication use shall be determined by the physician or Registered Nurse completing the initial assessment.
- 060-546 All Operators may administer routine oral medications.

- 060-548 A resident or a relative of the resident or a Registered Nurse may administer subcutaneous, intramuscular, and intravenous injections. A licensed practical nurse can give subcutaneous and intramuscular injections. An Operator, Resident Manager or caregiver who has been delegated and trained by a Registered Nurse under provision of the Board of Nursing rules may give only subcutaneous injections. Intramuscular and intravenous injections cannot be delegated to Operators, Resident Managers and caregivers.
- 060-552 Each resident's medication container shall be clearly labeled with the pharmacist's label or be in the original labeled container or bubble pack and shall be kept in a locked, central location, separate from that of the Operator or the Operator's family. Residents shall not have access to any medications in the home unless they have an order to self medicate. Over-the-counter medications in stock bottles (with original labels) may be used in the home.
- 060-556 The Operator may set up each resident's medications for up to seven days in advance (excluding P.R.N. medications) by using a closed container manufactured for that purpose. If used, each resident shall have her/his own container with divisions for the days and times of the day the medications are to be given. The container must be clearly labeled with the resident's name, name of each medication, time to be given, dosage, amount, route and description of the medications. The container shall be stored in the locked medication area.
- 060-560 Unused, outdated or discontinued medications, except controlled substances, shall not be kept in the home and shall be disposed of according to the pharmacist's recommendations. Disposal of these medications shall be documented on the medication administration record or in the resident's record. Documentation shall include the name of the medication and the number of pills disposed or returned to the pharmacy.
- 060-564 All controlled substances to be disposed of shall be:
- (a) counted by a Registered Nurse who witnesses and documents the disposal;
  - or
  - (b) returned to the dispensing pharmacy.
- 060-568 Operators, Resident Managers and caregivers shall be responsible for making certain that all medications prescribed for a resident are fully accounted for and used only by that resident.
- 060-572 A prescription may be given only to the person for whom the medication was prescribed.
- 060-576 A current, written medication administration record shall be kept for each resident and shall identify all of the medications administered by the Operator, Resident Manager or caregiver to that resident, including over-the-counter medications and prescribed dietary supplements. The record shall indicate the medication name, dosage, route, the date and time to be given. The record shall be immediately initialed at the time of administration by the person giving the medications. Treatments and therapies must be immediately documented on the medication administration record showing times given, type of treatment or therapy, and initials of the person performing the procedure. The medication administration record shall contain a legible signature which identifies each set of initials.

060-580 A discontinued or changed medication order shall be marked and dated on the medication administration record as discontinued. The new order shall be written on a new line showing the date of order. If a resident misses or refuses a medication, treatment or therapy the initials must be circled and a brief but complete explanation shall be recorded on the back of the medication record. As needed (P.R.N.) medication shall be documented with the time, dose, the reason the medication was given, and the outcome.

060-584 A resident may self medicate only with a physician's written approval which shall be kept in the resident records. Residents shall keep self administered medications in their bedrooms in a secure place which can be locked. Operators, Resident Managers and caregivers shall not be responsible for administering or documenting medications when residents self medicate, but shall notify appropriate health care professionals if a resident cannot self-medicate safely.

#### **891-060-600 NURSING CARE TASKS**

060-610 A Registered Nurse consultation shall be obtained when a skilled nursing care task (such as insulin injections, blood sugar monitoring and ostomy care) has been ordered by a physician or other qualified practitioner. The Operator shall obtain medical professional consultation/assessment to meet the skilled nursing care needs of the resident.

060-620 When the Operator does not know or understand how to perform a nursing task, the Operator shall consult with a Registered Nurse.

060-630 The Registered Nurse may determine that a nursing care task for a particular resident is to be taught to an Operator, Resident Manager or caregiver utilizing the delegation process. The Operator, Resident Manager or caregiver shall not teach another individual the delegated task and shall not perform the task for another resident without specific delegation for that resident.

#### **891-060-700 RESTRAINTS**

060-708 For the purposes of these rules, restraints are defined as any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, sleeping medications or tranquilizers).

060-716 Chemical or physical restraints may be used only after consideration of all other alternatives. The Operator shall document the consideration and trial of all other alternatives in the resident's records. Restraints shall be used only when required to treat a resident's medical symptoms, or to maximize a resident's physical functioning. If, following the assessment and trial of other measures, it is determined that a restraint is necessary, the least restrictive restraint shall be used as infrequently as possible. All physical restraints must allow for quick release at all times.

060-724 Physical restraints may be used only after an assessment by a physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupational therapist assessment.

060-732 A written signed order for the restraint from the physician/nurse practitioner or Christian Science practitioner shall be obtained and placed in the resident record. The order, including any P.R.N. orders, shall include specific parameters including

type, circumstances and duration of the use of the restraint.

- 060-740 Physical restraints may only be used with the resident's or resident legal representative's written consent which shall be filed in the resident's record. The Operator shall reassess their ability to provide care to the resident if the resident or legal representative refuses consent.
- 060-748 The Operator shall place the restraint assessment in the resident record. The assessment shall include procedural guidance for the correct use of the restraint, alternative less restrictive measures which shall be used in place of the restraint whenever possible, and dangers and precautions related to the use of a restraint.
- 060-756 Physical restraint use shall be recorded on the care plan showing why and when the restraint is to be used, along with instructions for periodic release. Any less restrictive alternative measures planned during the assessment and cautions for maintaining safety while restrained shall also be recorded on the care plan.
- 060-764 Residents physically restrained during waking hours must have the restraints released at least every two hours for a minimum of 15 minutes. During this period, they are to be repositioned, offered toileting, fluids, exercised or provided range of motion.
- 060-772 Physical restraint use at night is discouraged and shall be limited to unusual circumstances. If used, the restraint shall be of the design to allow freedom of movement with safety. The frequency of night monitoring for resident safety and need for assistance shall be determined in the assessment.
- 060-780 Physical restraints may not be used for discipline of a resident or for the convenience of the Operator, Resident Manager or caregiver.
- 060-788 The frequency for reassessment of the physical restraint use shall be determined by the prescriber based on the recommendations made in the initial assessment. The reassessment may be performed by the physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupation therapist.
- 060-794 Fill side rails used to keep a resident in bed are considered restraints. Side rails or half rails, which are requested by the resident, to allow the resident to easily get in and out of bed or improve functioning are not considered restraints. Half side rails are not considered a restraint.
- 060-799 Use of restraints shall not impede the three minute evacuation of all household members.
- 891-060-800 MEALS**
- 060-807 Three nutritious meals will be served daily at times consistent with those in the community. Each daily menu will include food from the basic food groups and fresh fruit and vegetables in season. There shall be no more than a 14-hour span between the evening meal and breakfast. Nutritious snacks and liquids shall be offered to fulfill each resident's nutritional requirements. Consideration shall be given to residents' preferences, cultural and ethnic background in food preparation. Special consideration must be given to residents with chewing difficulties and other eating limitations. Food shall not be used as an inducement to control the behavior of a resident.

- 060-814 Operators shall follow all special diets as prescribed in writing by the resident's physician/nurse practitioner or other qualified professional.
- 060-821 Operators shall not serve home canned foods unless prepared according to the latest guidelines of Oregon Department of Agriculture Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized. Operators shall not serve wild game unless approved by the U.S. Department of Fish and Wildlife. All meats served must be USDA inspected.
- 060-828 Operators shall prepare and serve resident meals in the home where the residents live. Meals shall be served so that residents eat in a family style manner unless residents choose to eat alone or in their rooms. Normal eating out (for example, restaurant meals, take outs, or picnics) is permitted. Payment for meals eaten away from home for the convenience of the Operator (restaurants, senior meal sites) is the responsibility of the Operator. Meals and snacks as part of an individual recreational outing by choice are the responsibility of the resident.
- 060-835 Operators shall prepare and post a planned weekly menu of the residents meals and keep menus on file for one year. The ACHP may require additional record keeping if problems with meals or nutrition arise.
- 060-842 Food shall be stored at appropriate temperatures to prevent spoilage and to protect food from contamination and rodent or insect infestation. The home shall include a properly working refrigerator.
- 060-849 Food, utensils, dishes and glassware shall not be stored in bedrooms, bathrooms or living areas.
- 060-856 Utensils, dishes and glassware shall be washed in hot, soapy water, rinsed, and air dried if the home does not have a dishwasher, and stored to prevent contamination.
- 060-864 Food storage and preparation areas shall be clean and free of offensive odors. Equipment, eating and cooking utensils shall be clean and in good repair.

**891-060-900 RESIDENT ACTIVITIES**

- 060-910 Operators, Resident Managers and caregivers shall make available at least six hours of activities to residents each week, not including television and movies. The activities shall be of interest to the residents and should be appropriate to the resident's interests and abilities. Residents may choose whether or not to participate in any activity.
- 060-930 Operators, Resident Managers and caregivers shall allow and encourage residents to develop talents and learn new skills, relate to other residents in meaningful ways, and to have the choice to take part in the normal activities and upkeep of the home.
- 060-950 Operators, Resident Managers and caregivers shall directly interact with residents on a daily basis to promote a homelike environment. If the physical characteristics of the Adult Foster Home do not encourage contact between the Operator, Resident Manager, caregivers and residents the Operator must demonstrate how regular positive contact will occur.
- 060-960 Operators shall insure clear documentation of each resident's weekly six hours

of activities.

## PART VI - STANDARDS FOR OPERATION

### 891-070-100 RESIDENT RECORDS

- 070-110 Operators, Resident Managers and caregivers shall keep accurate and up to date resident records on file in the Adult Foster Home where the resident lives.
- 070-120 Resident records maintained by the Operator shall be readily available at the Adult Foster Home to all Resident Managers and caregivers and to representatives of the ACHP conducting inspections or investigations, as well as to residents and their legal representative.
- 070-130 In all other matters pertaining to confidential records and release of information, Operators shall be guided by the principles and definitions described in OAR Chapter 411, Division 05. A copy of these rules will be made available by the Senior and Disabled Services Division upon request.
- 070-140 The resident's records shall contain the following information:
- (a) Initial screening form. (See MCAR 891-060-224.)
  - (b) General resident information form. (See MCAR 891-060-310.)
  - (c) Long Term Care Assessment form for private pay residents. (See MCAR 891-060-240.)
  - (d) Medical information, including:
    - (1) Medical history, including the resident's history of hospitalizations, accidents and injuries and relevant incident reports, and a description of any physical, emotional or mental health problems.
    - (2) Current written and signed physician/nurse practitioner orders.
    - (3) Any special diets or care instructions prescribed by a physician, including special therapies, treatments, and orders for the use of restraints or delegations.
    - (4) Guardianship letters, Oregon Directive to Physicians and/or a Power of Attorney for Health Care, if applicable.
  - (e) Medication administration records.
  - (f) The care plan.
  - (g) Copies of the current written house rules and current Residents' Bill of Rights, signed by the resident and/or his/her representative.
  - (h) A written report of all significant incidents relating to the health or safety of a resident including how and when the incident occurred, who was involved, what action was taken by Operator/staff and the outcome to the resident.
  - (i) Narrative entries describing the resident's progress documented in ink at least

once a week, dated and signed by the person writing them. Computerized progress notes shall be printed weekly and signed in ink by the person writing them.

(j) A signed copy of the Medicaid Payment Assessment form (Form SDS 512) for Medicaid pay residents.

(k) A signed copy of the contract for private pay residents.

(l) An up-to-date list of the resident's personal belongings kept in the home.

(m) If the Operator manages or handles a resident's money, the Operator shall keep a record of the resident's money. If the Operator has been authorized by a resident or resident's legal representative to handle a resident's money, a dated record of how the resident's money is spent and receipts retained for purchases over \$5.00. Receipts shall not be required for purchases made by the resident himself/herself.

(n) Any other information or correspondence about the resident.

070-150 Operators shall keep all resident records on file in the Adult Foster Home for three years.

070-160 If a resident moves from the Adult Foster Home, and with the written consent of the resident or resident's legal representative, copies of medication sheets and an updated care plan, as well as progress notes and personal information sheet shall be transferred with the resident to be used as reference only.

070-170 The falsification or omission of information from resident records shall be a violation of ACHP rules and shall subject the Operator to sanctions.

#### **891-070-200 HOUSE RULES**

070-210 Operators shall have written house rules which are in accordance with the ACHP rules. They shall include, but are not limited to, the home's policies on daily and evening visiting hours, smoking, use of intercoms, resident telephone use, mealtimes, kitchen privileges, television, bedtimes, bathing, pets, alcohol use in the home, and other expectations of or restrictions on residents. House rules shall not be in conflict with the Residents' Bill of Rights or the family atmosphere of the home.

070-220 House rules are subject to review and approval by the ACHP.

070-230 If smoking is allowed in the home, the house rules shall designate the smoking areas and shall state that smoking is never allowed in sleeping areas.

070-240 Operators shall include in the house rules daily visiting hours of at least seven hours with at least two hours after 6:00 pm. Operators shall make reasonable accommodations to visitors upon request.

070-245 House rules may deny visitors of a resident if the visitors threaten the health, safety or welfare of the resident or other occupants in the home.

070-250 A copy of the house rules shall be given to and discussed with the resident, their family member or legal representative. It shall be signed by the resident or the

resident's legal representative upon admission to the Adult Foster Home and maintained in the resident records.

**891-070-300**

**POSTINGS**

070-310

Operators shall post copies of the following in a prominent place where they can be easily seen by residents and others:

- (a) current Multnomah County Adult Foster Home License.
- (b) if a conditional license, a statement of the conditions next to the license.
- (c) Residents' Bill of Rights.
- (d) House Rules.
- (e) the home's floor plan with emergency evacuation map.
- (f) Inspection Report for the most recent annual inspection.
- (g) Licensing Report for the most recent inspection.
- (h) range of monthly rates for private pay residents.
- (i) Ombudsman poster.
- (j) name and telephone numbers of at least one emergency back up caregiver.
- (k) ACHP complaint process poster.
- (l) weekly menus.
- (m) telephone number(s) to provide 24 hour access to the Operator.

**891-070-400**

**TELEPHONE**

070-410

The home shall have a working telephone with a listed number.

070-420

The telephone shall be available and accessible in the Adult Foster Home for residents' use with reasonable accommodation for privacy for incoming and outgoing calls.

070-430

Any restrictions and limitations on the use of the telephone by residents shall be specified in the written house rules and shall not violate residents' rights.

070-440

Appropriate use of the residents' personal telephone shall not be restricted by the Operator, Resident Manager or caregiver.

070-450

Restrictions for telephone use for a specific resident shall be included in the care plan with documentation of the specific reason for the restriction, (i.e., behavior management).

070-460

Long distance service shall be available in the Adult Foster Home to residents who should pay for personal long distance telephone calls.

- 070-470 Residents with hearing impairments (to the extent that they cannot hear over a normal telephone) shall be provided with a telephone in the Adult Foster Home that is amplified with a volume control or is hearing aid compatible.
- 070-480 The Operator shall notify the ACHP, the resident's family, legal representative and any case manager of a change of the telephone number of the Adult foster Home within 24 hours of the change.
- 070-490 The emergency 911 number shall be posted on all telephones in the home. Emergency telephone numbers shall be posted by the telephone in the home including an emergency number to reach an Operator who does not live in the home.

**891-070-500 MOVING A RESIDENT FROM THE ADULT FOSTER HOME**

- 070-510 Operators shall not request or require a resident to move from the Adult Foster Home or move to another room in the Adult Foster Home without giving the resident, the resident's legal representative, family, case manager and any other appropriate person(s) at least 30 days written notice of the move. This excludes emergency situations where the home or resident's room no longer meets facility physical standards and situations where repairs are needed. The notice shall state the reasons for moving the resident and the resident's right to object and request a hearing.
- 070-520 A resident may be moved from the home or between bedrooms in a home if the move is the resident's choice or by mutual agreement of the resident and the Operator. This move requires that the resident receive 30 day written notice.
- 070-530 Operators shall evict residents from the home or move residents between rooms in the home for the following reasons only:
- (a) resident's care needs or behavior exceed the ability or classification of the Operator.
  - (b) welfare of the resident or other residents.
  - (c) nonpayment for room or board or care or services.
  - (d) the home is no longer licensed or there is a voluntary surrender of a license.
  - (e) behavior which poses an immediate threat to self, Operator, Resident Manager, caregivers or others.
  - (f) behavior which substantially interferes with the orderly operation of the home.
- 070-540 Residents may waive an Operator's 30 day notice to move in writing.
- 070-550 To require a resident to give the Operator a 30 day notice prior to a move, the Operator shall include this requirement in the contract.
- 070-560 All written notices regarding evicting or moving a resident shall include:
- (a) the resident's name.
  - (b) the reason for the proposed termination of residency.

- (c) the date of the proposed termination of residency.
- (d) the location to which the resident is going, if known.
- (e) the right to a hearing and to have the ACHP hold an informal conference.
- (f) the name, signature, address and telephone number of the person giving the notice.
- (g) the date of the notice.

070-570 If the resident has a medical emergency, the Operator may give less than 30 days' advance notice, but shall give the written notice as soon as possible under the circumstances. This includes situations in which the resident is hospitalized for a medical emergency and the Operator refuses to allow the resident to return to the home. Medical emergency means a change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

070-580 Residents may be evicted from the home with less than the 30 day written notice from the Operator with approval of the Director of Aging Services or his/her designee in emergency circumstances. Approval requires a finding that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees, or other household members. Findings and approval shall be documented. Residents who move from the home under these circumstances shall not be charged beyond their last day in the home.

070-590 At the request of a resident, approval may be given for the resident to move from the home with less than 30 day written notice to the Operator or as specified in the contract with the approval of the Director of Aging Services or his/her designee. Approval requires a finding by the Director of Aging Services or his/her designee that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees or other household members. Findings and approval shall be documented. Residents who move from a home under these circumstances shall not be charged beyond their last day in the home.

**891-070-600 RESIDENT HEARING RIGHTS**

070-610 A resident who has been or will be evicted or refused the right to return to a home by the Operator shall be entitled to an informal conference with the ACHP and an administrative hearing except in instances when the home is no longer licensed.

070-620 The ACHP will hold an informal conference upon request and before any hearing about an eviction. The ACHP shall send written notice of the time and place of the conference to the Operator, the resident and, at the resident's request, a family member, case manager, Ombudsman, legal representative of resident, and, if the Operator requests it, a representative from a provider association. The purpose of the informal conference is to resolve the matter without a formal hearing.

070-625 The ACHP shall issue a written determination following the conference either approving or disapproving the eviction.

- 070-630 If the resident is being moved from the Adult Foster Home by an Operator for a medical emergency, or to protect the welfare of the resident or other residents, as defined by rule, the hearing must be held within seven days of the move or notice to move. If a resident is being moved from the Adult Foster Home by an Operator for any other reason, the resident has a right to a hearing within ten days of the notice to move. The Operator shall hold a space available for the resident pending the decision of the hearing.
- 070-640 ORS 441.605(4) regarding transfer notices and hearings of long term care facilities shall apply to Adult Foster Homes.
- 070-650 Factors to be considered by the ACHP in a conference and the hearing officer in a hearing in evaluating an eviction to determine whether such action should be approved, conditionally approved or disapproved shall be limited to the following:
- (a) Evidence of medical reasons for the action including behavior which substantially interferes with the orderly operation of the home.
  - (b) Evidence concerning the safety or welfare of the resident, other residents, the Operator, employees or other members of the household.
  - (c) Evidence of non-payment of monies agreed upon for room, board and/or care.
  - (d) Evidence that the resident's care needs exceed the ability or classification of the Operator.
  - (e) Transfer trauma to the resident.
- 070-660 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's determination approving an Operator's eviction or may approve, conditionally approve, or disapprove an eviction.
- 891-070-700 REFUNDS/RETURN OF PERSONAL PROPERTY**
- 070-710 The Operator shall refund any money owed to the resident, the resident's family or legal representative within 30 days of when the resident dies or permanently leaves the home.
- 070-720 Operators shall make a resident's personal property available within seven days after the resident leaves the home. If the resident does not claim his or her personal property within seven days of leaving the home, the Operator shall give written notice to the resident or legal representative and allow 30 days before disposing of the resident's personal property.
- 070-730 The Operator may charge a reasonable fee for storage of a private pay resident's belongings beyond 15 days if the contract/admission agreement includes fees for storage.
- 070-740 The Operator has an obligation to act in good faith to reduce the charge by seeking a new resident to fill the vacancy. The Operator shall refund to the resident who moves any rent for days after the date the room is re-rented.
- 070-750 If the home closes, the Operator waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.

- 070-755 The Operator shall not charge a resident for payment for more than 15 days after the resident has left the Adult Foster Home after a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.
- 070-760 If a resident dies or leaves an Adult Foster Home due to substantiated neglect or abuse or due to conditions of immediate threat of life, health or safety, the Operator shall not charge the resident beyond the resident's last day in the home.
- 070-770 If the ACHP orders the relocation of resident(s) and/or the refund of money to a resident, Operators shall refund the money owed to the resident within 30 days.

**PART VII**

**STANDARDS FOR ADULT FOSTER HOME FACILITIES**

**891-080-100 GENERAL CONDITIONS OF THE HOME**

- 080-107 The Adult Foster Home shall meet all applicable zoning, building and housing codes, and state and local fire and safety regulations for a single family residence. It is the responsibility of the Adult Foster Home Operator to ensure that all applicable local codes have been met.
- 080-121 The home shall be inspected for fire safety using these rules and standards by an inspector designated by the ACHP or by the local fire department. The ACHP may require any additional standards that are recommended by the State Fire Marshall or his/her designee, for a single family residence.
- 080-128 The buildings of the Adult Foster Home shall be of sound construction and kept clean and in good repair. The grounds shall be kept clean and well maintained.
- 080-130 Manufactured homes must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured homes shall have a manufacturer's label permanently affixed don the taillight end of the unit itself which states it meets the requirements of the Department of Housing and Urban Development. The required label shall read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacturer. See date plate."

If such a label is not evident on a mobile home unit, and the Operator believes his/her unit meets the required specifications, he/she must take the necessary steps to secure verification of compliance from the manufacturer.

Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated any further.

- 080-135 The interior and furnishings of the Adult Foster Home shall be kept clean and in good repair. Walls, ceilings and floors shall be finished to permit frequent washing, cleaning or painting. There shall be no accumulation of clutter, garbage, debris, rubbish or offensive odors.
- 080-142 All interior walls of the Adult Foster Home shall be at least equivalent to a smoke

barrier design. Buildings will be constructed with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials shall not exceed Class III (76-200) and smoke density shall not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exitway of the Adult Foster Home is composed of readily combustible materials such as acoustical tile or wood paneling, such material must be treated with an approved intumescent surface coating or removed.

080-149 Interior and exterior stairways and steps of the Adult Foster Home shall have properly installed handrails. The yard, approved exits and stairs of the Adult Foster Home shall be accessible and appropriate to the condition of the residents.

080-156 Interior hallways of the Adult Foster Home shall be at least 32" wide. They shall be wide enough to accommodate wheelchairs or walkers if used by the resident(s). Each room, stairway and exitway shall be free of barriers which impede evacuation.

080-163 Each room, stairway and exitway of the Adult Foster Home shall be equipped with working lights and kept adequately lighted, based on the resident's needs. Light bulbs shall be shatterproof or protected with appropriate covers.

080-170 There shall be at least 150 square feet of common living space and sufficient appropriate furniture in the home to accommodate the recreational and socialization needs of all the occupants at one time. Common space shall not be located in an unfinished basement or garage(s) unless such space was constructed for that purpose or has otherwise been legalized under permit. There shall be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space will be required for each day care person or relative receiving care.

080-177 The Adult Foster Home shall be furnished to meet the needs of the residents.

080-184 Swimming pools, hot tubs, spas, or saunas shall not be accessible to residents without supervision. They shall also be equipped with safety barriers and devices designed to prevent accidental injury to the residents.

080-191 Operators shall keep first aid supplies and a first aid manual available at all times.

080-193 The address of the Adult Foster Home shall be easily visible from the street.

080-195 Smoking is not permitted in any bedroom of the Adult Foster Home including that of a resident, Operator, Resident Manager, caregiver, boarder, or family member.

080-197 Operators shall submit a copy of a revised floor plan of the Adult Foster Home to the ACHP whenever it changes or before remodeling is begun.

## **891-080-200 HEALTH AND SANITATION**

080-210 Operators shall use a public water supply for the Adult Foster Home if available. If a non-municipal water source is used, a sample shall be collected by the licensor or sanitarian and tested at the Operator's expense for coliform bacteria yearly and records shall be retained for three years. Corrective action shall be taken to ensure potability.

- 080-220 Septic tanks or other non-municipal sewage disposal system shall be in good working order.
- 080-230 Commodes shall be emptied frequently and cleaned daily.
- 080-240 Garbage and refuse shall be suitably stored in readily cleanable, rodent proof, covered containers. Garbage must be removed at least once a week.
- 080-250 Operators shall store soiled linens and clothing in closed containers kept separate from the bedrooms and the kitchen, dining and food preparation and storage areas. Clothing and bed linens soiled by human waste shall be placed in closed containers, emptied daily and promptly laundered. Soiled paper products used for cleaning incontinent residents shall be immediately disposed of in waterproof bags or containers.
- 080-260 Sanitation for household pets and other domestic animals shall be adequate to prevent health hazards. Proof of rabies or other vaccinations required by a licensed veterinarian shall be maintained on the premises for household pets. Pets not confined in enclosures must be under control and must not present a danger to residents or visitors.
- 080-270 Operators shall keep the home free of insects and rodents. Immediate action shall be taken if the home becomes infested to protect the health and safety of residents. Screens shall be installed on doors and windows used for ventilation.
- 080-280 Operators shall regularly clean surfaces, floors and rugs. Personal property shall be stored in a neat and orderly manner to keep the home free of clutter and obstructions.
- 080-290 Universal precautions for infection control shall be followed in resident care. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.
- 080-299 Operators, Resident Managers and caregivers shall 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. Containers holding sharp objects or medical waste shall not be stored in food preparation areas. Disposal shall be according to local regulations and resources (ORS 459.386 through ORS 459.405).

**891-080-300 BATHROOMS**

- 080-310 Bathrooms shall be kept clean and free from objectionable odors.
- 080-320 The Adult Foster Home shall have at least one toilet, one sink, one tub or shower and one mirror for each six household occupants including residents, day care persons, room and board occupants, and the Operator and/or caregiver's family excluding children under two years old). A sink shall be located near each toilet, and a toilet and sink shall be located on each floor occupied by residents.
- 080-330 Bathrooms shall have grab bars for toilets, tubs, and/or showers for resident's safety and have barrier-free access to toilet and bathing facilities. Alternative arrangements for non-ambulatory residents must be appropriate to the needs of

the resident for maintaining good personal hygiene.

080-340 Bathrooms shall have a finished interior, with floors, walls, tubs/showers, toilets, sinks and mirrors in good repair.

080-350 Bathrooms shall be adequately ventilated with a window and window covering or other means of bringing in fresh air from the outside. A window must have a surface area of not less than one twentieth of the floor area of the bathroom with a minimum of three square feet and a minimum clear opening of one and 1/2 square feet.

080-360 Bathrooms shall allow for privacy and have a door which opens to a hall or common use room, unless the bathroom is used only by a resident who occupies a bedroom adjacent to that bathroom. Residents shall not have to walk through another person's bedroom to get to a bathroom.

080-370 Hot and cold water shall be available at each tub, shower, and sink in sufficient supply to meet the needs of the residents. Hot water temperature shall be supervised for persons unable to regulate water temperature.

080-380 Shower enclosures shall have nonporous surfaces. Glass shower doors shall be tempered safety glass. Tubs and shower shall have nonslip floor surfaces. Shower curtains shall be kept clean and in good condition.

080-390 The Operator shall provide adequate supplies of toilet tissue for each toilet and soap for each sink. Residents shall be provided with individual towels and wash cloths which are laundered in hot water at least weekly. Appropriate racks or hooks shall be available for drying bath linens. If individual cloth hand towels are not provided, roller dispensed hand towels or individually dispensed paper towels shall be provided for residents.

#### **891-080-400 BEDROOMS**

080-407 Bedrooms for all household occupants shall:

(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 which go from floor to ceiling.

(c) have a door which opens directly to a hallway or common use room without passage through another bedroom or common bathroom.

(d) be adequately ventilated and lighted with at least one openable window which meets fire regulations.

(e) be at least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright.

(f) have ceiling heights of not less than 7 feet 6 inches covering at least one half of the area of the room.

080-414 Bedrooms shall not contain furnaces, laundry tubs, washers, dryers, freezers,

dishwashers or other common use equipment.

- 080-421 The Adult Foster Home shall have at least one bedroom for use by the Operator, Resident Manager or other caregivers. Operators, Resident Managers and caregivers shall not share bedrooms with residents or sleep in common living areas or rooms not approved as bedrooms. All other occupants shall be housed in bedrooms meeting the criteria described in this section.
- 080-428 No more than two people shall occupy a bedroom, not including children under five years old.
- 080-435 Resident bedrooms shall be in close enough proximity to the Operator to alert the Operator to night time needs or emergencies, or shall be equipped with a call bell or intercom. Intercoms shall not violate the resident's right to privacy and must have the capability of being turned off by or at the resident's request.
- 080-442 Use of interior video monitors detracts from a home-like environment and Operators shall not use them in resident bedrooms, bathrooms or living areas.
- 080-449 Bedrooms shall be on ground level for residents who are non-ambulatory, have impaired mobility, or are cognitively impaired. Residents on the second floor or in the basement must demonstrate their capability to self exit. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs.
- 080-456 Sleeping rooms located on a second floor or in a basement shall have an approved emergency means of exit. Split level homes shall be evaluated according to accessibility, emergency exit and evacuation capability of residents. Bedrooms located on stories above the second floor shall not be used for sleeping purposes.
- 080-463 Bedrooms shall be adequately heated with a permanent source of heat.
- 080-470 Each bedroom shall have sufficient separate closet space, a private dresser and secure storage space for each resident's clothing and personal effects including hygiene and grooming supplies. Residents shall be allowed and encouraged to keep and use reasonable amounts of personal belongings.
- 080-477 Drapes or shades for windows shall be in good condition and allow privacy for residents.
- 080-484 There shall be an individual bed at least 36 inches wide for each resident consisting of a mattress and springs, or the equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used by residents. Each bed shall 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 shall be laundered at least weekly, and more often if soiled. Waterproof mattress covers will be used for incontinent residents. Day care persons may use a cot or rollaway bed if bedroom space is available which meets the requirements of these rules. Resident beds may not be used by day care persons.
- 080-491 All bedrooms in the home shall have at least one window or exterior door to permit venting and for emergency escape or rescue. This escape and rescue window or door shall:

(a) Be easily openable from the inside without the use of keys, tools, or any special knowledge or effort.

(b) Provide a clear opening of not less than 5.7 square feet (821 square inches). The minimum net clear opening height dimension shall be 24 inches (by 34 inches wide); the minimum net clear opening width dimension shall be 20 inches (by 41 inches high). 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.

(c) Have a finished sill height not more than 44 inches from the floor level, or not more than 48" if the sill height met applicable code requirements at the time the bedroom was constructed and if an exception is granted by the ACHP. For sill heights above 48 inches, application may be made for a building permit to install a permanently attached step(s) (minimum width 30 inches, rise of 4 to 8 inches, and run of 9 to 12 inches) or other aids to window exit which are constructed so the sill height is no more than 44 inches from the top of the step(s). Upon approval of the permit and final inspection, the ACHP may grant an exception, but only if the step(s) or aids are readily accessible and not used for storage, and only if their use is within the demonstrated evacuation capability of the residents of the room. In no case can residents who are non-ambulatory or have limited mobility use such bedrooms.

(d) Be free of any obstacles that would interfere with the window being used as an emergency exit.

#### **891-080-500**

#### **HEATING AND COOLING SYSTEMS AND ELECTRICAL EQUIPMENT**

080-510 Heating and electrical equipment, including wood stoves, shall be installed in accordance with manufacturer's specifications and all applicable fire and safety regulations. Such equipment shall be used and maintained properly and be in good repair.

080-520 Room temperatures shall be at a safe and comfortable temperature for the residents. The Operator shall have ventilation, fans or air conditioning available for use in hot weather, and keep the rooms at a comfortable and safe temperature for the residents at all times. When residents are home, minimum temperatures shall be no less than 70 degrees Fahrenheit during waking hours and 60 degrees Fahrenheit during sleeping hours.

080-530 Operators shall not use unvented portable oil, gas or kerosene heaters. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used only if approved by the State Fire Marshall's guidelines. State Fire Marshall guidelines refer to Appendix I-E of the Uniform Fire Code of the State of Oregon which are available from the ACHP.

080-540 Operators shall not use extension cords in place of permanent wiring.

080-550 Portable air conditioners shall not block the exit window and shall be UL listed and used only in accordance with manufacturer's instructions.

080-560 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 shall be installed 36 inches around woodstoves to prevent accident or injury to residents.

080-570 Fireplaces shall not be used to burn trash. If the fireplace is used, chimneys shall be properly maintained and cleaned yearly so no accumulation of creosote or combustible residue can accumulate.

080-580 Operators who do not have a permit verifying proper installation of an existing woodstove shall have the woodstove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule.

**891-080-600 DOORS AND LOCKS**

080-610 Exit and interior doors of the Adult Foster Home shall have simple and easy to operate hardware that cannot be locked to prevent exit. Hasps, sliding bolts, hooks and eyes and double key deadbolts shall not be used. There shall be no more than two locks per door, including a lock in the handle. All hardware shall be mounted no more than 48 inches from the floor. All locks must be openable from the inside without the use of a key, tool, special knowledge or effort or more than one motion.

080-620 Adult Foster Homes with one or more residents who are prone to wander out of doors shall have an activated door alarm system to alert the Operator, Resident Manager and caregivers of an unsupervised exit by a resident.

080-630 Storm windows or doors, bars, grills, grates or similar devices may be installed on escape and rescue windows or doors only if such devices are equipped with approved release mechanisms which can be easily opened from the inside without the use of a key, tool, special knowledge or effort or more than one motion.

**891-080-700 FIRE SAFETY**

080-710 Operators shall post an up-to-date evacuation plan for the Adult Foster Home with the locations of each bedroom, all windows and doors, the location of smoke detectors, fire extinguishers, and any sprinkler shut-offs. The evacuation plan shall clearly indicate the path occupants shall use to evacuate the home in an emergency.

080-720 Smoke detectors shall be installed in accordance with the manufacturer's specifications and be installed in each bedroom, in hallways or access areas that adjoin bedrooms, family room or main living area where residents congregate, any interior designated smoking area, and in basements. Smoke detectors shall be installed at the top of each stairway. Ceiling placement of smoke detectors is recommended. Detectors shall be equipped with a device that warns of low battery when battery operated or with a battery back-up if hard wired.

080-730 All smoke detectors shall contain a sounding device or be interconnected to other detectors in order to provide an alarm which is loud enough in all sleeping rooms to wake occupants who are not hearing impaired.

080-740 Bedrooms used by hearing impaired residents must be equipped with a visual/audio or vibration alerting smoke alarm to wake the residents when they are asleep.

080-750 The Operator shall maintain exits, detectors and extinguishers in functional condition. If there are more than two violations of failure to maintain battery

operated detectors in working condition in a 12 month period of time, hard-wiring of the detectors into the electrical system shall be required.

080-760 At least one fire extinguisher classed as 2A-10BC shall be mounted in a visible and readily accessible location on each floor, including basements. Extinguishers shall be recharged every six years. Extinguishers shall be mounted with the top no higher than five (5) feet above the floor. Fire extinguishers shall be checked at least once a year by a technician qualified in fire extinguisher maintenance. All recharging and hydrostatic testing shall be completed by a qualified agency properly trained and equipped for this purpose. All fire extinguishers shall be tagged with the date of the last inspection and/or service.

080-770 Operators shall keep at least one plug in rechargeable flashlight readily accessible on each floor of the home for emergency lighting.

080-780 If an Operator allows smoking in the Adult Foster Home, smoking regulations shall be adopted to allow smoking only in designated areas. Smoking shall be prohibited in sleeping areas, areas where oxygen is used, or in areas where flammable materials are stored. Ashtrays of noncombustible material and safe design shall be provided in areas where smoking is permitted.

#### **891-080-800 EVACUATION**

080-808 An evacuation plan to be used in the event of an emergency shall be developed and rehearsed with all occupants.

080-816 Operators, Resident Managers and all caregivers shall be required to demonstrate the ability to evacuate all occupants from the facility within three minutes to the closest point of safety outside the home. Drills will be held at least once every 30 days in the first year of operation and at least every 60 days thereafter, with at least one drill practice per year occurring during sleeping hours. A record shall be maintained of evacuation drills. Records of drills shall be maintained for three years and include date, time for full evacuation, names of residents requiring assistance for evacuation, and signature of person conducting the drill.

080-820 Within 24 hours of arrival, any new resident, Resident Manager or caregiver shall be shown how to respond to a fire alarm, shown how to participate in an evacuation drill from the home in an emergency, and receive an orientation to basic fire safety. New Resident Managers and caregivers will also be oriented in how to conduct a fire drill.

080-824 If there are continual problems in demonstrating this evacuation time, conditions shall be applied to the license which include, but are not limited to, reduction of the capacity of the home, adding staff, relocating one or more residents, moving residents within the home, changing the classification of the home, hard wiring smoke detectors into the home's electrical system, installing a sprinkler system, increasing the number of fire drills, installing fire barriers, increased smoke detector systems or alarms or increased fire and life safety protection.

080-832 All residents shall participate in fire drills unless the Operator believes a resident may be harmed by participation in a fire drill and a written assessment from a physician or Registered Nurse is on file stating that such participation is medically contraindicated for the resident. In the event the resident cannot participate, substitutes for such residents of similar size shall be used in conducting fire drills to determine Operator's, Resident Manager's or caregiver's evacuation capability.

- 080-840 Operators shall not place residents who are unable to walk without assistance or not capable of self-preservation in a basement, split-level, second story or other area of the Adult Foster Home that does not have an exit at ground level. Such residents shall be given ground level rooms.
- 080-848 Stairs shall have a riser height of between 6-8 inches and tread width of between 8 - 10 ½ inches.
- 080-856 All common use areas of the Adult Foster Home and exitways must be barrier free and corridors and hallways shall be a minimum of 32 inches wide or as approved by the authority having jurisdiction. Any bedroom window identified as an exit shall be free of any obstacles, at least the width of the window, that would interfere with it being an exit.
- 080-864 There must be two safe means of exit. Operators whose sleeping rooms are above or below the first floor may be required to demonstrate a fire exit drill from that room, using the secondary exit and still evacuate all the occupants in three minutes, at the time of licensure, renewal, or inspection.
- 080-872 There shall be a wheelchair ramp from a minimum of one exterior door if non-ambulatory persons live in the home. All wheelchair ramps shall be constructed under appropriate permit. Wheelchair ramps shall have non-skid surfaces, handrails, and have a maximum slope of 1 inch rise in each 12 inches of distance. The maximum rise for any run without a platform shall be 30 inches. Operators shall bring existing ramps into revised compliance.
- 080-880 An Adult Foster Home located more than five miles from the nearest fire station or those of unusual construction may be required to have a complete fire alarm system installed which meets the requirements of the NFPA 72A and 72E and with approved automatic reporting to the local jurisdiction providing fire protection.
- 080-888 Operators whose homes are located in areas where there is a danger of natural disasters which require rapid evacuation such as forest fires or flash floods, must be aware of community resources for evacuation assistance.
- 891-080-900 STORAGE OF FLAMMABLE LIQUIDS, HAZARDOUS SUBSTANCES, AND GUNS**
- 080-910 Flammable and combustible liquids and hazardous materials shall be safely and properly stored in original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals. Storage of flammable liquids is prohibited in living areas.
- 080-920 Cleaning supplies, poisons, insecticides, etc. shall be stored in original labeled containers, safely away from bedrooms, food preparation and storage areas, dining areas and medication storage areas. Kitchen cleaning supplies may be kept in a separate enclosed space in the kitchen.
- 080-930 Guns must be stored, unloaded, in a locked cabinet. The gun cabinet must be located in an area of the home that is not readily accessible to residents. Ammunition shall be stored and locked in a separate location from the gun.

## PART VIII - ABUSE/NEGLECT

891-090-100

### ABUSE, NEGLECT AND EXPLOITATION OF ADULT FOSTER HOME RESIDENTS

090-110

Operators, Resident Managers and caregivers shall exercise all reasonable precautions against conditions which could threaten the health, safety or welfare of Adult Foster Home residents. Anyone who lives or works in an Adult Foster Home shall not inflict, allow to be inflicted, or expose residents to abuse, neglect or exploitation. Abuse, neglect or exploitation is a violation of ACHP rules and may subject the offender to civil and/or criminal proceedings. Operators shall be responsible for preventing abusive or neglectful treatment or exploitation of any resident by any occupant in the AFH.

090-120

Abuse of an Adult Foster Home resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident which is inconsistent with resident needs or prescribed resident care.

090-130

Neglect is a kind of abuse which includes any action or inaction which causes or threatens to cause physical or mental harm to a resident which is inconsistent with resident needs and prescribed resident care. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an Operator, Resident Manager or caregiver, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill.

090-140

Abuse or neglect may result from the conduct of an Operator, Resident Manager, caregiver or other household member towards a resident of the home.

090-145

Abuse or neglect shall include but is not limited to the following:

(a) willful infliction of physical pain or injury, including physical assaults such as hitting, choking, pushing, shoving, pinching, kicking, scratching, or using any kind of unreasonable force.

(b) any physical injury caused by other than accidental means or which appears to be different from the explanation given for the injury.

(c) punishment, including but not limited to food, clothing, eyeglasses, hearing aids, walkers or wheelchairs.

(d) using psychoactive medications or physical restraints, without a written order or contrary to a written order from a physician or qualified practitioner, or to discipline or punish a resident; or for the convenience of the Adult Foster Home.

(e) abandonment, including deserting or leaving a resident without adequate care or supervision.

(f) use of derogatory or inappropriate names, phrases, or profanity, verbal abuse, unnecessary yelling, harassment, ridicule, threats, coercion, menacing behavior or intimidation, cursing or inappropriate sexual comments.

(g) emotional abuse, mistreatment, or any pattern of psychologically destructive

behavior (for example, rejecting, isolating, terrorizing, ignoring or corrupting a resident). This includes the emotional impact on a resident of Operators, Resident Managers and caregivers or other household members or visitors abusing each other while on the premises of the Adult Foster Home.

(h) sexual abuse or exploitation, including but not limited to:

(1) inappropriate language or physical contact between an Operator, Resident Manager, caregiver or other household member and a resident,

(2) inappropriate language or inappropriate physical contact between nonconsenting residents,

(3) the failure of an Operator, Resident Manager or caregiver to discourage sexual advances of residents toward the Operator or caregiver, or

(4) failure of the Operator, Resident Manager or caregiver to discourage inappropriate language or inappropriate sexual contact between nonconsenting residents.

(i) withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, care or services necessary to ensure the health, safety and welfare of residents.

(j) withholding or failing to seek adequate medical attention and care.

(k) improper administration, supervision and safe guarding of medications, including failure to follow medication orders.

(l) failure to provide bedding or adequate changing of bedding or clothes.

(m) failure to help with a resident's daily personal grooming and regular bathing, as needed.

(n) failure to make a reasonable effort to discover what care is necessary for the wellbeing of a resident.

(o) failure to provide and maintain a safe, sanitary, and secure home.

(p) failure to provide the staffing needed to care for the residents; failure to adequately train and supervise Resident Managers and caregivers.

(q) Placing unreasonable restrictions which violate rights guaranteed to the resident by the Bill of Rights.

090-148

Exploitation means any act or absence of action that deprives or threatens to deprive the resident of personal resources or entitlements, and that is inconsistent with resident needs or prescribed resident care. Exploitation includes financial exploitation or mismanagement, including, but not limited to:

(1) taking or disposing of any funds or property belonging to a resident.

(2) buying property from or selling property to a resident.

- (3) becoming a resident's legal representative, or attorney in fact.
- (4) commingling the resident's funds with the Operator's, Resident Manager's, caregiver's or another person's funds.
- (5) borrowing from or loaning money to residents; pledging any resident's funds.
- (6) spending a resident's personal funds inappropriately or without authorization from a resident or resident's family member.
- (7) entering into inappropriate financial arrangements with a resident.
- (8) adding an Operator's, Resident Manager's, caregiver's or a member of the their family's name to a resident's bank account, legal contract or property or credit cards.
- (9) making unreasonable rate increases.
- (10) requiring more than 30 days advance payment for care.
- (11) witnessing a will in which an Operator, Resident Manager, or caregiver or Operator's, Resident Manager's or caregiver's family is a beneficiary.
- (12) requesting or requiring the Medicaid-funded residents to pay more than state authorized Medicaid rates.
- (13) perfecting or foreclosing a lien in violation of ORS Chapter 87.
- (14) theft or misuse of money or gifts intended for the residents.
- (15) charging excessive rates for care or services.

090-150

Operators, Resident Managers, caregivers and any person with reasonable cause to believe that abuse, neglect or exploitation has taken place in an Adult Foster Home shall immediately make a report to the ACHP or a local law enforcement agency.

## PART IX - INSPECTIONS - CORRECTION OF VIOLATIONS

891-100-100

### INSPECTIONS

100-107

The ACHP may conduct unannounced inspections of an Adult Foster Home, in situations including but not limited:

- (a) licensing inspections for new and renewal licenses.
- (b) to determine if deficiencies noted in a home have been corrected.
- (c) to monitor compliance with ACHP rules and standards.
- (d) to monitor resident care.
- (e) to determine if a home is operating without a license.

(f) whenever the ACHP receives a complaint of violations to the ACHP rules.

