

MEMO

To: Multnomah County Board of Commissioners Chiefs of Staff

From: Liesl Wendt, Director of the Department County Human Services

Re: Adult Care Home Program Multnomah County Administrative Rules Update

Date: February 27, 2017

The Department of County Human Services (DCHS) Adult Care Home Program (ACHP), within the Aging, Disability and Veteran Services Division (ADVSD), is required to update the rules that govern the licensing of Adult Care Homes in Multnomah County. The purpose of this memorandum is to make you aware that this process has begun, and share the context for the needed changes, as well as giving you an overview of the rule-making process.

Background

Federal legislative changes including the Affordable Care Act (ACA) have prompted the State of Oregon Department Human Services (DHS) to update its administrative rules that govern Adult Care Home licensing. The County's rules are required to meet or exceed the state rules which include incorporating federal Home and Community Based Service Rules, as mandated by the ACA. We also propose to update the rule language to clarify previous adopted rules, add person centered language and promote consistent language with the state rules. While most of the rule changes are in response to state changes a handful of the changes are initiated and driven by ACHP in an effort to improve quality care and safety measures.

The ACHP has worked with internal and external stakeholders, held public meetings, created rule advisory committees, and worked in consultation with the County Attorney Office for the past year to draft the updates to the Multnomah County Administrative Rules (MCARs). These changes will not be a surprise to Adult Care Home operators as the ACHP has had regular communication on the development of the rules. DHS has reviewed our proposed changes and we have agreed to start the administrative process to adopt the new rules.

Our next steps are to issue a public notice of intent to adopt new rules (see attachment). The proposed date for posting the notice is **March 1st**. We will make available the draft rules by posting them on our website, emailing to our provider network and stakeholders, mailing by request and making hard copies available at branch offices (see attachment). There is a 15 day window to provide feedback or request a hearing.

We anticipate receiving a request for hearing, as this is common. The hearing will take place between March 25th and March 30th. The ADVSD director will preside over the hearing and the ACHP program will make any changes to rules as necessary.

Rule-making Process

The ACHP will submit a Notice of Intent to Adopt New Rules to the Board Clerk and publish the notice in the Oregonian. In addition, the ACHP will send notices to SEIU, the Independent Adult Foster Home Association, and all adult care home Operators. The Notice of Intent starts the timeframe for the public to propose revisions by:

- requesting a postponement of the rule adoption
- or requesting a public hearing on the proposed rules.

After submitting the Notice to the clerk, publishing the notice in the Oregonian and posting in the courthouse (all notices are sent or posted the same day); a 15-day review period begins. If there are no requests for postponement or public hearing during the review period, the “director shall, within ten days of the close of the review period, consider the review comments and either adopt or reject the