- 100-114 The Operator will be given a copy of the licensing and monitoring Inspection Report at the time of the inspection identifying any areas of non-compliance and specifying a time frame for correction set by the ACHP. The timeframe shall not exceed 60 days from date of inspection. The ACHP may follow up with an additional an Licensing Report citing deficiencies and timeframes for corrections.
- 100-121 In the course of an investigation, the ACHP may require that an RN conduct an assessment of the nursing care needs of any residents of an Adult Foster Home to evaluate the level of nursing care required by the resident(s), and/or the classification of the Operator/home, and/or the appropriate ability of personnel to be providing nursing care.
- 100-128 ACHP staff shall have full access and authority to examine and copy facility and resident records. The ACHP shall also have access to inspect the entire physical premises, including Operator/family areas, including the buildings, grounds, equipment and any vehicles.
- 100-135 The ACHP inspection shall also include the private living area of the Operator, Resident Manager and caregiver and their families only to the extent to determine fire, sanitation and safety hazards or to respond to a specific complaint.
- 100-142 The ACHP shall have authority to interview, tape record and photograph Operators, Resident Managers, caregivers, residents, and other household members. Interviews shall be conducted in private and kept confidential. Any photos taken or tape recordings made during inspections and interviews may not be subject to public access if they include confidential information but may be used in enforcement hearings.
- 100-149 Operators must inform and authorize all Resident Managers and caregivers of their duty to permit the ACHP to enter the home at any time to carry out inspections, interviews and monitoring.
- 100-156 The ACHP shall conduct unannounced inspections without advance notice to the Operator, Resident Manager or caregiver of the home. The ACHP shall not give advance notice of any inspection if the ACHP believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules. The ACHP may also conduct announced inspections.
- 100-163 If Operators, Resident Managers or caregivers deny the ACHP access for inspections or interviews, the ACHP shall inform the Operator, Resident Manager or caregiver of the requirements of the rules and may, if access is still denied, obtain a search warrant and impose administrative sanctions.
- 100-170 If an Operator denies access to the home during an investigation of a complaint of abuse or neglect, the ACHP may obtain the help of law enforcement agents to gain immediate access to the home and residents.
- 100-177 ACHP inspectors shall respect the private possessions of Operators, Resident Managers, caregivers, residents and other household members when carrying out inspections.
- 100-184 Operators, Resident Managers and caregivers shall permit state or local health and safety inspectors, Bureau of Buildings inspectors or other inspectors to enter

and inspect the home.

100-191 The State Long Term Care Ombudsman or designee has access to all resident and facility records. This does not include Certified Ombudsman volunteers who only have access to facility records relevant to caregiving as well as resident records with written permission from the resident, the resident's family or legal representative.

**891-100-200 PROCEDURES FOR THE CORRECTION OF VIOLATIONS**

100-210 If the ACHP determines that there has been a violation of any ACHP rule, the ACHP shall notify the Operator of:

- (a) the violation,
- (b) the rule violated,
- (c) correction procedures,
- (d) timelines for correction of the problem, where applicable,
- (e) a written warning or sanction, as needed, to protect the health, safety and welfare of residents,
- (f) the right to an administrative conference,
- (g) the right to a hearing if a sanction is imposed, and
- (h) the right to request an exception as provided in MCAR 891-030-100, if applicable.

100-220 Operators shall correct any violation as soon as possible but in no case beyond the timeline specified by the ACHP.

100-230 For violations that present an immediate threat to the health, safety or welfare of residents, the notice of violation shall order the Operator to correct the violations no later than 24 hours after receipt of the notice of violation. The ACHP shall inspect the home after the 24-hour period to determine if the violations have been corrected as specified in the notice of violation.

100-240 In cases other than those involving the health, safety or welfare of a resident, the ACHP shall prescribe a reasonable time for elimination of a violation which shall not exceed 30 days after notice of the violation (except as provided in MCAR 891-100-250).

100-250 If it is determined by the ACHP that the correction is not possible within 30 days, the ACHP may approve a reasonable time in excess of 30 days.

100-260 If there is an immediate threat to the residents, the ACHP may immediately suspend the license and make arrangements to move the residents.

## PART X - COMPLAINTS

### 891-200-100

### COMPLAINTS AND COMPLAINT INVESTIGATIONS

- 200-105 The ACHP shall provide the Adult Foster Home with a complaint poster that the Operator shall post in a conspicuous place. The complaint poster shall list the ACHP telephone numbers and explain how to make a complaint.
- 200-110 The ACHP shall cause all complaint investigations to begin within two hours if the complaint alleges that a resident has been injured, abused or neglected, and that there is an immediate threat to any resident, or that a resident has died or been put in a hospital because of abuse or neglect.
- 200-115 The ACHP shall cause investigations of other complaints to begin by the end of the next working day or at a time appropriate to the nature of the complaint.
- 200-120 The ACHP shall take immediate actions to protect the health, safety and welfare of residents when the ACHP receives a complaint of abuse or neglect, regardless of whether the investigative report is completed, and whenever the ACHP finds that abuse or neglect is placing or could place a resident in danger or cause the resident physical or mental harm before the danger could be eliminated by regular enforcement procedures.
- 200-125 The ACHP shall cause all complaint investigations to be completed, including a written report, within 60 days unless a concurrent criminal investigation requires more time or unless the complaint investigation cannot be completed due to Operator noncooperation or other circumstances beyond the ACHP's control.
- 200-130 The ACHP shall initiate appropriate action within 30 days of the completion of the investigative report.
- 200-135 If the ACHP cannot meet the time requirements in MCAR 891-200-125 and MCAR the 891-200-130, Director of Aging Services or his/her designee may grant an extension to these requirements.
- 200-140 The ACHP's failure to meet the time frame guidelines in this section shall not affect the ACHP's ability to protect the health, safety and welfare of the residents.
- 200-145 The ACHP investigations shall include
- (a) unannounced visits to the home.
  - (b) observing, recording, photographing or copying of all relevant evidence.
  - (c) interviewing all available persons identified by any source as having relevant knowledge of circumstances about the complaint, including the alleged perpetrator(s) and alleged victim(s), if possible. Interviews shall be conducted in private and treated as confidential.
- 200-150 Complaint investigators shall interview the Operator and shall advise the Operator of the nature of the complaint and give the Operator the opportunity to submit any relevant information.
- 200-155 The ACHP shall not to release information about the content of the complaint

investigation until the complaint investigation is completed.

- 200-160 In investigation reports, the identity of the resident(s), the complainant, and any witnesses shall be kept confidential. The Operator's name and name of any other person identified as the perpetrator of a rule violation is not confidential.
- 200-165 A report shall include: the Operator's name and Adult Foster Home address, the investigator's name, observations, a review of relevant documents and records, a summary of witness statements, and a conclusion.
- 200-170 The investigative report shall list each allegation and shall state whether each allegation was found to be true. (more likely than not to have occurred or substantiated), found to be false (more likely than not to have not occurred or unsubstantiated), or found unable to be determined true or false (unable to substantiate).
- 200-175 The ACHP shall mail a copy of the completed investigative report within seven (7) days of completion to the following people:
- (a) the person who made the complaint, if known, unless the complainant requests anonymity.
  - (b) the resident(s) involved and any person designated by the resident to receive the information.
  - (c) the Operator of the Adult Foster Home involved.
  - (d) the Long Term Care Ombudsman.
  - (e) the State Senior and Disabled Services Division.
- 200-180 The ACHP shall inform the persons receiving the complaint report of the right to give additional information about the report to the ACHP within seven (7) days of receipt.
- 200-185 The ACHP shall review responses and may reopen the investigation based on the new information.
- 200-190 The investigative report, and any responses shall become part of the public complaint file.
- 200-199 Any person shall have the right to inspect files of public complaint investigation reports and to make photocopies at reasonable cost.
- 891-200-200 PROHIBITING RETALIATION AGAINST PERSONS MAKING COMPLAINTS**
- 200-210 The Adult Foster Home Operator shall not retaliate against any resident after the resident or someone acting on his/her behalf has filed a complaint by increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the Adult Foster Home or by abusing or threatening to harass or abuse a resident in any manner.
- 200-220 An Operator, Resident Manager or other caregiver shall not retaliate against any complainant, witness or employee of an Adult Foster Home for making a report

or being interviewed about a complaint or being a witness. Retaliation can include restriction of access to the home, to a resident, or dismissal or harassment of an employee.

200-230 The complainant shall have immunity from any civil or criminal liability with respect to the making or content of a complaint made in good faith. Immunity under this subsection does not protect self-reporting Operators, Resident Managers or caregivers from liability for the underlying conduct that is alleged in the complaint.

200-240 Operators, Resident Managers and caregivers shall not make or cause to be made a bad faith complaint.

## **PART XI - SANCTIONS**

### **891-300-100 ADMINISTRATIVE SANCTIONS**

300-110 ACHP sanctions may include but are not limited to:

(a) fines.

(b) conditions on a license.

(c) denial, suspension, revocation or non-renewal of a license.

300-120 The ACHP shall deny, revoke, or refuse to renew a license where it finds:

(a) There exists a threat to the health, safety or welfare of any resident.

(b) There is reliable evidence of abuse, neglect or exploitation of any resident.

(c) There has been significant non-compliance with these rules;

(d) There is significant non-compliance with local regulations and ordinances or any other state or federal law or rule applicable to the health and safety of residents and caring for residents in an Adult Foster Home.

(e) The applicant or Operator has been convicted of one or more crimes described in MCAR 891-050-450 or MCAR 891-050-455.

(f) The Operator knowingly employs Resident Managers and caregivers, or allows household members, or any other person (excluding the residents and their visitors) to live in, work in, or be in the Adult Foster Home who have been convicted of one or more crimes as described in MCAR 891-050-450.

(g) The applicant or Operator provides false information regarding their criminal history.

(h) An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator and the time frame specified in the order revoking or denying the license has not passed.

(i) An Operator or applicant has failed to pass the Operator's Qualifying Test within the last twelve months.

300-130

The ACHP may impose sanctions if an applicant, Operator, Co-Operator, Resident Manager or caregiver:

( 1) is not in compliance with the rules of the Adult Care Home Program.

( 2) is non-compliant with local codes, ordinances, state or federal law, or rules applicable to the care of residents of Adult Foster Homes.

( 3) has given fraudulent or misleading information to the ACHP or other government agency.

( 4) has a prior license denial, suspension, revocation or has been refused a license renewal in Multnomah County or any other county or state.

( 5) is associated with a person whose license for a foster home or residential care facility was denied, suspended, revoked or refused to be renewed due to abuse or neglect of the residents, creating a threat to the residents or failure to possess physical health, mental health or good personal character, unless the applicant or Operator can demonstrate to the ACHP by clear and convincing evidence that the person does not pose a threat to the residents. For purposes of this rule, an applicant or Operator is "associated with" a person if the applicant or Operator:

(a) Resides with the person.

(b) Employs the person in the Adult Foster Home.

(c) Receives financial backing from the person for the benefit of the Adult Foster Home.

(d) Receives managerial assistance from the person for the benefit of the Adult Foster Home.

(e) Allows the person to have access to the Adult Foster Home.

(f) Rents or leases the Adult Foster Home from the person.

(6) has obstructed the investigation of a complaint, interview or any action meant to administer or enforce ACHP rules or laws.

(7) has accumulated complaints that threaten the health, safety or welfare of residents.

(8) has a medical, psychiatric or psychological problem or an alcohol or drug use problem which interferes with the ability to provide good care or to operate an Adult Foster Home.

(9) has had a complaint, that upon initial review indicates evidence of immediate threat to the health, safety or welfare of residents.

(10) has knowingly failed to file an application or to report information required by the ACHP rules.

(11) has failed to pay a fine within time limits specified by the ACHP.

(12) has operated or continues to operate an unlicensed Adult Foster Home.

(13) fails to comply with an administrative sanction, including a condition imposed on a license.

(14) has previously surrendered a license while under investigation or administrative sanction.

(15) has denied access to ACHP staff to enter the home.

(16) such other circumstances as may be established by the ACHP.

#### 891-300-200

#### ACHP FINES

- 300-210 The ACHP may levy fines against an Operator who violates the Multnomah County Administrative Rules.
- 300-220 If an Operator does not fully correct a violation which has resulted in a fine within the specified timeframe, the fines may be increased.
- 300-230 The ACHP shall consider the following factors in setting the fine amounts for specific rule violations:
- (a) the degree of harm caused to residents, if any.
  - (b) whether the violation threatens or threatened the health, safety or welfare of residents.
  - (c) the seriousness, frequency and duration of the rules violation, and the violator's intent.
  - (d) past history of violations of rules or laws and corrections taken in response to rule violations.
- 300-240 The ACHP may levy fines of up to \$1000.00 for each separate violation including multiple violations of the same rule. The ACHP may levy additional fines up to \$250.00 per day up to \$1000.00 per violation for continuing violations until the violation is discontinued.
- 300-250 The ACHP shall impose a mandatory fine of not less than \$250.00 for an Operator's failure to have an approved Resident Manager or caregiver on duty 24 hours a day in the Adult Foster Home.
- 300-260 The ACHP shall impose a mandatory fine of not less than \$250.00 on an Operator who admits a resident to the home knowing the resident's care needs exceed the Operator's license classification.
- 300-270 The failure to pay a fine within time limits specified by the ACHP, shall result in an automatic penalty of up to \$250.00 per day to a maximum of \$1,000.00, until the fine and penalties are paid in full.
- 300-280 If the ACHP levies a fine against an Operator, the ACHP shall give a notice to the Operator that provides the following information:

- (a) the violation,
- (b) a reference to the particular section of rule or statute involved,
- (c) a brief statement of the circumstances of the violation,
- (d) the amount of the fine,
- (e) the date the fine is due,
- (f) penalties if the fine is not paid,
- (g) a notice that failure to pay the fine shall subject the violator to further legal action,
- (h) a statement of the right to request a hearing, and
- (i) that the notice will become a final order if no hearing is requested in twenty days.

300-290 An Operator shall have twenty days from the date of the notice to request a hearing in writing. If a timely written request is not received, the fine shall become a final order.

300-299 Unless the fine is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the Operator.

**891-300-300 CONDITIONS PLACED ON A LICENSE**

300-310 The ACHP shall have the authority to place conditions on a license that limit the scope of the license or impose additional requirements on the Operator. License conditions are effective immediately and are the final order of the ACHP unless later rescinded through the hearings process.

300-320 The ACHP may place conditions on a license when the ACHP finds:

- (a) the Operator is not in full compliance with ACHP rules

and/or

- (b) a threat exists to the health, safety or welfare of the residents that may be remedied by placing a condition on the license.

300-330 Conditions on a license must directly relate to a risk of harm or potential harm to residents and may include but are not limited to:

- (a) restricting the total number of residents and occupants of the home.
- (b) restricting the number of residents or impairment level of residents within a classification level whom the Operator may care for.
- (c) restricting the type of care the home may provide.
- (d) requiring additional staff or staff qualifications to meet the resident's care

needs.

(e) requiring additional training of Operator/staff to meet specific resident care needs.

(f) restricting admissions due to failure of the Operator or Resident Manager to pass the qualifying test as required by these rules.

(g) restricting admissions when there is a threat to the current residents of the home and admitting new residents would compound that threat.

(h) restricting the opening of additional Adult Foster Homes.

(i) restricting the Operator from allowing persons on the premises who may pose a threat to resident safety or welfare.

(j) requiring an Operator to notify the ACHP when accepting a resident with skilled or continuous nursing care needs, or when a resident develops such needs.

(k) requiring an Operator to contract with a Registered Nurse if one or more residents of an Adult Foster Home have nursing care needs.

(l) requiring that a resident with nursing care needs be relocated from an Adult Foster Home.

300-340 The ACHP may place conditions on a license for a specified period of time. At the end of that period, the ACHP shall determine if the conditions are still appropriate and may continue the conditions. The ACHP shall consider the reasons for the condition at the time of license renewal to determine if the conditions are still appropriate. The condition's effective date and expiration date shall be put on the license.

300-350 Operators may request that the condition be removed if the Operator believes that the reason for the condition has been remedied.

**891-300-400 SUSPENSION**

300-410 If a license is suspended for reasons other than immediate threat to the health, safety or welfare of the resident(s), the Operator shall be entitled to a hearing preceding the effective date of the suspension if the Operator requests a hearing in writing within 20 days of the date of the notice. If no written request for a timely hearing is received, the ACHP shall issue a final order by default. The ACHP may designate its file as the record for purposes of default.

300-420 If the ACHP finds that there is an immediate threat to the health, safety or welfare of the residents, the ACHP shall issue a written order suspending the license effective immediately. A hearing shall follow the suspension if requested in writing by the Operator within 20 days of the order.

300-430 An Operator may also request an administrative review of an ACHP order to suspend their license based on immediate threat to residents. If the ACHP receives such a request from the Operator in writing within 10 days of the order, the ACHP shall review the decision within five business days. This review shall be limited to the issue of whether the finding of immediate threat is supported by the evidence. The review shall include all materials related to the findings of

immediate threat, including any written documentation submitted by the Operator. If the finding of immediate threat is supported, the suspension shall remain in effect.

300-440 If the ACHP does not sustain the finding of immediate threat, the suspension shall be lifted. A suspension may not be reimposed unless and until a final order has been issued pursuant to the hearing process in MCAR 891-300-800 through MCAR 891-300-891 or until the Operator's right to request a hearing under these provisions has expired.

300-450 In the event the license is suspended or a threat to the resident safety is identified, the ACHP may notify the resident, the resident's family, the resident's legal representative, the case manager and other persons involved in resident care. For protection of the residents, the ACHP may arrange for them to move.

#### **891-300-500 REVOCATION/NON-RENEWAL/DENIAL**

300-510 The ACHP shall revoke a license if the conditions listed in MCAR 891-300-120 are found to exist in the Adult Foster Home. The ACHP may revoke a license if the conditions listed in MCAR 891-300-130 are found to exist in the Adult Foster Home.

300-515 Denial, non-renewal or revocation of a license by the ACHP shall be preceded by a hearing if requested by the operator, unless the license is denied, not renewed or revoked for the reason of an immediate threat to the life, health, safety or welfare of a resident. If an immediate threat exists, the denial, revocation or non-renewal shall be effective upon order of the ACHP. In this case, a hearing shall follow the denial, non-renewal or revocation if requested by the operator.

300-520 A license in the revocation or non-renewal process will remain in effect during an administrative hearing process even if the license expires before the hearing and/or a final order is issued unless the license is revoked or not renewed due to immediate threat to the resident(s).

300-530 If a license is revoked, not renewed or denied, the ACHP may arrange for residents to move for their protection.

300-540 An Operator whose license has been revoked or an applicant whose application has been denied shall not be permitted to make a new application for one year from the date the revocation or denial is final or for a longer period specified in the order revoking or denying the license.

#### **891-300-600 NOTIFICATION OF SANCTIONS**

300-610 The ACHP shall give Operators written notice of any sanctions imposed. The ACHP shall deliver the notice in person or by certified or registered mail.

300-620 The notice of a sanction shall state:

(a) the sanction imposed, the reasons for the sanction, and a description of the circumstances of the violation.

(b) the rule(s) violated.

(c) the effective date of the sanction and the time frame for correcting the

violation(s), if applicable.

(d) that the ACHP may impose additional sanctions, if applicable, if violations continue or reoccur.

(e) the availability of help relocating residents, if needed, and the Operator's duty to help with any resident relocation.

(f) the right to appeal the ACHP order or sanction, and how to request a hearing.

(g) the authority for the hearing.

(h) that the ACHP files on the subject of the contested case automatically become part of the contested case record upon default for the purposes of proving a prima facie case.

(i) that the notice of the sanction shall become a final order if the Operator does not request a hearing within the specified time.

300-630 A copy of the complaint investigation report or inspection report shall be attached to the sanction notice, if applicable, unless previously provided to the applicant or Operator.

#### **891-300-700 ADMINISTRATIVE CONFERENCES**

300-710 The ACHP may require attendance by an Operator at a conference prior to or as part of the imposition of a sanction. The purpose of the conference is to discuss the problems, rule violation(s) and/or sanctions, and review means to achieve satisfactory and timely compliance with the rules.

300-720 An Operator may request an administrative conference at any time after notice of problems, rule violations or sanctions.

300-730 An Operator's request for an administrative conference does not extend the effective date of a sanction or time limit for correction of a problem unless the Operator requests and the ACHP grants a change in the date the sanction shall be effective.

#### **891-300-800 HEARINGS**

300-814 An Operator may appeal a sanction given by the ACHP. To appeal, the Operator must file a written request for a hearing with the ACHP within 20 days of the date of the notice except as provided in MCAR 891-300-290. The written request shall include the reason(s) for the hearing and the issues to be heard. If the timely request is not received, the ACHP's order shall become final. The ACHP may designate its file as the record for purposes of default. The ACHP may designate its file as the record for purposes of default.

300-821 For purposes of these rules, a hearing is defined as an administrative proceeding conducted by an independent hearing officer, with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

300-828 Hearings shall be conducted by an independent hearing officer who shall hear witnesses, take in evidence presented and determine issues of fact and of law based on the evidence presented.

- 300-835 Hearings shall be conducted in accordance with these rules and with the Oregon Attorney General's Model Rules for contested case proceedings when these rules do not address a procedural issue. Any party may be represented by an attorney.
- 300-842 The ACHP shall provide copies of relevant correspondence, reports and other information to the hearings officer.
- 300-849 The entire proceeding shall be recorded by tape recorder or court reporter. The record will be transcribed only if a writ of review is filed pursuant to ORS 34.010 to ORS 34.100.
- 300-856 A party may receive a copy of the tape recording upon payment of copying costs. Costs of transcription of the court reporter's record shall be paid by the party requesting the transcript.
- 300-863 Evidence, including hearsay evidence, of a type commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be admissible in a hearing requested by an Operator to appeal an administrative sanction or an order disapproving an eviction, or in a hearing requested by a resident or person acting on a resident's behalf to contest an eviction. There are four types of admissible evidence:
- (a) Knowledge of the agency. The Director of Aging Services or any authorized representatives may take "official notice" of conclusions developed in an investigation as a result of intensive experience of the agency in its specialized field of activity. This includes judgments based upon investigation findings, as well as notice of a technical and scientific nature. Such notice shall be so indicated in the proceedings.
  - (b) Testimony of witnesses, including the parties, about the matter in dispute. Any witness testifying is subject to cross examinations by other parties and the hearings officer.
  - (c) Written or visual material. This material includes complaints, reports, notices, letters, other records, notes, maps, diagrams and other written or visual material. Such material may include signed written statements and videotaped interviews of parties or witnesses not present at the hearing.
  - (d) Experiments, demonstrations and similar means used to prove a fact.
- 300-870 Once a hearing is concluded, there shall be no continuance or reopening of the hearing to offer additional evidence unless any party can show that the additional evidence was not known to the party at the time of the hearing and that reasonable diligence would not have discovered the evidence prior to the conclusion of the hearing.
- 300-877 In reaching a decision, the hearings officer shall only consider evidence which has been admitted, and shall evaluate the weight of all such evidence in light of the presentations of the parties during the hearing.
- 300-884 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's imposition of an administrative sanction or an order disapproving an eviction, or may approve, conditionally approve, or disapprove an eviction. Nothing in this section shall prevent the hearings officer from remanding the matter to the ACHP following the conclusion of the hearing

and prior to issuing an order for the ACHP's review and recommendation in light of evidence presented. The final order shall be issued by the hearings officer not later than 45 days after the termination of the hearing. The final order is effective when issued. The final order shall notify the Operator of the right to appeal to the Circuit Court under ORS 34.010 to ORS 34.100.

300-891 Review of the hearing officer's final order shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to ORS 34.100.

**891-300-900 CRIMINAL PENALTIES**

300-910 Operating an Adult Foster Home without a license is punishable as a Class C misdemeanor.

300-920 Refusing to allow access and inspection of a home by ACHP staff or for state or local fire inspections is a Class B misdemeanor.

300-930 The ACHP may ask a court to prohibit a person from:

(a) operating an Adult Foster Home without a license.

(b) operating an Adult Foster Home after notice of license suspension or revocation and after a reasonable amount of time has been given for placement of residents in other homes or facilities but placement has not been accomplished.

**PART XII - PUBLIC INFORMATION**

**891-400-100 PUBLIC INFORMATION ABOUT ADULT FOSTER HOMES**

400-110 The ACHP shall maintain current information about all licensed Adult Foster Homes in Multnomah County. The ACHP shall make all information that is not confidential available to prospective residents and members of the public.

400-120 The information in the public file shall include:

(a) the location of the Adult Foster Home and the name and mailing address of the Operator if different.

(b) the Adult Foster Home license and an example of the private pay or Medicaid contract.

(c) the date the Operator was first licensed to operate the home and the home's license classification.

(d) the date of the last licensing inspection and fire inspection, the name and telephone number of who performed the inspection, and a summary of the inspection findings.

(e) copies of all non-confidential portions of complaint investigations filed by home and date, ACHP findings and actions taken by the ACHP, and responses of the Operator or person making the complaint, if any.

(f) any conditions placed on the license, license suspensions, denials, revocations, fines, rule exceptions granted, or other current ACHP actions involving the home.

(g) whether care in the home is given primarily by the licensed Operator, a Resident Manager, or by some other arrangement.

(h) a brief description of the physical characteristics of the home.

- 400-130 The registry maintained by the Adult Care Home Program shall be regularly updated to indicate homes which have been issued a regular, limited, conditional or provisional license, homes which have been issued a renewal license, and homes which have newly applied for a license. This registry shall be available to the public upon request.
- 400-140 Any list of Adult Foster Homes maintained or distributed by the ACHP shall include the number of substantiated complaints for each of the Adult Foster Homes for the lesser of the preceding five years or the period beginning January 1, 1992.
- 400-150 The ACHP shall report on a quarterly basis to SDSD the number of exceptions for residents whose care needs exceed the classification of the home granted during the preceding quarter.
- 400-160 The ACHP will make every effort to ensure that public file information is as user friendly and easy to read as possible.

## PART XIII - DEFINITIONS

The terms used in the ACHP Administrative Rules are defined as follows. All terms are listed alphabetically.

### **ACHP - Adult Care Home Program**

**Abuse** - Abuse of an Adult Foster Home resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident. This includes withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, care or services necessary to ensure the health, safety and welfare of residents.

**Activities of Daily Living (ADL)** - Those personal functional activities required by an individual for continued well-being including eating/nutrition, dressing, personal hygiene, mobility, toileting and behavior management. See Appendix I.

- (a) "Independent" means the resident can perform the ADL without help.
- (b) "Assistance" means the resident is able to do part of an ADL, but cannot do it entirely alone.
- (c) "Dependent" means the resident is unable to do any part of an ADL, it must be done entirely by someone else.

**Adult Care Home (ACH)** - Any home or facility that provides room and/or board and/or care for compensation to persons who are not related to the Operator by blood, adoption or marriage except as provided in MCAR 891-020-140. For the purpose of this rule, adult care home does not include any house, institution, hotel or other similar living situation that supplies room and board only, or room only, or board only, if no resident thereof requires any element of care. Adult Foster Homes are classified as Class I, II or III. The Adult Care Home Program licenses three types of homes. The categories of adult care homes licensed by the ACHP include Adult Foster Homes, Adult Foster Homes with a Limited License, and Room and Board Facilities.

**Adult Care Home Program (ACHP)** - The regulatory part of the Aging Services Department of Multnomah County, Oregon, that oversees the enforcement of ACHP rules in adult care homes in Multnomah County.

**Adult Foster Home** - Any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage except as provided in MCAR 891-020-140. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. Twenty-four hour supervision is required.

**Adult Foster Home with a Limited License** - A home or facility that provides residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. Twenty-four hour supervision is required. Part XV of these rules sets out the provisions for licensure of an Adult Foster Home with a limited license.

**Advance Directive** - The legal document signed by the resident giving instructions for health care should he/she no longer be able to give directions regarding his/her wishes. The directive gives the resident the means to continue to control his/her own health care in any circumstances.

**Applicant** - Any person who submits a completed set of application materials to the ACHP to obtain a

license to operate an Adult Foster Home in Multnomah County and who is owner of the business.

**ASD - Aging Services Division**, A Multnomah County office responsible for a variety of social services provided to elderly persons and persons with disabilities residing in Multnomah County.

**Behavioral Interventions** - Those interventions which will modify the resident's behavior or the resident's environment.

**Board** - The Operator's provision of meals to a resident on a predictable and/or regular basis.

**Board of Nursing Rules** - The standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR Chapter 851, Division 45 (page 33).

**Care** - The provision of room, board, services and assistance with activities of daily living, such as assistance with bathing, dressing, grooming, eating, money management, recreation or medication management, except that assistance with self-medication is not included as part of care for purposes of these rules. Care also means services that encourage maximum resident independence and enhance quality of life.

**Care Plan** - The written description of a resident's needs, preferences, and capabilities, including by whom, when and how often care, services, and/or supervision will be provided. Care plan includes ISP (Individual Service Plan) and Mental Health Care Plan.

**Caregiver** - Any person responsible for providing supervision, care and services to residents of an Adult Foster Home under the jurisdiction of the ACHP other than the Operator or certified Resident Manager and who is approved by the ACHP.

**Case Manager** - A person employed by the Aging Services Division or other social service agency who oversees the care and service provided to a resident from various social and health care services.

**Classification** - The ACHP's determination during licensure of what level of care an Adult Foster Home may provide. The ACHP classifies Adult Foster Homes as Class I, II or III homes. Note: Room and Board facilities and Adult Foster Homes with a Limited License are not classified as Class I, II or III.

**Client** - A resident in an Adult Foster Home for whom SDSD or MHDDSD pays for care or for whom case management services are provided.

**Clutter** - An accumulation of material which impedes or obstructs a person's progress through a room, restricts use of a room and which may present a fire or safety hazard.

**Cognitive** - Pertaining to the mental state and thought and deliberative processes of the mind.

**Compensation** - Payments in cash, in-kind, or in labor, by or on behalf of a resident to an Operator or common fund in exchange for room and/or board and/or care and/or services, including any supervision, care and services specified in the care plan. Compensation does not generally include the voluntary sharing of expenses between or among roommates.

**Complaint** - An allegation that an Operator has violated these rules or an expression of dissatisfaction relating to the condition of the Adult Foster Home or the resident(s).

**Compliance** - Meeting the requirements of ACHP rules, orders, or any applicable laws, codes, regulations or ordinances.

**Conditions** - Restrictions or additional requirements placed on a license by the ACHP as a sanction.

**Co-Operator** - Co-Operator is synonymous with Operator as both are equally responsible for the home. All Co-Operators shall meet all qualifications and standards for an Operator.

**Criminal History** - Records and related data, including fingerprints, received, compiled, and disseminated by the Oregon State Police and any other local and national law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and pertaining to such persons records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release.

**Day Care Resident** - A resident who receives care, assistance, and supervision but who does not stay overnight.

**Delegation** - The process by which a Registered Nurse teaches and supervises a skilled nursing task.

**Department** - Multnomah County Aging Services Division

**Director** - The Director of the Department of Aging Services of Multnomah County, Oregon, or his or her designee.

**Disabled** - A person with physical, cognitive or emotional impairment which limits the person in one or more activities of daily living.

**Discrimination** - Differential treatment or denial of normal privileges to persons because of their race, age, sex, sexual orientation, nationality or religion.

**Elderly Person or Aged** - Any person age 65 or older who is in need of care.

**Exitway** - A continuous and unobstructed path of travel, separated by other spaces of the home by a fire or smoke barrier, through which a person can safely exit to the outside of the home. This includes room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

**Family Member** - For the purposes of these rules, a husband, wife, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

**Fire Barrier** - A continuous surface, such as a wall, ceiling or floor, designed to limit the spread of fire and restrict smoke movement, including doors which are tight fitting solid core wood, and which are equipped with a closing device such as spring loaded hinges and which meet all applicable laws, codes and rules.

**Flame Spread Rating** - A measure of how fast flames will move across the surface of a material. (See Appendix II.)

**Frequent** - One or more times in a seven day period of time.

**Hearing** - An administrative proceeding conducted by an independent hearing officer with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

**Home** - The physical structure in which residents live. Synonymous with Adult Foster Home.

**Homelike** - A friendly, safe, secure environment where the atmosphere of the Adult Foster Home is

more like a home than a medical facility, where the resident's dignity and rights are respected, interaction between members of the home is encouraged, and the resident's independence and decision-making is protected and encouraged.

**House Rules** - An Operator's written rules about the home's policies, including but not limited to visiting hours, smoking, telephone use, pets and other matters, all subject to ACHP approval and consistent with ACHP rules.

**Immediate Threat (Imminent Danger)**- A danger which could reasonably be expected to cause death, or to cause harm to a person's physical or mental well-being as a result of abandonment, abuse, neglect, exploitation, hazardous conditions, or threatening behavior, or to pose a threat to the life, health, safety or welfare of residents, Resident Managers, caregivers or other occupants in the immediate future, or before such danger could be eliminated through the regular enforcement procedures.

**Inspection** - An on-site evaluation of the physical environment and related records of an Adult Foster Home in order to determine whether the facility is in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint.

**Interview** - An evaluation of the Operator, Resident Managers, caregivers, occupants, social environment, operations, and related records of an Adult Foster Home in order to determine whether the Operator, Resident Manager(s) and other caregivers, and their training, practices, and care, are in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint, or in order to determine if a resolution can be achieved without a hearing when a hearing has been requested to contest an eviction.

**Investigation** - The ACHP's process of finding out whether or not a violation of ACHP rules has occurred through interviews, on-site visits and other methods of inquiry.

**Legal Representative** - A person who has the legal authority to act for the resident. On matters involving care, this is a legal guardian, a health care representative under an Advance Directive, or Power of Attorney for Health Care. On financial matters, this is a legal conservator, an agent under a power of attorney, or a representative payee.

**Long Term Care Assessment Form** - The form provided by the ACHP and signed by a resident who privately pays for care that he/she has been advised that he/she may have an assessment at no charge to provide the individual with his/her placement options. The Operator shall maintain a copy of the form in the resident records.

**MCAR(s)** - For the purpose of this document, MCAR(s) refers to Multnomah County Administrative Rule(s) for Licensure of Adult Care Homes.

**Medical Emergency** - A change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

**Neglect** - Neglect of an Adult Foster Home resident means any action or inaction which causes or threatens to cause physical or mental harm to a resident. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an Operator, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill. In these rules, neglect is addressed under Abuse.

**Non-injectable Medications** - Pills, ointments, suppositories, narcotics, controlled substances, over the counter medications, and any treatments or therapies. Such medications do not include moisturizing lotions or medicated shampoos.

**Nurse** - A person licensed to practice nursing by the Oregon State Board of Nursing as a Practical Nurse (LPN), Registered Nurse (RN), and an RN certified as a Nurse Practitioner, under authority of ORS Chapter 678 in accordance with OAR Chapter 851.

**Nursing Assistant** - A person who assists licensed nursing personnel in the provision of nursing care and who has been certified by an approved training program in accordance with rules adopted by the Oregon State Board of Nursing in OAR Chapter 851. Nursing assistants may be known as, but are not limited to, Certified Nurses Aide (CNA), a nurses aide, home health aide, geriatric aide, or psychiatric aide.

**Nursing Care** - The practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are taught or delegated under specified conditions by a Registered Nurse to persons other than licensed nursing personnel, which is governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

**Occupant** - Anyone residing in or using the facilities of the Adult Foster Home including all residents, Operators, Resident Managers, caregivers, friends or family members, day care persons, and boarders.

**Ombudsman** - The State Long-Term Care Ombudsman or an individual designee appointed by the Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of the Adult Foster Home residents.

**Operator** - The person licensed by the ACHP to operate the Adult Foster Home who has overall responsibility for the provision of residential care, who meets the standards outlined in these rules and who has been approved by the ACHP.

**Senior and Disabled Services Division (SDSD)** - A division of the Department of Human resources for the State of Oregon.

**Physical Restraint** - Any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, the resident's body which the resident cannot easily remove and restricts freedom of movement or normal access to his/her body. Physical restraints include, but are not limited to, leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, any chair that prevents rising, and gerichairs. Side rails (bed rails) are considered restraints when they are used to prevent a resident from getting out of a bed. When a resident requests a side rail (e.g. for the purpose of assisting with turning), the side rail is not considered a restraint.

**Physician** - A person who has been licensed to practice medicine by the Oregon State Board of Medical Examiners, under authority of ORS Chapter 677.

**Point of Safety** - For the Purpose of these rules, a location which is away from the building and away from the fire area.

**P.R.N. (pro re nata) Medications and Treatments** - Those medications and treatments which have been ordered by a qualified practitioner to be given as needed.

**Provisional License** - A 60-day license issued to a qualified person in an unforeseen emergency situation when the licensed Operator is no longer overseeing the operation of the Adult Foster Home. A person must meet the standards of these rules except for completing the training and testing requirements.

**Psychoactive Medications** - Various medications used to alter mood, anxiety, behavior or cognitive processes. For the purpose of these rules, they include, but are not limited to, antipsychotics, sedatives, hypnotics, and antianxiety medications.

**Relative** - See Family Member

**Relative Foster Homes** - Homes licensed by the State of Oregon that provide care to elderly family members or family members with disabilities eligible for State Medicaid assistance. The ACHP does not license relative foster homes in Multnomah County.

**Reside** - To make the home a person's residence on a frequent or continuous basis.

**Resident** - Any person who is receiving room, board, care, and services for compensation in an Adult Foster Home on a 24-hour basis.

**Resident Rights** - Civil, legal or human rights, including but not limited to those rights listed in the Adult Care Home Residents' Bill of Rights.

**Resident Manager** - A person employed by the Adult Foster Home Operator and approved by the ACHP who lives in the home, is responsible for daily operation of the home and care given to residents, and must comply with ACHP rules.

**Residential Care** - The provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management.

**Respite Resident** - A person who receives residential care for a period of 14 days or less or who only stays overnight.

**Restraints** - Any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, or sleeping medications). Chemical restraints are those that limit movement or physical functioning. Restraints may not be used in a Class I home.

**Retaliation** - Increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the facility or by abusing or threatening to harass or abuse a resident in any manner.

**Room** - The provisions of a place for a person to sleep on a regular basis.

**Room and Board** - The provision of meals, a place to sleep, laundry and housekeeping for compensation to persons who do not need activities of daily living care services.

**Room and Board Facility** - A home or facility that provides only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provides no residential care except medication management and money management. Less than 24 hour supervision may be provided. Part XVI of these rules sets out the provisions for licensure of a room and board facility.

**Self Administration of Medication** - The act of a resident placing a medication in or on his/her own body. This means the resident manages and takes his or her own medications, in that the resident identifies the medication and the times and manners of administration, and places the medication internally or externally on his/her own body without assistance.

**Self Preservation** - In relation to fire and life safety, the ability of residents to respond to an alarm without additional cues and to reach a point of safety on their own.

**Services** - Living accommodations and meals provided by the Operator and non-care related tasks such as housekeeping, laundry, transportation or recreation performed by an Operator or employee for the benefit of the residents.

**Sexual Exploitation** - See MCAR 891-090-140 - Sexual Abuse and Exploitation

**Shall** - Must.

**Shift Caregiver** - A caregiver who, only by written exception of the ACHP, is responsible for providing care for regularly scheduled periods of time, such as 8 or 12 hours, in homes where there is no Operator or Resident Manager living in the home.

**Smoke Barrier** - See Fire Barrier.

**Substitute Caregiver** - Any Person responsible for providing supervision, care and services to residents of an Adult Foster Home under the jurisdiction of the ACHP other than the Operator or certified Resident Manager and who is approved by the ACHP.

# **PART XIV APPENDICES**

## APPENDIX I - ACTIVITIES OF DAILY LIVING

Activities of daily living are those personal functional activities required by an individual for continued well-being, i.e., Eating, Dressing, Personal Hygiene, Mobility, Bowel and Bladder Control, and Behavior Management. Each prospective or current resident must be evaluated as either dependent, assistance or independent for each activity of daily living.

1. EATING/NUTRITION (When used in connection with this ADL.)
  - (a) Dependent person means a person needs to be fed virtually all foods and fluids.
  - (b) Assistance person means a person can maintain an adequate food and fluid intake according to their dietary needs with only minimal or substantial assistance.
  - (c) Independent person means a person eats without assistance and can maintain an adequate food and fluid intake according to their dietary needs with or without mechanical aids.
  
2. DRESSING (When used in connection with this ADL.)
  - (a) Dependent person means the person is substantially unable or unwilling to assist in getting dressed and undressed or in staying dressed.
  - (b) Assistance person means the person needs minimal or substantial assistance in selecting appropriate clothing, tying shoes, fastening buttons, etc..
  - (c) Independent person means the person is able to dress, select clean and appropriate clothing, tie shoes, fasten buttons, etc..
  
3. PERSONAL HYGIENE (Daily bathing, shaving, oral care and grooming hair.) (When used in connection with this ADL.)
  - (a) Dependent person means the person is unable to do any activity associated with personal hygiene.
  - (b) Assistance person means the person needs minimal or substantial assistance with activities associates with personal hygiene and is able to partially bathe self.
  - (c) Independent person means the person does personal hygiene activities without assistance, with mechanical aids if needed.
  
4. MOBILITY (When used in connection with this ADL.)
  - (a) Dependent person means the person is unable to move from one place to another without depending on another person to move them.
  - (b) Assistance person means the person controls and moves extremities but needs minimal or substantial assistance changing position or sitting in a wheelchair. The person may be able to walk or transfer with the help of another, including going to bathroom or commode.
  - (c) Independent person means the person controls movement at will, may need devices to lift, turn, pull, balance and sit up. The person can also rise from bed and can get from one place to another without help from another person.

5. BOWEL AND BLADDER (The ability to get to or from bathroom or commode relates to mobility, rather than toileting.) (When used in connection with this ADL.)
- (a) Dependent person means a person does not demonstrate bowel and/or bladder control and cannot manage own cleanliness or external care of a catheter or appliance.
  - (b) Assistance person means a person has occasional loss of bowel and/or bladder control and cannot manage own clean-up or external care of a catheter or appliance and requires minimal or substantial assistance.
  - (c) Independent person means a person is continent or, if incontinent, can manage personal clean-up, or can manage external care of catheter or appliances.
6. BEHAVIOR (Behavior includes money management and medication management and the response to the environment and is not included in any of the other activities of daily living.) (When used in connection with this ADL.)
- (a) Dependent person means a person cannot interact with persons or the physical environment or take medications appropriately or manage their own money without at least daily behavior monitoring to intervene or prevent extreme behavior.
  - (b) Assistance person means a person who does not always interact appropriately with other persons, take medications appropriately or manage their own money and may be withdrawn, afraid, or insecure and require minimal or substantial assistance from others.
  - (c) Independent person means a person interacts with persons and physical environment, take medications appropriately or manage their own money without the need for behavior monitoring by others.



**MULTNOMAH COUNTY**  
**AGING SERVICES DEPARTMENT**  
**ADULT CARE HOME PROGRAM**

**ADMINISTRATIVE RULES**  
**FOR**  
**LICENSURE OF ADULT CARE HOMES**  
**(Adult Foster Homes with a Limited License)**

**FILED June 28, 1996**

If you have questions, please contact:

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## INTRODUCTION

The Multnomah County Administrative Rules for Adult Care Homes govern the licensing and operation of adult care homes in Multnomah County, Oregon. The Adult Care Home Program (ACHP) licenses adult care homes and enforces the rules.

Multnomah County is an exempt county as determined by the State Department of Human Resources, Senior and Disabled Services Division. An exempt county provides a program for licensing and inspection of adult care homes which is equal to or exceeds the requirements of ORS 443.705 to ORS 443.825. Exempt county licensing rules must be submitted to the Director of Senior and Disabled Services Division for review and approval prior to implementation. Multnomah County has been designated as such an exempt area on the basis of the Adult Care Home Licensure Ordinance and these rules.

\*\*\*\*\*

### **891-005-100      AUTHORITY FOR AND JURISDICTION OF ADULT CARE HOME PROGRAM (ACHP) RULES**

005-110      These rules are authorized by MCC 8.90.025, pursuant to the procedures set forth in MCC 8.90.160 through 8.90.260.

005-120      These rules are necessary for the administration and enforcement of the Multnomah County Adult Care Home Licensure Ordinance, found in Chapter 8.90 of Title 8 of the Multnomah County Code, Section 5.700 of Chapter 5 of the Code of the City of Gresham, Chapter 8.95 of Title 8 of the Code of the City of Portland, and Chapter 7.020 of Title 7 of the Code of the City of Troutdale.

005-130      These rules shall apply to all Adult Care Homes operating within Multnomah County.

### **891-010-100      PURPOSE OF THE ADULT CARE HOME RULES**

010-110      These rules set forth the standards and requirements governing Adult Care Homes and are necessary to protect the health, safety and welfare of the residents of Adult Care Homes in Multnomah County. These standards and requirements shall be consistent with the homelike atmosphere required in Adult Care Homes.

010-120      Operators, Resident Managers and caregivers of Adult Care Homes shall abide by the terms of the Multnomah County Administrative Rules.

010-130      The goal of adult foster care is to provide necessary care while emphasizing the resident's independence. To reach this goal, the care provider and the resident, resident's family member or resident's legal representative shall cooperate to protect and encourage the resident's dignity, choice and decision-making. Resident needs will be addressed in a manner that supports and enables the individual to maximize abilities and function at his/her highest level of independence.

### **891-015-100      PURPOSE OF THE ADULT CARE HOME PROGRAM (ACHP)**

The Adult Care Home Program (ACHP) has developed standards for Adult Care Homes and the rules to be used in enforcing these standards in consultation with

operators, advocates for residents, experts in the field and others. The purpose of the Adult Care Home Program, in relation to the Multnomah County Code and these rules, is:

(a) To ensure that Adult Care Home residents are cared for in a homelike atmosphere which is friendly, safe, and secure; where the atmosphere is more like a home than a medical facility, where the resident's dignity and rights are respected, where positive interaction between members of the home is encouraged, and where the resident's independence and decision-making are protected and encouraged.

(b) To enforce the Multnomah County Administrative Rules (MCAR's) in order to protect the health, safety and welfare of residents of Adult Care Homes.

(c) To enforce the MCAR's to ensure an appropriate physical environment and at least a minimum standard of care in each home.

(d) To ensure that the public has access to the information necessary to select an appropriate Adult Care Home.

## 891-018-100 RESIDENTS' BILL OF RIGHTS

Each resident of an Adult Care Home in Multnomah County has a right to:

- (a) be treated as an adult with respect and dignity.
- (b) live in a safe, secure, homelike environment.
- (c) be informed of all resident rights and house rules.
- (d) be encouraged and assisted to exercise rights as a citizen, including the right to vote and to act on his or her own behalf.
- (e) be given information about his or her medical condition.
- (f) consent to or refuse treatment, medication or training.
- (g) have all medical and personal information kept confidential.
- (h) receive appropriate care and services from the Adult Care Home and access to prompt medical care as needed.
- (i) be free from mental or physical abuse, neglect, abandonment, punishment, harm or sexual exploitation.
- (j) be free to make suggestions or complaints without fear of retaliation.
- (k) be free from financial exploitation, including charges for application fees or nonrefundable deposits and solicitation, acceptance or receipt of money or property by an Operator, Resident Manager or caregiver, other than the amount agreed to for services.
- (l) be free from physical or chemical restraints except as ordered by a physician or qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not used for discipline or convenience.
- (m) be free from any type of illegal discrimination.
- (n) be afforded personal privacy, the opportunity to associate and communicate privately with any person the resident chooses, to send and receive mail unopened, and to use the telephone in private.
- (o) participate in social, religious, and community activities.
- (p) to make personal decisions about such things as friends, leisure activities, choice of physician, spending personal money, food, personal schedules, and place of residence.
- (q) be allowed and encouraged to develop talents and learn new skills, relate to other residents in meaningful ways, and the choice to take part in the normal activities and upkeep of the home.
- (r) keep and use a reasonable amount of personal clothing and other belongings, and have a reasonable amount of private, secure storage space.
- (s) be free to manage financial affairs unless legally restricted.

- (t) receive a written agreement regarding the services the home shall provide and rates charged, and receive at least thirty days written notice before the home's ownership or rates change.
- (u) receive at least thirty days written notice from the Operator and an opportunity for a hearing before being involuntarily moved out of the home by an Operator, unless there is an emergency situation.
- (v) be involuntarily moved out of the home by an Operator only for the following:
  - (1) medical reasons;
  - (2) the resident's welfare;
  - (3) the welfare of other residents;
  - (4) nonpayment;
  - (5) behavior which poses an immediate threat to self or others;
  - (6) behavior which substantially interferes with the orderly operation of the home;
  - (7) the care needs of the resident exceed the ability or classification of the Operator;  
or
  - (8) the home is no longer licensed.
- (w) receive complete privacy when receiving treatment or personal care.
- (x) receive visitors free from arbitrary and unreasonable restrictions.
- (y) practice the religion of his/her choice.
- (z) not be forced to work against his/her will and to be paid for agreed upon work.

**PART XV -  
ADMINISTRATIVE RULES FOR  
ADULT FOSTER HOMES  
WITH A LIMITED LICENSE**

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## PART I-L - LICENSING AND APPLICATIONS

### L-891-020-100 GENERAL REQUIREMENTS

- 020-110 A license is required for all Operators of Adult Care Homes located in Multnomah County in accordance with the Multnomah County Code and Administrative Rules for Adult Care Homes. The Multnomah County Adult Care Home Program shall license three different types of adult care homes. They are:
- (a) Adult Foster Homes;
  - (b) Adult Foster Homes with a Limited License;
  - (c) Room and Board Facilities.
- 020-120 An Adult Foster Home license is required (except as provided in MCAR 891-020-150) for any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home.
- 020-130 An Adult Foster Home Limited License is required for all homes or facilities that provide residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the Adult Foster Home when one or more residents are present or are expected to be present in the home. Part XV of these rules sets out the provisions for licensure of an Adult Foster Home with a limited license.
- 020-140 A Room and Board License is required for homes or facilities that provide only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provides no services except medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall not be required to provide supervision 24 hours per day in the room and board facility when one or more residents are present or are expected to be present in the home. Part XVI of these rules sets out the provisions for licensure of a room and board facility.
- 020-150 An Adult Care Home license is not required for the following:
- (a) A home or facility, including but not limited to residential care facilities, specialized care facilities, and long term care facilities licensed by the State of Oregon in accordance with ORS 443.400 to ORS 443.455 or any other governmental agency.
  - (b) A relative foster home licensed or registered by another agency to provide care to family members eligible for State Medicaid assistance.

(c) Any other house, institution, hotel or other similar living situation that supplies:

(A) room only; or

(B) where no elderly persons or persons with disabilities reside who are provided any element of residential care for compensation.

(d) A facility where all residents are related to the operator by blood or marriage.

(e) A facility where all residents are under age 18.

020-160 Compensation includes any sort of payment to the operator, including in-kind payment or services.

**L-891-020-200 GENERAL APPLICATION CRITERIA FOR AN Adult Foster Home WITH A LIMITED LICENSE**

020-204 Application packets for an Adult Foster Home with a Limited License shall be in writing on ACHP forms, completed and submitted by the person requesting to be licensed as the operator and who is responsible for the operation of the home.

020-208 Each co-operator shall complete all application packet forms. The term co-operator is synonymous with operator as both are equally responsible for the home. Co-operators shall meet all qualifications and standards for an operator.

025-218 The operator shall inform real estate agents, prospective buyers, lessees and transferees in all written communications, including advertising and disclosure statements, that the license to operate an Adult Foster Home with a Limited License is not transferable and shall refer them to the ACHP for information about licensing.

020-220 The ACHP will not process license applications until a complete application packet is received by the ACHP.

020-224 After the ACHP receives a completed application packet and the required fee, the ACHP shall review the application packet, investigate criminal records, order appropriate inspections, carry out interviews with the applicant(s), check references and inspect the home to determine compliance with ACHP rules.

020-226 As part of the application process, the ACHP may request inspections of the Adult Foster Home with a Limited License from local fire department representatives, the County sanitarian, City building and electrical inspectors, and other persons as determined necessary by the ACHP.

020-228 The ACHP shall grant or deny a license to an applicant within 60 days of the date the ACHP receives a complete application packet.

020-232 The ACHP shall issue a license if the home and operator and caregivers are in compliance with these rules and have cooperated in the application process.

020-236 Application packets are void 60 days from the date any portion of the application packet and/or fee(s) are received by the ACHP if the application packet is not complete.

020-240 Failure to provide accurate and complete information may result in the denial of

the application.

- 020-244 An applicant shall state the name of the person(s) for whom the limited license is requested, as well as relatives needing care. The application form shall also include the total number of other occupants in the home.
- 020-248 The ACHP shall determine the maximum capacity of the Adult Foster Home with a Limited License during the licensure process.
- 020-264 Applicants may withdraw applications at any time during the licensure process by notifying the ACHP.
- 020-268 Applicants may receive a refund of application fees if the application is withdrawn before any of the ACHP required inspections are completed.
- 020-272 The ACHP shall not refund application fees if an application is denied after the ACHP home inspection is completed.
- 020-276 The ACHP shall credit fees toward the operator's future license application if the home is licensed for fewer beds than the applicant paid for at the time of application.
- 020-280 An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an operator, shall not be permitted to make a new application for one year from the date the revocation, surrender, or denial is final, or for a longer period if specified in the order revoking or denying the license.
- 020-284 Information from a previous license or application shall be considered in processing a later application.
- 020-288 A license is void immediately upon issuance of a final order of revocation, a voluntary surrender by the operator, or a change of ownership or location of the home. A void license shall be returned to the ACHP.
- 020-292 The ACHP shall not license an operator who does not fully control all of the following:
- (a) hiring and firing of all personnel in the home;
  - (b) admission, discharge and transfer of any resident;
  - (c) daily operation of the home.
- L-891-020-300 GENERAL CRITERIA FOR STAFF OF AN Adult Foster Home WITH A LIMITED LICENSE**
- 020-310 No person may be an operator or substitute caregiver or otherwise be employed by the operator or reside in or on the property of an Adult Foster Home with a Limited License, or be in the home on a frequent basis and have contact with the resident, except for the resident or their visitors, who have not met the requirements of the criminal record section of these rules or who have been found responsible for a disqualifying type of abuse.

- 020-320 The ACHP may prohibit any person from working or being in an Adult Foster Home with a Limited License if the ACHP finds that his/her presence would jeopardize the health, safety or welfare of the resident(s) in the home.
- 020-330 Operators shall insure that all caregivers who work in the home have the necessary skills and experience to meet the needs of the resident.
- 020-340 If operators and caregivers do not meet the standards for operators and caregivers in MCAR L-891-050-100 through MCAR L-891-050-975, the ACHP shall deny the application of each individual.
- L-891-020-400 GENERAL CRITERIA FOR LICENSURE OF AN ADULT FOSTER HOME WITH A LIMITED LICENSE**
- 020-406 The ACHP shall have the authority to issue a Limited License to an Adult Foster Home to an approved applicant. The ACHP shall not issue a license unless the applicant and Adult Foster Home with Limited License are in compliance with Multnomah County Administrative Rules.
- 020-412 The person and the Adult Foster Home with a Limited License that is licensed shall remain in compliance with all Multnomah County Administrative Rules for the duration of the license.
- 020-418 A Limited License shall be valid for one year from the date the ACHP issues the license unless the license is revoked or suspended.
- 020-424 The Adult Foster Home Limited License shall state the operator's name and the home's address, the type of license, the maximum capacity of the home and the time period for which the license is valid.
- 020-430 Operators must ensure that the operator lives in the home.
- 020-436 By applying for and accepting an Adult Foster Home Limited License, the operator agrees to operate the home according to these MCAR's, including allowing unannounced licensing and monitoring visits.
- 020-442 The operator shall not be required to post the most recent Inspection Reports available in the entry or equally prominent place unless required to do so by the ACHP. The operator shall not be required to provide a copy of the information to each resident of the home, or the family or legal representative of the resident or potential resident unless required to do so by the ACHP.
- 020-443 The operator shall keep the most recent inspection report available should the resident, the resident's family or legal representative, or others should request to review it.
- 020-448 If a currently licensed operator has more than one utility shut-off notice, or one complaint of nonpayment of rent or of lack of food or equipment, the operator must have at least two months of financial resources reserved.
- 020-454 The applicant shall provide the ACHP with a list of all unsatisfied judgments, liens and pending lawsuits in which a claim for money or property is made against the applicant; all bankruptcy filings by the applicant; and all unpaid taxes due from the applicant. The ACHP may require or permit the applicant to provide a current credit report to satisfy this requirement. The ACHP shall not issue an initial

license to an applicant who has been adjudged bankrupt more than once. If the applicant has any unpaid judgments (other than a current judgment for support), pending lawsuits, liens or unpaid taxes, the ACHP shall require the applicant to provide proof that the applicant has the amount of resources necessary to pay those claims. If the applicant is unable to demonstrate the financial ability and resources required by this subsection, the ACHP may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan as a requirement of initial licensure.

020-460 Operators must own, rent or lease the home to be licensed.

020-462 If a licensed operator rents or leases the premises where the Adult Foster Home with a Limited License is located, the operator shall not enter into a contract that requires anything other than a flat rate for the lease or rental.

020-490 Operators shall have written approval from the ACHP and appropriate contracting agencies before admitting any foster child for compensation in the same home with elderly persons and/or persons with disabilities.

020-496 If the Operator has a Medicaid contract, the Operator cannot ask a resident to move when the resident becomes eligible for Medicaid.

**L-891-020-500 ADDITIONAL CRITERIA FOR A NEW Adult Foster Home WITH A LIMITED LICENSE**

020-510 Applicants shall receive an ACHP orientation at the time of the initial inspection before obtaining a license to operate an Adult Foster Home with a Limited License.

020-520 Applicants shall pass a pre-qualifying test to demonstrate adequate communication skills before an application packet is issued by the ACHP.

020-530 Application packets for operators of a new Adult Foster Home with a Limited License returned to the ACHP shall include:

(a) A completed ACHP application form.

(b) Criminal record check authorization forms for each person aged 16 years and over who lives or works in the home or is frequently in the home and has contact with the resident.

(c) A physician's statement regarding the applicant's physical and mental ability to provide care.

(d) A current CPR and first aid certificate for the operator.

(e) A completed financial information form, a budget for operating the home, and payroll expense totals.

(f) Evidence of the home's ownership, or a copy of the rental or lease agreement. If the home is leased or rented, the name of the owner and/or landlord must be included. In addition, there must be verification that the rent is a flat rate. Financial information about rental or lease arrangements shall not become part of the public record.

(g) Floor plans of the home showing the location and size of all rooms, doors and windows, as well as wheelchair ramps, smoke detectors and fire extinguishers.

(h) If needed, a completed application for the co-operator.

(i) Adult Foster Home with a Limited License application fees.

(j) Three references which document applicant's hands-on care experience with elderly persons or persons with disabilities. Once submitted, these references will be kept confidential and not released to the operator.

(k) Bureau of Buildings and electrical inspection approval forms where applicable.

020-535 As determined by the ACHP, the following may be included in the completed application packet:

(a) An Initial Training certificate.

(b) Bureau of Buildings and electrical inspection approval forms.

020-540 The ACHP shall not issue an initial license unless:

(a) A completed application packet is received and all fees, fines and penalties have been paid.

(b) The applicant and Adult Foster Home with a Limited License are in compliance with these rules.

(c) The ACHP has completed an inspection of the Adult Foster Home with a Limited License.

(d) The ACHP has completed a criminal record check on the applicant(s), any employee of the AFH, and any person who is in the home on a frequent basis and who has contact with the resident over the age of 16, other than a resident or their visitors.

(e) The ACHP has checked the record of sanctions available from its files and State registry of nursing assistants who have been found responsible for abuse.

(f) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the Adult Foster Home with a Limited License. The applicant shall have a financial reserve equal to at least the amount of two months budgeted expenses.

020-550 In seeking an initial license, the burden of proof shall be on the operator and the Adult Foster Home with a Limited License to establish compliance with the Multnomah County Administrative Rules.

**L-891-020-600 ADDITIONAL CRITERIA FOR RENEWAL OF LIMITED LICENSE FOR AN ADULT FOSTER HOME**

020-608 At least 60 days prior to the expiration of the license, an expiration notice and application packet for renewal will be sent to the operator by the ACHP.

020-616 The operator must submit a complete ACHP renewal application packet.

- 020-624 Submission of a renewal application packet prior to the expiration date will keep the license in effect until the ACHP takes action.
- 020-632 If the operator does not submit a complete renewal application packet before the license expiration date, the ACHP shall treat the home as an unlicensed home. (Refer to MCAR L-891-025-300.)
- 020-640 The ACHP shall review the renewal application materials and conduct an unannounced inspection of the Adult Foster Home. Prior to renewal, the ACHP shall interview operators, caregivers and residents; review operator, caregiver training documentation; review Adult Foster Home records; assess the homelike atmosphere; and inspect postings and safety features (fire safety equipment, etc.).
- 020-648 The operator will be given a copy of the renewal ACHP Inspection Report at the time of the inspection citing any deficiencies and timeframes for correction, which shall be no longer than 60 days from the date of the inspection. The operator shall correct all deficiencies before the renewal license is approved. If any cited deficiencies are not corrected within the timeframe specified by the ACHP, the renewal application shall be denied. The ACHP may follow up with additional Licensing Reports citing deficiencies and timeframes for corrections.
- 020-656 The effective date of a renewal license shall be the day following the expiration date of the previous year's license.
- 020-664 The ACHP shall not renew a license unless:
- (a) The ACHP has received a completed renewal application packet.
  - (b) The ACHP has completed an inspection of the Adult Foster Home with a Limited License.
  - (c) The home, operator and caregivers are in compliance with these rules.
  - (d) The ACHP has completed a criminal record check on the applicant(s), any employee of the Adult Foster Home with a Limited License and any person who is in the home on a frequent basis and who has contact with the resident aged 16 years and over, other than a resident or their visitors.
  - (e) All fines, penalties and fees have been paid unless there is a hearing pending regarding the fine or penalty.
  - (f) The ACHP has checked the record of sanctions available from its files and State registry of nursing assistants who have been found responsible for abuse.
  - (g) The applicant and the Adult Foster Home with a Limited License are in compliance with the MCAR's.
  - (h) Copy of applicable City business license.
- 020-688 In seeking a renewal of a license when an Adult Foster Home with a Limited License has been licensed for less than 24 months, the burden of proof shall be upon the operator and the Adult Foster Home with a Limited License to establish compliance with the rules of the ACHP.
- 020-692 In proceedings for renewal of a license when an Adult Foster Home has been

licensed for at least 24 continuous months, the burden of proof shall be upon the ACHP to establish noncompliance with these rules.

**L-891-020-700 PROVISIONAL LICENSE**

Notwithstanding any other provision in the MCAR's, the ACHP may issue a provisional license for up to 60 days to a qualified person if the ACHP determines that an emergency situation exists after being notified that the licensed Operator is no longer overseeing the operation of the Adult Foster Home. A person would be considered qualified if they are 21 years of age and meet the requirements of a substitute caregiver.

**L-891-020-800 OPERATOR'S RESPONSIBILITIES REGARDING RESIDENT MANAGERS**

020-810 Resident Managers may not be utilized in Adult Foster Homes with a Limited License. If a Resident Manager is employed by the operator of an Adult Foster Home with a Limited License, the AFH shall meet all licensing requirements of an Adult Foster Home and shall not be considered an Adult Foster Home with a Limited License.

**L-891-020-900 CAPACITY OF ADULT FOSTER HOMES WITH A LIMITED LICENSE**

020-910 Residents shall be limited to one person unrelated to the Operator by blood, adoption, or marriage and who require care.

020-930 The number of residents permitted to reside in an Adult Foster Home with a Limited License will be determined by the ability of the staff to meet the care needs of the residents, the fire safety standards for evacuation, and compliance with the physical structure standards of these rules. Determination of maximum capacity must include consideration of total household composition including children and relatives requiring care and supervision. In determining maximum capacity, consideration shall be given to whether children over the age of five have a bedroom separate from their parents.

020-960 The Adult Foster Home with a Limited License shall not exceed maximum capacity determined by the ACHP as stated on the license.

020-970 The ACHP shall review the maximum capacity of the Adult Foster Home with a Limited License at each license renewal.

020-980 The ACHP shall review and may change the maximum capacity of the Adult Foster Home with a Limited License if there are any indications that ACHP standards of care or the health, safety or welfare of the resident is at risk.

**L-891-025-100 CLASSIFICATION OF Adult Foster HomeS (LEVELS OF CARE)**

025-115 Homes that serve only Mentally or Emotionally Disabled or Developmentally Disabled residents do not receive a classification. (See Appendix I.)

025-120 Adult Foster Homes with a Limited License and Room and Board Facilities do not receive a classification. (See Parts XV and XVI.)

025-185 The ACHP may require an RN's assessment of a resident's care needs whenever a resident's care needs change or are in question.

**L-891-025-200 CLOSING, MOVING OR SELLING Adult Foster HomeS WITH A LIMITED LICENSE**

- 025-210 The Adult Foster Home Limited License shall apply only to the person(s) and address specified on the license. A license shall not be transferred to another person or location.
- 025-220 If an operator of an Adult Foster Home with a Limited License no longer wishes to be licensed, any prospective new operator shall apply to the ACHP for a license and be licensed before the change. The new potential operator shall follow all ACHP application rules. The licensed operator of the home shall not transfer operation of the home to the new operator until the ACHP licenses the new operator.
- 025-230 Operators shall give at least 30 days written notice to the resident, the resident's family member and to the resident's legal representative, before leaving, selling, leasing or transferring the Adult Foster Home business or the real property on which the Adult Foster Home with a Limited License is located.
- 025-240 If an operator's license expires during a change in licensed operators, and the new potential operator has not been approved for a license, the home shall be treated as an unlicensed home.
- 025-250 Operators selling the Adult Foster Home business must separate that transaction from the sale of the real estate.
- 025-270 Operators shall notify the ACHP prior to a voluntary closure of a home, proposed sale or transfer of business or property and shall give residents, families, and case managers for Medicaid clients 30 days' written notice except in circumstances where undue delay might jeopardize the health, safety or well-being of residents, operators or staff.
- 025-280 If an operator proposes to move a licensed Adult Foster Home with a Limited License to another location, the new location must be licensed by the ACHP prior to a resident being placed in the home.

**L-891-025-300 UNLICENSED HOMES**

- 025-310 If an operator's license expires and no renewal application packet has been received by the ACHP, or the ACHP becomes aware of an unlicensed home providing care, the ACHP shall conduct an unannounced visit to determine the safety of the residents in the home.
- 025-320 The ACHP will relocate residents immediately if there is an immediate threat to their health, safety or welfare.
- 025-330 The ACHP may issue a 30 day written notice to all residents stating that all residents must relocate if there is no immediate threat to their health, safety or welfare. The ACHP shall monitor the home during the notice period.
- 025-340 The operator of an unlicensed Adult Foster Home who is unfamiliar with the ACHP shall be informed of the licensing process.
- 025-350 The ACHP may impose sanctions or initiate judicial action against an unlicensed Adult Foster Home.

025-360 No person or entity shall represent themselves as an Adult Foster Home, solicit or admit a person needing care or services, or accept placement of a person without holding a current license from the Adult Care Home Program. Failure to comply with this requirement shall be grounds for administrative sanctions, which may include imposition of a fine, denial of an application for an Adult Foster Home license, and/or the initiation of legal proceedings.

025-370 The ACHP shall identify Adult Foster Homes in Multnomah County which are operating without a valid license. The ACHP shall take appropriate actions to ensure that unlicensed Adult Foster Homes either become licensed or cease to operate.

## PART II-L - EXCEPTIONS

### **L-891-030-100 APPLICATIONS FOR EXCEPTIONS TO THE ADULT FOSTER HOME WITH A LIMITED LICENSE RULES**

030-110 Adult Foster Home Limited License applicants or operators must apply in writing to the ACHP for an exception to a specific requirement of the ACHP rules. The operator must prove to the ACHP by clear and convincing evidence that such an exception does not jeopardize the care, health, welfare or safety of the residents. Evidence must indicate that all residents' needs can be met and that all occupants can be evacuated within three minutes.

030-120 The ACHP shall not grant exceptions to certain ACHP rules, including but not limited to the rules governing:

(a) maximum capacity requirements except as provided in MCAR L-891-030-150;

(b) mandatory inspections;

(c) criminal history and criminal record checks (MCAR L-891-050-400);

(d) Residents' Bill of Rights;

(e) testing requirements for Operators;

(f) protection from retaliation for filing complaints;

(g) inspection of public files;

(h) fire safety requirements;

(i) license application requirements; and

(j) standards set out in MCAR L-891-060-100 through MCAR L-891-070-770 and MCAR L-891-090-100 through MCAR L-891-090-150.

030-130 The ACHP shall document the reason for granting or not granting an exception to the ACHP rules. The exception shall not be effective until granted in writing by the ACHP. Exceptions shall be granted on a case by case basis considering all relevant factors.

030-140 The ACHP shall review exceptions granted to an Adult Foster Home with a Limited License at each license renewal period and may deny or modify

exceptions previously granted if there has been a change in the situation.

- 030-150 The ACHP may grant an exception to the rules to increase the maximum licensed capacity of the Adult Foster Home with a Limited License to allow relatives receiving care to live in the home, if the operator can demonstrate all of the following:
- (a) the ability to evacuate all occupants from the home to a point of safety within three minutes.
  - (b) adequate staff with demonstrated ability to provide appropriate care for all residents.
  - (c) an additional forty square feet of common living space for each person above the five residents.
  - (d) bedrooms and bathrooms that meet ACHP facility standards.
  - (e) the care needs of additional persons do not exceed any conditions imposed on the license.
  - (f) the safety of the home and the well-being and care needs of the residents, children or other family members will not be jeopardized if the ACHP grants the exception.

030-160 The decision of the ACHP regarding a request for an exception is final.

### **PART III-L - CONTRACTS**

#### **L-891-040-100 CONTRACTS FOR PRIVATE PAY RESIDENTS**

- 040-110 Operators of Adult Foster Homes with a Limited License with private pay residents shall enter into a contract with the residents, dated and signed by the operator and the resident or the resident's legal representative. The operator's contract is subject to ACHP review prior to licensure. The ACHP may disapprove contracts or contract provisions which are in conflict with the ACHP rules or any law or ordinance.
- 040-120 Operators shall review the contract with the resident and the resident's legal representative when the resident is admitted to the home. Operators shall give a signed copy of the contract to the resident and the resident's legal representative.
- 040-130 The contract shall be reviewed by the operator and the resident or the resident's legal representative at least once a year. The contract shall be updated and signed whenever the home's rates change as a result of a change in resident care needs or if any contract provision changes.
- 040-140 The contract shall address, at a minimum:
- (a) the specific care and services the home shall provide to the resident.
  - (b) the monthly rates for care and services.
  - (c) whether the resident's bedroom is private or shared.

- (d) the due dates for payment and provisions for any late charges.
- (e) the amount of refund and refund policy for any security deposits requested. The security deposit must be retained in an interest bearing account separate from the funds of the Operator.
- (f) the circumstances under which the home's rates may change.
- (g) the home's refund policy when a resident leaves the home before the required notice period.
- (h) who shall be responsible for arranging and paying for any special services or equipment in the Adult Foster Home with a Limited License, including nursing delegations or care, and any fees for the resident's transportation.
- (i) under what conditions the contract between operator and resident may be ended, what notice is required from the operator or resident to end the contract, and that the notice requirement may be waived with the consent of both parties.
- (j) the resident's right to a hearing before being moved from the home in a non-emergency situation.
- (k) how the resident may recover personal property left in the home, and how and when an operator may dispose of the resident's property if not recovered.
- (l) an acknowledgement that house rules have been signed.
- (m) how many days payment shall be required if a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.
- (n) refunds of security deposits that allow for normal wear and tear.

040-150 If a resident's care needs change significantly, the operator may renegotiate a higher rate to become effective in less than thirty days if the resident or the resident's legal representative voluntarily agrees to the increase.

040-160 Contracts between operators and resident shall not require:

- (a) any illegal or unenforceable provision, ask or require a resident to waive any of the resident's rights or the operator's liability for wrongdoing.
- (b) application fees or non-refundable deposits. Fees to hold a bed are permissible.
- (c) if the home closes, charges to a resident beyond the date of closure or the date the resident moves from the home.
- (d) advance payments for care and services beyond one month.(This does not apply to security deposits.)
- (e) less than 30 days written notice of a change in the home's contract rates.
- (f) payment if the resident moves out because of abuse and/or neglect which is later substantiated.

(g) payment room charges during any period when the room has been re-rented to another person.

(h) waiver of their rights to a thirty day notice of rate increases, except for pre-established rate schedules for specified care needs.

(i) payment for more than 15 days after the resident has left the Adult Foster Home after a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.

(j) residents to pay for damages considered normal wear and tear.

**L-891-040-200**

**OPERATORS WITH A MEDICAID CONTRACT**

040-210 Operators who wish to serve Medicaid clients shall have a valid Medicaid contract in place and comply with the terms of the Medicaid agreement before accepting a Medicaid paid resident.

040-220 The ACHP shall alert the contracting agency if an Adult Foster Homes with a Limited License with a resident who receives Medicaid payments is not in compliance with these rules.

**PART IV-L  
STANDARDS FOR OPERATORS AND CAREGIVERS**

**L-891-050-100**

**GENERAL CRITERIA FOR OPERATORS AND CAREGIVERS**

050-110 For the purposes of these rules, Operators, co-operators and caregivers are defined as follows:

(a) **Operator** - The person licensed by the ACHP to operate the Adult Foster Home with a Limited License who has overall responsibility for residential care, who meets the standards outlined in these rules and who has been approved by the ACHP.

(b) **Co-operator** - Synonymous with operator as both are equally responsible for the home. All co-operators shall meet all qualifications and standards for an operator.

(d) **Caregiver** - Any person responsible for providing care and services to residents, including the operator and any temporary, substitute or supplemental staff or other person designated to provide care and services to residents.

(e) **Substitute Caregiver** - Any person other than the operator who is approved by the ACHP and is responsible for providing supervision, care and services to residents of an Adult Foster Home with a Limited License.

050-120 Adult Foster Home operators shall be at least 21 years old.

050-130 Operators must live in the home which is to be licensed.

050-140 Caregivers, other than operators, shall be at least 18 years old. Caregivers under 21 shall not have sole responsibility for resident care or supervision for more than two hours during any twelve hour period.

050-150 Adult Foster Home operators shall provide evidence satisfactory to the ACHP regarding education, training, knowledge related to the population to be served, experience required for the classification of the home, and ability to operate an Adult Foster Home.

050-160 Operators and caregivers shall have good physical health and mental health, good judgment, good personal character, including honesty, and the ability as determined necessary by the ACHP to provide 24-hour care for adults who are elderly persons or persons with disabilities.

050-170 Upon request of the ACHP, any operator or caregiver must obtain a statement from a physician or other qualified practitioner indicating they are physically, cognitively, and emotionally capable of providing care to residents.

050-180 Operators and caregivers with a history or one or more substantiated episodes of substance abuse or mental illness must:

(a) provide evidence satisfactory to the ACHP of successful treatment/rehabilitation.

(b) submit references regarding current condition. References are confidential when received by the ACHP.

(c) be capable of operating, managing or providing care to elderly persons or persons with disabilities.

050-190 All caregivers must meet applicable requirements for criminal record check and training.

050-195 Other persons who work, live or spend significant periods of time in the household, may be subject to the same inquiries or investigations described above. Such persons may also be required to provide satisfactory evidence, if requested, that their presence in the household does not jeopardize residents.

#### **L-891-050-200 COMMUNICATION SKILLS**

050-210 Operators, caregivers and anyone left alone with residents shall be literate and able to demonstrate all of the following:

(a) an understanding of written and oral instructions in English, including medication instructions and doctor orders;

(b) the ability to communicate in oral and written English with residents, health care professionals, case managers and appropriate others; and

(c) the ability to respond appropriately to emergency situations at all times.

050-215 At least one approved operator or caregiver who meets the requirements of this section shall be in the home and available to respond to residents' needs at all times.

050-220 The ACHP may grant an exception to the English communication skills requirement for homes where the operators and caregivers do not speak English if the operators, other caregivers, residents and their doctors all speak the same language. The home shall have an interpreter on call 24 hours a day, and notify

the local fire department of special rescue requirements.

**L-891-050-300 COOPERATION**

050-310 Operators and caregivers shall cooperate with ACHP personnel or other personnel providing services to the home or residents.

**L-891-050-400 CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

050-405 The criminal records check under this rule shall consist of:

(a) A check for a criminal record in the State of Oregon, and

(b) A national criminal record check if:

(1) The applicant or other person has resided in another state within the previous five years:

(2) The applicant or other person has disclosed the existence of a criminal conviction in any state other than Oregon; or

(3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.

(c) A check of the record of sanctions available from the Senior and Disabled Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.

050-410 It shall be the responsibility of the Operator to insure that all persons aged 16 years and over, including caregivers, occupants of the home and frequent visitors to the home who have contact with the residents, excluding residents and their visitors, complete, sign and submit to the ACHP a criminal record release authorization form prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.

050-415 Operators of an Adult Foster Home with a Limited License shall not hire a caregiver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the home on a frequent basis.

050-420 An operator or other caregiver may work in an Adult Foster Home with a Limited License pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.

050-425 A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in an Adult Foster Home with a Limited License. The person shall pay any costs necessary to obtain these documents.

050-430 The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested

or convicted of a crime.

- 050-435 Any person who has been convicted of one or more crimes which are substantially related to the qualifications, functions or duties of an operator or substitute caregiver of an Adult Foster Home, except as provided in MCAR L-891-050-465, not including a resident or their visitors, shall be prohibited by the ACHP from operating, working in or being in or on the premises of an Adult Foster Home with a Limited License.
- 050-440 The operator shall inform all persons aged 16 and over, including caregivers, occupants of the home and frequent visitors to the home who have contact with the resident, not including residents, their families or visitors, that they must notify the operator if arrested, charged with or convicted of a crime. A licensed operator shall notify the ACHP immediately upon learning that anyone living, working or being in the Adult Foster Home with a Limited License on a frequent basis and who has contact with the resident has been arrested, charged with or convicted of a crime.
- 050-445 Any person other than a resident or their visitor who has been charged with or arrested for a crime which is substantially related to the qualifications, functions or duties of an operator or substitute caregiver may be prohibited by the ACHP from operating, working in, or being in an Adult Foster Home with a Limited License on a frequent basis. The ACHP shall determine the actions necessary to protect the health, safety, and welfare of residents.
- 050-450 Crimes which are substantially related to the qualifications, functions or duties of an operator or substitute caregiver include, but are not limited to the following: elder abuse, elder neglect, child abuse, child neglect, incest, abandonment of a child or dependent person, homicide, assault, kidnapping, sexual offenses and offenses against public health and decency (prostitution, offenses involving narcotics, alcohol abuse and dangerous drugs, driving under the influence of intoxicants), and crimes against property (arson, burglary, forgery, theft, embezzlement or obtaining property under false pretenses).
- 050-452 Persons who have been convicted of homicide shall be permanently disqualified from operating, working in or being in an Adult Foster Home.
- 050-455 The ACHP shall consider persons with convictions for crimes of domestic violence or other reliable evidence that they have committed domestic violence a threat to the health, safety and welfare of residents in an Adult Foster Home with a Limited License. The following persons shall not be involved in the operation of allowed in an Adult Foster Home with a Limited License:
- (a) An individual with reliable evidence of a domestic violence incident or a conviction for domestic violence during the past 5 years.
  - (b) An individual with reliable evidence of more than one domestic violence incident or conviction during the last ten (10) years.
  - (c) An individual with reliable evidence of a domestic violence incident or conviction for domestic violence in addition to any other conviction within the last ten (10) years.
- 050-460 A person who is found to have a criminal record may request an administrative conference if the ACHP denies their application or their ability to work or be in the

home on a frequent basis based on the criminal record.

050-465 If a person was convicted of a crime other than the crimes listed in MCAR L-891-050-450, or if more than ten (10) years have passed since the person was convicted of a crime, the ACHP may allow a person to operate, work, or be in a home after considering the following:

(a) The type of crime and number of offenses.

(b) Whether the victim of the crime was elderly, handicapped or dependent, or under the age of 18.

(c) Passage of time since the crime was committed.

(d) Circumstances surrounding the commission of the crime which would demonstrate that repetition is unlikely (for example, age when crime was committed).

(e) Activities since conviction or arrest such as employment, participation in therapy or education that indicate changes in behavior.

(f) Character references.

050-470 Criminal offender information shall be used only for the purposes for which it was obtained by the ACHP, and shall not be given to unauthorized persons or agencies. Unless a person gives written authorization for the release of criminal records, the ACHP may only inform an operator that a person has been approved, or denied or that conditions are imposed on the basis of criminal offender information.

050-475 The ACHP shall make every effort to expedite completion of a criminal record check for the State of Oregon when requested by a licensed operator because of an immediate staffing need.

#### **L-891-050-500 OPERATOR AND CAREGIVER TRAINING**

050-503 Operators shall successfully complete the minimum ACHP approved initial training before being licensed if determined necessary by the ACHP. The minimum ACHP approved initial training hours shall include but not be limited to: demonstrations and practice in physical care giving, screening for care and service needs, appropriate behavior towards residents with disabilities, issues related to accessibility for persons with disabilities and fire safety and evacuation issues.

050-512 Operators shall orient all caregivers to the physical characteristics of the home, the residents of the home and their care needs using the ACHP checklist before caregivers are left alone with residents. The operator shall keep on file a copy of each caregiver's signed and completed ACHP checklist.

050-515 Operators shall train the caregiver to meet the routine and emergency needs of the residents.

050-518 All operators shall have ACHP approved CPR certification before being licensed or beginning to work in the Adult Foster Home with a Limited License. CPR certification shall be renewed on an annual basis.

- 050-521 All operators shall have current ACHP approved First Aid Certification before being licensed or beginning to work in the Adult Foster Home with a Limited License.
- 050-524 All caregivers shall have a current ACHP approved CPR certificate and First Aid Certificate before being left alone with residents.
- 050-527 All caregivers other than operators shall study the ACHP Caregiver Preparatory Training Course manual and complete the workbook with no assistance or complete the ACHP-approved initial training, before working in the home. The caregiver training manual shall include but not be limited to the following topics: emergency procedures, medication management, personal care procedures, food preparation, home environment and safety procedures and residents' rights. Operators shall keep on file the substitute caregiver training certificate for all caregivers in the home where the caregiver works.
- 050-530 The ACHP may require other caregivers to complete annual training.
- 050-533 The ACHP may require operators other caregivers to take part in additional training, including but not limited to training in major rule or program changes or fire and life safety standards.
- 050-536 Operators and other caregivers shall record and keep on file ACHP training forms, certificates, attendance records and other training documentation. The operator shall keep on file training documents for all caregivers in the home where they work.

## OPERATOR TESTING

### L-891-050-600 QUALIFYING TEST FOR NEW APPLICANTS FOR OPERATOR

- 050-610 An applicant must pass the qualifying test before being licensed. The examination shall evaluate the operator's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes with a Limited License.
- 050-620 An applicant may take the qualifying test two times in a twelve month period. A second failure to obtain a passing score on the qualifying test in two attempts will result in denial of the application and require the applicant to wait 12 months from the date of the last test before beginning the application process again.
- 050-630 If an applicant fails to obtain a passing score on the qualifying test and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the applicant fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the application shall be denied. Special consideration shall be granted only one time. If an applicant requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR L-891-050-200.
- 050-640 If an applicant is granted an alternate test and fails that test, he/she must wait 12 months from the date of that test before he/she may begin the application process

again.

**L-891-050-700 TESTING FOR OPERATORS**

- 050-706 An operator must pass the qualifying test before the license is renewed. The examination shall evaluate the operator's ability to understand and respond appropriately to emergency situations, changes in medical conditions, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Adult Foster Homes with a Limited License. The qualifying test must be passed by the operator only one time.
- 050-712 An operator who fails to obtain a passing score on the qualifying test may repeat the test one time within 60 days of the first test.
- 050-718 If an operator fails to obtain a passing score on the qualifying test the first time the test is taken, a condition on the license restricting admission will be imposed. If an operator fails to obtain a passing score on the qualifying test the second time the test is taken, the ACHP shall revoke or not renew his/her license. In this event, the operator may not begin the process to apply for a license for 12 months from the date of the last test.
- 050-724 If an operator fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. The alternate test may only be taken one time. If an operator requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR L-891-050-200.
- 050-730 If the operator fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the renewal application shall be denied or the license shall be revoked if it has not expired.

**L-891-050-900 STAFF COVERAGE/STAFF SUPERVISION/STAFFING CHANGES**

- 050-905 An operator must live in the home that is to be licensed.
- 050-910 The operator or approved substitute caregiver shall be provide supervision 24 hours per day in the Adult Foster Home with a Limited License when one or more residents are present or are expected to be present in the home. Supervision means protective awareness of the residents' general whereabouts and functioning, including: monitoring the activities of the residents while on the premises of the home; generally ensuring residents' health, safety and welfare; and the ability and readiness to intervene on behalf of a resident if a crisis arises.
- 050-912 A Developmentally Disabled or Mentally Emotionally Disabled resident may be left alone in the home for the length of time specified in both the doctor's orders and care plan (ISP).
- 050-920 The operator shall notify the ACHP of the name of the caregiver(s) who will be responsible anytime the operator will be out of the home more than 72 hours.
- 050-925 Operators shall give the current addresses and telephone numbers of all caregivers employed by the operator to the ACHP upon request.

- 050-930 A resident shall not provide supervision, care or services, or act as a caregiver.
- 050-950 Operators shall compensate caregivers, including respite and substitute caregivers in compliance with all applicable provisions of Federal and State wage and hour laws.
- 050-955 Operators shall keep adequate staff necessary to maintain a stable environment and to provide quality care in the home.
- 050-960 Operators shall ensure that caregivers have a clear understanding of job responsibilities, have knowledge of residents' care plans, and are able to provide the care specified for each resident, including appropriate delegation or consultation by a Registered Nurse.
- 050-965 An operator (whether or not present in the home) is responsible for the supervision, training and conduct of caregivers. This applies to caregivers when acting within the scope of their employment, duties, or when they are present in the home.
- 050-970 Operators shall not leave residents alone in the home with anyone who cannot communicate adequately in English and does not meet the requirements of MCAR L-891-050-200.

#### **PART V-L - BASIC CARE**

#### **L-891-060-100 GENERAL CRITERIA**

- 060-107 Operators of an Adult Foster Home with a Limited License and caregivers shall protect resident's rights and help residents to exercise them as listed in the Residents' Bill of Rights.
- 060-114 Operators and caregivers shall provide a resident with the care and services as agreed to in the resident's care plan and as appropriate to meet his/her needs.
- 060-121 Operators and caregivers shall meet the night time care needs of the residents.
- 060-128 Operators and caregivers shall provide care and services in a homelike atmosphere, where the dignity and rights of the residents are respected, the atmosphere is more like a home than a medical facility, positive interaction between occupants and caregivers of the home is encouraged, and the residents' independence and decision-making is protected and promoted. Operators and caregivers may prohibit visitors from visiting a resident if the visitors threaten the health, safety and welfare of the resident or other occupants. The incident must be documented in the resident's records as an incident report and the ACHP licenser shall be immediately informed.
- 060-135 Operators and caregivers shall provide supervision for resident use of hot tub, sauna, and swimming pool. (Hot tubs and saunas may be used only with written doctor approval.)
- 060-142 Residents shall have the right to consent to or refuse all medications, treatment or care. If a resident refuses medications, treatments or care, the refusal shall be immediately documented in the resident's records and appropriate persons notified, including the doctor, family, legal representative and case manager.

Other persons involved in resident care, including the caregiver, shall also be informed.

060-149 Operators shall immediately inform the resident, the resident's physician or nurse, family, legal representative, case manager, and any other appropriate people of changes in the resident's condition.

060-156 Operators and caregivers shall promptly seek medical help, as needed, and continue to seek help until the resident receives the appropriate care and services. This includes persistent attempts to obtain doctor ordered prescriptions.

060-163 In the event of a serious medical emergency, the Operator/staff shall call 911 or the appropriate emergency number for their community. The physician/nurse practitioner, family or legal representative and the case manager (when applicable) shall also be called. The Operator shall have copies of Advance Directives, Do Not Resuscitate (DNR) orders and/or pertinent medical information available when emergency personnel arrive. Medical emergency means a change in medical condition that requires immediate care of a level or type that the operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

060-170 Operators must be able to provide or arrange for appropriate resident transportation. This does not mean the operator has to pay for transportation.

060-177 If the operator manages or handles a resident's money, it shall be maintained in a separate account record in the resident's name in the home. The operator shall not under any circumstances commingle, borrow from, or pledge any funds of a resident. Personal Incidental Funds (PIF) for Medicaid clients are to be used at the discretion of the client for such things as clothing, tobacco, and snacks (not part of daily diet). Operators or caregivers shall not influence, solicit from, or suggest to any resident that they or their family give the operator or caregiver or the operator's or caregiver's family money or property for any purpose. The caregiver or the caregiver's family shall not accept gifts of substantial value or loans from the resident or the resident's family.

**L-891-060-200 SCREENING OF RESIDENT CARE NEEDS PRIOR TO ADMISSION TO THE ADULT FOSTER HOME WITH A LIMITED LICENSE**

060-208 Operators shall screen a potential resident for care needs using a screening form before admitting a resident to the Adult Foster Home with a Limited License. The screening shall determine whether or not the operator may care for the resident within the home's license classification and if the operator can meet the care needs of the resident along with meeting the care needs of the current residents of the home.

060-216 The screening shall include interviews with the prospective resident in person whenever possible and, if appropriate, the resident's family, prior caregivers, and case manager. The operator's interview may also include any physician, nurse or other health care professional involved in the prospective resident's care.

060-224 The operator's screening of the resident's care needs shall include but is not limited to:

(a) assessment of activities of daily living

- (b) diagnosis
- (c) medications
- (d) a description of the prospective resident's physical and mental condition
- (e) personal care needs
- (f) resident's ability to communicate
- (g) nursing care needs and RN delegations
- (h) nutritional needs
- (i) night care needs
- (j) personal preferences for activities and lifestyle
- (k) the prospective resident's ability to evacuate the home within three minutes along with the other home occupants.

**L-891-060-300      ADMISSION TO THE Adult Foster Home WITH A LIMITED LICENSE**

- 060-310      Upon admission to the home, the operator shall obtain and document in resident records general information regarding the resident. The information shall include names, addresses, and telephone numbers of relatives, significant persons, case managers, and medical/mental health providers. The record shall also include the date of admission and, if available, the resident's Social Security and medical insurance numbers, birth date, and prior living situation. At an appropriate date, the operator shall obtain mortuary information.
- 060-320      Upon admission to the home, the operator shall have made every effort to obtain physician/nurse practitioner orders for medications, treatments, therapies and special diets. Any telephone orders must be followed with written signed orders within 72 hours or the operator must document attempts to get them. A physician, nurse practitioner, or pharmacist review of the resident's preferences for over-the-counter medications and home remedies shall also be obtained at that time and documented in the resident records. The operator shall also obtain and place in the record any medical information available including history of accidents, illnesses, allergies, impairments or mental status that may be pertinent to the resident's care.
- 060-330      At the time of admission, the operator shall ask for copies of the following documents if the resident has them: Advance Directive, letters of guardianship, or letters of conservatorship and Do Not Resuscitate (DNR) orders. The copies shall be placed in a prominent place in the resident record and sent with the resident when transferred for medical care.
- 060-340      At the time of admission, the operator shall discuss with the resident and/or her/his legal representative and resident's family, if available, whether the home has a Medicaid contract, as well as the Residents' Bill of Rights, and written house rules. The discussion shall be documented by having the resident sign the house rules and the Residents' Bill of Rights. These signed documents shall be filed in the resident's record.

060-345 At the time of admission, the operator shall list the resident possessions brought into the home.

060-350 When operators have contracts with more than one public social service agency, including but not limited to Developmentally Disabled, Mentally Emotionally Disabled and Children's Services Division, operators shall obtain written permission from each contracting agency with clients already in the home before admitting new residents from another agency.

**L-891-060-400 CARE PLAN**

060-410 The operator of an Adult Foster Home with a Limited License shall develop a care plan for each resident if required. The care plan shall be developed together with the resident and, as appropriate, the resident's family, physician, nurse, the resident's legal representative, case manager, any other appropriate people, and shall include information from the screening assessment of the resident. The intent of the care plan is to accurately reflect the resident's care needs.

060-440 The care plan shall be updated whenever the resident's care needs change and at least every six months. All updates must be dated and signed by the operator. The operators shall review care plans with the resident and/or a legal representative once a year. This review shall be documented in the resident's records.

060-450 The care plan shall be a written description of a resident's needs, preferences and capabilities, including the type of care and services needed, when and who shall provide the care, how often care and services will be provided, and what assistance the resident requires for various tasks. Specific information in the care plan shall include information about the resident's:

- (a) ability to perform activities of daily living (ADLs).
- (b) need for special equipment.
- (c) communication needs: hearing, vision, sign language, non-English speaking, and speech along with any aids used.
- (d) night needs.
- (e) medical or physical health problems relevant to care and services.
- (f) cognitive, emotional, or physical disabilities or impairments relevant to care and services.
- (g) treatments, procedures or therapies.
- (h) need for Registered Nurse consultation and delegation.
- (i) need for behavioral interventions.
- (j) social/spiritual/emotional needs including lifestyle preferences.
- (k) emergency exit ability including assistance and equipment needed.
- (l) need for use of physical restraints or psychoactive medications.

(m) dietary needs and preferences.

(n) weekly activities or recreation schedule.

(o) preferences in how care is given.

060-460 The resident's care plan shall include goals for maintaining and, if possible, improving or restoring the resident's level of functioning.

**L-891-060-500 ADMINISTRATION OF MEDICATIONS**

060-504 Operators and caregivers who administer medications shall demonstrate an understanding of the administration of each resident's medications. Operators and caregivers shall know the reason the medication is used and any specific instructions and common side effects. Drug reference material shall be kept in the Adult Foster Home with a Limited License and shall be readily available.

060-508 The operator shall obtain and place a written signed order in the resident's record for any medications, dietary supplements, treatments, and/or therapies which have been prescribed by the physician/nurse practitioner.

060-510 Prescription medications shall not be given without written doctor's orders.

060-512 Orders must be carried out as prescribed unless the resident or the resident's legal representative refuses consent. The physician/nurse practitioner must be notified if a resident refuses to consent to an order.

060-516 Over-the-counter medications or home remedies requested by the resident shall be reviewed by the resident's physician/nurse practitioner or pharmacist at admission and at least annually thereafter and documented in the resident records.

060-520 Changes to doctors orders may not be made without a physician/nurse practitioner's order. Attempts to call the physician/nurse practitioner to obtain the needed changes in orders must be documented in the resident's record.

060-524 If an operator or caregiver has good reason to believe that medical orders are harmful to a resident, the operator or caregiver shall immediately notify the physician, nurse, resident's family, case manager, and any other appropriate people to protect the health and safety of the resident.

060-528 Order changes obtained by telephone shall be implemented as soon as practicable. Operators shall obtain a written physician's order within 72 hours of receiving a doctor's telephone order or verbal order for a resident's medications or the operator must document all attempts to get the order. Operators shall make and document, in the resident's progress notes, frequent and persistent attempts to obtain the written order until it is received.

060-532 Prescription medications ordered to be given "as needed" or "p.r.n." must have additional directions which show what the medication is for and specifically when, how much and how often it may be administered. These written directions may be given by a physician, nurse practitioner, registered nurse or pharmacist.

060-536 An operator shall consult with the physician, nurse practitioner, registered nurse or mental health professional before requesting a psychoactive medication to treat

a resident's behavioral symptoms. The consultation shall include a discussion of alternative measures to medication use including behavioral interventions. These medications may be used only after documenting all other alternative considerations and only when required to treat a resident's medical symptoms or to maximize a resident's physical functioning. Psychoactive medications shall never be given to discipline a resident or for the convenience of the Adult Foster Home with a Limited License. Psychoactive medications as defined in these rules may be used only pursuant to a prescription that specifies the circumstances, dosage and duration of use.

- 060-540 The operator and all caregivers shall know the specific reasons for the use of the psychoactive medication for an individual resident, the common side effects and when to contact the physician, nurse practitioner, or mental health professional regarding those side effects. Operators and caregivers shall also know the behavioral interventions, if any, to be used along with the medication.
- 060-544 The frequency of the reassessment of the psychoactive medication use shall be determined by the physician or Registered Nurse completing the initial assessment.
- 060-546 Operators of Adult Foster Homes with a Limited License may administer routine oral medications.
- 060-548 A resident or a relative of the resident or a Registered Nurse may administer subcutaneous, intramuscular, and intravenous injections. A licensed practical nurse can give subcutaneous and intramuscular injections. An operator or caregiver who has been delegated and trained by a registered nurse under provision of the Board of Nursing rules may give only subcutaneous injections. Intramuscular and intravenous injections cannot be delegated to operators and caregivers.
- 060-552 Each resident's medication container shall be clearly labeled with the pharmacist's label or be in the original labeled container or bubble pack and shall be kept in a locked, central location, separate from that of the operator or the operator's family. Residents shall not have access to any medications in the home unless they have an order to self medicate. Over-the-counter medications in stock bottles (with original labels) may be used in the home.
- 060-556 The operator may set up each resident's medications for up to seven days in advance (excluding p.r.n. medications) by using a closed container manufactured for that purpose. If used, each resident shall have her/his own container with divisions for the days and times of the day the medications are to be given. The container must be clearly labeled with the resident's name, name of each medication, time to be given, dosage, amount, route and description of the medications. The container shall be stored in the locked medication area.
- 060-560 Unused, outdated or discontinued medications, except controlled substances, shall not be kept in the home and shall be disposed of according to the pharmacist's recommendations. Disposal of these medications shall be documented on the medication administration record or in the resident's record. Documentation shall include the name of the medication and the number of pills disposed or returned to the pharmacy.
- 060-564 All controlled substances to be disposed of shall be:
- (a) counted by a Registered Nurse who witnesses and documents the disposal;

or

(b) returned to the dispensing pharmacy.

060-568 Operators and caregivers shall be responsible for making certain that all medications prescribed for a resident are fully accounted for and used only by that resident.

060-572 A prescription may be given only to the person for whom the medication was prescribed.

060-576 A current, written medication administration record shall be kept for each resident and shall identify all of the medications administered by the operator or caregiver to that resident, including over-the-counter medications and prescribed dietary supplements. The record shall indicate the medication name, dosage, route, the date and time to be given. The record shall be immediately initialed at the time of administration by the person giving the medications. Treatments and therapies must be immediately documented on the medication administration record showing times given, type of treatment or therapy, and initials of the person performing the procedure. The medication administration record shall contain a legible signature which identifies each set of initials.

060-580 A discontinued or changed medication order shall be marked and dated on the medication administration record as discontinued. The new order shall be written on a new line showing the date of order. If a resident misses or refuses a medication, treatment or therapy the initials must be circled and a brief but complete explanation shall be recorded on the back of the medication record. As needed (p.r.n.) medication shall be documented with the time, dose, the reason the medication was given, and the outcome.

060-584 A resident may self medicate only with a physician's written approval which shall be kept in the resident records. Residents shall keep self administered medications in their bedrooms in a secure place which can be locked. Operators and caregivers shall not be responsible for administering or documenting medications when residents self medicate, but shall notify appropriate health care professionals if a resident cannot self-medicate safely.

**L-891-060-600 NURSING CARE TASKS**

060-610 A registered nurse consultation shall be obtained when a skilled nursing care task (such as insulin injections, blood sugar monitoring and ostomy care) has been ordered by a physician or other qualified practitioner. The operator shall obtain medical professional consultation/assessment to meet the skilled nursing care needs of the resident.

060-620 When the operator does not know or understand how to perform a nursing task, the operator shall consult with a Registered Nurse.

060-630 The Registered Nurse may determine that a nursing care task for a particular resident is to be taught to an operator or caregiver utilizing the delegation process. The operator or caregiver shall not teach another individual the delegated task and shall not perform the task for another resident without specific delegation for that resident.

**L-891-060-700****RESTRAINTS**

- 060-708 For the purposes of these rules, restraints are defined as any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, sleeping medications or tranquilizers).
- 060-716 Chemical or physical restraints may be used only after consideration of all other alternatives. The Operator shall document the consideration and trial of all other alternatives in the resident's records. Restraints shall be used only when required to treat a resident's medical symptoms, or to maximize a resident's physical functioning. If, following the assessment and trial of other measures, it is determined that a restraint is necessary, the least restrictive restraint shall be used as infrequently as possible. All physical restraints must allow for quick release at all times.
- 060-724 Physical restraints may be used only after an assessment by a physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupational therapist assessment.
- 060-732 A written signed order for the restraint from the physician/nurse practitioner or Christian Science practitioner shall be obtained and placed in the resident record. The order, including any P.R.N. orders, shall include specific parameters including type, circumstances and duration of the use of the restraint.
- 060-740 Physical restraints may only be used with the resident's or resident legal representative's written consent which shall be filed in the resident's record. The Operator shall reassess their ability to provide care to the resident if the resident or legal representative refuses consent.
- 060-748 The Operator shall place the restraint assessment in the resident record. The assessment shall include procedural guidance for the correct use of the restraint, alternative less restrictive measures which shall be used in place of the restraint whenever possible, and dangers and precautions related to the use of a restraint.
- 060-756 Physical restraint use shall be recorded on the care plan showing why and when the restraint is to be used, along with instructions for periodic release. Any less restrictive alternative measures planned during the assessment and cautions for maintaining safety while restrained shall also be recorded on the care plan.
- 060-764 Residents physically restrained during waking hours must have the restraints released at least every two hours for a minimum of 15 minutes. During this period, they are to be repositioned, offered toileting, fluids, exercised or provided range of motion.
- 060-772 Physical restraint use at night is discouraged and shall be limited to unusual circumstances. If used, the restraint shall be of the design to allow freedom of movement with safety. The frequency of night monitoring for resident safety and need for assistance shall be determined in the assessment.
- 060-780 Physical restraints may not be used for discipline of a resident or for the convenience of the Operator, Resident Manager or caregiver.
- 060-788 The frequency for reassessment of the physical restraint use shall be determined

by the prescriber based on the recommendations made in the initial assessment. The reassessment may be performed by the physician/nurse practitioner, Registered Nurse, Christian Science practitioner, mental health clinician, physical therapist or occupation therapist.

060-794 Fill side rails used to keep a resident in bed are considered restraints. Side rails or half rails, which are requested by the resident, to allow the resident to easily get in and out of bed or improve functioning are not considered restraints. Half side rails are not considered a restraint.

060-799 Use of restraints shall not impede the three minute evacuation of all household members.

**L-891-060-800**

**MEALS**

060-807 Three nutritious meals will be served daily at times consistent with those in the community. Each daily menu will include food from the basic food groups and fresh fruit and vegetables in season. There shall be no more than a 14-hour span between the evening meal and breakfast. Nutritious snacks and liquids shall be offered to fulfill each resident's nutritional requirements. Consideration shall be given to residents' preferences, cultural and ethnic background in food preparation. Special consideration must be given to residents with chewing difficulties and other eating limitations. Food shall not be used as an inducement to control the behavior of a resident.

060-814 Operators shall follow all special diets as prescribed in writing by the resident's physician/nurse practitioner or other qualified professional.

060-821 Operators shall not serve home canned foods unless prepared according to the latest guidelines of Oregon Department of Agriculture Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized. Operators shall not serve wild game unless approved by the U.S. Department of Fish and Wildlife. All meats served must be USDA inspected.

060-828 Operators shall prepare and serve resident meals in the home where the residents live. Meals shall be served so that residents eat in a family style manner unless residents choose to eat alone or in their rooms. Normal eating out (for example, restaurant meals, take outs, or picnics) is permitted. Payment for meals eaten away from home for the convenience of the Operator (restaurants, senior meal sites) is the responsibility of the Operator. Meals and snacks as part of an individual recreational outing by choice are the responsibility of the resident.

060-842 Food shall be stored at appropriate temperatures to prevent spoilage and to protect food from contamination and rodent or insect infestation. The home shall include a properly working refrigerator.

060-849 Food, utensils, dishes and glassware shall not be stored in bedrooms, bathrooms or living areas.

060-856 Utensils, dishes and glassware shall be washed in hot, soapy water, rinsed, and air dried if the home does not have a dishwasher, and stored to prevent contamination.

060-864 Food storage and preparation areas shall be clean and free of offensive odors. Equipment, eating and cooking utensils shall be clean and in good repair.

## PART VI-L - STANDARDS FOR OPERATIONS

### L-891-070-100 RESIDENT RECORDS

- 070-110 Operators and caregivers shall keep accurate and up to date resident records on file in the Adult Foster Home with a Limited License where the resident lives.
- 070-120 Resident records maintained by the operator shall be readily available at the Adult Foster Home with a Limited License to all caregivers and to representatives of the ACHP conducting inspections or investigations, as well as to residents and their legal representative.
- 070-130 In all other matters pertaining to confidential records and release of information, operators shall be guided by the principles and definitions described in OAR Chapter 411, Division 05. A copy of these rules will be made available by the Senior and Disabled Services Division upon request.
- 070-140 The resident's records shall contain the following information:
- (a) General resident information form. (See MCAR L-891-060-310.)
  - (b) Medical information, including:
    - (1) Medical history, including the resident's history of hospitalizations, accidents and injuries and relevant incident reports, and a description of any physical, emotional or mental health problems.
    - (2) Current written and signed physician/nurse practitioner orders.
    - (3) Any special diets or care instructions prescribed by a physician, including special therapies, treatments, and orders for the use of restraints or delegations.
    - (4) Guardianship letters, Oregon Directive to Physicians and/or a Power of Attorney for Health Care, if applicable.
  - (c) Medication administration records.
  - (d) Copies of the current written house rules and current Residents' Bill of Rights, signed by the resident or his/her representative.
  - (e) A written report of all significant incidents relating to the health or safety of a resident including how and when the incident occurred, who was involved, what action was taken by operator/staff and the outcome to the resident.
  - (f) Narrative entries describing the resident's progress documented in ink at least once a week, dated and signed by the person writing them. Computerized progress notes shall be printed weekly and signed in ink by the person writing them.
  - (g) A signed copy of the Medicaid Payment Assessment form (Form SDS 512) for Medicaid pay residents.
  - (h) An up-to-date list of the resident's personal belongings kept in the home.

(i) If the operator manages or handles a resident's money, the operator shall keep a record of the resident's money. If the operator has been authorized by a resident or resident's legal representative to handle a resident's money, a dated record of how the resident's money is spent and receipts retained for purchases over \$5.00. Receipts shall not be required for purchases made by the resident himself/herself.

(j) Any other information or correspondence about the resident. \_\_\_\_

070-150 Operators shall keep all resident records on file in the Adult Foster Home with a Limited License for three years.

070-160 If a resident moves from the Adult Foster Home with a Limited License, and with the written consent of the resident or resident's legal representative, copies of medication sheets and an updated care plan, as well as progress notes and personal information sheet shall be transferred with the resident to be used as reference only.

070-170 The falsification or omission of information from resident records shall be a violation of ACHP rules and shall subject the operator to sanctions.

**L-891-070-200 HOUSE RULES**

070-210 Operators shall have written house rules which are in accordance with the ACHP rules. They shall include, but are not limited to, the home's policies on daily and evening visiting hours, smoking, use of intercoms, resident telephone use, mealtimes, kitchen privileges, television, bedtimes, bathing, pets, alcohol use in the home, and other expectations of or restrictions on residents. House rules shall not be in conflict with the Residents' Bill of Rights or the family atmosphere of the home.

070-220 House rules are subject to review and approval by the ACHP.

070-230 If smoking is allowed in the home, the house rules shall designate the smoking areas and shall state that smoking is never allowed in sleeping areas.

070-240 Operators shall include in the house rules daily visiting hours of at least seven hours with at least two hours after 6:00 pm. Operators shall make reasonable accommodations to visitors upon request.

070-250 A copy of the house rules shall be given to and discussed with the resident, their family member or legal representative. It shall be signed by the resident or the resident's legal representative upon admission to the Adult Foster Home with a Limited License and maintained in the resident records.

**L-891-070-300 POSTINGS**

070-310 Operators shall post copies of the following in a prominent place where they can be easily seen by residents and others:

(a) the home's floor plan with emergency evacuation map.

(b) name and telephone numbers of at least one emergency back up caregiver.

(c) telephone number(s) to provide 24 hour access to the operator.

070-315 The following items must be kept in an available location in the Adult Foster Home with a Limited License. Posting in a prominent place in the home where they can be easily seen by residents and others may be required by the ACHP.

(a) current Multnomah County Adult Foster Home Limited License.

(b) if a conditional license, a statement of the conditions next to the license.

(c) Residents' Bill of Rights.

(d) House Rules.

(e) Inspection Report for the most recent annual inspection.

(f) Licensing Report for the most recent inspection.

(g) range of monthly rates for private pay residents.

(h) Ombudsman poster.

(i) ACHP complaint process poster.

**L-891-070-400 TELEPHONE**

070-410 The home shall have a working telephone with a listed number.

070-420 The telephone shall be available and accessible in the Adult Foster Home with a Limited License for residents' use with reasonable accommodation for privacy for incoming and outgoing calls.

070-430 Any restrictions and limitations on the use of the telephone by residents shall be specified in the written house rules and shall not violate residents' rights.

070-440 Appropriate use of the residents' personal telephone shall not be restricted by the operator or caregiver.

070-450 Restrictions for telephone use for a specific resident shall be included in the care plan with documentation of the specific reason for the restriction, (i.e., behavior management).

070-460 Long distance service shall be available to residents who will pay for personal long distance telephone calls.

070-470 Residents with hearing impairments (to the extent that they cannot hear over a normal telephone) shall be provided with a telephone that is amplified with a volume control or is hearing aid compatible.

070-480 The operator shall notify the ACHP, the resident's family, legal representative and any case manager of a change of the telephone number within 24 hours of the change.

070-490 The emergency 911 number shall be posted on all telephones. Emergency telephone numbers shall be posted by the telephone including an emergency number to reach an operator who does not live in the home.

**MOVING A RESIDENT FROM THE Adult Foster Home WITH A LIMITED LICENSE**

- 070-510 Operators shall not request or require a resident to move from the Adult Foster Home with a Limited License or to another room in the Adult Foster Home with a Limited License without giving the resident, the resident's legal representative, family, case manager and any other appropriate person(s) at least 30 days written notice of the move. This excludes emergency situations where the home or resident's room no longer meets facility physical standards and situations where repairs are needed. The notice shall state the reasons for moving the resident and the resident's right to object and request a hearing.
- 070-520 A resident may be moved from the home or between bedrooms in a home if the move is the resident's choice or by mutual agreement of the resident and the operator. This move requires that the resident receive 30 day written notice.
- 070-530 Operators shall evict residents from the home or move residents between rooms in the home for the following reasons only:
- (a) resident's care needs or behavior exceed the ability of the operator.
  - (b) welfare of the resident or other residents.
  - (c) nonpayment for room or board or care or services.
  - (d) the home is no longer licensed or there is a voluntary surrender of a license.
  - (e) behavior which poses an immediate threat to self, operators, caregivers or others.
  - (f) behavior which substantially interferes with the orderly operation of the home.
- 070-540 Residents may waive an operator's 30 day notice to move in writing.
- 070-550 To require a resident to give the operator a 30 day notice prior to a move, the operator shall include this requirement in the contract.
- 070-560 All written notices regarding eviction or moving a resident shall include:
- (a) the resident's name.
  - (b) the reason for the proposed termination of residency.
  - (c) the date of the proposed termination of residency.
  - (d) the location to which the resident is going, if known.
  - (e) the right to a hearing and to have the ACHP hold an informal conference.
  - (f) the name, signature, address and telephone number of the person giving the notice.
  - (g) the date of the notice.
- 070-570 If the resident has a medical emergency, the operator may give less than 30 days'

advance notice, but shall give the written notice as soon as possible under the circumstances. This includes situations in which the resident is hospitalized for a medical emergency and the operator refuses to allow the resident to return to the home. Medical emergency means a change in medical condition that requires immediate care of a level or type that the operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

070-580 Residents may be evicted with less than the 30 day written notice from the operator with approval of the Director of Aging Services or his/her designee in emergency circumstances. Approval requires a finding that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the operator, employees, or other household members. Findings and approval shall be documented. Residents who move from the home under these circumstances shall not be charged beyond their last day in the home.

070-590 At the request of a resident, approval may be given for the resident to move from the home with less than 30 day written notice to the operator or as specified in the contract with the approval of the Director of Aging Services or his/her designee. Approval requires a finding by the Director of Aging Services or his/her designee that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the operator, employees or other household members. Findings and approval shall be documented. Residents who move from a home under these circumstances shall not be charged beyond their last day in the home.

**L-891-070-600 RESIDENT HEARING RIGHTS**

070-610 A resident who has been or will be evicted or refused the right of return to a home by the operator shall be entitled to an informal conference with the ACHP and an administrative hearing except in instances when the home is no longer licensed.

070-620 The ACHP will hold an informal conference upon request and before a hearing about an eviction. The ACHP shall send written notice of the time and place of the conference to the operator, the resident and, at the resident's request, a family member, case manager, Ombudsman, legal representative of resident, and, if the operator requests it, a representative from a provider association. The purpose of the informal conference is to resolve the matter without a formal hearing.

070-625 The ACHP shall issue a written determination following the conference either approving or disapproving the eviction.

070-630 If the resident is being moved from the home by an operator for a medical emergency, or to protect the welfare of the resident or other residents, as defined by rule, the hearing must be held within seven days of the move or notice to move. If a resident is being moved for any other reason, the resident has a right to a hearing within ten days of the notice to move. The operator shall hold a space available for the resident pending the decision of the hearing.

070-640 ORS 441.605(4) regarding transfer notices and hearings of long term care facilities shall apply to Adult Foster Homes with a Limited License.

070-650 Factors to be considered by the ACHP in a conference and the hearing officer in a hearing in evaluating an eviction to determine whether such action should be

approved, conditionally approved or disapproved shall be limited to the following:

(a) Evidence of medical reasons for the action including behavior which substantially interferes with the orderly operation of the home.

(b) Evidence concerning the safety or welfare of the resident, other residents, the operator, employees or other members of the household.

(c) Evidence of non-payment of monies agreed upon for room, board and/or care.

(d) Evidence that the resident's care needs exceed the ability or classification of the operator.

(e) Transfer trauma to the resident.

070-660 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's determination approving an operator's eviction or may approve, conditionally approve, or disapprove an eviction.

**L-891-070-700 REFUNDS/RETURN OF PERSONAL PROPERTY**

070-710 The operator shall refund any money owed to the resident, the resident's family or legal representative within 30 days of when the resident dies or permanently leaves the home.

070-720 Operators shall make a resident's personal property available within seven days after the resident leaves the home. If the resident does not claim his or her personal property within seven days of leaving the home, the operator shall give written notice to the resident or legal representative and allow 30 days before disposing of the resident's personal property.

070-730 The operator may charge a reasonable fee for storage of a private pay resident's belongings beyond 15 days if the contract/admission agreement includes fees for storage.

070-740 The operator has an obligation to act in good faith to reduce the charge by seeking a new resident to fill the vacancy. The operator shall refund to the resident who moves any rent for days after the date the room is re-rented.

070-750 If the home closes, the operator waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.

070-755 The operator may not charge a resident for payment for more than 15 days after the resident has left the Adult Foster Home after a resident dies or leaves the home for medical reasons and indicates in writing the intent not to return.

070-760 If a resident dies or leaves an Adult Foster Home with a Limited License due to substantiated neglect or abuse or due to conditions of immediate threat of life, health or safety, the operator shall not charge the resident beyond the resident's last day in the home.

070-770 If the ACHP orders the relocation of resident(s) and/or the refund of money to a resident, operators shall refund the money owed to the resident within 30 days.

**PART VII-L  
STANDARDS FOR FACILITIES OF AN ADULT FOSTER HOME WITH A LIMITED LICENSE**

**GENERAL CONDITIONS OF THE HOME**

- 080-107 Adult Foster Homes with a Limited License shall meet all applicable zoning, building and housing codes, and state and local fire and safety regulations for a single family residence. It is the responsibility of the operator of the Adult Foster Home with a Limited License to ensure that all applicable local codes have been met.
- 080-121 The home shall be inspected for fire safety using these rules and standards by an inspector designated by the ACHP or by the local fire department. The ACHP may require any additional standards that are recommended by the State Fire Marshall or his/her designee, for a single family residence.
- 080-128 The buildings of an Adult Foster Home with a Limited License shall be of sound construction and kept clean and in good repair. The grounds shall be kept clean and well maintained.
- 080-130 Manufactured homes must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured homes shall have a manufacturer's label permanently affixed don the taillight end of the unit itself which states it meets the requirements of the Department of Housing and Urban Development. The required label shall read as follows:
- "As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacturer. See date plate."
- If such a label is not evident on a mobile home unit, and the operator believes his/her unit meets the required specifications, he/she must take the necessary steps to secure verification of compliance from the manufacturer.
- Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated any further.
- 080-135 The home's interior and furnishings shall be kept clean and in good repair. Walls, ceilings and floors shall be finished to permit frequent washing, cleaning or painting. There shall be no accumulation of clutter, garbage, debris, rubbish or offensive odors.
- 080-142 All interior walls shall be at least equivalent to a smoke barrier design. Buildings will be constructed with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials shall not exceed Class III (76-200) and smoke density shall not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exitway is composed of readily combustible materials such as acoustical tile or wood paneling, such material must be treated with an approved intumescent surface coating or removed.
- 080-149 Interior and exterior stairways and steps shall have properly installed handrails. The yard, approved exits and stairs of the Adult Foster Home with a Limited License shall be accessible and appropriate to the condition of the residents.

- 080-156 Interior hallways shall be at least 32" wide. They shall be wide enough to accommodate wheelchairs or walkers if used by the resident(s). Each room, stairway and exitway shall be free of barriers which impede evacuation.
- 080-163 Each room, stairway and exitway shall be equipped with working lights and kept adequately lighted, based on the resident's needs. Light bulbs shall be shatterproof or protected with appropriate covers.
- 080-170 There shall be at least 150 square feet of common living space and sufficient appropriate furniture in the home to accommodate the recreational and socialization needs of all the occupants at one time. Common space shall not be located in an unfinished basement or garage(s) unless such space was constructed for that purpose or has otherwise been legalized under permit. There shall be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space will be required for each day care person or relative receiving care.
- 080-177 The home shall be furnished to meet the needs of the residents.
- 080-184 Swimming pools, hot tubs, spas, or saunas shall not be accessible to residents without supervision. They shall also be equipped with safety barriers and devices designed to prevent accidental injury to the residents.
- 080-191 Operators shall keep first aid supplies and a first aid manual available at all times.
- 080-193 The home's address shall be easily visible from the street.
- 080-195 Smoking is not permitted in any bedroom including that of a resident, operator caregiver, boarder, or family member.
- 080-197 Operators shall submit a copy of a revised floor plan to the ACHP whenever it changes or before remodeling is begun.

**L-891-080-200 HEALTH AND SANITATION**

- 080-210 Operators shall use a public water supply for the Adult Foster Home with a Limited License if available. If a non-municipal water source is used, a sample shall be collected by the licenser or sanitarian and tested at the operator's expense for coliform bacteria yearly and records shall be retained for three years. Corrective action shall be taken to ensure potability.
- 080-220 Septic tanks or other non-municipal sewage disposal system shall be in good working order.
- 080-230 Commodes shall be emptied frequently and cleaned daily.
- 080-240 Garbage and refuse shall be suitably stored in readily cleanable, rodent proof, covered containers. Garbage must be removed at least once a week.
- 080-250 Operators shall store soiled linens and clothing in closed containers kept separate from the bedrooms and the kitchen, dining and food preparation and storage areas. Clothing and bed linens soiled by human waste shall be placed in closed containers, emptied daily and promptly laundered. Soiled paper products used for cleaning incontinent residents shall be immediately disposed of in waterproof bags or containers.

- 080-260 Sanitation for household pets and other domestic animals shall be adequate to prevent health hazards. Proof of rabies or other vaccinations required by a licensed veterinarian shall be maintained on the premises for household pets. Pets not confined in enclosures must be under control and must not present a danger to residents or visitors.
- 080-270 Operators shall keep the home free of insects and rodents. Immediate action shall be taken if the home becomes infested to protect the health and safety of residents. Screens shall be installed on doors and windows used for ventilation.
- 080-280 Operators shall regularly clean surfaces, floors and rugs. Personal property shall be stored in a neat and orderly manner to keep the home free of clutter and obstructions.
- 080-290 Universal precautions for infection control shall be followed in resident care. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.
- 080-299 Operators and 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. Containers holding sharp objects or medical waste shall not be stored in food preparation areas. Disposal shall be according to local regulations and resources (ORS 459.386 through ORS 459.405).
- L-891-080-300 BATHROOMS**
- 080-310 Bathrooms shall be kept clean and free from objectionable odors.
- 080-320 Adult Foster Homes with a Limited License shall have at least one toilet, one sink, one tub or shower and one mirror for each six household occupants including residents, day care persons, room and board occupants, and the operator and/or caregiver's family excluding children under two years old). A sink shall be located near each toilet, and a toilet and sink shall be located on each floor occupied by residents.
- 080-330 Bathrooms shall have grab bars for toilets, tubs, and/or showers for resident's safety and have barrier-free access to toilet and bathing facilities. Alternative arrangements for non-ambulatory residents must be appropriate to the needs of the resident for maintaining good personal hygiene.
- 080-340 Bathrooms shall have a finished interior, with floors, walls, tubs/showers, toilets, sinks and mirrors in good repair.
- 080-350 Bathrooms shall be adequately ventilated, with a window and window covering or other means of bringing in fresh air from the outside. A window must have a surface area of not less than one twentieth of the floor area of the bathroom with a minimum of three square feet and a minimum clear opening of one and 1/2 square feet.
- 080-360 Bathrooms shall allow for privacy and have a door which opens to a hall or common use room, unless the bathroom is used only by a resident who occupies a bedroom adjacent to that bathroom. Residents shall not have to walk through

another person's bedroom to get to a bathroom.

080-370 Hot and cold water shall be available at each tub, shower, and sink in sufficient supply to meet the needs of the residents. Hot water temperature shall be supervised for persons unable to regulate water temperature.

080-380 Shower enclosures shall have nonporous surfaces. Glass shower doors shall be tempered safety glass. Tubs and shower shall have nonslip floor surfaces. Shower curtains shall be kept clean and in good condition.

080-390 The operator shall provide adequate supplies of toilet tissue for each toilet and soap for each sink. Residents shall be provided with individual towels and wash cloths which are laundered in hot water at least weekly. Appropriate racks or hooks shall be available for drying bath linens. If individual cloth hand towels are not provided, roller dispensed hand towels or individually dispensed paper towels shall be provided for residents.

**L-891-080-400 BEDROOMS**

080-407 Bedrooms for all household occupants shall:

(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 which go from floor to ceiling.

(c) have a door which opens directly to a hallway or common use room without passage through another bedroom or common bathroom.

(d) be adequately ventilated and lighted with at least one openable window which meets fire regulations.

(e) be at least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright.

(f) have ceiling heights of not less than 7 feet 6 inches covering at least one half of the area of the room.

080-414 Bedrooms shall not contain furnaces, laundry tubs, washers, dryers, freezers, dishwashers or other common use equipment.

080-421 Adult Foster Homes with a Limited License shall have at least one bedroom for use by the operator or other caregivers. Operators and caregivers shall not share bedrooms with residents or sleep in common living areas or rooms not approved as bedrooms. All other occupants shall be housed in bedrooms meeting the criteria described in this section.

080-428 No more than two people shall occupy a bedroom, not including children under five years old.

080-435 Resident bedrooms shall be in close enough proximity to the operator to alert the operator to night time needs or emergencies, or shall be equipped with a call bell or intercom. Intercoms shall not violate the resident's right to privacy and must

have the capability of being turned off by or at the resident's request.

- 080-442 Use of interior video monitors detracts from a home-like environment and operators shall not use them in resident bedrooms, bathrooms or living areas.
- 080-449 Bedrooms shall be on ground level for residents who are non-ambulatory, have impaired mobility, or are cognitively impaired. Residents on the second floor or in the basement must demonstrate their capability to self exit. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs.
- 080-456 Sleeping rooms located on a second floor or in a basement shall have an approved emergency means of exit. Split level homes shall be evaluated according to accessibility, emergency exit and evacuation capability of residents. Bedrooms located on stories above the second floor shall not be used for sleeping purposes.
- 080-463 Bedrooms shall be adequately heated with a permanent source of heat.
- 080-470 Each bedroom shall have sufficient separate closet space, a private dresser and secure storage space for each resident's clothing and personal effects including hygiene and grooming supplies. Residents shall be allowed and encouraged to keep and use reasonable amounts of personal belongings.
- 080-477 Drapes or shades for windows shall be in good condition and allow privacy for residents.
- 080-484 There shall be an individual bed at least 36 inches wide for each resident consisting of a mattress and springs, or the equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used by residents. Each bed shall 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 shall be laundered at least weekly, and more often if soiled. Waterproof mattress covers will be used for incontinent residents. Day care persons may use a cot or rollaway bed if bedroom space is available which meets the requirements of these rules. Resident beds may not be used by day care persons.
- 080-491 All bedrooms in the home shall have at least one window or exterior door to permit venting and for emergency escape or rescue. This escape and rescue window or door shall:
- (a) Be easily openable from the inside without the use of keys, tools, or any special knowledge or effort.
  - (b) Provide a clear opening of not less than 5.7 square feet (821 square inches). The minimum net clear opening height dimension shall be 24 inches (by 34 inches wide); the minimum net clear opening width dimension shall be 20 inches (by 41 inches high). 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.
  - (c) Have a finished sill height not more than 44 inches from the floor level, or not more than 48" if the sill height met applicable code requirements at the time the bedroom was constructed and if an exception is granted by the ACHP. For sill heights above 48 inches, application may be made for a building permit to install

a permanently attached step(s) (minimum width 30 inches, rise of 4 to 8 inches, and run of 9 to 12 inches) or other aids to window exit which are constructed so the sill height is no more than 44 inches from the top of the step(s). Upon approval of the permit and final inspection, the ACHP may grant an exception, but only if the step(s) or aids are readily accessible and not used for storage, and only if their use is within the demonstrated evacuation capability of the residents of the room. In no case can residents who are non-ambulatory or have limited mobility use such bedrooms.

(d) Be free of any obstacles that would interfere with the window being used as an emergency exit.

**L-891-080-500****HEATING AND COOLING SYSTEMS AND ELECTRICAL EQUIPMENT**

- 080-510 Heating and electrical equipment, including wood stoves, shall be installed in accordance with manufacturer's specifications and all applicable fire and safety regulations. Such equipment shall be used and maintained properly and be in good repair.
- 080-520 Room temperatures shall be at a safe and comfortable temperature for the residents. The operator shall have ventilation, fans or air conditioning available for use in hot weather, and keep the rooms at a comfortable and safe temperature for the residents at all times. When residents are home, minimum temperatures shall be no less than 70 degrees Fahrenheit during waking hours and 60 degrees Fahrenheit during sleeping hours.
- 080-530 Operators shall not use unvented portable oil, gas or kerosene heaters. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used only if approved by the State Fire Marshall's guidelines. State Fire Marshall guidelines refer to Appendix I-E of the Uniform Fire Code of the State of Oregon which are available from the ACHP.
- 080-540 Operators shall not use extension cords in place of permanent wiring.
- 080-550 Portable air conditioners shall not block the exit window and shall be UL listed and used only in accordance with manufacturer's instructions.
- 080-560 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 shall be installed 36 inches around woodstoves to prevent accident or injury to residents.
- 080-570 Fireplaces shall not be used to burn trash. If the fireplace is used, chimneys shall be properly maintained and cleaned yearly so no accumulation of creosote or combustible residue can accumulate.
- 080-580 Operators who do not have a permit verifying proper installation of an existing woodstove shall have the woodstove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule.

**L-891-080-600****DOORS AND LOCKS**

- 080-610 Exit and interior doors shall have simple and easy to operate hardware that cannot be locked to prevent exit. Hasps, sliding bolts, hooks and eyes and double key deadbolts shall not be used. There shall be no more than two locks per door, including a lock in the handle. All hardware shall be mounted no more than 48 inches from the floor. All locks must be operable from the inside without the use of a key, tool, special knowledge or effort or more than one motion.
- 080-620 Adult Foster Homes with a Limited License which have one or more residents who are prone to wander out of doors shall have an activated door alarm system to alert the operator and caregivers of an unsupervised exit by a resident.
- 080-630 Storm windows or doors, bars, grills, grates or similar devices may be installed on escape and rescue windows or doors only if such devices are equipped with approved release mechanisms which can be easily opened from the inside

without the use of a key, tool, special knowledge or effort or more than one motion.

**L-891-080-700 FIRE SAFETY**

- 080-710 Operators shall post an up to date evacuation plan for the home with the locations of each bedroom, all windows and doors, the location of smoke detectors, fire extinguishers, and any sprinkler shut-offs. The evacuation plan shall clearly indicate the path occupants shall use to evacuate the home in an emergency.
- 080-720 Smoke detectors shall be installed in accordance with the manufacturer's specifications and be installed in each bedroom, in hallways or access areas that adjoin bedrooms, family room or main living area where residents congregate, any interior designated smoking area, and in basements. Smoke detectors shall be installed at the top of each stairway. Ceiling placement of smoke detectors is recommended. Detectors shall be equipped with a device that warns of low battery when battery operated or with a battery back-up if hard wired.
- 080-730 All smoke detectors shall contain a sounding device or be interconnected to other detectors in order to provide an alarm which is loud enough in all sleeping rooms to wake occupants who are not hearing impaired.
- 080-740 Bedrooms used by hearing impaired residents must be equipped with a visual/audio or vibration alerting smoke alarm to wake the residents when they are asleep.
- 080-750 The operator shall maintain exits, detectors and extinguishers in functional condition. If there are more than two violations of failure to maintain battery operated detectors in working condition in a 12 month period of time, hard-wiring of the detectors into the electrical system shall be required.
- 080-760 At least one fire extinguisher classed as 2A-10BC shall be mounted in a visible and readily accessible location on each floor, including basements. Extinguishers shall be recharged every six years. Extinguishers shall be mounted with the top no higher than five (5) feet above the floor. Fire extinguishers shall be checked at least once a year by a technician qualified in fire extinguisher maintenance. All recharging and hydrostatic testing shall be completed by a qualified agency properly trained and equipped for this purpose. All fire extinguishers shall be tagged with the date of the last inspection and/or service.
- 080-770 Operators shall keep at least one plug in rechargeable flashlight readily accessible on each floor of the home for emergency lighting.
- 080-780 If an operator allows smoking in the Adult Foster Home with a Limited License, smoking regulations shall be adopted to allow smoking only in designated areas. Smoking shall be prohibited in sleeping areas, areas where oxygen is used, or in areas where flammable materials are stored. Ashtrays of noncombustible material and safe design shall be provided in areas where smoking is permitted.

**L-891-080-800 EVACUATION**

- 080-808 An evacuation plan to be used in the event of an emergency shall be developed and rehearsed with all occupants.
- 080-816 Operators and all caregivers shall be required to demonstrate the ability to

evacuate all occupants from the facility within three minutes to the closest point of safety outside the home. Drills will be held at least once every 30 days in the first year of operation and at least every 60 days thereafter, with at least one drill practice per year occurring during sleeping hours. A record shall be maintained of evacuation drills. Records of drills shall be maintained for three years and include date, time for full evacuation, names of residents requiring assistance for evacuation, and signature of person conducting the drill.

- 080-820 Within 24 hours of arrival, any new resident, Resident Manager or caregiver shall be shown how to respond to a fire alarm, shown how to participate in an evacuation drill from the home in an emergency, and receive an orientation to basic fire safety. New Resident Managers and caregivers will also be oriented in how to conduct a fire drill.
- 080-824 If there are continual problems in demonstrating this evacuation time, conditions shall be applied to the license which include, but are not limited to, reduction of the capacity of the home, adding staff, relocating one or more residents, moving residents within the home, changing the classification of the home, hard wiring smoke detectors into the home's electrical system, installing a sprinkler system, increasing the number of fire drills, installing fire barriers, increased smoke detector systems or alarms or increased fire and life safety protection.
- 080-832 All residents shall participate in fire drills unless the operator believes a resident may be harmed by participation in a fire drill and a written assessment from a physician or registered nurse is on file stating that such participation is medically contraindicated for the resident. In the event the resident cannot participate, substitutes for such residents of similar size shall be used in conducting fire drills to determine operator's or caregiver's evacuation capability.
- 080-840 Operators shall not place residents who are unable to walk without assistance or not capable of self-preservation in a basement, split-level, second story or other area that does not have an exit at ground level. Such residents shall be given ground level rooms.
- 080-848 Stairs shall have a riser height of between 6-8 inches and tread width of between 8 - 10 ½ inches.
- 080-856 All common use areas of the house and exitways must be barrier free and corridors and hallways shall be a minimum of 32 inches wide or as approved by the authority having jurisdiction. Any bedroom window identified as an exit shall be free of any obstacles, at least the width of the window, that would interfere with it being an exit.
- 080-864 There must be two safe means of exit. Operators whose sleeping rooms are above or below the first floor may be required to demonstrate a fire exit drill from that room, using the secondary exit and still evacuate all the occupants in three minutes, at the time of licensure, renewal, or inspection.
- 080-872 There shall be a wheelchair ramp from a minimum of one exterior door if non-ambulatory persons live in the home. All wheelchair ramps shall be constructed under appropriate permit. Wheelchair ramps shall have non-skid surfaces, handrails, and have a maximum slope of 1 inch rise in each 12 inches of distance. The maximum rise for any run without a platform shall be 30 inches. Operators shall bring existing ramps into revised compliance.

080-880 Adult Foster Homes with a Limited License located more than five miles from the nearest fire station or those of unusual construction may be required to have a complete fire alarm system installed which meets the requirements of the NFPA 72A and 72E and with approved automatic reporting to the local jurisdiction providing fire protection.

080-888 Operators whose homes are located in areas where there is a danger of natural disasters which require rapid evacuation such as forest fires or flash floods, must be aware of community resources for evacuation assistance.

**L-891-080-900 STORAGE OF FLAMMABLE LIQUIDS, HAZARDOUS SUBSTANCES, AND GUNS**

080-910 Flammable and combustible liquids and hazardous materials shall be safely and properly stored in original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals. Storage of flammable liquids is prohibited in living areas.

080-920 Cleaning supplies, poisons, insecticides, etc. shall be stored in original labeled containers, safely away from bedrooms, food preparation and storage areas, dining areas and medication storage areas. Kitchen cleaning supplies may be kept in a separate enclosed space in the kitchen.

080-930 Guns must be stored, unloaded, in a locked cabinet. The gun cabinet must be located in an area of the home that is not readily accessible to residents. Ammunition shall be stored and locked in a separate location from the gun..

**PART VIII-L - ABUSE/NEGLECT**

**L-891-090-100 ABUSE AND NEGLECT OF RESIDENTS OF AN Adult Foster Home WITH A LIMITED LICENSE**

090-110 Operators and caregivers shall exercise all reasonable precautions against conditions which could threaten the health, safety or welfare of Adult Foster Home residents. Anyone who lives or works in an Adult Foster Home shall not inflict, allow to be inflicted, or expose residents to abuse, neglect or exploitation. Abuse, neglect or exploitation is a violation of ACHP rules and may subject the offender to civil and/or criminal proceedings. Operators shall be responsible for preventing abusive or neglectful treatment or exploitation of any resident by any occupant in the ACH.

090-120 Abuse of an Adult Foster Home resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident which is inconsistent with resident needs or prescribed resident care.

090-130 Neglect is a kind of abuse which includes any action or inaction which causes or threatens to cause physical or mental harm to a resident which is inconsistent with resident needs and prescribed resident care. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an operator or caregiver, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill.

090-140 Abuse or neglect may result from the conduct of an operator, caregiver or other household member towards a resident of the home.

Abuse or neglect shall include but is not limited to the following:

(a) willful infliction of physical pain or injury, including physical assaults such as hitting, choking, pushing, shoving, pinching, kicking, scratching, or using any kind of unreasonable force.

(b) any physical injury caused by other than accidental means or which appears to be different from the explanation given for the injury.

(c) any punishment, including but not limited to food, clothing, eyeglasses, hearing aids, walkers or wheelchairs.

(d) using psychoactive medications or physical restraints, without a written order or contrary to a written order from a physician or qualified practitioner, or to discipline or punish a resident; or for the convenience of the Adult Foster Home.

(e) abandonment, including deserting or leaving a resident without adequate care or supervision.

(f) use of derogatory or inappropriate names, phrases, or profanity, verbal abuse, unnecessary yelling, harassment, ridicule, threats, coercion, menacing behavior or intimidation, cursing or inappropriate sexual comments.

(g) emotional abuse, mistreatment, or any pattern of psychologically destructive behavior (for example, rejecting, isolating, terrorizing, ignoring or corrupting a resident). This includes the emotional impact on a resident of Operators and caregivers or other household members or visitors abusing each other while on the premises of the Adult Foster Home with a Limited License.

(h) sexual abuse or exploitation, including but not limited to:

(1) inappropriate language or physical contact between an operator, caregiver or other household member and a resident,

(2) inappropriate language or inappropriate physical contact between nonconsenting residents,

(3) the failure of an operator or caregiver to discourage sexual advances of residents toward the operator or caregiver, or

(4) failure of the operator or caregiver to discourage inappropriate language or inappropriate sexual contact between nonconsenting residents.

(i) withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, care or services necessary to ensure the health, safety and welfare of residents.

(j) withholding or failing to seek adequate medical attention and care.

(k) improper administration, supervision and safe guarding of medications, including failure to follow medication orders.

(l) failure to provide bedding or adequate changing of bedding or clothes.

(m) failure to help with a resident's daily personal grooming and regular bathing, as needed.

(n) failure to make a reasonable effort to discover what care is necessary for the wellbeing of a resident.

(o) failure to provide and maintain a safe, sanitary, and secure home.

(p) failure to provide the staffing needed to care for the residents; failure to adequately train and supervise caregivers.

(q) Placing unreasonable restrictions which violate rights guaranteed to the resident by the Bill of Rights.

090-145

Exploitation means any act or absence of action that deprives or threatens to deprive the resident of personal resources or entitlements, and that is inconsistent with resident needs or prescribed resident care. Exploitation includes financial exploitation or mismanagement, including, but not limited to:

- (1) taking or disposing of any funds or property belonging to a resident.
- (2) buying property from or selling property to a resident.
- (3) becoming a resident's legal representative, or attorney in fact.
- (4) commingling the resident's funds with the operator's, caregiver's or another person's funds.
- (5) borrowing from or loaning money to residents; pledging any resident's funds.
- (6) spending a resident's personal funds inappropriately or without authorization from a resident or resident's family member.
- (7) entering into inappropriate financial arrangements with a resident.
- (8) adding an operator's, caregiver's or a member of the their family's name to a resident's bank account, legal contract or property or credit cards.
- (9) making unreasonable rate increases.
- (10) requiring more than 30 days advance payment for care.
- (11) witnessing a will in which an operator or caregiver or operator's or caregiver's family is a beneficiary.
- (12) requesting or requiring the Medicaid-funded residents to pay more than state authorized Medicaid rates.
- (13) perfecting or foreclosing a lien in violation of ORS Chapter 87.
- (14) theft or misuse of money or gifts intended for the residents.
- (15) charging excessive rates for care or services.

090-150 Operators, caregivers and any person with reasonable cause to believe that abuse, neglect or exploitation has taken place in an Adult Foster Home with a Limited License shall immediately make a report to the ACHP or a local law enforcement agency.

#### PART IX-L - INSPECTIONS - CORRECTION OF VIOLATIONS

#### L-891-100-100 INSPECTIONS

- 100-107 The ACHP may conduct unannounced inspections of an Adult Foster Home with a Limited License, in situations including but not limited to:
- (a) licensing inspections for new and renewal licenses.
  - (b) to determine if deficiencies noted in a home have been corrected.
  - (c) to monitor compliance with ACHP rules and standards.
  - (d) to monitor resident care.
  - (e) to determine if a home is operating without a license.
  - (f) whenever the ACHP receives a complaint of violations to the ACHP rules.
- 100-114 The operator will be given a copy of the licensing and monitoring Inspection Reports at the time of the inspection identifying any areas of non-compliance and specifying a time frame for correction set by the ACHP. The timeframe shall not exceed 60 days from date of inspection. The ACHP may follow up with an additional Licensing Report citing deficiencies and timeframes for corrections.
- 100-121 In the course of an investigation, the ACHP may require that an RN conduct an assessment of the nursing care needs of any residents of an Adult Foster Home with a Limited License to evaluate the level of nursing care required by the resident(s), and/or the ability of the operator/home, and/or the ability of personnel to be providing nursing care.
- 100-128 ACHP staff shall have full access and authority to examine and copy facility and resident records. The ACHP shall also have access to inspect the entire physical premises, including operator/family areas, including the buildings, grounds, equipment and any vehicles.
- 100-135 The ACHP inspection shall also include the private living area of the operator and caregiver and their families only to the extent to determine fire, sanitation and safety hazards or to respond to a specific complaint.
- 100-142 The ACHP shall have authority to interview, tape record and photograph operators, caregivers, residents, and other household members. Interviews shall be conducted in private and kept confidential. Any photos taken or tape recordings made during inspections and interviews may not be subject to public access if they include confidential information but may be used in enforcement hearings.
- 100-149 Operators must inform and authorize all caregivers of their duty to permit the ACHP to enter the home at any time to carry out inspections, interviews and monitoring.

- 100-156 The ACHP shall conduct unannounced inspections without advance notice to the operator or caregiver of the home. The ACHP shall not give advance notice of any inspection if the ACHP believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules. The ACHP may also conduct announced inspections.
- 100-163 If operators or caregivers deny the ACHP access for inspections or interviews, the ACHP shall inform the operator or caregiver of the requirements of the rules and may, if access is still denied, obtain a search warrant and impose administrative sanctions.
- 100-170 If an operator denies access to the home during an investigation of a complaint of abuse or neglect, the ACHP may obtain the help of law enforcement agents to gain immediate access to the home and residents.
- 100-177 ACHP inspectors shall respect the private possessions of operators, caregivers, residents and other household members when carrying out inspections.
- 100-184 Operators and caregivers shall permit state or local health and safety inspectors, Bureau of Buildings inspectors or other inspectors to enter and inspect the home.
- 100-191 The State Long Term Care Ombudsman or designee has access to all resident and facility records. This does not include Certified Ombudsman volunteers who only have access to facility records relevant to caregiving as well as resident records with written permission from the resident, the resident's family or legal representative.

**L-891-100-200 PROCEDURES FOR THE CORRECTION OF VIOLATIONS**

- 100-210 If the ACHP determines that there has been a violation of any ACHP rule, the ACHP shall notify the operator of:
- (a) the violation,
  - (b) the rule violated,
  - (c) correction procedures,
  - (d) timelines for correction of the problem, where applicable,
  - (e) a written warning or sanction, as needed, to protect the health, safety and welfare of residents,
  - (f) the right to an administrative conference,
  - (g) the right to a hearing if a sanction is imposed, and
  - (h) the right to request an exception as provided in MCAR L-891-030-100, if applicable.
- 100-220 Operators shall correct any violation as soon as possible but in no case beyond the timeline specified by the ACHP.
- 100-230 For violations that present an immediate threat to the health, safety or welfare of residents, the notice of violation shall order the operator to correct the violations

no later than 24 hours of the notice of violation. The ACHP shall inspect the home after the 24-hour period to determine if the violations have been corrected as specified in the notice of violation.

- 100-240 In cases other than those involving the health, safety or welfare of a resident, the ACHP shall prescribe a reasonable time for elimination of a violation but shall not exceed 30 days after notice of the violation except as provided in MCAR L-891-100-250.
- 100-250 If it is determined by the ACHP that the correction is not possible within 30 days, the ACHP may approve a reasonable time in excess of 30 days.
- 100-260 If there is an immediate threat to the residents, the ACHP may immediately suspend the license and make arrangements to move the residents.

## **PART X-L - COMPLAINTS**

### **L-891-200-100 COMPLAINTS AND COMPLAINT INVESTIGATIONS**

- 200-105 The ACHP shall provide the Adult Foster Home with a Limited License with a complaint poster that the operator shall post in a conspicuous place if required by the ACHP. The complaint poster shall list the ACHP telephone numbers and explain how to make a complaint.
- 200-110 The ACHP shall cause all complaint investigations to begin within two hours if the complaint alleges that a resident has been injured, abused or neglected, and that there is an immediate threat to any resident, or that a resident has died or been put in a hospital because of abuse or neglect.
- 200-115 The ACHP shall cause investigations of other complaints to begin by the end of the next working day or at a time appropriate to the nature of the complaint.
- 200-120 The ACHP shall take immediate actions to protect the health, safety and welfare of residents when the ACHP receives a complaint of abuse or neglect, regardless of whether the investigative report is completed, and whenever the ACHP finds that abuse or neglect is placing or could place a resident in danger or cause the resident physical or mental harm before the danger could be eliminated by regular enforcement procedures.
- 200-125 The ACHP shall cause all complaint investigations to be completed, including a written report, within 60 days unless a concurrent criminal investigation requires more time or unless the complaint investigation cannot be completed due to operator noncooperation or other circumstances beyond the ACHP's control.
- 200-130 The ACHP shall initiate appropriate action within 30 days of the completion of the investigative report.
- 200-135 If the ACHP cannot meet the time requirements in MCAR L-891-200-125 and MCAR L-891-200-130, Director of Aging Services or his/her designee may grant an extension to these requirements.
- 200-140 The ACHP's failure to meet the time frame guidelines in this section shall not affect the ACHP's ability to protect the health, safety and welfare of the residents.
- 200-145 The ACHP investigations shall include

- (a) unannounced visits to the home.
  - (b) observing, recording, photographing or copying of all relevant evidence.
  - (c) interviewing all available persons identified by any source as having relevant knowledge of circumstances about the complaint, including the alleged perpetrator(s) and alleged victim(s), if possible. Interviews shall be conducted in private and treated as confidential.
- 200-150 Complaint investigators shall interview the operator and shall advise the operator of the nature of the complaint and give the operator the opportunity to submit any relevant information.
- 200-155 The ACHP shall not to release information about the content of the complaint investigation until the complaint investigation is completed.
- 200-160 In investigation reports, the identity of the resident(s), the complainant, and any witnesses shall be kept confidential. The operator's name and name of any other person identified as the perpetrator of a rule violation is not confidential.
- 200-165 A report shall include: the operator's name and Adult Foster Home address, the investigator's name, observations, a review of relevant documents and records, a summary of witness statements, and a conclusion.
- 200-170 The investigative report shall list each allegation and shall state whether each allegation was found to be true. (more likely than not to have occurred or substantiated), found to be false (more likely than not to have not occurred or unsubstantiated), or found unable to be determined true or false (unable to substantiate).
- 200-175 The ACHP shall mail a copy of the completed investigative report within seven (7) days of completion to the following people:
- (a) the person who made the complaint, if known, unless the complainant requests anonymity.
  - (b) the resident(s) involved and any person designated by the resident to receive the information.
  - (c) the operator of the Adult Foster Home involved.
  - (d) the Long Term Care Ombudsman.
  - (e) the State Senior and Disabled Services Division.
- 200-180 The ACHP shall inform the persons receiving the complaint report of the right to give additional information about the report to the ACHP within seven (7) days of receipt.
- 200-185 The ACHP shall review responses and may reopen the investigation based on the new information.
- 200-190 The investigative report, and any responses shall become part of the public complaint file.

200-199 Any person shall have the right to inspect files of public complaint investigation reports and to make photocopies at reasonable cost.

**L-891-200-200 PROHIBITING RETALIATION AGAINST PERSONS MAKING COMPLAINTS**

200-210 The operator of an Adult Foster Home with a Limited License shall not retaliate against any resident after the resident or someone acting on his/her behalf has filed a complaint by increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the Adult Foster Home or by abusing or threatening to harass or abuse a resident in any manner.

200-220 An operator or other caregiver shall not retaliate against any complainant, witness or employee of an Adult Foster Home with a Limited License for making a report or being interviewed about a complaint or being a witness. Retaliation can include restriction of access to the home, to a resident, or dismissal or harassment of an employee.

200-230 The complainant shall have immunity from any civil or criminal liability with respect to the making or content of a complaint made in good faith. Immunity under this subsection does not protect self-reporting operators or caregivers from liability for the underlying conduct that is alleged in the complaint.

200-240 Operators and caregivers shall not make or cause to be made a bad faith complaint.

**PART XI-L - SANCTIONS**

**L-891-300-100 ADMINISTRATIVE SANCTIONS**

300-110 ACHP sanctions may include but are not limited to:

- (a) fines.
- (b) conditions on a license.
- (c) denial, suspension, revocation or non-renewal of a license.

300-120 The ACHP shall deny, revoke, or refuse to renew a license where it finds:

- (a) There exists a threat to the health, safety and welfare of any resident.
- (b) There is reliable evidence of abuse, neglect or exploitation of any resident.
- (c) There has been substantial non-compliance with these rules;
- (d) There is substantial non-compliance with local regulations and ordinances or any other state or federal law or rule applicable to the health and safety of residents and caring for residents in an Adult Foster Home.
- (e) The applicant or operator has been convicted of one or more crimes described in MCAR L-891-050-450 or MCAR L-891-050-455.
- (f) The operator knowingly employs caregivers, or allows household members, or

any other person (excluding the residents) to live in, work in, or be in the Adult Foster Home who have been convicted of one or more crimes as described in MCAR L-891-050-450.

(g) The applicant or operator provides false information regarding their criminal history.

(h) An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator and the time frame specified in the order revoking or denying the license has not passed.

(i) An Operator or applicant has failed to pass the Operator's Qualifying Test within the last twelve months.

300-130

The ACHP may impose sanctions if an applicant, operator, co-operator, or caregiver:

( 1) is not in compliance with the rules of the Adult Care Home Program.

( 2) is non-compliant with local codes, ordinances, state or federal law, or rules applicable to the care of residents of Adult Foster Homes with a Limited License.

( 3) has given fraudulent or misleading information to the ACHP or other government agency.

( 4) has a prior license denial, suspension, revocation or has been refused a license renewal in Multnomah County or any other county or state.

( 5) is associated with a person whose license for a foster home or residential care facility was denied, suspended, revoked or refused to be renewed due to abuse or neglect of the residents, creating a threat to the residents or failure to possess physical health, mental health or good personal character, unless the applicant or Operator can demonstrate to the ACHP by clear and convincing evidence that the person does not pose a threat to the residents. For purposes of this rule, an applicant or operator is "associated with" a person if the applicant or Operator:

(a) Resides with the person.

(b) Employs the person in the Adult Foster Home with a Limited License.

(c) Receives financial backing from the person for the benefit of the Adult Foster Home with a Limited License.

(d) Receives managerial assistance from the person for the benefit of the Adult Foster Home with a Limited License.

(e) Allows the person to have access to the Adult Foster Home with a Limited License.

(f) Rents or leases the Adult Foster Home with a Limited License from the person.

(6) has obstructed the investigation of a complaint, interview or any action meant to administer or enforce ACHP rules or laws.

(7) has accumulated a number of complaints that threaten the health, safety and welfare of residents.

(8) has a medical, psychiatric or psychological problem or an alcohol or drug use problem which interferes with the ability to provide good care or to operate an Adult Foster Home with a Limited License.

(9) has had a complaint, that upon initial review indicates evidence of immediate threat to the health, safety or welfare of residents.

(10) has knowingly failed to file an application or to report information required by the ACHP rules.

(11) has failed to pay a fine within time limits specified by the ACHP.

(12) has operated or continues to operate an unlicensed Adult Foster Home with a Limited License.

(13) fails to comply with an administrative sanction, including a condition imposed on a license.

(14) has previously surrendered a license while under investigation or administrative sanction.

(15) has denied access to ACHP staff to enter the home.

(16) such other circumstances as may be established by the ACHP.

**L-891-300-200**

**ACHP FINES**

300-210 The ACHP may levy fines against an operator who violates the Multnomah County Administrative Rules.

300-220 If an operator does not fully correct a violation which has resulted in a fine within the specified timeframe, the fines may be increased.

300-230 The ACHP shall consider the following factors in setting the fine amounts for specific rule violations:

(a) the degree of harm caused to residents, if any.

(b) whether the violation threatens or threatened the health, safety or welfare of residents.

(c) the seriousness, frequency and duration of the rules violation, and the violator's intent.

(d) past history of violations of rules or laws and corrections taken in response to rule violations.

- 300-240 The ACHP may levy fines of up to \$1000.00 for each separate violation including multiple violations of the same rule. The ACHP may levy additional fines up to \$250.00 per day up to \$1000.00 per violation for continuing violations until the violation is discontinued.
- 300-250 The ACHP shall impose a mandatory fine of not less than \$250.00 for an operator's failure to have an approved caregiver on duty 24 hours a day in the Adult Foster Home with a Limited License.
- 300-260 The ACHP shall impose a mandatory fine of not less than \$250.00 on an operator who admits a resident to the home knowing the resident's care needs exceed the operator's license classification.
- 300-270 The failure to pay a fine within time limits specified by the ACHP, shall result in an automatic penalty of up to \$250.00 per day to a maximum of \$1,000.00, until the fine and penalties are paid in full.
- 300-280 If the ACHP levies a fine against an operator, the ACHP shall give a notice to the operator that provides the following information:
- (a) the violation,
  - (b) a reference to the particular section of rule or statute involved,
  - (c) a brief statement of the circumstances of the violation,
  - (d) the amount of the fine,
  - (e) the date the fine is due,
  - (f) penalties if the fine is not paid,
  - (g) a notice that failure to pay the fine shall subject the violator to further legal action,
  - (h) a statement of the right to request a hearing, and
  - (i) that the notice will become a final order if no hearing is requested in twenty days.
- 300-290 An operator shall have twenty days from the date of the notice to request a hearing in writing. If a timely written request is not received, the fine shall become a final order.
- 300-299 Unless the fine is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the operator.

**L-891-300-300 CONDITIONS PLACED ON A LICENSE**

- 300-310 The ACHP shall have the authority to place conditions on a license that limit the scope of the license or impose additional requirements on the operator. License conditions are effective immediately and are the final order of the ACHP unless later rescinded through the hearings process.

- 300-320 The ACHP may place conditions on a license when the ACHP finds:
- (a) the operator is not in full compliance with ACHP rules
- and/or
- (b) a threat exists to the health, safety or welfare of the residents that may be remedied by placing a condition on the license.
- 300-330 Conditions on a license must directly relate to a risk of harm or potential harm to residents and may include but are not limited to:
- (a) restricting the total number of residents and occupants of the home.
  - (b) restricting the number of residents or impairment level of residents within a classification level whom the operator may care for.
  - (c) restricting the type of care the home may provide.
  - (d) requiring additional staff or staff qualifications to meet the resident's care needs.
  - (e) requiring additional training of operator/staff to meet specific resident care needs.
  - (f) restricting admissions due to failure of the operator to pass the qualifying test as required by these rules.
  - (g) restricting admissions when there is a threat to the current residents of the home and admitting new residents would compound that threat.
  - (h) restricting the opening of additional Adult Foster Homes.
  - (i) restricting the operator from allowing persons on the premises who may pose a threat to resident safety or welfare.
  - (j) requiring an operator to notify the ACHP when accepting a resident with skilled or continuous nursing care needs, or when a resident develops such needs.
  - (k) requiring an operator to contract with a registered nurse if one or more residents of an Adult Foster Home with a Limited License have nursing care needs.
  - (l) requiring that a resident with nursing care needs be relocated from an Adult Foster Home with a Limited License.
- 300-340 The ACHP may place conditions on a license for a specified period of time. At the end of that period, the ACHP shall determine if the conditions are still appropriate and may continue the conditions. The ACHP shall consider the reasons for the condition at the time of license renewal to determine if the conditions are still appropriate. The condition's effective date and expiration date shall be put on the license.
- 300-350 Operators may request that the condition be removed if the operator believes that the reason for the condition has been remedied.

**L-891-300-400      SUSPENSION**

- 300-410      If a license is suspended for reasons other than immediate threat to the health, safety or welfare of the resident(s), the Operator shall be entitled to a hearing preceding the effective date of the suspension if the Operator requests a hearing in writing within 20 days of the date of the notice. If no written request for a timely hearing is received, the ACHP shall issue a final order by default. The ACHP may designate its file as the record for purposes of default.
- 300-420      If the ACHP finds that there is an immediate threat to the health, safety or welfare of the residents, the ACHP shall issue a written order suspending the license effective immediately. A hearing shall follow the suspension if requested in writing by the Operator within 20 days of the order.
- 300-430      An Operator may also request an administrative review of an ACHP order to suspend their license based on immediate threat to the residents. If the ACHP receives such a request from the Operator in writing within 10 days of the order, the ACHP shall review the decision within five business days. This review shall be limited to the issue of whether the finding of immediate threat is supported by the evidence. The review shall include all materials related to the findings of immediate threat, including any written documentation submitted by the Operator. If the finding of immediate threat is supported, the suspension shall remain in effect.
- 300-440      If the ACHP does not sustain the finding of immediate threat, the suspension shall be lifted. A suspension may not be reimposed unless and until a final order has been issued pursuant to the hearing process in MCAR L-891-300-800 through MCAR L-891-300-891 or until the operator's right to request a hearing under these provisions has expired.
- 300-450      In the event the license is suspended or a threat to the resident safety is identified, the ACHP may notify the resident, the resident's family, the resident's legal representative, the case manager and other persons involved in resident care. For protection of the residents, the ACHP may arrange for them to move.

**L-891-300-500      REVOCATION/NON-RENEWAL/DENIAL**

- 300-510      The ACHP shall revoke a license if the conditions listed in MCAR L-891-300-120 are found to exist in the Adult Foster Home with a Limited License. The ACHP may revoke a license if the conditions listed in MCAR L-891-300-130 are found to exist in the Adult Foster Home with a Limited License.
- 300-515      Denial, non-renewal or revocation of a license by the ACHP shall be preceded by a hearing if requested by the operator, unless the license is denied, not renewed or revoked for the reason of an immediate threat to the life, health, safety or welfare of a resident. If an immediate threat exists, the denial, revocation or non-renewal shall be effective upon order of the ACHP. In this case, a hearing shall follow the denial, non-renewal or revocation if requested by the operator.
- 300-520      A license in the revocation or non-renewal process will remain in effect during an administrative hearing process even if the license expires before the hearing and/or a final order is issued unless the license is revoked or not renewed due to immediate threat to the resident(s).
- 300-530      If a license is revoked, not renewed or denied, the ACHP may arrange for

residents to move for their protection.

300-540 An operator whose license has been revoked or an applicant whose application has been denied shall not be permitted to make a new application for one year from the date the revocation or denial is final or for a longer period specified in the order revoking or denying the license.

**L-891-300-600 NOTIFICATION OF SANCTIONS**

300-610 The ACHP shall give operators written notice of any sanctions imposed. The ACHP shall deliver the notice in person or by certified or registered mail.

300-620 The notice of a sanction shall state:

(a) the sanction imposed, the reasons for the sanction, and a description of the circumstances of the violation.

(b) the rule(s) violated.

(c) the effective date of the sanction and the time frame for correcting the violation(s), if applicable.

(d) that the ACHP may impose additional sanctions, if applicable, if violations continue or reoccur.

(e) the availability of help relocating residents, if needed, and the operator's duty to help with any resident relocation.

(f) the right to appeal the ACHP order or sanction, and how to request a hearing.

(g) the authority for the hearing.

(h) that the ACHP files on the subject of the contested case automatically become part of the contested case record upon default for the purposes of proving a prima facie case.

(i) that the notice of the sanction shall become a final order if the operator does not request a hearing within the specified time.

300-630 A copy of the complaint investigation report or inspection report shall be attached to the sanction notice, if applicable, unless previously provided to the applicant or operator.

**L-891-300-700 ADMINISTRATIVE CONFERENCES**

300-710 The ACHP may require attendance by an operator at a conference prior to or as part of the imposition of a sanction. The purpose of the conference is to discuss the problems, rule violation(s) and/or sanctions, and review means to achieve satisfactory and timely compliance with the rules.

300-720 An operator may request an administrative conference at any time after notice of problems, rule violations or sanctions.

300-730 An operator's request for an administrative conference does not extend the effective date of a sanction or time limit for correction of a problem unless the

operator requests and the ACHP grants a change in the date the sanction shall be effective.

**L-891-300-800 HEARINGS**

- 300-807 If a license is denied, suspended, revoked or not renewed for reasons other than abuse, neglect or exploitation of a resident, the applicant or operator shall be entitled to a hearing preceding the effective date of the denial, suspension, revocation or non-renewal if the applicant or operator requests a hearing in writing within 20 days of the date of the notice. If no written request for a timely hearing is received, the ACHP shall issue the final order by default. The ACHP may designate its file as the record for purposes of default.
- 300-814 An Operator may appeal a sanction given by the ACHP. To appeal, the Operator must file a written request for a hearing with the ACHP within 20 days of the date of the notice except as provided in MCAR 891-300-290. The written request shall include the reason(s) for the hearing and the issues to be heard. If the timely request is not received, the ACHP's order shall become final. The ACHP may designate its file as the record for purposes of default. The ACHP may designate its file as the record for purposes of default.
- 300-821 For purposes of these rules, a hearing is defined as an administrative proceeding conducted by an independent hearing officer, with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.
- 300-828 Hearings shall be conducted by an independent hearing officer who shall hear witnesses, take in evidence presented and determine issues of fact and of law based on the evidence presented.
- 300-835 Hearings shall be conducted in accordance with these rules and with the Oregon Attorney General's Model Rules for contested case proceedings when these rules do not address a procedural issue. Any party may be represented by an attorney.
- 300-842 The ACHP shall provide copies of relevant correspondence, reports and other information to the hearings officer.
- 300-849 The entire proceeding shall be recorded by tape recorder or court reporter. The record will be transcribed only if a writ of review is filed pursuant to ORS 34.010 to ORS 34.100.
- 300-856 A party may receive a copy of the tape recording upon payment of copying costs. Costs of transcription of the court reporter's record shall be paid by the party requesting the transcript.
- 300-863 Evidence, including hearsay evidence, of a type commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be admissible in a hearing requested by an operator to appeal an administrative sanction or an order disapproving an eviction or in a hearing requested by a resident or person acting on a resident's behalf to contest an eviction. There are four types of admissible evidence:

(a) Knowledge of the agency. The Director of Aging Services or any authorized representatives may take "official notice" of conclusions developed in an investigation as a result of intensive experience of the agency in its specialized field of activity. This includes judgments based upon investigation findings, as

well as notice of a technical and scientific nature. Such notice shall be so indicated in the proceedings.

(b) Testimony of witnesses, including the parties, about the matter in dispute. Any witness testifying is subject to cross examinations by other parties and the hearings officer.

(c) Written or visual material. This material includes complaints, reports, notices, letters, other records, notes, maps, diagrams and other written or visual material. Such material may include signed written statements and videotaped interviews of parties or witnesses not present at the hearing.

(d) Experiments, demonstrations and similar means used to prove a fact.

300-870 Once a hearing is concluded, there shall be no continuance or reopening of the hearing to offer additional evidence unless any party can show that the additional evidence was not known to the party at the time of the hearing and that reasonable diligence would not have discovered the evidence prior to the conclusion of the hearing.

300-877 In reaching a decision, the hearings officer shall only consider evidence which has been admitted, and shall evaluate the weight of all such evidence in light of the presentations of the parties during the hearing.

300-884 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's imposition of an administrative sanction or an order disapproving an eviction or may approve, conditionally approve, or disapprove an eviction. Nothing in this section shall prevent the hearings officer from remanding the matter to the ACHP following the conclusion of the hearing and prior to issuing an order for the ACHP's review and recommendation in light of evidence presented. The final order shall be issued by the hearings officer not later than 45 days after the termination of the hearing. The final order is effective when issued. The final order shall notify the operator of the right to appeal to the Circuit Court under ORS 34.010 to ORS 34.100.

300-891 Review of the hearing officer's final order shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to ORS 34.100.

**L-891-300-900 CRIMINAL PENALTIES**

300-910 Operating an Adult Foster Home without a license is punishable as a Class C misdemeanor.

300-920 Refusing to allow access and inspection of a home by ACHP staff or for state or local fire inspections is a Class B misdemeanor.

300-930 The ACHP may ask a court to prohibit a person from:

(a) operating an Adult Foster Home without a license.

(b) operating an Adult Foster Home after notice of license suspension or revocation and after a reasonable amount of time has been given for placement of residents in other homes or facilities but placement has not been accomplished.

**PART XII-L - PUBLIC INFORMATION**

**L-891-400-100 PUBLIC INFORMATION ABOUT Adult Foster HomeS WITH A LIMITED LICENSE**

- 400-110 The ACHP shall maintain current information about all licensed Adult Foster Homes in Multnomah County. The ACHP shall make all information that is not confidential available to prospective residents and members of the public.
- 400-120 The information in the public file shall include:
- (a) the location of the Adult Foster Home and the name and mailing address of the operator if different.
  - (b) the Adult Foster Home license and an example of the private pay or Medicaid contract.
  - (c) the date the operator was first licensed to operate the home and the home's license classification.
  - (d) the date of the last licensing inspection and fire inspection, the name and telephone number of who performed the inspection, and a summary of the inspection findings.
  - (e) copies of all non-confidential portions of complaint investigations filed by home and date, ACHP findings and actions taken by the ACHP, and responses of the operator or person making the complaint, if any.
  - (f) any conditions placed on the license, license suspensions, denials, revocations, fines, rule exceptions granted, or other current ACHP actions involving the home.
  - (g) whether care in the home is given primarily by the licensed operator or by some other arrangement.
  - (h) a brief description of the physical characteristics of the home.
- 400-130 The registry maintained by the Adult Care Home Program shall be regularly updated to indicate homes which have been issued a regular, limited, conditional or provisional license, homes which have been issued a renewal license, and homes which have newly applied for a license. This registry shall be available to the public upon request.
- 400-140 Any list of Adult Foster Homes maintained or distributed by the ACHP shall include the number of substantiated complaints for each of the Adult Foster Homes for the lesser of the preceding five years or the period beginning January 1, 1992.
- 400-150 The ACHP shall report on a quarterly basis to SDSD the number of exceptions for residents whose care needs exceed the classification of the home granted during the preceding quarter.
- 400-160 The ACHP will make every effort to ensure that public file information is as user friendly and easy to read as possible.

## PART XIII-L - DEFINITIONS

The terms used in the ACHP Administrative Rules are defined as follows. All terms are listed alphabetically.

### **ACHP** - Adult Care Home Program

**Abuse** - Abuse of an Adult Foster Home resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident. This includes withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, care or services necessary to ensure the health, safety and welfare of residents.

**Activities of Daily Living (ADL)** - Those personal functional activities required by an individual for continued well-being including eating/nutrition, dressing, personal hygiene, mobility, toileting and behavior management. See Appendix I-L.

- (a) "Independent" means the resident can perform the ADL without help.
- (b) "Assistance" means the resident is able to do part of an ADL, but cannot do it entirely alone.
- (c) "Dependent" means the resident is unable to do any part of an ADL, it must be done entirely by someone else.

**Adult Care Home (ACH)** - Any home or facility that provides room and/or board and/or care for compensation to persons who are not related to the operator by blood, adoption or marriage except as provided in MCAR L-891-020-140. For the purpose of this rule, adult care home does not include any house, institution, hotel or other similar living situation that supplies room and board only, or room only, or board only, if no resident thereof requires any element of care. Adult Foster Homes are classified as Class I, II or III. The Adult Care Home Program licenses three types of homes. The categories of adult care homes licensed by the ACHP include Adult Foster Homes, Adult Foster Homes with a Limited License, and Room and Board Facilities.

**Adult Care Home Program (ACHP)** - The regulatory part of the Aging Services Department of Multnomah County, Oregon, that oversees the enforcement of ACHP rules in adult care homes in Multnomah County.

**Adult Foster Home** - Any home or facility that provides residential care for compensation to five or fewer persons who are not related to the operator by blood, adoption or marriage except as provided in MCAR L-891-020-140. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. Twenty-four hour supervision is required.

**Adult Foster Home with a Limited License** - A home or facility that provides residential care for compensation to only a specific individual(s) who is not related to the operator by blood, adoption or marriage. Twenty-four hour supervision is required.

**Advance Directive** - The legal document signed by the resident giving instructions for health care should he/she no longer be able to give directions regarding his/her wishes. The directive gives the resident the means to continue to control his/her own health care in any circumstances.

**Applicant** - Any person who submits a completed set of application materials to the ACHP to obtain a license to operate an Adult Foster Home in Multnomah County and who is owner of the business.

**ASD** - Aging Services Division, A Multnomah County office responsible for a variety of social services provided to elderly persons and persons with disabilities residing in Multnomah County.

**Behavioral Interventions** - Those interventions which will modify the resident's behavior or the resident's environment.

**Board** - The operator's provision of meals to a resident on a predictable and/or regular basis.

**Board of Nursing Rules** - The standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR Chapter 851, Division 45 (page 33).

**Care** - The provision of room, board, services and assistance with activities of daily living, such as assistance with bathing, dressing, grooming, eating, money management, recreation or medication management, except that assistance with self-medication is not included as part of care for purposes of these rules. Care also means services that encourage maximum resident independence and enhance quality of life.

**Care Plan** - The written description of a resident's needs, preferences, and capabilities, including by whom, when and how often care, services, and/or supervision will be provided. Care plan includes ISP (Individual Service Plan) and Mental Health Care Plan.

**Caregiver** - Any person responsible for providing supervision, care and services to residents of an Adult Foster Home under the jurisdiction of the ACHP other than the operator who is approved by the ACHP.

**Case Manager** - A person employed by the Aging Services Division or other social service agency who oversees the care and service provided to a resident from various social and health care services.

**Classification** - The ACHP's determination during licensure of what level of care an Adult Foster Home may provide. The ACHP classifies Adult Foster Homes as Class I, II or III homes. Note: Room and Board facilities and Adult Foster Homes with a Limited License are not classified as Class I, II or III.

**Client** - A resident in an Adult Foster Home for whom SDSD or MHDDSD pays for care or for whom case management services are provided.

**Clutter** - An accumulation of material which impedes or obstructs a person's progress through a room, restricts use of a room and which may present a fire or safety hazard.

**Cognitive** - Pertaining to the mental state and thought and deliberative processes of the mind.

**Compensation** - Payments in cash, in-kind, or in labor, by or on behalf of a resident to an operator or common fund in exchange for room and/or board and/or care and/or services, including any supervision, care and services specified in the care plan. Compensation does not generally include the voluntary sharing of expenses between or among roommates.

**Complaint** - An allegation that an operator has violated these rules or an expression of dissatisfaction relating to the condition of the Adult Foster Home or the resident(s).

**Compliance** - Meeting the requirements of ACHP rules, orders, or any applicable laws, codes, regulations or ordinances.

**Conditions** - Restrictions or additional requirements placed on a license by the ACHP as a sanction.

**Co-operator** - Co-operator is synonymous with operator as both are equally responsible for the home.

All co-operators shall meet all qualifications and standards for an operator.

**Criminal History** - Records and related data, including fingerprints, received, compiled, and disseminated by the Oregon State Police and any other local and national law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and pertaining to such persons records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release.

**Day Care Resident** - A resident who receives care, assistance, and supervision but who does not stay overnight.

**Delegation** - The process by which a registered nurse teaches and supervises a skilled nursing task.

**Department** - Multnomah County Aging Services Division

**Director** - The Director of the Department of Aging Services of Multnomah County, Oregon, or his or her designee.

**Disabled** - A person with physical, cognitive or emotional impairment which limits the person in one or more activities of daily living.

**Discrimination** - Differential treatment or denial of normal privileges to persons because of their race, age, sex, sexual orientation, nationality or religion.

**Elderly Person or Aged** - Any person age 65 or older who is in need of care.

**Exitway** - A continuous and unobstructed path of travel, separated by other spaces of the home by a fire or smoke barrier, through which a person can safely exit to the outside of the home. This includes room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

**Family Member** - For the purposes of these rules, a husband, wife, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

**Fire Barrier** - A continuous surface, such as a wall, ceiling or floor, designed to limit the spread of fire and restrict smoke movement, including doors which are tight fitting solid core wood, and which are equipped with a closing device such as spring loaded hinges and which meet all applicable laws, codes and rules.

**Flame Spread Rating** - A measure of how fast flames will move across the surface of a material. (See Appendix II.)

**Frequent** - One or more times in a seven day period of time.

**Hearing** - An administrative proceeding conducted by an independent hearing officer with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

**Home** - The physical structure in which residents live. Synonymous with Adult Foster Home.

**Homelike** - A friendly, safe, secure environment where the atmosphere of the Adult Foster Home is more like a home than a medical facility, where the resident's dignity and rights are respected, interaction between members of the home is encouraged, and the resident's independence and decision-making is protected and encouraged.

**House Rules** - An operator's written rules about the home's policies, including but not limited to visiting hours, smoking, telephone use, pets and other matters, all subject to ACHP approval and consistent with ACHP rules.

**Immediate Threat (Imminent Danger)**- A danger which could reasonably be expected to cause death, or to cause harm to a person's physical or mental well-being as a result of abandonment, abuse, neglect, exploitation, hazardous conditions, or threatening behavior, or to pose a threat to the life, health, safety or welfare of residents, caregivers or other occupants in the immediate future, or before such danger could be eliminated through the regular enforcement procedures.

**Inspection** - An on-site evaluation of the physical environment and related records of an Adult Foster Home in order to determine whether the facility is in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint.

**Interview** - An evaluation of the operator, caregivers, occupants, social environment, operations, and related records of an Adult Foster Home in order to determine whether the operator and other caregivers, and their training, practices, and care, are in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint, or in order to determine if a resolution can be achieved without a hearing when a hearing has been requested to contest an eviction.

**Investigation** - The ACHP's process of finding out whether or not a violation of ACHP rules has occurred through interviews, on-site visits and other methods of inquiry.

**Legal Representative** - A person who has the legal authority to act for the resident. On matters involving care, this is a legal guardian, a health care representative under an Advance Directive, or Power-of Attorney for Health Care. On financial matters, this is a legal conservator, an agent under a power of attorney, or a representative payee.

**Long Term Care Assessment Form** - The form provided by the ACHP and signed by a resident who privately pays for care that he/she has been advised that he/she may have an assessment at no charge to provide the individual with his/her placement options. The operator shall maintain a copy of the form in the resident records.

**MCAR(s)** - For the purpose of this document, MCAR(s) refers to Multnomah County Administrative Rule(s) for Licensure of Adult Care Homes.

**Medical Emergency** - A change in medical condition that requires immediate care of a level or type that the operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the home.

**Neglect** - Neglect of an Adult Foster Home resident means any action or inaction which causes or threatens to cause physical or mental harm to a resident. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an operator, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill. In these rules, neglect is addressed under Abuse.

**Non-injectable Medications** - Pills, ointments, suppositories, narcotics, controlled substances, over the counter medications, and any treatments or therapies. Such medications do not include moisturizing lotions or medicated shampoos.

**Nurse** - A person licensed to practice nursing by the Oregon State Board of Nursing as a Practical Nurse (LPN), Registered Nurse (RN), and an RN certified as a Nurse Practitioner, under authority of

ORS Chapter 678 in accordance with OAR Chapter 851.

**Nursing Assistant** - A person who assists licensed nursing personnel in the provision of nursing care and who has been certified by an approved training program in accordance with rules adopted by the Oregon State Board of Nursing in OAR Chapter 851. Nursing assistants may be known as, but are not limited to, Certified Nurses Aide (CNA), a nurses aide, home health aide, geriatric aide, or psychiatric aide.

**Nursing Care** - The practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are taught or delegated under specified conditions by a registered nurse to persons other than licensed nursing personnel, which is governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

**Occupant** - Anyone residing in or using the facilities of the Adult Foster Home including all residents, operators, caregivers, friends or family members, day care persons, and boarders.

**Ombudsman** - The State Long-Term Care Ombudsman or an individual designee appointed by the Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of the Adult Foster Home residents.

**Operator** - The person licensed by the ACHP to operate the Adult Foster Home who has overall responsibility for the provision of residential care, who meets the standards outlined in these rules and who has been approved by the ACHP.

**Senior and Disabled Services Division (SDSD)** - A division of the Department of Human Resources for the State of Oregon.

**Physical Restraint** - Any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, the resident's body which the resident cannot easily remove and restricts freedom of movement or normal access to his/her body. Physical restraints include, but are not limited to, leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, any chair that prevents rising, and gerichairs. Side rails (bed rails) are considered restraints when they are used to prevent a resident from getting out of a bed. When a resident requests a side rail (e.g. for the purpose of assisting with turning), the side rail is not considered a restraint.

**Physician** - A person who has been licensed to practice medicine by the Oregon State Board of Medical Examiners, under authority of ORS Chapter 677.

**Point of Safety** - For the Purpose of these rules, a location which is away from the building and away from the fire area.

**P.R.N. (pro re nata) Medications and Treatments** - Those medications and treatments which have been ordered by a qualified practitioner to be given as needed.

**Provisional License** - A 60-day license issued to a qualified person in an unforeseen emergency situation when the licensed operator is no longer overseeing the operation of the Adult Foster Home. A person must meet the standards of these rules except for completing the training and testing requirements.

**Psychoactive Medications** - Various medications used to alter mood, anxiety, behavior or cognitive processes. For the purpose of these rules, they include, but are not limited to, antipsychotics, sedatives, hypnotics, and antianxiety medications.

**Relative** - See Family Member

**Relative Foster Homes** - Homes licensed by the State of Oregon that provide care to elderly family members or family members with disabilities eligible for State Medicaid assistance. The ACHP does not license relative foster homes in Multnomah County.

**Reside** - To make the home a person's residence on a frequent or continuous basis.

**Resident** - Any person who is receiving room, board, care, and services for compensation in an Adult Foster Home on a 24-hour basis.

**Resident Rights** - Civil, legal or human rights, including but not limited to those rights listed in the Adult Care Home Residents' Bill of Rights.

**Residential Care** - The provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management.

**Respite Resident** - A person who receives residential care for a period of 14 days or less or who only stays overnight.

**Restraints** - Any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, or sleeping medications). Chemical restraints are those that limit movement or physical functioning. Restraints may not be used in a Class I home.

**Retaliation** - Increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the facility or by abusing or threatening to harass or abuse a resident in any manner.

**Room** - The provisions of a place for a person to sleep on a regular basis.

**Room and Board** - The provision of meals, a place to sleep, laundry and housekeeping for compensation to persons who do not need activities of daily living care services.

**Room and Board Facility** - A home or facility that provides only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the operator by blood, adoption or marriage and which provides no residential care except medication management and money management. Less than 24 hour supervision may be provided. Part XVI of these rules sets out the provisions for licensure of a room and board facility.

**Self Administration of Medication** - The act of a resident placing a medication in or on his/her own body. This means the resident manages and takes his or her own medications, in that the resident identifies the medication and the times and manners of administration, and places the medication internally or externally on his/her own body without assistance.

**Self Preservation** - In relation to fire and life safety, the ability of residents to respond to an alarm without additional cues and to reach a point of safety on their own.

**Services** - Living accommodations and meals provided by the operator and non-care related tasks such as housekeeping, laundry, transportation or recreation performed by an operator or employee for the benefit of the residents.

**Sexual Exploitation** - See MCAR L-891-090-140 - Sexual Abuse and Exploitation

**Shall - Must.**

**Smoke Barrier - See Fire Barrier.**

**Substitute Caregiver - Any Person responsible for providing supervision, care and services to residents of an Adult Foster Home under the jurisdiction of the ACHP other than the operator who is approved by the ACHP.**

## **PART XIV-L - APPENDICES**

## APPENDIX IV-L - ACTIVITIES OF DAILY LIVING

Activities of daily living are those personal functional activities required by an individual for continued well-being, i.e., Eating, Dressing, Personal Hygiene, Mobility, Bowel and Bladder Control, and Behavior Management. Each prospective or current resident must be evaluated as either dependent, assistance or independent for each activity of daily living.

1. EATING/NUTRITION (When used in connection with this ADL.)
  - (a) Dependent person means a person needs to be fed virtually all foods and fluids.
  - (b) Assistance person means a person can maintain an adequate food and fluid intake according to their dietary needs with only minimal or substantial assistance.
  - (c) Independent person means a person eats without assistance and can maintain an adequate food and fluid intake according to their dietary needs with or without mechanical aids.
  
2. DRESSING (When used in connection with this ADL.)
  - (a) Dependent person means the person is substantially unable or unwilling to assist in getting dressed and undressed or in staying dressed.
  - (b) Assistance person means the person needs minimal or substantial assistance in selecting appropriate clothing, tying shoes, fastening buttons, etc..
  - (c) Independent person means the person is able to dress, select clean and appropriate clothing, tie shoes, fasten buttons, etc..
  
3. PERSONAL HYGIENE (Daily bathing, shaving, oral care and grooming hair.) (When used in connection with this ADL.)
  - (a) Dependent person means the person is unable to do any activity associated with personal hygiene.
  - (b) Assistance person means the person needs minimal or substantial assistance with activities associated with personal hygiene and is able to partially bathe self.
  - (c) Independent person means the person does personal hygiene activities without assistance, with mechanical aids if needed.
  
4. MOBILITY (When used in connection with this ADL.)
  - (a) Dependent person means the person is unable to move from one place to another without depending on another person to move them.
  - (b) Assistance person means the person controls and moves extremities but needs minimal or substantial assistance changing position or sitting in a wheelchair. The person may be able to walk or transfer with the help of another, including going to bathroom or commode.
  - (c) Independent person means the person controls movement at will, may need devices to lift, turn, pull, balance and sit up. The person can also rise from bed and can get from one place to another without help from another person.

5. BOWEL AND BLADDER (The ability to get to or from bathroom or commode relates to mobility, rather than toileting.) (When used in connection with this ADL.)
- (a) Dependent person means a person does not demonstrate bowel and/or bladder control and cannot manage own cleanliness or external care of a catheter or appliance.
  - (b) Assistance person means a person has occasional loss of bowel and/or bladder control and cannot manage own clean-up or external care of a catheter or appliance and requires minimal or substantial assistance.
  - (c) Independent person means a person is continent or, if incontinent, can manage personal clean-up, or can manage external care of catheter or appliances.
6. BEHAVIOR (Behavior includes money management and medication management and the response to the environment and is not included in any of the other activities of daily living.) (When used in connection with this ADL.)
- (a) Dependent person means a person cannot interact with persons or the physical environment or take medications appropriately or manage their own money without at least daily behavior monitoring to intervene or prevent extreme behavior.
  - (b) Assistance person means a person who does not always interact appropriately with other persons, take medications appropriately or manage their own money and may be withdrawn, afraid, or insecure and require minimal or substantial assistance from others.
  - (c) Independent person means a person interacts with persons and physical environment, take medications appropriately or manage their own money without the need for behavior monitoring by others.

To be included in the final set of rules.

# **PART XVI - ADMINISTRATIVE RULES FOR ROOM AND BOARD FACILITIES**

Contact the ACHP at 248-3000 if you wish to obtain a copy of these rules.



**MULTNOMAH COUNTY**  
**AGING SERVICES DEPARTMENT**  
**ADULT CARE HOME PROGRAM**

**ADMINISTRATIVE RULES**  
**FOR**  
**LICENSURE OF ADULT CARE HOMES**  
**(Room and Board Facilities)**

**FILED June 28, 1996**

If you have questions, please contact:

Adult Care Home Program  
421 SW 5th Avenue  
Room 405  
Portland, Oregon 97204-2221  
Telephone: 503-248-3000

## INTRODUCTION

The Multnomah County Administrative Rules for Adult Care Homes govern the licensing and operation of Adult Care Homes in Multnomah County, Oregon. The Adult Care Home Program (ACHP) licenses Adult Care Homes and enforces the rules.

Multnomah County is an exempt county as determined by the State Department of Human Resources, Senior and Disabled Services Division. An exempt county provides a program for licensing and inspection of Adult Care Homes which is equal to or exceeds the requirements of ORS 443.705 to ORS 443.825. Exempt county licensing rules must be submitted to the Director of Senior and Disabled Services Division for review and approval prior to implementation. Multnomah County has been designated as such an exempt area on the basis of the Adult Care Home Licensure Ordinance and these rules.

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**891-005-100      AUTHORITY FOR AND JURISDICTION OF ADULT CARE HOME PROGRAM (ACHP) RULES**

005-110      These rules are authorized by MCC 8.90.025, pursuant to the procedures set forth in MCC 8.90.160 through 8.90.260.

005-120      These rules are necessary for the administration and enforcement of the Multnomah County Adult Care Home Licensure Ordinance, found in Chapter 8.90 of Title 8 of the Multnomah County Code, Section 5.700 of Chapter 5 of the Code of the City of Gresham, Chapter 8.95 of Title 8 of the Code of the City of Portland, and Chapter 7.020 of Title 7 of the Code of the City of Troutdale.

005-130      These rules shall apply to all Adult Care Homes operating within Multnomah County.

**891-010-100      PURPOSE OF THE ADULT CARE HOME RULES**

010-110      These rules set forth the standards and requirements governing Adult Care Homes and are necessary to protect the health, safety and welfare of the residents of Adult Care Homes in Multnomah County. These standards and requirements shall be consistent with the homelike atmosphere required in Adult Care Homes.

010-120      Operators, Resident Managers and caregivers of Adult Care Homes shall abide by the terms of the Multnomah County Administrative Rules.

010-130      The goal of adult foster care is to provide necessary care while emphasizing the resident's independence. To reach this goal, the care provider and the resident, resident's family member or resident's legal representative shall cooperate to protect and encourage the resident's dignity, choice and decision-making. Resident needs will be addressed in a manner that supports and enables the individual to maximize abilities and function at his/her highest level of independence.

**891-015-100      PURPOSE OF THE ADULT CARE HOME PROGRAM (ACHP)**

The Adult Care Home Program (ACHP) has developed standards for Adult Care Homes and the rules to be used in enforcing these standards in consultation with Operators, advocates for residents, experts in the field and others. The purpose of the Adult Care Home Program, in relation to the Multnomah County Code and these rules, is:

(a) To ensure that Adult Care Home residents are cared for in a homelike atmosphere which is friendly, safe, and secure; where the atmosphere is more like a home than a medical facility, where the resident's dignity and rights are respected, where positive interaction between members of the home is encouraged, and where the resident's independence and decision-making are protected and encouraged.

(b) To enforce the Multnomah County Administrative Rules (MCAR's) in order to protect the health, safety and welfare of residents of Adult Care Homes.

(c) To enforce the MCAR's to ensure an appropriate physical environment and at least a minimum standard of care in each home.

(d) To ensure that the public has access to the information necessary to select an appropriate Adult Care Home.

## 891-018-100 RESIDENTS' BILL OF RIGHTS

Each resident of an Adult Care Home in Multnomah County has a right to:

- (a) be treated as an adult with respect and dignity.
- (b) live in a safe, secure, homelike environment.
- (c) be informed of all resident rights and house rules.
- (d) be encouraged and assisted to exercise rights as a citizen, including the right to vote and to act on his or her own behalf.
- (e) be given information about his or her medical condition.
- (f) consent to or refuse treatment, medication or training.
- (g) have all medical and personal information kept confidential.
- (h) receive appropriate care and services from the Adult Care Home and access to prompt medical care as needed.
- (i) be free from mental or physical abuse, neglect, abandonment, punishment, harm or sexual exploitation.
- (j) be free to make suggestions or complaints without fear of retaliation.
- (k) be free from financial exploitation, including charges for application fees or nonrefundable deposits and solicitation, acceptance or receipt of money or property by an Operator, Resident Manager or caregiver other than the amount agreed to for services.
- (l) be free from physical or chemical restraints except as ordered by a physician or qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not used for discipline or convenience.
- (m) be free from any type of illegal discrimination.
- (n) be afforded personal privacy, the opportunity to associate and communicate privately with any person the resident chooses, to send and receive mail unopened, and to use the telephone in private.
- (o) participate in social, religious, and community activities.
- (p) to make personal decisions about such things as friends, leisure activities, choice of physician, spending personal money, food, personal schedules, and place of residence.
- (q) be allowed and encouraged to develop talents and learn new skills, relate to other residents in meaningful ways, and the choice to take part in the normal activities and upkeep of the home.
- (r) keep and use a reasonable amount of personal clothing and other belongings, and have a reasonable amount of private, secure storage space.

- (s) be free to manage financial affairs unless legally restricted.
- (t) receive a written agreement regarding the services the home shall provide and rates charged, and receive at least thirty days written notice before the home's ownership or rates change.
- (u) receive at least thirty days written notice from the Operator and an opportunity for a hearing before being involuntarily transferred or moved out of the home by an Operator, unless there is an emergency situation.
- (v) be involuntarily moved out of the home by an Operator only for the following:
  - (1) medical reasons;
  - (2) the resident's welfare;
  - (3) the welfare of other residents;
  - (4) nonpayment;
  - (5) behavior which poses an immediate threat to self or others;
  - (6) behavior which substantially interferes with the orderly operation of the home;
  - (7) the care needs of the resident exceed the ability or classification of the Operator;  
or
  - (8) the home is no longer licensed.
- (w) receive complete privacy when receiving treatment or personal care.
- (x) receive visitors free from arbitrary and unreasonable restrictions.
- (y) practice the religion of his/her choice.
- (z) not be forced to work against his/her will and to be paid for agreed upon work.

# **PART XVI - ADMINISTRATIVE RULES FOR ROOM AND BOARD FACILITIES**

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## PART I-R - LICENSING AND APPLICATIONS

### R-891-020-100 GENERAL REQUIREMENTS

- 020-110 A license is required for all Operators of Adult Care Homes located in Multnomah County in accordance with the Multnomah County Code and Administrative Rules for Adult Care Homes. The Multnomah County Adult Care Home Program shall license three different types of Adult Care Homes. They are:
- (a) Adult Foster Homes;
  - (b) Adult Foster Homes with a Limited License;
  - (c) Room and Board Facilities.
- 020-120 An Adult Foster Home license is required (except as provided in MCAR 891-020-150) for any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the adult foster home when one or more residents are present or are expected to be present in the home.
- 020-130 An Adult Foster Home Limited License is required for all homes or facilities that provide residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. The Operator, approved Resident Manager or approved substitute caregiver shall provide supervision 24 hours per day in the adult foster home when one or more residents are present or are expected to be present in the home. Part XV of these rules sets out the provisions for licensure of an adult foster home with a limited license.
- 020-140 A Room and Board License is required for homes or facilities that provide only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provides no services except medication management and money management. The Operator, approved Resident Manager or approved substitute caregiver do not have to provide supervision 24 hours per day in the Room and Board Facility when one or more residents are present or are expected to be present in the home. Part XVI of these rules sets out the provisions for licensure of a Room and Board Facility.
- 020-150 An Adult Care Home license is not required for the following:
- (a) A home or facility, including but not limited to residential care facilities, specialized care facilities, and long term care facilities licensed by the State of Oregon in accordance with ORS 443.400 to ORS 443.455 or any other governmental agency.
  - (b) A relative foster home licensed or registered by another agency to provide care to family members eligible for State Medicaid assistance.

(c) Any other house, institution, hotel or other similar living situation that supplies:

(A) room only; or

(B) where no elderly persons or persons with disabilities reside who are provided any element of residential care for compensation.

(d) A facility where all residents are related to the Operator by blood or marriage.

(e) A facility where all residents are under age 18.

020-160 Compensation includes any sort of payment to the Operator, including in-kind payment or services.

**R-891-020-200 GENERAL CRITERIA FOR ROOM AND BOARD FACILITY APPLICATION PACKETS**

020-204 Room and Board Facility application packets shall be in writing on ACHP forms, completed and submitted by the person requesting to be licensed as the Operator and who is responsible for the operation of the facility.

020-208 Each Co-Operator shall complete all application packet forms. The term Co-Operator is synonymous with Operator as both are equally responsible for the home. Co-Operators shall meet all qualifications and standards for an Operator.

020-212 Application packets for a Room and Board Facility which has a Resident Manager shall include all required information about the Resident Manager.

020-216 A separate application packet is required for each location where a Room and Board Facility is operated.

020-218 Operators of Room and Board Facilities shall obtain any applicable business license.

020-220 The ACHP will not process license applications until a complete application packet is received by the ACHP.

020-224 After the ACHP receives a completed application packet and the required fee, the ACHP shall review the application packet, investigate criminal records, order appropriate inspections, carry out interviews with the applicant(s), check references and inspect the Room and Board Facility to determine compliance with ACHP rules.

020-226 As part of the application process, the ACHP may request inspections of the Room and Board Facility from local fire department representatives, the County sanitarian, City building and electrical inspectors, and other persons as determined necessary by the ACHP.

020-228 The ACHP shall grant or deny a license to an applicant within 60 days of the date the ACHP receives a complete application packet.

020-232 The ACHP shall issue a license if the Room and Board Facility and Operator, Resident Manager and service givers are in compliance with these rules and have cooperated in the application process.

- 020-236 Application packets are void 60 days from the date any portion of the application packet and/or fee(s) are received by the ACHP if the application packet is not complete.
- 020-240 Failure to provide accurate and complete information may result in denial of the application.
- 020-244 An applicant shall state the maximum capacity requested including the number of room and board occupants and relatives needing services. The application form shall also include the total number of other occupants in the Room and Board Facility.
- 020-248 The ACHP shall determine the maximum capacity of the Room and Board Facility during the licensure process.
- 020-252 An applicant shall state on the application information and provide supporting documentation regarding qualifications, relevant work experience and training of staff as required by the ACHP.
- 020-264 Applicants may withdraw applications at any time during the licensure process by notifying the ACHP.
- 020-268 Applicants may receive a refund of application fees if the application is withdrawn before any of the ACHP required inspections are completed.
- 020-272 The ACHP shall not refund application fees if an application is denied after the ACHP home inspection is completed.
- 020-276 The ACHP shall credit fees toward the Operator's future license application if the home is licensed for fewer beds than the applicant paid for at the time of application.
- 020-280 An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator, shall not be permitted to make a new application for one year from the date the revocation, surrender, or denial is final, or for a longer period if specified in the order revoking or denying the license.
- 020-284 Information from a previous license or application shall be considered in processing a later application.
- 020-288 A license is void immediately upon issuance of a final order of revocation, a voluntary surrender by the Operator, or a change of ownership or location of the home. A void license shall be returned to the ACHP.
- 020-292 The ACHP shall not license an Operator who does not fully control all of the following:
- (a) hiring and firing of all the facility's personnel;
  - (b) admission, discharge and transfer of any resident;
  - (c) daily operation of the Room and Board Facility.

**R-891-020-300 GENERAL CRITERIA FOR Room and Board Facility STAFF**

- 020-310 No person may be an Operator, Resident Manager, service giver or substitute service giver or otherwise be employed by the Operator or reside in or on the property of a Room and Board Facility, or be in the facility on a frequent basis, except for the resident or members of the resident's family, who have not met the requirements of the criminal record section of these rules or who have been found responsible for a disqualifying type of abuse.
- 020-320 The ACHP may prohibit any person from working or being in a Room and Board Facility if the ACHP finds that his/her presence would jeopardize the health, safety or welfare of the resident(s) in the facility.
- 020-330 Operators shall insure that all Resident Managers and service givers who work in the Room and Board Facility have the necessary skills and experience to meet the needs of the residents.
- 020-340 If Operators, Resident Managers and service givers do not meet the standards for Operators, Resident Managers and service givers in MCAR R-891-050-100 through MCAR R-891-050-975, the ACHP shall deny the application of each individual.

**R-891-020-400 GENERAL CRITERIA FOR THE ROOM AND BOARD FACILITY LICENSE**

- 020-406 The ACHP shall have the authority to issue a Room and Board Facility license to an approved applicant. The ACHP shall not issue a license unless the applicant and Room and Board Facility are in compliance with Multnomah County Administrative Rules.
- 020-412 The person and the Room and Board Facility that is licensed shall remain in compliance with all Multnomah County Administrative Rules for the duration of the license.
- 020-418 A Room and Board Facility license shall be valid for one year from the date the ACHP issues the license unless the license is revoked or suspended.
- 020-424 The Room and Board Facility license shall state the Operator's name and the facility's address, the Resident Manager's name, type of license, maximum capacity of the facility, and the time period for which the license is valid.
- 020-436 By applying for and accepting a Room and Board Facility license, the Operator agrees to operate the home according to these MCAR's, including allowing unannounced licensing and monitoring visits.
- 020-442 The Operator shall post the most recent Inspection Report available in the entry or equally prominent place and shall, upon request, provide a copy of the information to each resident of, or person applying for admission to the facility, or the family or legal representative of the resident or potential resident.
- 020-448 If a currently licensed Operator has more than one utility shut-off notice, or one complaint of nonpayment of rent or of lack of food or equipment, the Operator must have at least two months of financial resources reserved.
- 020-454 The applicant shall provide the ACHP with a list of all unsatisfied judgments, liens

and pending lawsuits in which a claim for money or property is made against the applicant; all bankruptcy filings by the applicant; and all unpaid taxes due from the applicant. The ACHP may require or permit the applicant to provide a current credit report to satisfy this requirement. The ACHP shall not issue an initial license to an applicant who has been adjudged bankrupt more than once. If the applicant has any unpaid judgments (other than a current judgment for support), pending lawsuits, liens or unpaid taxes, the ACHP shall require the applicant to provide proof that the applicant has the amount of resources necessary to pay those claims. If the applicant is unable to demonstrate the financial ability and resources required by this subsection, the ACHP may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan as a condition of initial licensure.

- 020-460 Operators must own, rent or lease the facility to be licensed.
- 020-462 If a licensed Operator rents or leases the premises where the Room and Board Facility is located, the Operator shall not enter into a contract that requires anything other than a flat rate for the lease or rental.
- 020-466 If requesting a license to operate more than one Room and Board Facility, the Operator must supply to the ACHP a plan for all homes covering:
- (a) administrative responsibilities for all homes,
  - (b) staffing qualifications,
  - (c) job descriptions for Resident Managers and caregivers, and
  - (d) staffing plans.
- 020-472 The ACHP shall not issue a license to operate an additional Room and Board Facility unless the Operator has demonstrated the qualifications and capacity to operate the existing licensed facility or facilities for at least one year and has demonstrated the ability to provide services to the residents of those facilities that meet the standards in the MCAR's.
- 020-484 An exception may be granted to MCAR R-891-020-460 to an organization, such as a church, hospital, non-profit association or similar organization whose purposes include provision of services to residents to operate a Room and Board Facility. The organization must have a Board of Directors or Board of Trustees which must designate one person who meets the qualifications and functions as the Operator of the facility. This individual's responsibilities must include MCAR R-891-020-292 (a), (b), and (c).
- 020-490 Operators shall have written approval from the ACHP and appropriate contracting agencies before admitting any foster child for compensation in the same facility with room and board residents.
- R-891-020-500 ADDITIONAL CRITERIA FOR A NEW Room and Board Facility LICENSE**
- 020-510 Applicants shall receive an ACHP orientation from the licensing agent at the time of the initial inspection before obtaining a license to operate a Room and Board Facility.
- 020-520 Applicants shall pass a pre-qualifying test to demonstrate adequate

communication skills before obtaining a license to operate a Room and Board Facility.

020-530

Application packets for new Room and Board Facility Operator's licenses returned to the ACHP shall include:

- (a) A completed ACHP application form.
- (b) A certificate that the applicant has attended the Money Management Class given by the ACHP.
- (c) A certificate that the applicant has attended the Medication Management Class given by the ACHP.
- (d) Criminal record check authorization forms for each person aged 16 years and over who lives or works in the facility or is frequently in the facility.
- (e) A physician's statement regarding the applicant's physical and mental ability to provide services.
- (f) A current CPR and first aid certificate for the Operator and Resident Manager.
- (g) A completed financial information form, a budget for operating the facility, including payroll expense totals, and evidence of the applicant's financial ability to operate the facility.
- (h) Evidence of the facility's ownership, or a copy of the rental or lease agreement. If the facility is leased or rented, the name of the owner and/or landlord must be included. In addition, there must be verification that the rent is a flat rate. Financial information about rental or lease arrangements shall not become part of the public record.
- (i) Floor plans of the facility showing the location and size of all rooms, doors and windows, as well as smoke detectors and fire extinguishers.
- (j) Bureau of Buildings and electrical inspection approval forms, where applicable.
- (k) A staffing plan covering staff qualifications and how the facility shall be supervised and monitored, including the use of substitute service givers and other staff. If the Operator uses a Resident Manager, a written plan on coverage for Resident Manager absences must be submitted. (See Staff Coverage/Supervision.) The staffing plan shall also include the name, address and telephone number of an approved service giver who will be available to provide services in the absence of the Operator, Resident Manager, or other service giver.
- (l) If needed, completed Co-Operator and Resident Manager applications.
- (m) Room and Board Facility license application fees.
- (n) Three references which document applicant's experience with room and board residents. Once submitted, these references will be kept confidential and not released to the Operator.
- (o) Copy of City business license if applicable.

- 020-540 The ACHP shall not issue an initial license unless:
- (a) A completed application packet is received and all fees, fines and penalties have been paid.
  - (b) The applicant and Room and Board Facility are in compliance with these rules.
  - (c) The ACHP has completed an inspection of the Room and Board Facility.
  - (d) The ACHP has completed a criminal record check on the applicant(s), any employee of the ACH, and any person who is in the facility on a frequent basis aged 16 and over, other than a resident or resident's family.
  - (e) The ACHP has checked the record of sanctions available from its files and State registry of nursing assistants who have been found responsible for abuse.
  - (f) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the Room and Board Facility. The applicant shall have a financial reserve equal to at least the amount of two months budgeted expenses.

020-550 In seeking an initial license, the burden of proof shall be on the Operator and the Room and Board Facility to establish compliance with the Multnomah County Administrative Rules.

**R-891-020-600 ADDITIONAL CRITERIA FOR RENEWAL OF A Room and Board Facility LICENSE**

- 020-608 At least 60 days prior to the expiration of the license, an expiration notice and application packet for renewal will be sent to the Operator by the ACHP.
- 020-616 The Operator must submit a complete ACHP renewal application packet.
- 020-624 Submission of a renewal application packet prior to the expiration date will keep the license in effect until the ACHP takes action.
- 020-632 If the Operator does not submit a complete renewal application packet before the license expiration date, the ACHP shall treat the facility as an unlicensed facility. (Refer to MCAR R-891-025-300.)
- 020-640 The ACHP shall review the renewal application materials and conduct an unannounced inspection of the Room and Board Facility. Prior to renewal, the ACHP shall interview Operators, Resident Managers, service givers and residents; review Operator, Resident Manager and service giver training documentation; review Room and Board Facility records; and inspect postings and safety features, such as fire safety equipment.
- 020-648 The Operator will be given a copy of the renewal ACHP Inspection Report at the time of the inspection citing any deficiencies and timeframes for correction, which shall be no longer than 60 days from the date of the inspection. The Operator shall correct all deficiencies before the renewal license is approved. If any cited deficiencies are not corrected within the timeframe specified by the ACHP, the renewal application shall be denied. The ACHP may follow up with additional Licensing Reports citing deficiencies and timeframes for correction.

020-656 The effective date of a renewal license shall be the day following the expiration date of the previous year's license.

020-664 The ACHP shall not renew a license unless:

(a) The ACHP has received a completed renewal application packet.

(b) The ACHP has completed an inspection of the Room and Board Facility.

(c) The facility, Operator, Resident Manager and service givers are in compliance with these rules.

(d) The ACHP has completed a criminal record check on the applicant(s), any employee of the Room and Board Facility and any person who is in the facility on a frequent basis aged 16 and over, other than a resident or a resident's family.

(e) All fines, penalties and fees have been paid unless there is a hearing pending regarding the fine or penalty.

(f) The ACHP has checked the record of sanctions available from its files and State registry of nursing assistants who have been found responsible for abuse.

(g) Copy of applicable city business license.

020-672 Currently licensed Operators shall be able to demonstrate financial reserves equal to at least two month's operating expenses without relying on income from residents.

020-680 After the Room and Board Facility is in operation, the Operator may use the financial reserve if needed. If the financial reserve goes below the level required for two months of operation, the reserve must be replenished to the two month level within six months.

020-688 In seeking a renewal of a license when a Room and Board Facility has been licensed for less than 24 months, the burden of proof shall be upon the Operator and the Room and Board Facility to establish compliance with the rules of the ACHP.

020-696 In proceedings for renewal of a license when a Room and Board Facility has been licensed for at least 24 continuous months, the burden of proof shall be upon the Division to establish noncompliance with these rules.

**R-891-020-700 PROVISIONAL LICENSE**

Notwithstanding any other provision in the MCAR's, the ACHP may issue a provisional license for up to 60 days to a qualified person if the ACHP determines that an emergency situation exists after being notified that the licensed Operator is no longer overseeing the operation of the Room and Board Facility. A person would be considered qualified if they are 21 years of age and meet the requirements of a substitute caregiver.

**R-891-020-800 OPERATOR'S RESPONSIBILITIES REGARDING RESIDENT MANAGERS**

020-810 Resident Managers for Room and Board Facilities shall receive an orientation from the licensing agent and pass the pre-qualifying test before being approved.

020-820 Room and Board Facility Operators which employ a Resident Manager shall submit a completed Resident Manager application packet and fee to the ACHP before a Resident Manager's employment. The ACHP shall approve or deny the Resident Manager application.

020-830 If, during the period covered by the license, the Resident Manager leaves or ceases to act as the Resident Manager, the Operator must notify the ACHP. Before a new Resident Manager may start work, the Operator shall obtain approval from the ACHP. The Operator must request modification of the Room and Board Facility license to identify the change in Resident Manager.

020-840 If the ACHP determines that an unexpected and urgent staffing situation exists, the ACHP may permit, in writing, a person who has not received orientation, completed the training or passed the qualifying test to act as a Resident Manager until training and testing are completed or for 60 days, whichever is shorter. The Operator shall provide a satisfactory explanation of the inability to find a qualified Resident Manager and must indicate that the person is at least 21 years of age and meets the requirements for a substitute service giver for the Room and Board Facility, and that the Operator will provide adequate supervision.

**R-891-020-900 CAPACITY OF ROOM AND BOARD FACILITIES**

020-910 The maximum capacity for Room and Board Facilities shall be determined by the ACHP.

020-930 The number of residents permitted to reside in a Room and Board Facility will be determined by the ability of the staff to meet the service needs of the residents, the three minute standard for fire evacuation, and compliance with the physical structure standards of these rules. Determination of maximum capacity must include consideration of total household composition including children and relatives requiring services and supervision. In determining maximum capacity, consideration shall be given to whether children over the age of five have a bedroom separate from their parents.

020-950 The Room and Board Facility license shall state the maximum number of residents permitted to reside in the facility.

020-960 The Room and Board Facility shall not exceed maximum capacity determined by the ACHP as stated on the license.

020-970 The ACHP shall review the Room and Board Facility's maximum resident capacity at each license renewal.

020-980 The ACHP shall review and may change the maximum capacity of the Room and Board Facility if there are any indications that ACHP standards or the health, safety or welfare of residents is at risk.

**R-891-025-100 CLASSIFICATION OF ROOM AND BOARD FACILITIES**

025-105 The ACHP shall issue no classification of a Room and Board Facility during the licensure process other than Room and Board Facility.

025-175 Operators shall ensure that a Resident Manager meets or exceeds the experience and training standards for the Room and Board Facility.

025-185 The ACHP may require an RN's assessment of a resident's care needs whenever a resident's care needs change or are in question.

**R-891-025-200 CLOSING, MOVING OR SELLING ROOM AND BOARD FACILITIES**

025-210 The Room and Board Facility license shall apply only to the person(s) and address specified on the Room and Board Facility license. A license shall not be transferred to another person or location.

025-220 If an Operator of a Room and Board Facility no longer wishes to be licensed, any potential new Operator shall apply to the ACHP for a license and be licensed before the change. The new potential Operator shall follow all ACHP application rules. The licensed Operator of the facility shall not transfer operation of the facility to the new Operator until the ACHP licenses the new Operator.

025-230 Operators shall give at least 30 days written notice to the resident, the resident's family member and to the resident's legal representative, before leasing, selling, leasing or transferring the Room and Board Facility business or the real property on which the Room and Board Facility is located.

025-240 If an Operator's license expires during a change in licensed Operators and the new potential Operator has not been approved for a license, the facility shall be treated as an unlicensed facility.

025-250 Operators selling the Room and Board Facility business must separate that transaction from the sale of the real estate.

025-260 The Operator shall inform real estate agents, prospective buyers, lessees and transferees in all written communications, including advertising and disclosure statements, that the license to operate a Room and Board Facility is not transferable and shall refer them to the ACHP for information about licensing.

025-270 Operators shall notify the ACHP prior to a voluntary closure of a Room and Board Facility, proposed sale or transfer of business or property and shall give residents and families 30 days' written notice except in circumstances where undue delay might jeopardize the health, safety or well-being of residents, Operators, Resident Managers, or staff. If an Operator has more than one facility, residents cannot be shifted from one facility to another facility without a thirty day written notice unless prior written approval is given and agreement is obtained from residents, family members and case managers.

025-280 If an Operator proposes to move a licensed Room and Board Facility to another location, the new location must be licensed by the ACHP prior to a resident being placed in the facility.

**R-891-025-300 UNLICENSED FACILITIES**

025-310 If an Operator's license expires and no renewal application packet has been received by the ACHP, or the ACHP becomes aware of an unlicensed facility providing services, the ACHP shall conduct an unannounced visit to determine the safety of the residents in the facility.

025-320 The ACHP will relocate residents immediately if there is an immediate threat to their health, safety or welfare.

- 025-330 The ACHP may issue a 30 day written notice to all residents stating that all residents must relocate if there is no immediate threat to their health, safety or welfare. The ACHP shall monitor the facility during the notice period.
- 025-340 The Operator of an unlicensed Room and Board Facility who is unfamiliar with the ACHP shall be informed of the licensing process.
- 025-350 The ACHP may impose sanctions or initiate judicial action against an unlicensed Room and Board Facility.
- 025-360 No person or entity shall represent themselves as a Room and Board Facility, solicit or admit a person needing services, or accept placement of a person without holding a current license from the Adult Care Home Program. Failure to comply with this requirement shall be grounds for administrative sanctions, which may include imposition of a fine, denial of an application for a Room and Board Facility license, and/or the initiation of legal proceedings.
- 025-370 The ACHP shall identify Room and Board Facilities in Multnomah County which are operating without a valid license. The ACHP shall take appropriate action to ensure that unlicensed Room and Board Facilities either become licensed or cease to operate.

## **PART II-R - EXCEPTIONS**

### **R-891-030-100 APPLICATIONS FOR EXCEPTIONS TO THE Room and Board Facility RULES**

- 030-110 Room and Board Facility license applicants or Operators must apply in writing to the ACHP for an exception to a specific requirement of the ACHP rules. The Operator must prove to the ACHP by clear and convincing evidence that such an exception does not jeopardize the health, welfare or safety of the residents. Evidence must indicate that all residents' service needs can be met and that all occupants can be evacuated within three minutes.
- 030-120 The ACHP shall not grant exceptions to certain ACHP rules, including but not limited to the rules governing:
- (a) mandatory inspections;
  - (b) criminal history and criminal record checks (MCAR R-891-050-400).
  - (c) Residents' Bill of Rights;
  - (d) testing requirements for Operators and Resident Managers (MCAR R-891-050-600 through MCAR R-891-050-850).
  - (e) protection from retaliation for filing complaints;
  - (f) inspection of public files;
  - (g) fire safety requirements;
  - (h) license application requirements; and
  - (i) standards set out in MCAR R-891-060-100 through MCAR R-891-070-770 and MCAR R-891-090-100 through MCAR R-891-090-150.

- 030-130 The ACHP shall document the reason for granting or not granting an exception to the ACHP rules. The exception shall not be effective until granted in writing by the ACHP. Exceptions shall be granted on a case by case basis considering all relevant factors.
- 030-140 The ACHP shall review exceptions granted to a Room and Board Facility at each license renewal period and may deny or modify exceptions previously granted if there has been a change in the situation.
- 030-160 The decision of the ACHP regarding a request for an exception is final.

### **PART III-R - CONTRACTS**

#### **R-891-040-100 CONTRACTS FOR PRIVATE PAY RESIDENTS**

- 040-110 Operators of Room and Board Facilities with private pay residents shall enter into a contract with the residents, dated and signed by the Operator and the resident or the resident's legal representative. The Operator's contract is subject to ACHP review prior to licensure. The ACHP may disapprove contracts or contract provisions which are in conflict with the ACHP rules or any law or ordinance.
- 040-120 Operators shall review the contract with the resident and the resident's legal representative when the resident is admitted to the facility. Operators shall give a signed copy of the contract to the resident and the resident's legal representative.
- 040-130 The contract shall be reviewed by the Operator and the resident or the resident's legal representative at least once a year. The contract shall be updated and signed whenever the facility's rate changes as a result of a change in resident service needs or if any contract provision changes.
- 040-140 The contract shall address, at a minimum:
- (a) the specific services the facility shall provide to the resident.
  - (b) the monthly rates for services.
  - (c) whether the resident's bedroom is private or shared.
  - (d) the due dates for payment and provisions for any late charges.
  - (e) the amount of refund and refund policy for any security deposits requested. The security deposit must be retained in an interest bearing account separate from the funds of the Operator.
  - (f) the circumstances under which the facility's rates may change.
  - (g) the facility's refund policy when a resident leaves the facility before the required notice period.
  - (h) who shall be responsible for arranging and paying for any special services or equipment in the Room and Board Facility, including nursing delegations or care, and any fees for the resident's transportation.
  - (i) under what conditions the contract between Operator and resident may be

ended, what notice is required from the Operator or resident to end the contract, and that the notice requirement may be waived with the consent of both parties.

(j) the resident's right to a hearing before being moved from the facility in a non-emergency situation.

(k) how the resident may recover personal property left in the facility, and how and when an Operator may dispose of the resident's property if not recovered.

(l) an acknowledgement that house rules have been signed.

(m) how many days payment shall be required if a resident dies or leaves the facility for medical reasons and indicates in writing the intent not to return.

(n) refunds of security deposits that allow for normal wear and tear.

040-160 Contracts between Operators and resident shall not require:

(a) any illegal or unenforceable provision, ask or require a resident to waive any of the resident's rights or the Operator's liability for wrongdoing.

(b) application fees or non-refundable deposits. Fees to hold a bed are permissible.

(c) if the facility closes, charges to a resident beyond the date of closure or the date the resident moves from the facility.

(d) advance payments for services beyond one month. (This does not apply to security deposits.)

(e) less than 30 days written notice of a change in the facility's contract rates.

(f) payment if the resident moves out because of abuse and/or neglect which is later substantiated.

(g) payment of room charges during any period when the room has been re-rented to another person.

(h) waiver of their rights to a thirty day notice of rate increases, except for pre-established rate schedules for specified service needs.

(i) payment for more than 15 days after the resident has left the Room and Board Facility if a resident dies or leaves the facility for medical reasons and indicates in writing the intent not to return.

(j) residents to pay for damages considered normal wear and tear.

**PART IV-R**

**STANDARDS FOR OPERATORS, RESIDENT MANAGERS AND SERVICE GIVERS**

**R-891-050-100 GENERAL CRITERIA FOR OPERATORS, RESIDENT MANAGERS AND SERVICE GIVERS**

050-110 For the purposes of these rules, Operators, Resident Managers and service givers are defined as follows:

(a) **Operator** - The person licensed by the ACHP to operate the Room and Board Facility who has overall responsibility for the provision for residential services, who meets the standards outlined in these rules and who has been approved by the ACHP.

(b) **Co-Operator** - Synonymous with Operator as both are equally responsible for the facility. All Co-Operators shall meet all qualifications and standards for an Operator.

(c) **Resident Manager** - A person employed by the Room and Board Facility Operator and approved by the ACHP who lives in the home and is directly responsible for daily operation of the home and services given to residents.

(d) **Service giver** - Any person responsible for providing services to residents, including the Operator, the Resident Manager, and any temporary, substitute or supplemental staff or other person designated to provide services to residents.

(e) **Substitute Service giver** - Any person other than the Operator or Resident Manager who is approved by the ACHP and is responsible for providing services to residents of a Room and Board Facility. In addition, substitute caregivers left in charge of a home for multiple 24-hour periods during a month or for any period that exceeds 48 hours, shall be required to meet the education requirements of a resident manager and may be required to meet the education, experience and training requirements of a resident manager if the licensing authority determines that such qualifications are necessary.

- 050-120 Room and Board Facility Operators and Resident Managers shall be at least 21 years old.
- 050-140 Service givers, other than Operators and Resident Managers, shall be at least 18 years old. Service givers under 21 shall not have sole responsibility for resident supervision for more than two hours during any twelve hour period.
- 050-150 Room and Board Facility Operators and Resident Managers shall provide evidence satisfactory to the ACHP regarding education, training, knowledge related to the population to be served, experience related to the population to be served, and ability to operate a Room and Board Facility.
- 050-160 Operators, Resident Managers and service givers shall have good physical health and mental health, good judgment, good personal character, including honesty, and the ability as determined necessary by the ACHP to provide services for room and board residents.
- 050-170 Upon request of the ACHP, any Operator, Resident Manager or service giver must obtain a statement from a physician or other qualified practitioner indicating they are physically, cognitively, and emotionally capable of providing services to residents.
- 050-180 Operators, Resident Managers and service givers with a history or one or more substantiated episodes of substance abuse or mental illness must:
- (a) provide evidence satisfactory to the ACHP of successful treatment/rehabilitation.
  - (b) submit references regarding current condition. References are confidential

when received by the ACHP.

(c) be capable of operating, managing or providing services to room and board residents.

050-190 All Resident Managers and service givers must meet applicable requirements for criminal record check and training.

050-195 Other persons who work, live or spend significant periods of time in the household, may be subject to the same inquiries or investigations described above. Such persons may also be required to provide satisfactory evidence, if requested, that their presence in the household does not jeopardize residents.

**R-891-050-200 COMMUNICATION SKILLS**

050-210 Operators, Resident Managers, and anyone left alone with residents shall be literate and able to demonstrate:

(a) an understanding of written and oral instructions in English, including medication instructions and doctor orders; and

(b) the ability to communicate in oral and written English with residents, health care professionals, case managers and appropriate others; and

(c) the ability to respond appropriately to emergency situations at all times.

050-220 The ACHP may grant an exception to MCAR R-891-050-210 for facilities where the Operators, Resident Managers and service givers do not speak English if the Operators, other service givers, residents and their doctors all speak the same language. The facility shall have an interpreter on call 24 hours a day, and shall notify the local fire department of special rescue requirements.

**R-891-050-300 COOPERATION**

050-310 Operators, Resident Managers and service givers shall cooperate with ACHP personnel or other personnel providing services to the facility or residents.

**R-891-050-400 CRIMINAL HISTORY AND CRIMINAL RECORD CHECK**

050-405 The criminal records check under this rule shall consist of:

(a) A check for a criminal record in the State of Oregon, and

(b) A national criminal record check if:

(1) The applicant or other person has resided in another state within the previous five years; or

(2) The applicant or other person has disclosed the existence of a criminal conviction in any state; or

(3) A criminal record check in the State of Oregon discloses the existence of a criminal record in any jurisdiction.

(c) A check of the record of sanctions available from the Senior and Disabled

Services Division of the State of Oregon, including the list of nursing assistants who have been found responsible for abuse and whose names have been added to the registry pursuant to ORS 441.678.

- 050-410 It shall be the responsibility of the Operator to insure that all persons aged 16 years and over who live or work in the home and frequent visitors to the home who have contact with the residents, excluding residents and their family members, complete, sign and submit to the ACHP a criminal record release authorization form. This shall be completed prior to living in, working in or being in the home and on an annual basis. The form shall include name, any aliases, birthdate, social security number, gender, drivers license number, current address and address for the last five years and information about any criminal history.
- 050-415 Room and Board Facility Operators shall not hire a Resident Manager or service giver whose criminal record has not been approved by the ACHP or allow family members, visitors, friends, etc. whose criminal record has not been approved to be in the facility on a frequent basis.
- 050-420 Any Operator, Resident Manager or other service giver may work in a Room and Board Facility pending the outcome of a national criminal record check providing that the Oregon criminal record check was clear and if he/she signs a form indicating that he/she has never had a criminal conviction.
- 050-425 A person with a criminal record shall provide the ACHP with all documents required to obtain a national criminal record check prior to working, residing or being in a Room and Board Facility. The person shall pay any costs necessary to obtain these documents.
- 050-430 The ACHP shall deny the application, revoke the license, or revoke or deny the approval of any person who falsely represents that he/she has not been arrested or convicted of a crime.
- 050-435 Any person who has been convicted of one or more crimes which are substantially related to the qualifications, functions or duties of an Operator, Resident Manager, or substitute service giver of a Room and Board Facility, except as noted in MCAR 891-050-465-R, not including a resident, a resident's family or visitors, shall be prohibited by the ACHP from operating, working in or being in or on the premises of a Room and Board Facility.
- 050-440 The Operator shall inform all persons aged 16 and over, including Resident Managers and service givers, occupants of the facility and frequent visitors to the facility, not including residents, their families or visitors, that they must notify the Operator if arrested, charged with or convicted of a crime. A licensed Operator shall notify the ACHP immediately upon learning that anyone living, working or being in the Room and Board Facility on a frequent basis has been arrested, charged with or convicted of a crime.
- 050-445 Any person other than a resident, a resident's family member or visitor, who has been charged with or arrested for a crime which is substantially related to the qualifications, functions or duties of an Operator, Resident Manager or substitute service giver may be prohibited by the ACHP from operating, working in, or being in a Room and Board Facility on a frequent basis. The ACHP shall determine the actions necessary to protect the health, safety, and welfare of residents.
- 050-450 Crimes which are substantially related to the qualifications, functions or duties of

an Operator, Resident Manager or substitute service giver include, but are not limited to the following: elder abuse, elder neglect, child abuse, child neglect, incest, abandonment of a child or dependent person, homicide, assault, kidnapping, sexual offenses and offenses against public health and decency (prostitution, offenses involving narcotics, alcohol abuse and dangerous drugs, driving under the influence of intoxicants), and crimes against property (arson, burglary, forgery, theft, embezzlement or obtaining property under false pretenses).

- 050-452 Persons who have been convicted of homicide shall be permanently disqualified from operating, working in or being in a Room and Board Facility.
- 050-455 The ACHP shall consider persons with convictions for crimes of domestic violence or other reliable evidence that they have committed domestic violence a threat to the health, safety and welfare of residents in a Room and Board Facility. The following persons shall not be involved in the operation of, or allowed in a Room and Board Facility:
- (a) An individual with reliable evidence of a domestic violence incident or a conviction for domestic violence during the past 5 years.
  - (b) An individual with reliable evidence of more than one domestic violence incident or conviction during the last ten (10) years.
  - (c) An individual with reliable evidence of a domestic violence incident or conviction for domestic violence in addition to any other conviction within the last ten (10) years.
- 050-460 A person who is found to have a criminal record may request an administrative conference if the ACHP denies their application or their ability to work or be in the facility on a frequent basis based on the criminal record.
- 050-465 If a person was convicted of a crime other than the crimes listed in MCAR R-891-050-450, or if more than ten (10) years have passed since the person was convicted of a crime, the ACHP may allow a person to operate, work, or be in a facility after considering the following:
- (a) The type of crime and number of offenses.
  - (b) Whether the victim of the crime was elderly, handicapped or dependent, or under the age of 18.
  - (c) Passage of time since the crime was committed.
  - (d) Circumstances surrounding the commission of the crime which would demonstrate that repetition is unlikely (for example, age when crime was committed).
  - (e) Activities since conviction or arrest such as employment, participation in therapy or education that indicate changes in behavior.
  - (f) Character references.
- 050-470 Criminal offender information shall be used only for the purposes for which it was obtained by the ACHP, and shall not be given to unauthorized persons or

agencies. Unless a person gives written authorization for the release of criminal records, the ACHP may only inform an Operator that a person has been approved, or denied or that conditions are imposed on the basis of criminal offender information.

050-475 The ACHP shall make every effort to expedite completion of a criminal record check for the State of Oregon when requested by a licensed Operator because of an immediate staffing need.

**R-891-050-500 OPERATOR, RESIDENT MANAGER AND SERVICE GIVER TRAINING**

050-503 Operators and Resident Managers shall successfully complete the minimum ACHP approved initial training before being licensed or approved. The minimum ACHP approved initial training hours shall include but not be limited to: medication management, money management, appropriate behavior towards residents with disabilities, issues related to accessibility for people with disabilities, and fire safety and evacuation issues.

050-506 Each year following the initial training, Operators and Resident Managers may be required to obtain ACHP approved ongoing training. CPR certification and First Aid training shall count towards the training.

050-509 A Resident Manager who has not completed the initial training must complete the Service giver Preparatory Training Course approved by the ACHP before providing services to any resident or being left alone with residents. The Service giver Preparatory Training Course will include emergency procedures, medication management, food preparation, facility environment and safety procedures, and residents' rights.

050-512 Operators shall orient all Resident Managers and service givers to the physical characteristics of the facility, the residents of the facility and their service needs using the ACHP checklist before Resident Managers and service givers are left alone with residents. The Operator shall keep on file a copy of each Resident Manager's and service giver's signed and completed ACHP checklist.

050-515 Operators shall train the Resident Manager and service givers to meet the routine and emergency needs of the residents.

050-518 All Operators and Resident Managers shall have ACHP approved CPR certification before being licensed or beginning to work in the ACH. CPR certification shall be renewed on an annual basis.

050-521 All Operators and residents managers shall have current First Aid Certification before being licensed or beginning to work in the ACH.

050-524 All service givers shall have a current ACHP approved CPR certificate and First Aid Certificate before being left alone with residents.

050-527 All service givers other than Operators and Resident Managers shall study the ACHP service giver training manual and complete the workbook with no assistance or complete the ACHP-approved initial training, before working in the facility. The service giver training manual shall include but not be limited to the following topics: emergency procedures, medication management, food preparation, facility environment and safety procedures and residents' rights. Operators shall keep on file the substitute service giver training certificate for all

service givers in the facility where the service giver works.

050-530 The ACHP may require other service givers to complete annual training.

050-533 The ACHP may require Operators, Resident Managers and other service givers to take part in additional training, including but not limited to training in major rule or program changes or fire and life safety standards.

050-536 Operators, Resident Managers and other service givers shall record and keep on file ACHP training forms, certificates, attendance records and other training documentation. The Operator shall keep on file training documents for all Resident Managers and service givers in the home where they work.

#### **OPERATOR AND RESIDENT MANAGER TESTING**

##### **R-891-050-600 QUALIFYING TEST FOR NEW APPLICANTS FOR OPERATOR OR RESIDENT MANAGER**

050-610 An applicant must pass the qualifying test before being licensed or becoming a Resident Manager. The examination shall evaluate the Operator's or Resident Manager's ability to understand and respond appropriately to emergency situations, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Room and Board Facilities.

050-620 An applicant may take the qualifying test two times in a twelve month period. Failure to obtain a passing score on the qualifying test in two attempts will result in denial of the application and require the applicant to wait 12 months from the date of the last test before beginning the application process again.

050-630 If an applicant fails to obtain a passing score on the qualifying test and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the applicant fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the application shall be denied. Special consideration shall be granted only one time. If an applicant requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR R-891-050-200.

050-640 If an applicant is granted an alternate test and fails that test, he/she must wait 12 months from the date of that test before he/she may begin the application process again.

##### **R-891-050-700 TESTING FOR OPERATORS**

050-706 An Operator must pass the qualifying test before the license is renewed. The examination shall evaluate the Operator's ability to understand and respond appropriately to emergency situations, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Room and Board Facilities. This qualifying test must be passed by the Operator only one time.

- 050-712 An Operator who fails to obtain a passing score on the qualifying test may repeat the test one time within 60 days of the first test.
- 050-718 If an Operator fails to obtain a passing score on the qualifying test the first time the test is taken, a condition on the license restricting admission will be imposed. If an Operator fails to obtain a passing score on the qualifying test the second time the test is taken, the ACHP shall revoke or not renew his/her license. In this event, the Operator may not begin the application process for 12 months from the date of the last test.
- 050-724 If an Operator fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates and documents special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. The alternate test may only be taken one time. If an Operator requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR R-891-050-200.
- 050-730 If the Operator fails to demonstrate special circumstances or fails to obtain a passing score on an alternate test, as developed by the ACHP, the renewal application shall be denied or the license shall be revoked if it has not expired.
- 050-736 If an Operator fails to obtain a passing score on the qualifying test and the Resident Manager passes the qualifying test, the requirements of MCAR R-891-050-718 shall apply.
- 050-742 If an Operator fails to obtain a passing score on the qualifying test and the Resident Manager has not yet obtained a passing score on the qualifying test, the requirements of MCAR R-891-050-718 shall apply.
- 050-748 If neither the Operator or Resident Manager obtains a passing score on the qualifying test, the requirements of MCAR R-891-050-718 shall apply.
- R-891-050-800 TESTING FOR RESIDENT MANAGERS**
- 050-810 A Resident Manager must pass the qualifying test before the license is renewed. The examination shall evaluate the Resident Manager's ability to understand and respond appropriately to emergency situations, physician's orders and professional instructions, medication management, nutritional needs, resident's preferences, and conflict situations. The examination shall evaluate their basic understanding of the rules for Room and Board Facilities. This qualifying test must be passed by the Resident Manager only one time.
- 050-820 A Resident Manager who fails to obtain a passing score on the qualifying test on his/her first attempt may repeat the test one time within 60 days of the first test.
- 050-830 If a Resident Manager fails to obtain a passing score on the qualifying test on his/her first attempt, his/her status as a Resident Manager shall become probationary for a period not to exceed 60 days or the date the second test is taken. He/she may continue working as a Resident Manager in the facility during this period. In addition, the Operator must demonstrate to the ACHP how the facility will be adequately supervised.
- 050-840 If a Resident Manager fails the examination a second time, his/her status as a Resident Manager shall terminate. A condition on the license restricting

admissions shall be imposed until a qualified Resident Manager is hired and working in the facility. The current Resident Manager may continue working as a Resident Manager for a period not to exceed 30 days to ease the transition. The current Resident Manager may continue working after that 30-day period only if he/she meets the qualifications of a substitute service giver. In this event, the Resident Manager may not begin the process to apply to be a Resident Manager for 12 months from the date of the last test.

050-850 If a Resident Manager fails to obtain a passing score on the qualifying test on his/her second attempt and demonstrates special circumstances (e.g. language barrier, learning disability or test anxiety), the ACHP may develop an alternate means of testing that individual. If the Resident Manager fails to demonstrate special circumstances or fails to pass an alternate test, as developed by the ACHP, his/her status as a Resident Manager shall immediately terminate. The alternate test may be taken only one time. If a Resident Manager requests special consideration under language barrier, they must first demonstrate that they meet the communication skills under MCAR R-891-050-200.

**R-891-050-900 STAFF COVERAGE/STAFF SUPERVISION/STAFFING CHANGES**

050-910 The Operator, approved Resident Manager or approved substitute service giver may provide supervision on a less than 24 hours per day basis in the Room and Board Facility. Supervision means protective awareness of the residents' general whereabouts and functioning, including: monitoring the activities of the residents while on the premises of the home; generally ensuring residents' health, safety and welfare; and the ability and readiness to intervene on behalf of a resident if a crisis arises.

050-915 Operators not living in the facility shall be in the Room and Board Facility at least three times a week and shall monitor the resident's safety and welfare; record keeping; and document these visits. Operators may appoint a currently licensed Operator or person approved by the ACHP to meet this monitoring requirement.

050-920 The Operator shall notify the ACHP of the name of the service giver(s) who will be responsible anytime the Operator or Resident Manager will be out of the facility more than 72 hours.

050-925 Operators shall give the current addresses and telephone numbers of all Resident Managers and service givers employed by the Operator to the ACHP upon request.

050-930 A resident shall not provide supervision or services, or act as a Resident Manager or other service giver.

050-940 If a Resident Manager (or shift service giver) changes during the period the license covers, the Operator must notify the ACHP immediately and identify who will be providing services. The Operator must submit a request for a change of Resident Manager to the ACHP along with a completed Resident Manager application, a criminal record authorization, and payment of the required fee. Upon a determination that the applicant meets the requirements of a Resident Manager and the applicant has completed the ACHP's required training and passed the qualifying test, a revised license will be issued with the name of the new Resident Manager.

050-945 If the ACHP determines an unexpected and urgent staffing situation exists, the

ACHP may permit, in writing, a person who has not received the orientation, training or passed the qualifying test to act as a Resident Manager until the orientation, training and testing are completed or for 60 days, whichever is shorter. The Operator must notify the ACHP of the situation and provide:

- (a) a satisfactory explanation of the inability to find a qualified Resident Manager.
- (b) evidence that the person is 21 years of age.
- (c) evidence that the person meets the requirements for a substitute service giver working in the Room and Board Facility.
- (d) a plan that the Operator will provide adequate supervision.

- 050-950 Operators shall compensate Resident Managers and other service givers, including respite and substitute service givers in compliance with all applicable provisions of Federal and State wage and hour laws.
- 050-955 Operators shall keep adequate staff necessary to maintain a stable environment and to provide quality services in the facility.
- 050-960 Operators shall ensure that Resident Managers and service givers have a clear understanding of job responsibilities, have knowledge of residents' service needs, and are able to provide the services specified for each resident.
- 050-965 An Operator (whether or not present in the facility) is responsible for the supervision, training and conduct of Resident Managers and service givers. This applies to Resident Managers and service givers when acting within the scope of their employment, duties, or when they are present in the facility.

#### **PART V-R - BASIC SERVICES**

##### **R-891-060-100 GENERAL CRITERIA**

- 060-107 Room and Board Facility Operators, Resident Managers and service givers shall protect resident's rights and help residents to exercise them as listed in the Residents' Bill of Rights.
- 060-109 No resident in a Room and Board Facility may be impaired in the following activities of daily living: eating/nutrition, dressing, bathing, grooming, bowel and bladder control or mobility.
- 060-111 Residents in Room and Board Facilities may receive assistance in money management and medication management if it encourages maximum resident independence and enhances the resident's quality of life.
- 060-113 Operators, Resident Managers and service givers in Room and Board Facilities may give verbal prompting to residents if it encourages maximum resident independence and enhances the resident's quality of life.
- 060-114 Operators, Resident Managers and service givers shall provide a resident with the services agreed to in the contract to meet his/her needs.
- 060-128 Operators, Resident Managers and service givers shall provide services in a atmosphere where the dignity and rights of the residents are respected.

Operators, Resident Managers and service givers may prohibit the visitors from visiting a resident if the visitors threaten the health, safety or welfare of the resident or other occupants. In this event, it must be documented in the resident's records as an incident report and the ACHP licensor immediately informed.

- 060-135 Operators, Resident Managers and service givers may prohibit the visitors of a resident from visiting the resident if the visitors threaten the health, safety and welfare of the resident or other occupants. In this instance, the event must be documented in the resident's records. The Operator shall inform the ACHP licensing agent.
- 060-142 Residents shall have the right to consent to or refuse all medications. If a resident refuses medication, the refusal shall be immediately documented in the resident's records and appropriate persons notified, including the doctor, family, legal representative and case manager. Other persons involved in providing resident services, including the Resident Manager and service giver, shall also be informed.
- 060-149 Operators shall immediately inform the resident, the resident's physician or nurse, family, legal representative, case manager, and any other appropriate people of changes in the resident's condition.
- 060-156 Operators, Resident Managers and service givers shall promptly seek medical help, as needed, and continue to seek help until the resident receives the appropriate services. This includes persistent attempts to obtain doctor ordered prescriptions.
- 060-163 In the event of a serious medical emergency, the provider/staff shall call 911 or the appropriate emergency number for their community. The physician/nurse practitioner, family or legal representative and the case manager (when applicable) shall also be called. The provider shall have copies of Advance Directives, Do Not Resuscitate (DNR) orders and/or pertinent medical information available when emergency personnel arrive. Medical emergency means a change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the facility.
- 060-170 Operators must be able to provide or arrange for appropriate resident transportation. This does not mean the Operator has to pay for transportation.
- 060-177 If the Operator manages or handles a resident's money, it shall be maintained in a separate account record in the resident's name and in a record in the home. The Operator shall not under any circumstances commingle, borrow from, or pledge any funds of a resident. Operators, Resident Managers or service givers shall not influence, solicit from, or suggest to any resident that they or their family give the Operator, Resident Manager or service giver or the Operator's, Resident Manager's or service giver's family money or property for any purpose. The Resident Manager, Resident Manager's family, service giver or the service giver's family shall not accept gifts of substantial value or loans from the resident or the resident's family.

**R-891-060-200      SCREENING OF RESIDENT CARE NEEDS PRIOR TO ADMISSION TO THE Room and Board Facility**

060-208      Operators shall screen a potential resident for care needs using a screening form before admitting a resident to the Room and Board Facility. The screening shall determine whether the care needs of the resident fall within the scope of those allowed in a Room and Board Facility and if the Operator can meet the service needs of the resident along with meeting the service needs of the current residents of the facility.

060-216      The screening shall include interviews with the prospective resident, in person whenever possible, and, if appropriate, the resident's family, prior service givers, and case manager. The Operator's interview may also include any physician, nurse or other health care professional.

060-224      The Operator's screening of the resident's care needs shall include but is not limited to:

- (a) assessment of activities of daily living
- (b) diagnosis
- (c) medications
- (d) a description of the prospective resident's physical and mental condition
- (e) personal care needs
- (f) resident's ability to communicate
- (g) nursing care needs and Registered Nurse delegations
- (h) nutritional needs
- (i) night care needs
- (j) personal preferences for activities and lifestyle
- (k) the prospective resident's ability to evacuate the facility within three minutes along with the other facility occupants.

060-228      If the screening reveals service needs other than medication management, money management or the need for verbal prompting and the services cannot be provided by an outside agency or service provider, the individual may not be admitted as a resident to the Room and Board Facility.

060-232      If the prospective resident becomes a resident in the facility, the Operator's screening of a prospective resident shall be documented, a copy given to the prospective resident and any legal representative, and a copy kept with the resident's records.

**R-891-060-300      ADMISSION TO THE Room and Board Facility**

060-310      Upon admission to the facility, the Operator shall obtain and document in resident

records general information regarding the resident. The information shall include names, addresses, and telephone numbers of relatives, significant persons, case managers, and medical/mental health providers. The record shall also include the date of admission and, if available, the resident's Social Security and medical insurance numbers, birth date, and prior living situation. At an appropriate date, the Operator shall obtain mortuary information.

060-320 Upon admission to the facility, the Operator shall have made every effort to obtain physician/nurse practitioner orders for medications. Any telephone orders must be followed with written signed orders within 72 hours or the Operator must document attempts to get them. A physician, nurse practitioner, or pharmacist review of the resident's preferences for over-the-counter medications and facility remedies shall also be obtained at that time and documented in the resident records. The Operator shall also obtain and place in the record any medical information available including history of accidents, illnesses, allergies, impairments or mental status that may be pertinent to the resident's service needs.

060-330 At the time of admission, the Operator shall ask for copies of the following documents if the resident has them: Advance Directive, letters of guardianship, letters of conservatorship, and Do Not Resuscitate (DNR) orders. The copies shall be placed in a prominent place in the resident record and sent with the resident when transferred for medical care.

060-340 At the time of admission, the Operator shall discuss with the resident and/or her/his legal representative and resident's family, if available, the Residents' Bill of Rights and written house rules. The discussion shall be documented by having the resident sign the house rules and the Residents' Bill of Rights. These signed documents shall be filed in the resident's record.

060-345 At the time of admission, the Operator shall list the resident's possessions brought into the home.

**R-891-060-400 CARE PLAN**

060-410 A care plan is not required to be developed for residents of Room and Board Facilities as no care, other than medication management, money management, and verbal prompting can be provided in a Room and Board Facility.

**R-891-060-500 ADMINISTRATION OF MEDICATIONS**

060-504 Operators, Resident Managers and service givers who administer medications shall demonstrate an understanding of the administration of each resident's medications. Operators, Resident Managers and service givers shall know the reason the medication is used and any specific instructions and common side effects. Drug reference material shall be kept in the Room and Board Facility and shall be readily available.

060-508 The Operator shall obtain and place a written signed order in the resident's record for any medications and dietary supplements which have been prescribed by the physician/nurse practitioner.

060-510 Prescription medications shall not be given to a resident without written doctor orders.

- 060-512 Orders must be carried out as prescribed unless the resident or the resident's legal representative refuses consent. The physician/nurse practitioner must be notified if a resident refuses to consent to an order.
- 060-516 Over-the-counter medications or facility remedies requested by the resident shall be reviewed by the resident's physician/nurse practitioner or pharmacist at admission and at least annually thereafter and documented in the resident records.
- 060-520 Changes to orders may not be made without a physician/nurse practitioner's order. Attempts to call the physician/nurse practitioner to obtain the needed changes in orders must be documented in the resident's record.
- 060-524 If an Operator, Resident Manager or service giver has good reason to believe that medical orders are harmful to a resident, the Operator, Resident Manager or service giver shall immediately notify the physician, nurse, resident's family, case manager, and any other appropriate people to protect the health and safety of the resident.
- 060-528 Order changes obtained by telephone shall be implemented as soon as practicable. Operators shall obtain a written physician's order within 72 hours of receiving a doctor's telephone order or verbal order for a resident's medications or the Operator must document all attempts to get the order. Operators shall make and document, in the resident's progress notes, frequent and persistent attempts to obtain the written order until it is received.
- 060-532 Prescription medications ordered to be given "as needed" or "p.r.n." must have additional directions which show what the medication is for and specifically when, how much and how often it may be administered. These written directions may be given by a physician, nurse practitioner, registered nurse or pharmacist.
- 060-536 An Operator shall consult with the physician, nurse practitioner, registered nurse or mental health professional before requesting a psychoactive medication to treat a resident's behavioral symptoms. The consultation shall include a discussion of alternative measures to medication use including behavioral interventions. These medications may be used only after documenting all other alternative considerations and only when required to treat a resident's medical symptoms or to maximize a resident's physical functioning. Psychoactive medications shall never be given to discipline a resident or for the convenience of the Room and Board Facility. Psychoactive medications as defined in these rules may be used only pursuant to a prescription that specifies the circumstances, dosage and duration of use.
- 060-540 The Operator, Resident Manager and all service givers shall know the specific reasons for the use of the psychoactive medication for an individual resident, the common side effects and when to contact the physician, nurse practitioner, or mental health professional regarding those side effects. Operators, Resident Managers and service givers shall also know the behavioral interventions, if any, to be used along with the medication.
- 060-544 The frequency of the reassessment of the psychoactive medication use shall be determined by the physician or Registered Nurse completing the initial assessment.
- 060-546 Operators of Room and Board Facilities may administer routine oral medications.

- 060-548 A resident or a relative of the resident or a Registered Nurse may administer subcutaneous, intramuscular, and intravenous injections. A licensed practical nurse can give subcutaneous and intramuscular injections. No Operator, Resident Manager or service giver of a Room and Board Facility may be delegated and trained by a registered nurse under provision of the Board of Nursing rules to perform any nursing task, including injections.
- 060-550 All resident medications must be provided to the Room and Board Facility in bubble packs unless a written exception has been granted to this rule.
- 060-552 Each resident's medication container shall be clearly labeled with the pharmacist's label or be in the original labeled container or bubble pack and shall be kept in a locked, central location, separate from that of the Operator or the Operator's family. Residents shall not have access to any medications in the facility unless they have an order to self medicate. Over-the-counter medications in stock bottles (with original labels) may be used in the facility.
- 060-556 The Operator may set up each resident's medications for up to seven days in advance (excluding p.r.n. medications) by using a closed container manufactured for that purpose. If used, each resident shall have her/his own container with divisions for the days and times of the day the medications are to be given. The container must be clearly labeled with the resident's name, name of each medication, time to be given, dosage, amount, route and description of the medications. The container shall be stored in the locked medication area.
- 060-560 Unused, outdated or discontinued medications, except controlled substances, shall not be kept in the facility and shall be disposed of according to the pharmacist's recommendations. Disposal of these medications shall be documented on the medication administration record or in the resident's record. Documentation shall include the name of the medication and the number of pills disposed or returned to the pharmacy.
- 060-564 All controlled substances to be disposed of shall be:
- (a) counted by a Registered Nurse who witnesses and documents the disposal;
  - or
  - (b) returned to the dispensing pharmacy.
- 060-568 Operators, Resident Managers and service givers shall be responsible for making certain that all medications prescribed for a resident are fully accounted for and used only by that resident.
- 060-572 A prescription may be given only to the person for whom the medication was prescribed.
- 060-576 A current, written medication administration record shall be kept for each resident and shall identify all of the medications administered by the Operator, Resident Manager or service giver to that resident, including over-the-counter medications and prescribed dietary supplements. The record shall indicate the medication name, dosage, route, the date and time to be given. The record shall be immediately initialed at the time of administration by the person giving the medications. The medication administration record shall contain a legible signature which identifies each set of initials.

- 060-580 A discontinued or changed medication order shall be marked and dated on the medication administration record as discontinued. The new order shall be written on a new line showing the date of order. If a resident misses or refuses a medication, the initials must be circled and a brief but complete explanation shall be recorded on the back of the medication record. As needed (P.R.N.) medication shall be documented with the time, dose, the reason the medication was given, and the outcome.
- 060-584 A resident may self medicate only with a physician's written approval which shall be kept in the resident records. Residents shall keep self administered medications in their bedrooms in a secure place which can be locked. Operators, Resident Managers and service givers shall not be responsible for administering or documenting medications when residents self medicate, but shall notify appropriate health care professionals if a resident cannot self-medicate safely.
- R-891-060-600 NURSING CARE TASKS**
- 060-610 No Operator, Resident Manager or service giver may be delegated for any nursing task in a Room and Board Facility.
- R-891-060-700 RESTRAINTS**
- 060-708 For the purposes of these rules, restraints are defined as any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, sleeping medications or tranquilizers).
- 060-716 Restraints may not be used in a Room and Board Facility.
- R-891-060-800 MEALS**
- 060-807 Three nutritious meals will be served daily at times consistent with those in the community. Each daily menu will include food from the basic food groups and fresh fruit and vegetables in season. There shall be no more than a 14-hour span between the evening meal and breakfast. Nutritious snacks and liquids shall be offered to fulfill each resident's nutritional requirements. Consideration shall be given to residents' preferences, cultural and ethnic background in food preparation. Special consideration must be given to residents with chewing difficulties and other eating limitations. Food shall not be used as an inducement to control the behavior of a resident.
- 060-814 Operators shall follow all special diets as prescribed in writing by the resident's physician/nurse practitioner or other qualified professional.
- 060-821 Operators shall not serve facility canned foods unless prepared according to the latest guidelines of Oregon Department of Agriculture Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized. Operators shall not serve wild game unless approved by the U.S. Department of Fish and Wildlife. All meats served must be USDA inspected.
- 060-828 Operators shall prepare and serve resident meals in the facility where the residents live. Meals shall be served so that residents eat in a family style manner unless residents choose to eat alone or in their rooms. Normal eating out (for example, restaurant meals, take outs, or picnics) is permitted. Payment for meals eaten away from facility for the convenience of the provider (restaurants,

senior meal sites) is the responsibility of the provider. Meals and snacks as part of an individual recreational outing by choice are the responsibility of the resident.

060-842 Food shall be stored at appropriate temperatures to prevent spoilage and to protect food from contamination and rodent or insect infestation. The facility shall include a properly working refrigerator.

060-849 Food, utensils, dishes and glassware shall not be stored in bedrooms, bathrooms or living areas.

060-856 Utensils, dishes and glassware shall be washed in hot, soapy water, rinsed, and air dried if the facility does not have a dishwasher, and stored to prevent contamination.

060-864 Food storage and preparation areas shall be clean and free of offensive odors. Equipment, eating and cooking utensils shall be clean and in good repair.

**R-891-060-900 RESIDENT ACTIVITIES**

060-910 Operators, Resident Managers and service givers shall not be required to make activities available to residents each week.

060-920 Activities are those social, religious, recreational or educational resident activities inside or outside the Room and Board Facility offered by the service giver.

**PART VI-R - STANDARDS FOR OPERATION**

**R-891-070-100 RESIDENT RECORDS**

070-110 Operators, Resident Managers and service givers shall keep accurate and up to date resident records on file in the Room and Board Facility where the resident lives.

070-120 Resident records maintained by the Operator shall be readily available at the Room and Board Facility to all Resident Managers and service givers and to representatives of the ACHP conducting inspections or investigations, as well as to residents and their legal representative.

070-130 In all other matters pertaining to confidential records and release of information, Operators shall be guided by the principles and definitions described in OAR Chapter 411, Division 05. A copy of these rules will be made available by the Senior and Disabled Services Division upon request.

070-140 The resident's records shall contain the following information:

(a) Initial screening form. (See MCAR R-891-060-224.)

(b) General resident information form. (See MCAR R-891-060-310.)

(c) Medical information, including:

(1) Medical history, including the resident's history of hospitalizations, accidents and injuries and relevant incident reports, and a description of any physical, emotional or mental health problems.

(2) Current written and signed physician/nurse practitioner orders.

(4) Guardianship letters, Oregon Directive to Physicians and/or a Power of Attorney for Health Care, if applicable.

(d) Medication administration records.

(e) Copies of the current written house rules and current Residents' Bill of Rights, signed by the resident or his/her representative.

(f) A written report of all significant incidents relating to the health or safety of a resident including how and when the incident occurred, who was involved, what action was taken by Operator/staff and the outcome to the resident.

(g) A signed copy of the contract for private pay residents.

(h) A up-to-date list of the resident's personal belongings kept in the facility.

(i) If the Operator manages or handles a resident's money, the Operator shall keep a record of the resident's money. If the Operator has been authorized by a resident or resident's legal representative to handle a resident's money, a dated record of how the resident's money is spent and receipts retained for purchases over \$5.00. Receipts shall not be required for purchases made by the resident himself/herself.

(j) Any other information or correspondence about the resident.

070-150 Operators shall keep all resident records on file in the Room and Board Facility for three years.

070-160 If a resident moves from the Room and Board Facility, and with the written consent of the resident or resident's legal representative, copies of medication sheets, as well as incident reports and personal information sheet shall be transferred with the resident to be used as reference only.

070-170 The falsification or omission of information from resident records shall be a violation of ACHP rules and shall subject the Operator to sanctions.

**R-891-070-200 HOUSE RULES**

070-210 Operators shall have written house rules which are in accordance with the ACHP rules. They shall include, but are not limited to, the facility's policies on daily and evening visiting hours, smoking, use of intercoms, resident telephone use, mealtimes, kitchen privileges, television, bedtimes, bathing, pets, alcohol use in the facility, and other expectations of or restrictions on residents. House rules shall not be in conflict with the Residents' Bill of Rights. House rules may prohibit the visitors of a resident if the visitors threaten the health, safety and welfare of the resident or other residents in the home.

070-220 House rules are subject to review and approval by the ACHP.

070-230 If smoking is allowed in the facility, the house rules shall designate the smoking areas and shall state that smoking is never allowed in sleeping areas.

070-240 Operators shall include in the house rules daily visiting hours of at least seven

hours with at least two hours after 6:00 pm. Operators shall make reasonable accommodations to visitors upon request.

070-250 A copy of the house rules shall be given to and discussed with the resident, their family member or legal representative. It shall be signed by the resident or the resident's legal representative upon admission to the Room and Board Facility and maintained in the resident records.

**R-891-070-300 POSTINGS**

070-310 Operators shall post copies of the following in a prominent place where they can be easily seen by residents and others:

- (a) current Multnomah County Room and Board Facility License.
- (b) if a conditional license, a statement of the conditions next to the license.
- (c) Residents' Bill of Rights.
- (d) House Rules.
- (e) the facility's floor plan with emergency evacuation map.
- (f) Inspection Report for the most recent annual inspection.
- (g) Licensing Report for the most recent inspection.
- (h) range of monthly rates for private pay residents.
- (i) Ombudsman poster.
- (j) name and telephone numbers of at least one emergency back up service giver.
- (k) ACHP complaint process poster.
- (l) telephone number(s) to provide 24 hour access to the Operator.

**R-891-070-400 TELEPHONE**

070-410 The facility shall have a working telephone with a listed number.

070-420 The telephone shall be available and accessible in the Room and Board Facility for residents' use with reasonable accommodation for privacy for incoming and outgoing calls.

070-430 Any restrictions and limitations on the use of the telephone in the Room and Board Facility by residents shall be specified in the written house rules and shall not violate residents' rights.

070-440 Appropriate use of the residents' personal telephone shall not be restricted by the Operator, Resident Manager or service giver.

070-460 Long distance service shall be available in the Room and Board Facility to residents who should pay for personal long distance telephone calls.

- 070-470 Residents with hearing impairments (to the extent that they cannot hear over a normal telephone) shall be provided with a telephone in the Room and Board Facility that is amplified with a volume control or is hearing aid compatible.
- 070-480 The Operator shall notify the ACHP, the resident's family, legal representative and any case manager of a change of the telephone number of the Room and Board Facility within 24 hours of the change.
- 070-490 The emergency 911 number shall be posted on all telephones in the Room and Board Facility. Emergency telephone numbers shall be posted by the telephone in the Room and Board Facility including an emergency number to reach an Operator who does not live in the facility.
- R-891-070-500 MOVING A RESIDENT FROM THE Room and Board Facility**
- 070-510 Operators shall not request or require a resident to move from the Room and Board Facility or to another room in the Room and Board Facility without giving the resident, the resident's legal representative, family, case manager and any other appropriate person(s) at least 30 days written notice of the move. This excludes emergency situations where the facility or resident's room no longer meets facility physical standards and situations where repairs are needed. The notice shall state the reasons for moving the resident and the resident's right to object and request a hearing.
- 070-520 A resident may be moved from the facility or between bedrooms in a facility if the move is the resident's choice or by mutual agreement of the resident and the Operator. This move requires that the resident receive 30 day written notice.
- 070-530 Operators shall evict residents from the facility or move residents between rooms in the facility for the following reasons only:
- (a) resident's service needs or behavior exceed the ability of the of the Operator or are excluded by these MCAR's.
  - (b) welfare of the resident, other residents or occupants.
  - (c) nonpayment or notice of intent to not pay for room or board or services.
  - (d) the facility is no longer licensed or there is a voluntary surrender of a license.
  - (e) behavior which poses an immediate threat to self, Operators, Resident Managers, service givers or others.
  - (f) behavior which substantially interferes with the orderly operation of the facility.
- 070-540 Residents may waive an Operator's 30 day notice to move in writing.
- 070-550 To require a resident to give the Operator a 30 day notice prior to a move, the Operator shall include this requirement in the contract.
- 070-560 All written notices regarding evicting or moving a resident shall include:
- (a) the resident's name.
  - (b) the reason for the proposed termination of residency.

- (c) the date of the proposed termination of residency.
- (d) the location to which the resident is going, if known.
- (e) the right to a hearing and to have the ACHP hold an informal conference.
- (f) the name, signature, address and telephone number of the person giving the notice.
- (g) the date of the notice.

070-570 If the resident has a medical emergency, the Operator may give less than 30 days' advance notice, but shall give the written notice as soon as possible under the circumstances. This includes situations in which the resident is hospitalized for a medical emergency and the Operator refuses to allow the resident to return to the facility. Medical emergency means a change in medical condition that requires immediate care of a level or type that the Operator is unable to provide, is not allowed in these MCAR's or behavior that poses an immediate threat to the resident or to other residents or people living in the facility.

070-580 Residents may be involuntarily terminated from the facility with less than the 30 day written notice from the Operator with approval of the Director of Aging Services or his/her designee in emergency circumstances. Approval requires a finding that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees, or other household members. Findings and approval shall be documented. Residents who move from the facility under these circumstances shall not be charged beyond their last day in the facility.

070-590 At the request of a resident, approval may be given for the resident to move from the facility with less than 30 day written notice to the Operator or as specified in the contract with the approval of the Director of Aging Services or his/her designee. Approval requires a finding by the Director of Aging Services or his/her designee that there is immediate threat, or that a delay would jeopardize the life, health, or safety of the resident, other residents, the Operator, employees or other household members. Findings and approval shall be documented. Residents who move from a facility under these circumstances shall not be charged beyond their last day in the facility.

**R-891-070-600 RESIDENT HEARING RIGHTS**

070-610 A resident who has been or will be evicted or refused the right of return to a facility by the Operator shall be entitled to an informal conference with the ACHP and an administrative hearing except in instances when the facility is no longer licensed.

070-620 The ACHP will hold an informal conference upon request and before any hearing about an eviction. The ACHP shall send written notice of the time and place of the conference to the Operator, the resident and, at the resident's request, a family member, case manager, Ombudsman, legal representative of resident, and, if the Operator requests it, a representative from a provider association. The purpose of the informal conference is to resolve the matter without a formal hearing.

070-625 The ACHP shall issue a written determination following the conference either

approving or disapproving the eviction.

- 070-630 If the resident is being moved from the Room and Board Facility by the Operator for a medical emergency, or to protect the welfare of the resident or other residents, as defined by rule, the hearing must be held within seven days of the move or notice to move. If a resident is being moved from the Room and Board Facility by an Operator for any other reason, the resident has a right to a hearing within ten days of the notice or notice to move. The Operator shall hold a space available for the resident pending the decision of the hearing.
- 070-640 ORS 441.605(4) regarding transfer notices and hearings of long term care facilities shall apply to Room and Board Facilities.
- 070-650 Factors to be considered by the ACHP in a conference and the hearing officer in a hearing in evaluating an involuntary termination of residency to determine whether such action should be approved, conditionally approved or disapproved shall be limited to the following:
- (a) Evidence of medical reasons for the action including behavior which substantially interferes with the orderly operation of the facility.
  - (b) Evidence concerning the safety or welfare of the resident, other residents, the Operator, employees or other members of the household.
  - (c) Evidence of non-payment of monies agreed upon for room, board and/or services.
  - (d) Evidence that the resident's care needs exceed the ability of the Operator or the scope of these MCAR's..
  - (e) Transfer trauma to the resident.
- 070-660 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's determination approving an Operator's involuntary termination of residency or may approve, conditionally approve, or disapprove an involuntary termination of residency.
- R-891-070-700 REFUNDS/RETURN OF PERSONAL PROPERTY**
- 070-710 The Operator shall refund any money owed to the resident, the resident's family or legal representative within 30 days of when the resident dies or permanently leaves the facility.
- 070-720 Operators shall make a resident's personal property available within seven days after the resident leaves the facility. If the resident does not claim his or her personal property within seven days of leaving the facility, the Operator shall give written notice to the resident or legal representative and allow 30 days before disposing of the resident's personal property.
- 070-730 The Operator may charge a reasonable fee for storage of a private pay resident's belongings beyond 15 days if the contract/admission agreement includes fees for storage.
- 070-740 The Operator has an obligation to act in good faith to reduce the charge by seeking a new resident to fill the vacancy. The Operator shall refund to the

resident who moves any rent for days after the date the room is re-rented.

- 070-750 If the facility closes, the Operator waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.
- 070-755 Operators may not charge a resident payment for more than 15 days after the resident has left the Room and Board Facility after a resident dies or leaves the facility for medical reasons and indicates in writing the intent not to return.
- 070-760 If a resident dies or leaves a Room and Board Facility due to substantiated neglect or abuse or due to conditions of immediate threat of life, health or safety, the Operator shall not charge the resident beyond the resident's last day in the facility.
- 070-770 If the ACHP orders the relocation of resident(s) and/or the refund of money to a resident, Operators shall refund the money owed to the resident within 30 days.

## **PART VII-R STANDARDS FOR ROOM AND BOARD FACILITIES**

### **R-891-080-100 GENERAL CONDITIONS OF THE Room and Board Facility**

- 080-107 The Room and Board Facility shall meet all applicable zoning, building and housing codes, and state and local fire and safety regulations for a single family residence. It is the responsibility of the Room and Board Facility Operator to ensure that all applicable local codes have been met.
- 080-121 The facility shall be inspected for fire safety using these rules and standards by an inspector designated by the ACHP or by the local fire department. The ACHP may require any additional standards that are recommended by the State Fire Marshall or his/her designee, for a single family residence.
- 080-128 The Room and Board Facility's buildings shall be of sound construction and kept clean and in good repair. The grounds shall be kept clean and well maintained.
- 080-130 Manufactured homes must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured homes shall have a manufacturer's label permanently affixed don the taillight end of the unit itself which states it meets the requirements of the Department of Housing and Urban Development. The required label shall read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacturer. See date plate."

If such a label is not evident on a mobile home unit, and the Operator believes his/her unit meets the required specifications, he/she must take the necessary steps to secure verification of compliance from the manufacturer.

Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated any further.

- 080-135 The facility's interior and furnishings shall be kept clean and in good repair. Walls, ceilings and floors shall be finished to permit frequent washing, cleaning or painting. There shall be no accumulation of clutter, garbage, debris, rubbish or offensive odors.
- 080-142 All interior walls shall be at least equivalent to a smoke barrier design. Buildings will be constructed with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials shall not exceed Class III (76-200) and smoke density shall not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exitway is composed of readily combustible materials such as acoustical tile or wood paneling, such material must be treated with an approved intumescent surface coating or removed.
- 080-149 Interior and exterior stairways and steps of the facility shall have properly installed handrails. The Room and Board Facility's yard, approved exits and stairs shall be accessible and appropriate to the condition of the residents.
- 080-156 Interior hallways of the facility shall at be least 32" wide. They shall be wide enough to accommodate wheelchairs or walkers if used by the resident(s). Each room, stairway and exitway shall be free of barriers which impede evacuation.
- 080-163 Each room, stairway and exitway of the facility shall be equipped with working lights and kept adequately lighted, based on the resident's needs. Light bulbs shall be shatterproof or protected with appropriate covers.
- 080-170 There shall be at least 150 square feet of common living space and sufficient appropriate furniture in the facility to accommodate the recreational and socialization needs of all the occupants at one time. Common space shall not be located in an unfinished basement or garage(s) unless such space was constructed for that purpose or has otherwise been legalized under permit. There shall be additional space required if wheelchairs are to be accommodated.
- 080-177 The facility shall be furnished to meet the needs of the residents.
- 080-184 Swimming pools, hot tubs, spas, or saunas shall not be accessible to residents without supervision. They shall also be equipped with safety barriers and devices designed to prevent accidental injury to the residents.
- 080-191 Operators shall keep first aid supplies and a first aid manual available at all times.
- 080-193 The facility's address shall be easily visible from the street.
- 080-195 Smoking is not permitted in any bedroom of the Room and Board Facility including that of a resident, Operator, Resident Manager, service giver, boarder, or family member.
- 080-197 Operators shall submit a copy of a revised floor plan of the Room and Board Facility to the ACHP whenever it changes or before remodeling is begun.
- R-891-080-200 HEALTH AND SANITATION**
- 080-210 Operators shall use a public water supply for the Room and Board Facility if available. If a non-municipal water source is used, a sample shall be collected by the licenser or sanitarian and tested at the Operator's expense for coliform

bacteria yearly and records shall be retained for three years. Corrective action shall be taken to ensure potability.

- 080-220 Septic tanks or other non-municipal sewage disposal system shall be in good working order.
- 080-230 Commodes shall be emptied frequently and cleaned daily.
- 080-240 Garbage and refuse shall be suitably stored in readily cleanable, rodent proof, covered containers. Garbage must be removed at least once a week.
- 080-250 Operators shall store soiled linens and clothing in closed containers kept separate from the bedrooms and the kitchen, dining and food preparation and storage areas. Clothing and bed linens soiled by human waste shall be placed in closed containers, emptied daily and promptly laundered. Soiled paper products used for cleaning incontinent residents shall be immediately disposed of in waterproof bags or containers.
- 080-260 Sanitation for household pets and other domestic animals shall be adequate to prevent health hazards. Proof of rabies or other vaccinations required by a licensed veterinarian shall be maintained on the premises for household pets. Pets not confined in enclosures must be under control and must not present a danger to residents or visitors.
- 080-270 Operators shall keep the facility free of insects and rodents. Immediate action shall be taken if the facility becomes infested to protect the health and safety of residents. Screens shall be installed on doors and windows used for ventilation.
- 080-280 Operators shall regularly clean surfaces, floors and rugs. Personal property shall be stored in a neat and orderly manner to keep the facility free of clutter and obstructions.
- 080-290 Universal precautions for infection control shall be followed in providing resident services. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.
- 080-299 Operators, Resident Managers and service givers 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. Containers holding sharp objects or medical waste shall not be stored in food preparation areas. Disposal shall be according to local regulations and resources (ORS 459.386 through ORS 459.405).

**R-891-080-300 BATHROOMS**

- 080-310 Bathrooms shall be kept clean and free from objectionable odors.
- 080-320 Room and Board Facilities shall have at least one toilet, one sink, one tub or shower and one mirror for each six household occupants including residents, and the Operator and/or service giver's family excluding children under two years old). A sink shall be located near each toilet, and a toilet and sink shall be located on each floor occupied by residents.

- 080-330 Bathrooms shall have grab bars for toilets, tubs, and/or showers for resident's safety and have barrier-free access to toilet and bathing facilities. Alternative arrangements for non-ambulatory residents must be appropriate to the needs of the resident for maintaining good personal hygiene.
- 080-340 Bathrooms shall have a finished interior, with floors, walls, tubs/showers, toilets, sinks and mirrors in good repair.
- 080-350 Bathrooms shall be adequately ventilated, with a window and window covering or other means of bringing in fresh air from the outside. A window must have a surface area of not less than one twentieth of the floor area of the bathroom with a minimum of three square feet and a minimum clear opening of one and 1/2 square feet.
- 080-360 Bathrooms shall allow for privacy and have a door which opens to a hall or common use room, unless the bathroom is used only by a resident who occupies a bedroom adjacent to that bathroom. Residents shall not have to walk through another person's bedroom to get to a bathroom.
- 080-370 Hot and cold water shall be available at each tub, shower, and sink in sufficient supply to meet the needs of the residents. Hot water temperature shall be supervised for persons unable to regulate water temperature.
- 080-380 Shower enclosures shall have nonporous surfaces. Glass shower doors shall be tempered safety glass. Tubs and shower shall have nonslip floor surfaces. Shower curtains shall be kept clean and in good condition.
- 080-390 The Operator shall provide adequate supplies of toilet tissue for each toilet and soap for each sink. Residents shall be provided with individual towels and wash cloths which are laundered in hot water at least weekly. Appropriate racks or hooks shall be available for drying bath linens. If individual cloth hand towels are not provided, roller dispensed hand towels or individually dispensed paper towels shall be provided for residents.

**R-891-080-400 BEDROOMS**

- 080-407 Bedrooms for all household occupants shall:
- (a) have been constructed as a bedroom when the facility was built or remodeled under permit.
  - (b) be finished with walls or partitions of standard construction which go from floor to ceiling.
  - (c) have a door which opens directly to a hallway or common use room without passage through another bedroom or common bathroom.
  - (d) be adequately ventilated and lighted with at least one openable window which meets fire regulations.
  - (e) be at least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright.
  - (f) have ceiling heights of not less than 7 feet 6 inches covering at least one half

of the area of the room.

- 080-414 Bedrooms shall not contain furnaces, laundry tubs, washers, dryers, freezers, dishwashers or other common use equipment.
- 080-421 Room and Board Facilities shall have at least one bedroom for use by the Operator, Resident Manager or other service givers. Operators, Resident Managers and service givers shall not share bedrooms with residents or sleep in common living areas or rooms not approved as bedrooms. All other occupants shall be housed in bedrooms meeting the criteria described in this section.
- 080-428 No more than two people shall occupy a bedroom, not including children under five years old.
- 080-435 Resident bedrooms shall be in close enough proximity to the Operator to alert the Operator to night time needs or emergencies, or shall be equipped with a call bell or intercom. Intercoms shall not violate the resident's right to privacy and must have the capability of being turned off by or at the resident's request.
- 080-442 Use of interior video monitors detracts from a facility-like environment and Operators shall not use them in resident bedrooms, bathrooms or living areas.
- 080-449 Bedrooms shall be on ground level for residents who are non-ambulatory, have impaired mobility, or are cognitively impaired. Residents on the second floor or in the basement must demonstrate their capability to self exit. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs.
- 080-456 Sleeping rooms located on a second floor or in a basement shall have an approved emergency means of exit. Split level facilities shall be evaluated according to accessibility, emergency exit and evacuation capability of residents. Bedrooms located on stories above the second floor shall not be used for sleeping purposes.
- 080-463 Bedrooms shall be adequately heated with a permanent source of heat.
- 080-470 Each bedroom shall have sufficient separate closet space, a private dresser and secure storage space for each resident's clothing and personal effects including hygiene and grooming supplies. Residents shall be allowed and encouraged to keep and use reasonable amounts of personal belongings.
- 080-477 Drapes or shades for windows shall be in good condition and allow privacy for residents.
- 080-484 There shall be an individual bed at least 36 inches wide for each resident consisting of a mattress and springs, or the equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used by residents. Each bed shall 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 shall be laundered at least weekly, and more often if soiled. Waterproof mattress covers will be used for incontinent residents.
- 080-491 All bedrooms in the facility shall have at least one window or exterior door to permit venting and for emergency escape or rescue. This escape and rescue window or door shall:

(a) Be easily openable from the inside without the use of keys, tools, or any special knowledge or effort.

(b) Provide a clear opening of not less than 5.7 square feet (821 square inches). The minimum net clear opening height dimension shall be 24 inches (by 34 inches wide); the minimum net clear opening width dimension shall be 20 inches (by 41 inches high). 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.

(c) Have a finished sill height not more than 44 inches from the floor level, or not more than 48" if the sill height met applicable code requirements at the time the bedroom was constructed and if an exception is granted by the ACHP. For sill heights above 48 inches, application may be made for a building permit to install a permanently attached step(s) (minimum width 30 inches, rise of 4 to 8 inches, and run of 9 to 12 inches) or other aids to window exit which are constructed so the sill height is no more than 44 inches from the top of the step(s). Upon approval of the permit and final inspection, the ACHP may grant an exception, but only if the step(s) or aids are readily accessible and not used for storage, and only if their use is within the demonstrated evacuation capability of the residents of the room. In no case can residents who are non-ambulatory or have limited mobility use such bedrooms.

(d) Be free of any obstacles that would interfere with the window being used as an emergency exit.

#### **R-891-080-500**

#### **HEATING AND COOLING SYSTEMS AND ELECTRICAL EQUIPMENT**

- 080-510 Heating and electrical equipment, including wood stoves, shall be installed in accordance with manufacturer's specifications and all applicable fire and safety regulations. Such equipment shall be used and maintained properly and be in good repair.
- 080-520 Room temperatures shall be at a safe and comfortable temperature for the residents. The Operator shall have ventilation, fans or air conditioning available for use in hot weather, and keep the rooms at a comfortable and safe temperature for the residents at all times. When residents are facility, minimum temperatures shall be no less than 70 degrees Fahrenheit during waking hours and 60 degrees Fahrenheit during sleeping hours.
- 080-530 Operators shall not use unvented portable oil, gas or kerosene heaters. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used only if approved by the State Fire Marshall's guidelines. State Fire Marshall Guidelines refer to Appendix I-E of the Uniform Fire Code of the State of Oregon which are available from the ACHP.
- 080-540 Operators shall not use extension cords in place of permanent wiring.
- 080-550 Portable air conditioners shall not block the exit window and shall be UL listed and used only in accordance with manufacturer's instructions.
- 080-560 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 shall be installed 36 inches around woodstoves to prevent accident or injury to residents.

080-570 Fireplaces shall not be used to burn trash. If the fireplace is used, chimneys shall be properly maintained and cleaned yearly so no accumulation of creosote or combustible residue can accumulate.

080-580 Operators who do not have a permit verifying proper installation of an existing woodstove shall have the woodstove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule.

**R-891-080-600 DOORS AND LOCKS**

080-610 Exit and interior doors of the Room and Board Facility shall have simple and easy to operate hardware that cannot be locked to prevent exit. Hasps, sliding bolts, hooks and eyes and double key deadbolts shall not be used. There shall be no more than two locks per door, including a lock in the handle. All hardware shall be mounted no more than 48 inches from the floor. All locks must be openable from the inside without the use of a key, tool, special knowledge or effort or more than one motion.

080-630 Storm windows or doors, bars, grills, grates or similar devices may be installed on escape and rescue windows or doors only if such devices are equipped with approved release mechanisms which can be easily opened from the inside without the use of a key, tool, special knowledge or effort or more than one motion.

**R-891-080-700 FIRE SAFETY**

080-710 Operators shall post an up to date evacuation plan for the facility with the locations of each bedroom, all windows and doors, the location of smoke detectors, fire extinguishers, and any sprinkler shut-offs. The evacuation plan shall clearly indicate the path occupants shall use to evacuate the facility in an emergency.

080-720 Smoke detectors shall be installed in accordance with the manufacturer's specifications and be installed in each bedroom, in hallways or access areas that adjoin bedrooms, family room or main living area where residents congregate, any interior designated smoking area, and in basements. Smoke detectors shall be installed at the top of each stairway. Ceiling placement of smoke detectors is recommended. Detectors shall be equipped with a device that warns of low battery when battery operated or with a battery back-up if hard wired.

080-730 All smoke detectors shall contain a sounding device or be interconnected to other detectors in order to provide an alarm which is loud enough in all sleeping rooms to wake occupants who are not hearing impaired.

080-740 Bedrooms used by hearing impaired residents must be equipped with a visual/audio or vibration alerting smoke alarm to wake the residents when they are asleep.

080-750 The Operator shall maintain exits, detectors and extinguishers in functional condition. If there are more than two violations of failure to maintain battery operated detectors in working condition in a 12 month period of time, hard-wiring of the detectors into the electrical system shall be required.

080-760 At least one fire extinguisher classed as 2A-10BC shall be mounted in a visible

and readily accessible location on each floor, including basements. Extinguishers shall be recharged every six years. Extinguishers shall be mounted with the top no higher than five (5) feet above the floor. Fire extinguishers shall be checked at least once a year by a technician qualified in fire extinguisher maintenance. All recharging and hydrostatic testing shall be completed by a qualified agency properly trained and equipped for this purpose. All fire extinguishers shall be tagged with the date of the last inspection and/or service.

080-770 Operators shall keep at least one plug in rechargeable flashlight readily accessible on each floor of the facility for emergency lighting.

080-780 If an Operator allows smoking in the Room and Board Facility, smoking regulations shall be adopted to allow smoking only in designated areas. Smoking shall be prohibited in sleeping areas, areas where oxygen is used, or in areas where flammable materials are stored. Ashtrays of noncombustible material and safe design shall be provided in areas where smoking is permitted.

### **R-891-080-800 EVACUATION**

080-808 An evacuation plan to be used in the event of an emergency shall be developed and rehearsed with all occupants.

080-816 Operators, Resident Managers and all service givers shall be required to demonstrate the ability to evacuate all occupants from the facility within three minutes to the closest point of safety outside the facility. Drills will be held at least once every 30 days in the first year of operation and at least every 60 days thereafter, with at least one drill practice per year occurring during sleeping hours. A record shall be maintained of evacuation drills. Records of drills shall be maintained for three years and include date, time for full evacuation, names of residents requiring assistance for evacuation, and signature of person conducting the drill.

080-820 Within 24 hours of arrival, any new resident or service giver shall be shown how to respond to a fire alarm, shown how to participate in an evacuation drill from the home in an emergency, and receive an orientation to basic fire safety. New service givers will also be oriented in how to conduct a fire drill.

080-824 If there are continual problems in demonstrating this evacuation time, conditions shall be applied to the license which include, but are not limited to, reduction of the capacity of the facility, adding staff, relocating one or more residents, moving residents within the facility, changing the classification of the facility, hard wiring smoke detectors into the facility's electrical system, installing a sprinkler system, increasing the number of fire drills, installing fire barriers, increased smoke detector systems or alarms or increased fire and life safety protection.

080-832 All residents shall participate in fire drills unless the Operator believes a resident may be harmed by participation in a fire drill and a written assessment from a physician or registered nurse is on file stating that such participation is medically contraindicated for the resident. In the event the resident cannot participate, substitutes for such residents of similar size shall be used in conducting fire drills to determine Operator's, Resident Manager's or service giver's evacuation capability.

080-840 Operators shall not place residents who are unable to walk without assistance or not capable of self-preservation in a basement, split-level, second story or other

area that does not have an exit at ground level. Such residents shall be given ground level rooms.

080-848 Stairs shall have a riser height of between 6-8 inches and tread width of between 8 - 10 ½ inches.

080-856 All common use areas of the house and exitways must be barrier free and corridors and hallways shall be a minimum of 32 inches wide or as approved by the authority having jurisdiction. Any bedroom window identified as an exit shall be free of any obstacles, at least the width of the window, that would interfere with it being an exit.

080-864 There must be two safe means of exit. Operators whose sleeping rooms are above or below the first floor may be required to demonstrate a fire exit drill from that room, using the secondary exit and still evacuate all the occupants in three minutes, at the time of licensure, renewal, or inspection.

080-872 There shall be a wheelchair ramp from a minimum of one exterior door if non-ambulatory persons live in the facility. All wheelchair ramps shall be constructed under appropriate permit. Wheelchair ramps shall have non-skid surfaces, handrails, and have a maximum slope of 1 inch rise in each 12 inches of distance. The maximum rise for any run without a platform shall be 30 inches. Operators shall bring existing ramps into revised compliance.

080-880 A Room and Board Facility located more than five miles from the nearest fire station or those of unusual construction may be required to have a complete fire alarm system installed which meets the requirements of the NFPA 72A and 72E and with approved automatic reporting to the local jurisdiction providing fire protection.

080-888 Operators whose facilities are located in areas where there is a danger of natural disasters which require rapid evacuation such as forest fires or flash floods, must be aware of community resources for evacuation assistance.

**R-891-080-900 STORAGE OF FLAMMABLE LIQUIDS, HAZARDOUS SUBSTANCES, AND GUNS**

080-910 Flammable and combustible liquids and hazardous materials shall be safely and properly stored in original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals. Storage of flammable liquids is prohibited in living areas.

080-920 Cleaning supplies, poisons, insecticides, etc. shall be stored in original labeled containers, safely away from bedrooms, food preparation and storage areas, dining areas and medication storage areas. Kitchen cleaning supplies may be kept in a separate enclosed space in the kitchen.

080-930 Guns must be stored, unloaded, in a locked cabinet. The gun cabinet must be located in an area of the facility that is not readily accessible to residents. Ammunition shall be stored and locked in a separate location from the gun.

**PART VIII-R - ABUSE/NEGLECT**

**R-891-090-100 ABUSE, NEGLECT OR EXPLOITATION OF Room and Board Facility RESIDENTS**

- 090-110 Operators, Resident Managers and service givers shall exercise all reasonable precautions against conditions which could threaten the health, safety or welfare of Room and Board Facility residents. Anyone who lives or works in a Room and Board Facility shall not inflict, allow to be inflicted, or expose residents to abuse, neglect or exploitation. Abuse, neglect or exploitation is a violation of ACHP rules and may subject the offender to civil and/or criminal proceedings. Operators shall be responsible for preventing abusive or neglectful treatment or exploitation of any resident by any occupant in the ACH.
- 090-120 Abuse of a Room and Board Facility resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident and which is inconsistent with resident needs or prescribed resident services.
- 090-130 Neglect is a kind of abuse which includes any action or inaction which causes or threatens to cause physical or mental harm to a resident which is inconsistent with resident needs and prescribed resident services. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an Operator, Resident Manager or service giver, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill.
- 090-140 Abuse or neglect may result from the conduct of an Operator, Resident Manager, service giver or other household member towards a resident of the facility.
- 090-145 Abuse or neglect shall include but is not limited to the following:
- (a) any physical injury caused by other than accidental means or which appears to be different from the explanation given for the injury.
  - (b) willful infliction of physical pain or injury, including physical assaults such as hitting, choking, pushing, shoving, pinching, kicking, scratching, or using any kind of unreasonable force.
  - (c) punishment, including but not limited to denial of food, shelter, clothing, eyeglasses, or hearing aids.
  - (d) using psychoactive medications or physical restraints.
  - (e) abandonment, including deserting or leaving a resident without adequate services.
  - (f) use of derogatory or inappropriate names, phrases, or profanity, unnecessary yelling, harassment, ridicule, threats, coercion, menacing behavior or intimidation, cursing or inappropriate sexual comments. This includes the emotional impact on a resident of an Operator, Resident Manager or service giver or other household members abusing each other.
  - (g) emotional abuse, mistreatment, or any pattern of psychologically destructive

behavior (for example, rejecting, isolating, terrorizing, ignoring or corrupting a resident). This includes the emotional impact on a resident of Operators, Resident Managers and service givers or other household members or visitors abusing each other while on the premises of the Room and Board Facility.

(h) sexual abuse or exploitation, including but not limited to:

(1) inappropriate language or physical contact between an Operator, Resident Manager, service giver or other household member and a resident,

(2) inappropriate language or inappropriate physical contact between nonconsenting residents,

(3) the failure of an Operator, Resident Manager or service giver to discourage sexual advances of residents toward the Operator or service giver, or

(4) failure of the Operator, Resident Manager or service giver to discourage inappropriate language or inappropriate sexual contact between nonconsenting residents.

(j) withholding or failure to provide adequate food, shelter, clothing, or services necessary to ensure the health, safety and welfare of residents.

(k) failing to seek adequate medical attention.

(l) improper administration, supervision and safe guarding of medications, including failure to follow medication orders.

(m) failure to provide bedding or adequate changing of bedding.

(n) failure to provide and maintain a safe, sanitary, and secure facility.

(o) failure to make a reasonable effort to discover what care is necessary for the wellbeing of a resident.

(p) failure to provide the staffing needed to provide services for the residents; failure to adequately train and supervise Resident Managers and service givers.

(q) placing unreasonable restrictions which violate rights guaranteed to the resident

by the Bill of Rights.

090-145

Exploitation means any act or absence of action that deprives or threatens to deprive the resident of personal resources or entitlements, and that is inconsistent with resident needs or prescribed resident services. Exploitation includes but is not limited to:

(a) financial exploitation or mismanagement, including, but not limited to:

(1) taking or disposing of any funds or property belonging to a resident.

(2) buying property from or selling property to a resident.

(3) becoming a resident's legal representative, or attorney in fact.

- (4) commingling the resident's funds with the Operator's, Resident Manager's, service giver's or another person's funds.
- (5) borrowing from or loaning money to residents; pledging any resident's funds.
- (6) spending a resident's personal funds inappropriately or without authorization from a resident or resident's family member.
- (7) entering into inappropriate financial arrangements with a resident.
- (8) adding an Operator's, Resident Manager's, service giver's or a member of the their family's name to a resident's bank account, legal contract or property or credit cards.
- (9) making unreasonable rate increases.
- (10) requiring more than 30 days advance payment for services.
- (11) witnessing a will in which an Operator, Resident Manager, or service giver or Operator's, Resident Manager's or service giver's family is a beneficiary.
- (12) perfecting or foreclosing a lien in violation of ORS Chapter 87.
- (13) theft or misuse of money or gifts intended for the residents.
- (14) charging excessive rates for services.

090-150 Operators, Resident Managers, service givers and any person with reasonable cause to believe that abuse, neglect or exploitation has taken place in a Room and Board Facility shall immediately make a report to the ACHP or a local law enforcement agency.

#### **PART IX-R - INSPECTIONS - CORRECTION OF VIOLATIONS**

#### **R-891-100-100 INSPECTIONS**

100-107 The ACHP may conduct unannounced inspections of a Room and Board Facility, in situations including but not limited:

- (a) licensing inspections for new and renewal licenses.
- (b) to determine if deficiencies noted in a facility have been corrected.
- (c) to monitor compliance with ACHP rules and standards.
- (d) to monitor resident services.
- (e) to determine if a facility is operating without a license.
- (f) whenever the ACHP receives a complaint of violations to the ACHP rules.

100-114 The Operator will be given a copy of the licensing and monitoring Inspection Reports at the time of the inspection identifying any areas of non-compliance and

specifying a time frame for correction set by the ACHP. The timeframe shall not exceed 60 days from date of inspection. The ACHP may follow up with additional Licensing Reports citing deficiencies and timeframes for correction.

- 100-121 In the course of an investigation, the ACHP may require that an RN conduct an assessment of the nursing care needs of any residents of a Room and Board Facility.
- 100-128 ACHP staff shall have full access and authority to examine and copy facility and resident records. The ACHP shall also have access to inspect the entire physical premises, including Operator/family areas, including the buildings, grounds, equipment and any vehicles.
- 100-135 The ACHP inspection shall also include the private living area of the Operator, Resident Manager and service giver and their families only to the extent to determine fire, sanitation and safety hazards or to respond to a specific complaint.
- 100-142 The ACHP shall have authority to interview, tape record and photograph Operators, Resident Managers, service givers, residents, and other household members. Interviews shall be conducted in private and kept confidential. Any photos taken or tape recordings made during inspections and interviews may not be subject to public access if they include confidential information but may be used in enforcement hearings.
- 100-149 Operators must inform and authorize all Resident Managers and service givers of their duty to permit the ACHP to enter the facility at any time to carry out inspections, interviews and monitoring.
- 100-156 The ACHP shall conduct unannounced inspections without advance notice to the Operator, Resident Manager or service giver of the facility. The ACHP shall not give advance notice of any inspection if the ACHP believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of these administrative rules. The ACHP may also conduct announced inspections.
- 100-163 If Operators, Resident Managers or service givers deny the ACHP access for inspections or interviews, the ACHP shall inform the Operator, Resident Manager or service giver of the requirements of the rules and may, if access is still denied, obtain a search warrant and impose administrative sanctions.
- 100-170 If an Operator denies access to the facility during an investigation of a complaint of abuse or neglect, the ACHP may obtain the help of law enforcement agents to gain immediate access to the facility and residents.
- 100-177 ACHP inspectors shall respect the private possessions of Operators, Resident Managers, service givers, residents and other household members when carrying out inspections.
- 100-184 Operators, Resident Managers and service givers shall permit state or local health and safety inspectors, Bureau of Buildings inspectors or other inspectors to enter and inspect the facility.
- 100-191 The State Long Term Care Ombudsman or designee has access to all resident and facility records. This does not include Certified Ombudsman volunteers who only have access to facility records relevant to service giving as well as resident

records with written permission from the resident, the resident's family or legal representative.

**R-891-100-200 PROCEDURES FOR THE CORRECTION OF VIOLATIONS**

100-210 If the ACHP determines that there has been a violation of any ACHP rule, the ACHP shall notify the Operator of:

- (a) the violation,
- (b) the rule violated,
- (c) correction procedures,
- (d) timelines for correction of the problem, where applicable,
- (e) a written warning or sanction, as needed, to protect the health, safety and welfare of residents,
- (f) the right to an administrative conference,
- (g) the right to a hearing if a sanction is imposed, and
- (h) the right to request an exception as provided in MCAR R-891-030-100, if applicable.

100-220 Operators shall correct any violation as soon as possible but in no case beyond the timeline specified by the ACHP.

100-230 For violations that present an immediate threat to the health, safety or welfare of residents, the notice of violation shall order the Operator to correct the violations no later than 24 hours after receipt of the notice of violation. The ACHP shall inspect the facility after the 24-hour period to determine if the violations have been corrected as specified in the notice of violation.

100-240 In cases other than those involving the health, safety or welfare of a resident, the ACHP shall prescribe a reasonable time for elimination of a violation but shall not exceed 30 days after notice of the violation (except as provided in R-891-100-250).

100-250 If it is determined by the ACHP that the correction is not possible within 30 days, the ACHP may approve a reasonable time in excess of 30 days.

100-260 If there is an immediate threat to the residents, the ACHP may immediately suspend the license and make arrangements to move the residents.

**PART X-R - COMPLAINTS**

**R-891-200-100 COMPLAINTS AND COMPLAINT INVESTIGATIONS**

200-105 The ACHP shall provide the Room and Board Facility with a complaint poster that the Operator shall post in a conspicuous place. The complaint poster shall list the ACHP telephone numbers and explain how to make a complaint.

200-110 The ACHP shall cause all complaint investigations to begin within two hours if the

complaint alleges that a resident has been injured, abused or neglected, and that there is an immediate threat to any resident, or that a resident has died or been put in a hospital because of abuse or neglect.

- 200-115 The ACHP shall cause investigations of other complaints to begin by the end of the next working day or at a time appropriate to the nature of the complaint.
- 200-120 The ACHP shall take immediate actions to protect the health, safety and welfare of residents when the ACHP receives a complaint of abuse or neglect, regardless of whether the investigative report is completed, and whenever the ACHP finds that abuse or neglect is placing or could place a resident in danger or cause the resident physical or mental harm before the danger could be eliminated by regular enforcement procedures.
- 200-125 The ACHP shall cause all complaint investigations to be completed, including a written report, within 60 days unless a concurrent criminal investigation requires more time or unless the complaint investigation cannot be completed due to Operator noncooperation or other circumstances beyond the ACHP's control.
- 200-130 The ACHP shall initiate appropriate action within 30 days of the completion of the investigative report.
- 200-135 If the ACHP cannot meet the time requirements in MCAR R-891-200-125 and MCAR R-891-200-130, the Director of Aging Services or his/her designee may grant an extension to these requirements.
- 200-140 The ACHP's failure to meet the time frame guidelines in this section shall not affect the ACHP's ability to protect the health, safety and welfare of the residents.
- 200-145 The ACHP investigations shall include
- (a) unannounced visits to the facility.
  - (b) observing, recording, photographing or copying of all relevant evidence.
  - (c) interviewing all available persons identified by any source as having relevant knowledge of circumstances about the complaint, including the alleged perpetrator(s) and alleged victim(s), if possible. Interviews shall be conducted in private and treated as confidential.
- 200-150 Complaint investigators shall interview the Operator and shall advise the Operator of the nature of the complaint and give the Operator the opportunity to submit any relevant information.
- 200-155 The ACHP shall not to release information about the content of the complaint investigation until the complaint investigation is completed.
- 200-160 In investigation reports, the identity of the resident(s), the complainant, and any witnesses shall be kept confidential. The Operator's name and name of any other person identified as the perpetrator of a rule violation is not confidential.
- 200-165 A report shall include: the Operator's name and Room and Board Facility address, the investigator's name, observations, a review of relevant documents and records, a summary of witness statements, and a conclusion.

- 200-170 The investigative report shall list each allegation and shall state whether each allegation was found to be true. (more likely than not to have occurred or substantiated), found to be false (more likely than not to have not occurred or unsubstantiated), or found unable to be determined true or false (unable to substantiate).
- 200-175 The ACHP shall mail a copy of the completed investigative report within seven (7) days of completion to the following people:
- (a) the person who made the complaint, if known, unless the complainant requests anonymity.
  - (b) the resident(s) involved and any person designated by the resident to receive the information.
  - (c) the Operator of the Room and Board Facility involved.
  - (d) the Long Term Care Ombudsman.
  - (e) the State Senior and Disabled Services Division.
- 200-180 The ACHP shall inform the persons receiving the complaint report of the right to give additional information about the report to the ACHP within seven (7) days of receipt.
- 200-185 The ACHP shall review responses and may reopen the investigation based on the new information.
- 200-190 The investigative report, and any responses shall become part of the public complaint file.
- 200-199 Any person shall have the right to inspect files of public complaint investigation reports and to make photocopies at reasonable cost.
- R-891-200-200 PROHIBITING RETALIATION AGAINST PERSONS MAKING COMPLAINTS**
- 200-210 The Room and Board Facility Operator shall not retaliate against any resident after the resident or someone acting on his/her behalf has filed a complaint by increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the Room and Board Facility or by abusing or threatening to harass or abuse a resident in any manner.
- 200-220 An Operator, Resident Manager or other service giver shall not retaliate against any complainant, witness or employee of a Room and Board Facility for making a report or being interviewed about a complaint or being a witness. Retaliation can include restriction of access to the facility, to a resident, or dismissal or harassment of an employee.
- 200-230 The complainant shall have immunity from any civil or criminal liability with respect to the making or content of a complaint made in good faith. Immunity under this subsection does not protect self-reporting Operators, Resident Managers or service givers from liability for the underlying conduct that is alleged in the complaint.

200-240 Operators, Resident Managers and service givers shall not make or cause to be made a bad faith complaint.

## PART XI-R - SANCTIONS

### R-891-300-100 ADMINISTRATIVE SANCTIONS

300-110 ACHP sanctions may include but are not limited to:

- (a) fines.
- (b) conditions on a license.
- (c) denial, suspension, revocation or non-renewal of a license.

300-120 The ACHP shall deny, revoke, or refuse to renew a license where it finds:

- (a) There exists a threat to the health, safety or welfare of any resident.
- (b) There is reliable evidence of abuse, neglect or exploitation of any resident.
- (c) There has been significant non-compliance with these rules;
- (d) There is significant non-compliance with local regulations and ordinances or any other state or federal law or rule applicable to the health and safety of residents and providing services for residents in a Room and Board Facility.
- (e) The applicant or Operator has been convicted of one or more crimes described in MCAR R-891-050-450 or MCAR R-891-050-455.
- (f) The Operator knowingly employs Resident Managers and service givers, or allows household members, or any other person (excluding the residents) to live in, work in, or be in the Room and Board Facility who have been convicted of one or more crimes as described in MCAR R-891-050-450.
- (g) The applicant or Operator provides false information regarding their criminal history.
- (h) An applicant whose license has been revoked, voluntarily surrendered during a revocation process, or whose application has been denied for reasons of abuse, neglect, threat to the health, safety or welfare of any resident(s), or failure to possess the physical health, mental health, ability or good personal character necessary to be an Operator, and the timeframe specified in the order revoking or denying the license has not passed.
- (i) An Operator or applicant has failed to pass the Operator's Qualifying Test within the last twelve months.

300-130 The ACHP may impose sanctions if an applicant, Operator, Co-Operator, Resident Manager or service giver:

- ( 1) is not in compliance with the rules of the Adult Care Home Program.
- ( 2) is non-compliant with local codes, ordinances, state or federal law, or rules applicable to the provision of services to residents of Room and Board Facilities.

( 3) has given fraudulent or misleading information to the ACHP or other government agency.

( 4) has a prior license denial, suspension, revocation or has been refused a license renewal in Multnomah County or any other county or state.

( 5) is associated with a person whose license for a foster facility, residential care facility or Room and Board Facility was denied, suspended, revoked or refused to be renewed due to abuse or neglect of the residents, creating a threat to the residents or failure to possess physical health, mental health or good personal character, unless the applicant or provider can demonstrate to the ACHP by clear and convincing evidence that the person does not pose a threat to the residents. For purposes of this rule, an applicant or Operator is "associated with" a person if the applicant or provider:

(a) Resides with the person.

(b) Employs the person in the Room and Board Facility.

(c) Receives financial backing from the person for the benefit of the Room and Board Facility.

(d) Receives managerial assistance from the person for the benefit of the Room and Board Facility.

(e) Allows the person to have access to the Room and Board Facility.

(f) Rents or leases the Room and Board Facility from the person.

(6) has obstructed the investigation of a complaint, interview or any action meant to administer or enforce ACHP rules or laws.

(7) has accumulated complaints that threaten the health, safety or welfare of residents.

(8) has a medical, psychiatric or psychological problem or an alcohol or drug use problem which interferes with the ability to provide good services or to operate a Room and Board Facility.

(9) has had a complaint, that upon initial review indicates evidence of immediate threat to the health, safety or welfare of residents.

(10) has knowingly failed to file an application or to report information required by the ACHP rules.

(11) has failed to pay a fine within time limits specified by the ACHP.

(12) has operated or continues to operate an unlicensed Room and Board Facility.

(13) fails to comply with an administrative sanction, including a condition imposed on a license.

(14) has previously surrendered a license while under investigation or administrative sanction.

(15) has denied access to ACHP staff to enter the facility.

(16) such other circumstances as may be established by the ACHP.

**R-891-300-200 ACHP FINES**

- 300-210 The ACHP may levy fines against an Operator who violates the Multnomah County Administrative Rules.
- 300-220 If an Operator does not fully correct a violation which has resulted in a fine within the specified timeframe, the fines may be increased.
- 300-230 The ACHP shall consider the following factors in setting the fine amounts for specific rule violations:
- (a) the degree of harm caused to residents, if any.
  - (b) whether the violation threatens or threatened the health, safety or welfare of residents.
  - (c) the seriousness, frequency and duration of the rules violation, and the violator's intent.
  - (d) past history of violations of rules or laws and corrections taken in response to rule violations.
- 300-240 The ACHP may levy fines of up to \$1000.00 for each separate violation including multiple violations of the same rule. The ACHP may levy additional fines up to \$250.00 per day up to \$1000.00 per violation for continuing violations until the violation is discontinued.
- 300-260 The ACHP shall impose a mandatory fine of not less than \$250.00 on an Operator who admits a resident to the facility knowing the resident's care needs exceed those allowed by these rules in a Room and Board Facility.
- 300-270 The failure to pay a fine within time limits specified by the ACHP, shall result in an automatic penalty of up to \$250.00 per day to a maximum of \$1,000.00, until the fine and penalties are paid in full.
- 300-280 If the ACHP levies a fine against an Operator, the ACHP shall give a notice to the Operator that provides the following information:
- (a) the violation,
  - (b) a reference to the particular section of rule or statute involved,
  - (c) a brief statement of the circumstances of the violation,
  - (d) the amount of the fine,
  - (e) the date the fine is due,
  - (f) penalties if the fine is not paid,
  - (g) a notice that failure to pay the fine shall subject the violator to further legal

action,

(h) a statement of the right to request a hearing, and

(i) that the notice will become a final order if no hearing is requested in twenty days.

300-290 An Operator shall have twenty days from the date of the notice to request a hearing in writing. If a timely written request is not received, the fine shall become a final order.

300-299 Unless the fine is paid within ten days after the order becomes final, the order constitutes a judgment and may be recorded by the County Clerk which becomes a lien upon the title to any interest in real property owned by the Operator.

**R-891-300-300 CONDITIONS PLACED ON A LICENSE**

300-310 The ACHP shall have the authority to place conditions on a license that limit the scope of the license or impose additional requirements on the Operator. License conditions are effective immediately and are the final order of the ACHP unless later rescinded through the hearings process.

300-320 The ACHP may place conditions on a license when the ACHP finds:

(a) the Operator is not in full compliance with ACHP rules

and/or

(b) a threat exists to the health, safety or welfare of the residents that may be remedied by placing a condition on the license.

300-330 Conditions on a license must directly relate to a risk of harm or potential harm to residents and may include but are not limited to:

(a) restricting the total number of residents and occupants of the facility.

(b) restricting the number of residents to whom the Operator may provide services.

(c) restricting the type of services the facility may provide.

(d) requiring additional staff or staff qualifications to meet the resident's service needs.

(e) requiring additional training of Operator/staff to meet specific resident service needs.

(f) restricting admissions due to failure of the Operator or Resident Manager to pass the qualifying test as required by these rules.

(g) restricting admissions when there is a threat to the current residents of the facility and admitting new residents would compound that threat.

(h) restricting the opening of additional Room and Board Facilities.

(i) restricting the Operator from allowing persons on the premises who may pose

a threat to resident safety or welfare.

(j) requiring an Operator to notify the ACHP when a resident develops care needs.

(l) requiring that a resident with care needs be relocated from a Room and Board Facility.

300-340 The ACHP may place conditions on a license for a specified period of time. At the end of that period, the ACHP shall determine if the conditions are still appropriate and may continue the conditions. The ACHP shall consider the reasons for the condition at the time of license renewal to determine if the conditions are still appropriate. The condition's effective date and expiration date shall be put on the license.

300-350 Operators may request that the condition be removed if the Operator believes that the reason for the condition has been remedied.

**R-891-300-400 SUSPENSION**

300-410 If a license is suspended for reasons other than immediate threat to the health, safety or welfare of the resident(s), the Operator shall be entitled to a hearing preceding the effective date of the suspension if the Operator requests a hearing in writing within 20 days from the date of the notice. If no written request for a timely hearing is received, the ACHP shall issue a final order by default. The ACHP may designate its file as the record for purposes of default.

300-420 If the ACHP finds that there is an immediate threat to the health, safety or welfare of the residents, the ACHP shall issue a written order suspending the license effective immediately. A hearing shall follow the suspension if requested in writing by the Operator within 20 days of the order.

300-430 An Operator may also request an administrative review in writing within 10 days of the written order to suspend the license based on immediate threat, the ACHP shall review the decision within five business days. This review shall be limited to the issue of whether the finding of immediate threat is supported by the evidence. The review shall include all materials related to the findings of immediate threat, including any written documentation submitted by the Operator. If the finding of immediate threat is supported, the suspension shall remain in effect.

300-440 If the ACHP does not sustain the finding of immediate threat, the suspension shall be lifted. A suspension may not be reimposed unless and until a final order has been issued pursuant to the hearing process in MCAR R-891-300-800 through MCAR R-891-300-891 or until the Operator's right to request a hearing under these provisions has expired.

300-450 In the event the license is suspended or a threat to the resident safety is identified, the ACHP may notify the resident, the resident's family, the resident's legal representative, the case manager and other persons involved in the provision of resident services. For protection of the residents, the ACHP may arrange for them to move.

**R-891-300-500 REVOCATION/NON-RENEWAL/DENIAL**

300-510 The ACHP shall revoke a license if the conditions listed in MCAR R-891-300-120

are found to exist in the Room and Board Facility. The ACHP may revoke a license if the conditions listed in MCAR R-891-300-130 are found to exist in the Room and Board Facility.

300-515 Denial, non-renewal or revocation of a license by the ACHP shall be preceded by a hearing if requested by the operator, unless the license is denied, not renewed or revoked for the reason of an immediate threat to the life, health, safety or welfare of a resident. If an immediate threat exists, the denial, revocation or non-renewal shall be effective upon order of the ACHP. In this case, a hearing shall follow the denial, non-renewal or revocation if requested by the operator.

300-520 A license in the revocation process will remain in effect during an administrative hearing process even if the license expires before the hearing and/or a final order is issued.

300-530 If a license is revoked, not renewed or denied, the ACHP may arrange for residents to move for their protection.

300-540 An Operator whose license has been revoked or an applicant whose application has been denied shall not be permitted to make a new application for one year from the date the revocation or denial is final or for a longer period specified in the order revoking or denying the license.

**R-891-300-600 NOTIFICATION OF SANCTIONS**

300-610 The ACHP shall give Operators written notice of any sanctions imposed. The ACHP shall deliver the notice in person or by certified or registered mail.

300-620 The notice of a sanction shall state:

(a) the sanction imposed, the reasons for the sanction, and a description of the circumstances of the violation.

(b) the rule(s) violated.

(c) the effective date of the sanction and the time frame for correcting the violation(s), if applicable.

(d) that the ACHP may impose additional sanctions, if applicable, if violations continue or reoccur.

(e) the availability of help relocating residents, if needed, and the Operator's duty to help with any resident relocation.

(f) the right to appeal the ACHP order or sanction, and how to request a hearing.

(g) the authority for the hearing.

(h) that the ACHP files on the subject of the contested case automatically become part of the contested case record upon default for the purposes of proving a prima facie case.

(i) that the notice of the sanction shall become a final order if the Operator does not request a hearing within the specified time.

300-630 A copy of the complaint investigation report or inspection report shall be attached to the sanction notice, if applicable, unless previously provided to the applicant or Operator.

**R-891-300-700 ADMINISTRATIVE CONFERENCES**

300-710 The ACHP may require attendance by an Operator at a conference prior to or as part of the imposition of a sanction. The purpose of the conference is to discuss the problems, rule violation(s) and/or sanctions, and review means to achieve satisfactory and timely compliance with the rules.

300-720 An Operator may request an administrative conference at any time after notice of problems, rule violations or sanctions.

300-730 An Operator's request for an administrative conference does not extend the effective date of a sanction or time limit for correction of a problem unless the Operator requests and the ACHP grants a change in the date the sanction shall be effective.

**R-891-300-800 HEARINGS**

300-814 An Operator may appeal a sanction given by the ACHP. To appeal, the Operator must file a written request for a hearing with the ACHP within 20 days of the date of the notice except as provided in MCAR 891-300-310. The written request shall include the reason(s) for the hearing and the issues to be heard. If the timely request is not received, the ACHP's order shall become final. The ACHP may designate its file as the record for purposes of default. The ACHP may designate its file as the record for purposes of default.

300-821 For purposes of these rules, a hearing is defined as an administrative proceeding conducted by an independent hearing officer, with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

300-828 Hearings shall be conducted by an independent hearing officer who shall hear witnesses, take in evidence presented and determine issues of fact and of law based on the evidence presented.

300-835 Hearings shall be conducted in accordance with these rules and with the Oregon Attorney General's Model Rules for contested case proceedings when these rules do not address a procedural issue. Any party may be represented by an attorney.

300-842 The ACHP shall provide copies of relevant correspondence, reports and other information to the hearings officer.

300-849 The entire proceeding shall be recorded by tape recorder or court reporter. The record will be transcribed only if a writ of review is filed pursuant to ORS 34.010 to ORS 34.100.

300-856 A party may receive a copy of the tape recording upon payment of copying costs. Costs of transcription of the court reporter's record shall be paid by the party requesting the transcript.

300-863 Evidence, including hearsay evidence, of a type commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be admissible in a hearing requested by an Operator to appeal an administrative sanction or an

order disapproving an involuntary termination of residency, or in a hearing requested by a resident or person acting on a resident's behalf to contest an involuntary termination of residency. There are four types of admissible evidence:

(a) Knowledge of the agency. The Director of Aging Services or any authorized representatives may take "official notice" of conclusions developed in an investigation as a result of intensive experience of the agency in its specialized field of activity. This includes judgments based upon investigation findings, as well as notice of a technical and scientific nature. Such notice shall be so indicated in the proceedings.

(b) Testimony of witnesses, including the parties, about the matter in dispute. Any witness testifying is subject to cross examinations by other parties and the hearings officer.

(c) Written or visual material. This material includes complaints, reports, notices, letters, other records, notes, maps, diagrams and other written or visual material. Such material may include signed written statements and videotaped interviews of parties or witnesses not present at the hearing.

(d) Experiments, demonstrations and similar means used to prove a fact.

300-870 Once a hearing is concluded, there shall be no continuance or reopening of the hearing to offer additional evidence unless any party can show that the additional evidence was not known to the party at the time of the hearing and that reasonable diligence would not have discovered the evidence prior to the conclusion of the hearing.

300-877 In reaching a decision, the hearings officer shall only consider evidence which has been admitted, and shall evaluate the weight of all such evidence in light of the presentations of the parties during the hearing.

300-884 After reviewing the evidence submitted at the hearing, the hearings officer may sustain, modify, or overrule the ACHP's imposition of an administrative sanction or an order disapproving an involuntary termination of residency or may approve, conditionally approve, or disapprove an involuntary termination of residency. Nothing in this section shall prevent the hearings officer from remanding the matter to the ACHP following the conclusion of the hearing and prior to issuing an order for the ACHP's review and recommendation in light of evidence presented. The final order shall be issued by the hearings officer not later than 45 days after the termination of the hearing. The final order is effective when issued. The final order shall notify the Operator of the right to appeal to the Circuit Court under ORS 34.010 to ORS 34.100.

300-891 Review of the hearing officer's final order shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 to ORS 34.100.

**R-891-300-900 CRIMINAL PENALTIES**

300-910 Operating a Room and Board Facility without a license is punishable as a Class C misdemeanor.

300-920 Refusing to allow access and inspection of a facility by ACHP staff or for state or local fire inspections is a Class B misdemeanor.

300-930 The ACHP may ask a court to prohibit a person from:

(a) operating a Room and Board Facility without a license.

(b) operating a Room and Board Facility after notice of license suspension or revocation and after a reasonable amount of time has been given for placement of residents in other facilities or facilities but placement has not been accomplished.

#### **PART XII-R - PUBLIC INFORMATION**

#### **R-891-400-100 PUBLIC INFORMATION ABOUT ROOM AND BOARD FACILITIES**

400-110 The ACHP shall maintain current information about all licensed Room and Board Facilities in Multnomah County. The ACHP shall make all information that is not confidential available to prospective residents and members of the public.

400-120 The information in the public file shall include:

(a) the location of the Room and Board Facility and the name and mailing address of the Operator if different.

(b) the Room and Board Facility license and an example of the private pay contract.

(c) the date the Operator was first licensed to operate the facility.

(d) the date of the last licensing inspection and fire inspection, the name and telephone number of who performed the inspection, and a summary of the inspection findings.

(e) copies of all non-confidential portions of complaint investigations filed by facility and date, ACHP findings and actions taken by the ACHP, and responses of the Operator or person making the complaint, if any.

(f) any conditions placed on the license, license suspensions, denials, revocations, fines, rule exceptions granted, or other current ACHP actions involving the facility.

(g) whether services in the facility are given primarily by the licensed Operator, a Resident Manager, or by some other arrangement.

(h) a brief description of the physical characteristics of the facility.

400-130 The registry maintained by the Adult Care Home Program shall be regularly updated to indicate facilities which have been issued a regular, limited, conditional or provisional license, facilities which have been issued a renewal license, and facilities which have newly applied for a license. This registry shall be available to the public upon request.

400-140 Any list of Room and Board Facilities maintained or distributed by the ACHP shall include the number of substantiated complaints for each of the Room and Board Facilities for the lesser of the preceding five years or the period beginning January 1, 1992.

400-160 The ACHP will make every effort to ensure that public file information is as user friendly and easy to read as possible.

## PART XIII-R - DEFINITIONS

The terms used in the ACHP Administrative Rules are defined as follows. All terms are listed alphabetically.

### **ACHP - Adult Care Home Program**

**Abuse** - Abuse of a Room and Board Facility resident means any verbal or physical action or mistreatment which causes or threatens to cause physical or mental pain, injury or discomfort to a resident. This includes withholding or failure to provide adequate food, shelter, clothing, supervision, socialization, or services necessary to ensure the health, safety and welfare of residents.

**Activities of Daily Living (ADL)** - Those personal functional activities required by an individual for continued well-being including eating/nutrition, dressing, personal hygiene, mobility, toileting and behavior management. See Appendix I.

- (a) "Independent" means the resident can perform the ADL without help.
- (b) "Assistance" means the resident is able to do part of an ADL, but cannot do it entirely alone.
- (c) "Dependent" means the resident is unable to do any part of an ADL, it must be done entirely by someone else.

**Adult Care Home (ACH)** - Any home or facility that provides room and/or board and/or care for compensation to persons who are not related to the Operator by blood, adoption or marriage except as provided in MCAR R-891-020-140. For the purpose of this rule, Adult Care Home does not include any house, institution, hotel or other similar living situation that supplies room and board only, or room only, or board only, if no resident thereof requires any element of care. Adult Foster Homes are classified as Class I, II or III. The Adult Care Facility Program licenses three types of homes. The categories of adult care facilities licensed by the ACHP include Adult Foster Homes, Adult Foster Homes with a Limited License, and Room and Board Facilities.

**Adult Care Home Program (ACHP)** - The regulatory part of the Aging Services Department of Multnomah County, Oregon, that oversees the enforcement of ACHP rules in Adult Care Homes in Multnomah County.

**Adult Foster Home** - Any home or facility that provides residential care for compensation to five or fewer persons who are not related to the Operator by blood, adoption or marriage except as provided in MCAR R-891-020-140. Residential care is the provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management. Twenty-four hour supervision is required.

**Adult Foster Home with a Limited License** - A home or facility that provides residential care for compensation to only a specific individual(s) who is not related to the Operator by blood, adoption or marriage. Twenty-four hour supervision is required. Part XV of these rules sets out the provisions for licensure of an Adult Foster Home with a Limited license.

**Advance Directive** - The legal document signed by the resident giving instructions for health care should he/she no longer be able to give directions regarding his/her wishes. The directive gives the resident the means to continue to control his/her own health care in any circumstances.

**Applicant** - Any person who submits a completed set of application materials to the ACHP to obtain a license to operate a Room and Board Facility in Multnomah County and who is owner of the business.

**ASD** - Aging Services Division, A Multnomah County office responsible for a variety of social services provided to elderly persons and persons with disabilities residing in Multnomah County.

**Behavioral Interventions** - Those interventions which will modify the resident's behavior or the resident's environment.

**Board** - The Operator's provision of meals to a resident on a predictable and/or regular basis.

**Board of Nursing Rules** - The standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR Chapter 851, Division 45 (page 33).

**Care** - The provision of room, board, services and assistance with activities of daily living, such as assistance with bathing, dressing, grooming, eating, money management, recreation or medication management, except that assistance with self-medication is not included as part of care for purposes of these rules. Care also means services that encourage maximum resident independence and enhance quality of life.

**Care Plan** - The written description of a resident's needs, preferences, and capabilities, including by whom, when and how often care, services, and/or supervision will be provided. Care plan includes ISP (Individual Service Plan) and Mental Health Care Plan.

**Service giver** - Any person responsible for providing supervision and services to residents of a Room and Board Facility under the jurisdiction of the ACHP other than the Operator or certified Resident Manager and who is approved by the ACHP.

**Case Manager** - A person employed by the Aging Services Division or other social service agency who oversees the care and service provided to a resident from various social and health care services.

**Classification** - The ACHP's determination during licensure of what level of care an adult foster home may provide. The ACHP classifies adult foster homes as Class I, II or III homes. Note: Room and Board Facilities and Adult Foster Homes with a Limited License are not classified as Class I, II or III.

**Client** - A resident in an Adult Care Home for whom SDDS or MHDDS pays for care or for whom case management services are provided.

**Clutter** - An accumulation of material which impedes or obstructs a person's progress through a room, restricts use of a room and which may present a fire or safety hazard.

**Cognitive** - Pertaining to the mental state and thought and deliberative processes of the mind.

**Compensation** - Payments in cash, in-kind, or in labor, by or on behalf of a resident to an Operator or common fund in exchange for room and/or board and/or care and/or services, including any supervision, care and services specified in the care plan. Compensation does not generally include the voluntary sharing of expenses between or among roommates.

**Complaint** - An allegation that an Operator has violated these rules or an expression of dissatisfaction relating to the condition of the Room and Board Facility or the resident(s).

**Compliance** - Meeting the requirements of ACHP rules, orders, or any applicable laws, codes, regulations or ordinances.

**Conditions** - Restrictions or additional requirements placed on a license by the ACHP as a sanction.

**Co-Operator** - Co-Operator is synonymous with Operator as both are equally responsible for the facility.

All Co-Operators shall meet all qualifications and standards for an Operator.

**Criminal History** - Records and related data, including fingerprints, received, compiled, and disseminated by the Oregon State Police and any other local and national law enforcement agencies for purposes of identifying criminal offenders and alleged offenders and pertaining to such persons records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release.

**Day Care Resident** - A resident who receives care, assistance, and supervision but who does not stay overnight.

**Delegation** - The process by which a registered nurse teaches and supervises a skilled nursing task.

**Department** - Multnomah County Aging Services Division

**Director** - The Director of the Department of Aging Services of Multnomah County, Oregon, or his or her designee.

**Disabled** - A person with physical, cognitive or emotional impairment which limits the person in one or more activities of daily living.

**Discrimination** - Differential treatment or denial of normal privileges to persons because of their race, age, sex, sexual orientation, nationality or religion.

**Elderly Person or Aged** - Any person age 65 or older who is in need of care.

**Exitway** - A continuous and unobstructed path of travel, separated by other spaces of the facility by a fire or smoke barrier, through which a person can safely exit to the outside of the facility. This includes room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

**Family Member** - For the purposes of these rules, a husband, wife, domestic partner, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

**Fire Barrier** - A continuous surface, such as a wall, ceiling or floor, designed to limit the spread of fire and restrict smoke movement, including doors which are tight fitting solid core wood, and which are equipped with a closing device such as spring loaded hinges and which meet all applicable laws, codes and rules.

**Flame Spread Rating** - A measure of how fast flames will move across the surface of a material. (See Appendix II.)

**Frequent** - One or more times in a seven day period of time.

**Hearing** - An administrative proceeding conducted by an independent hearing officer with definite issues of fact or of law to be tried, in which witnesses are heard and evidence is presented.

**Facility** - The physical structure in which residents live. Synonymous with Room and Board Facility.

**House Rules** - An Operator's written rules about the facility's policies, including but not limited to visiting hours, smoking, telephone use, pets and other matters, all subject to ACHP approval and consistent with ACHP rules.

**Immediate Threat (Imminent Danger)**- A danger which could reasonably be expected to cause death,

or to cause harm to a person's physical or mental well-being as a result of abandonment, abuse, neglect, exploitation, hazardous conditions, or threatening behavior, or to pose a threat to the life, health, safety or welfare of residents, Resident Managers, service givers or other occupants in the immediate future, or before such danger could be eliminated through the regular enforcement procedures.

**Inspection** - An on-site evaluation of the physical environment and related records of a Room and Board Facility in order to determine whether the facility is in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint.

**Interview** - An evaluation of the Operator, Resident Managers, service givers, occupants, social environment, operations, and related records of a Room and Board Facility in order to determine whether the Operator, Resident Manager(s) and other service givers, and their training, practices, and care, are in compliance with applicable laws, codes and rules prior to issuing or renewing a license, or in order to monitor ongoing compliance of the facility, or in order to determine the validity of a complaint, or in order to determine if a resolution can be achieved without a hearing when a hearing has been requested to contest an involuntary termination of residency.

**Investigation** - The ACHP's process of finding out whether or not a violation of ACHP rules has occurred through interviews, on-site visits and other methods of inquiry.

**Legal Representative** - A person who has the legal authority to act for the resident. On matters involving care, this is a legal guardian, a health care representative under an Advance Directive, or Power of Attorney for Health Care. On financial matters, this is a legal conservator, an agent under a power of attorney, or a representative payee.

**Long Term Care Assessment Form** - The form provided by the ACHP and signed by a resident who privately pays for care that he/she has been advised that he/she may have an assessment at no charge to provide the individual with his/her placement options. The Operator shall maintain a copy of the form in the resident records.

**MCAR(s)** - For the purpose of this document, MCAR(s) refers to Multnomah County Administrative Rule(s) for Licensure of Adult Care Homes.

**Medical Emergency** - A change in medical condition that requires immediate care of a level or type that the Operator is unable to provide or behavior that poses an immediate threat to the resident or to other residents or people living in the facility.

**Neglect** - Neglect of a Room and Board Facility resident means any action or inaction which causes or threatens to cause physical or mental harm to a resident. Neglect may be intentional, unintentional, careless, through reckless endangerment, inadequate monitoring of residents by an Operator, or because of ignorance, indifference, incompetence, poor health, inadequate experience, training or skill. In these rules, neglect is addressed under Abuse.

**Non-injectable Medications** - Pills, ointments, suppositories, narcotics, controlled substances, over the counter medications, and any treatments or therapies. Such medications do not include moisturizing lotions or medicated shampoos.

**Nurse** - A person licensed to practice nursing by the Oregon State Board of Nursing as a Practical Nurse (LPN), Registered Nurse (RN), and an RN certified as a Nurse Practitioner, under authority of ORS Chapter 678 in accordance with OAR Chapter 851.

**Nursing Assistant** - A person who assists licensed nursing personnel in the provision of nursing care and who has been certified by an approved training program in accordance with rules adopted by the

Oregon State Board of Nursing in OAR Chapter 851. Nursing assistants may be known as, but are not limited to, Certified Nurses Aide (CNA), a nurses aide, home health aide, geriatric aide, or psychiatric aide.

**Nursing Care** - The practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are taught or delegated under specified conditions by a registered nurse to persons other than licensed nursing personnel, which is governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

**Occupant** - Anyone residing in or using the facilities of the Room and Board Facility including all residents, Operators, Resident Managers, service givers, and friends or family members.

**Ombudsman** - The State Long-Term Care Ombudsman or an individual designee appointed by the Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of the Room and Board Facility residents.

**Operator** - The person licensed by the ACHP to operate the Room and Board Facility who has overall responsibility for the provision of room and board and services, who meets the standards outlined in these rules and who has been approved by the ACHP.

**Senior and Disabled Services Division (SDSD)** - A division of the Department of Human Resources for the State of Oregon.

**Physical Restraint** - Any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, the resident's body which the resident cannot easily remove and restricts freedom of movement or normal access to his/her body. Physical restraints include, but are not limited to, leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, any chair that prevents rising, and gerichairs. Side rails (bed rails) are considered restraints when they are used to prevent a resident from getting out of a bed. When a resident requests a side rail (e.g. for the purpose of assisting with turning), the side rail is not considered a restraint.

**Physician** - A person who has been licensed to practice medicine by the Oregon State Board of Medical Examiners, under authority of ORS Chapter 677.

**Point of Safety** - For the Purpose of these rules, a location which is away from the building and away from the fire area.

**P.R.N. (pro re nata) Medications and Treatments** - Those medications and treatments which have been ordered by a qualified practitioner to be given as needed.

**Provisional License** - A 60-day license issued to a qualified person in an unforeseen emergency situation when the licensed Operator is no longer overseeing the operation of the Room and Board Facility. A person must meet the standards of these rules except for completing the training and testing requirements.

**Psychoactive Medications** - Various medications used to alter mood, anxiety, behavior or cognitive processes. For the purpose of these rules, they include, but are not limited to, antipsychotics, sedatives, hypnotics, and antianxiety medications.

**Relative** - See Family Member

**Relative Foster Homes** - Homes licensed by the State of Oregon that provide care to elderly family members or family members with disabilities eligible for State Medicaid assistance. The ACHP does not license relative foster homes in Multnomah County.

**Reside** - To make the facility a person's residence on a frequent or continuous basis.

**Resident** - Any person who is receiving room, board, and services for compensation in a Room and Board Facility on a 24-hour basis.

**Resident Rights** - Civil, legal or human rights, including but not limited to those rights listed in the Adult Care Home Residents' Bill of Rights.

**Resident Manager** - A person employed by the Room and Board Facility Operator and approved by the ACHP who lives in the facility, is responsible for daily operation of the facility and services given to residents, and must comply with ACHP rules.

**Residential Care** - The provision of room and board and services which assist an individual in activities of daily living, such as assistance with eating/nutrition, dressing, personal hygiene, mobility, bowel and bladder control, or behavior management, including medication management and money management.

**Respite Resident** - A person who receives residential care for a period of 14 days or less or who only stays overnight.

**Restraints** - Any physical device or chemical substance which restricts a resident's movement, body access or functioning (for example, vest, glove/mitten, gerichairs or full siderails on beds, or sleeping medications). Chemical restraints are those that limit movement or physical functioning. Restraints may not be used in a Room and Board Facility.

**Retaliation** - Increasing charges, decreasing services, rights or privileges, threatening to increase charges or decrease services, rights or privileges, by taking or threatening to take any action to coerce or compel the resident to leave the facility or by abusing or threatening to harass or abuse a resident in any manner.

**Room** - The provisions of a place for a person to sleep on a regular basis.

**Room and Board** - The provision of meals, a place to sleep, laundry and housekeeping for compensation to persons who do not need activities of daily living care services.

**Room and Board Facility** - A home or facility that provides only room and board for compensation to one or more adults who are elderly persons or persons with disabilities, not related to the Operator by blood, adoption or marriage and which provides no residential care except medication management, money management and verbal prompting. Less than 24 hour supervision may be provided. Part XVI of these rules sets out the provisions for licensure of a Room and Board Facility.

**Self Administration of Medication** - The act of a resident placing a medication in or on his/her own body. This means the resident manages and takes his or her own medications, in that the resident identifies the medication and the times and manners of administration, and places the medication internally or externally on his/her own body without assistance.

**Self Preservation** - In relation to fire and life safety, the ability of residents to respond to an alarm without additional cues and to reach a point of safety on their own.

**Services** - Living accommodations and meals provided by the Operator and non-care related tasks such as housekeeping, laundry, transportation or recreation performed by an Operator or employee for the benefit of the residents. Services may include medication management, money management and verbal prompting if it encourages maximum resident independence and enhances the resident's quality of life.

**Sexual Exploitation** - See MCAR R-891-090-140 - Sexual Abuse and Exploitation

**Shall - Must.**

**Shift Service giver** - A service giver who, only by written exception of the ACHP, is responsible for providing care for regularly scheduled periods of time, such as 8 or 12 hours, in facilities where there is no Operator or Resident Manager living in the facility.

**Smoke Barrier** - See Fire Barrier.

**Substitute Service giver** - Any Person responsible for providing supervision, care and services to residents of a Room and Board Facility under the jurisdiction of the ACHP other than the Operator or certified Resident Manager and who is approved by the ACHP.

# **PART XIV-R - APPENDICES**

## APPENDIX IV-R - ACTIVITIES OF DAILY LIVING

Activities of daily living are those personal functional activities required by an individual for continued well-being, i.e., Eating, Dressing, Personal Hygiene, Mobility, Bowel and Bladder Control, and Behavior Management. Each prospective or current resident must be evaluated as either dependent, assistance or independent for each activity of daily living.

1. EATING/NUTRITION (When used in connection with this ADL.)
  - (a) Dependent person means a person needs to be fed virtually all foods and fluids.
  - (b) Assistance person means a person can maintain an adequate food and fluid intake according to their dietary needs with only minimal or substantial assistance.
  - (c) Independent person means a person eats without assistance and can maintain an adequate food and fluid intake according to their dietary needs with or without mechanical aids.
  
2. DRESSING (When used in connection with this ADL.)
  - (a) Dependent person means the person is substantially unable or unwilling to assist in getting dressed and undressed or in staying dressed.
  - (b) Assistance person means the person needs minimal or substantial assistance in selecting appropriate clothing, tying shoes, fastening buttons, etc..
  - (c) Independent person means the person is able to dress, select clean and appropriate clothing, tie shoes, fasten buttons, etc..
  
3. PERSONAL HYGIENE (Daily bathing, shaving, oral care and grooming hair.) (When used in connection with this ADL.)
  - (a) Dependent person means the person is unable to do any activity associated with personal hygiene.
  - (b) Assistance person means the person needs minimal or substantial assistance with activities associates with personal hygiene and is able to partially bathe self.
  - (c) Independent person means the person does personal hygiene activities without assistance, with mechanical aids if needed.
  
4. MOBILITY (When used in connection with this ADL.)
  - (a) Dependent person means the person is unable to move from one place to another without depending on another person to move them.
  - (b) Assistance person means the person controls and moves extremities but needs minimal or substantial assistance changing position or sitting in a wheelchair. The person may be able to walk or transfer with the help of another, including going to bathroom or commode.
  - (c) Independent person means the person controls movement at will, may need devices to lift, turn, pull, balance and sit up. The person can also rise from bed and can get from one place to another without help from another person.

5. BOWEL AND BLADDER (The ability to get to or from bathroom or commode relates to mobility, rather than toileting.) (When used in connection with this ADL.)
- (a) Dependent person means a person does not demonstrate bowel and/or bladder control and cannot manage own cleanliness or external care of a catheter or appliance.
  - (b) Assistance person means a person has occasional loss of bowel and/or bladder control and cannot manage own clean-up or external care of a catheter or appliance and requires minimal or substantial assistance.
  - (c) Independent person means a person is continent or, if incontinent, can manage personal clean-up, or can manage external care of catheter or appliances.
6. BEHAVIOR (Behavior includes money management and medication management and the response to the environment and is not included in any of the other activities of daily living.) (When used in connection with this ADL.)
- (a) Dependent person means a person cannot interact with persons or the physical environment or take medications appropriately or manage their own money without at least daily behavior monitoring to intervene or prevent extreme behavior.
  - (b) Assistance person means a person who does not always interact appropriately with other persons, take medications appropriately or manage their own money and may be withdrawn, afraid, or insecure and require minimal or substantial assistance from others.
  - (c) Independent person means a person interacts with persons and physical environment, take medications appropriately or manage their own money without the need for behavior monitoring by others.

To be included in the final set of rules.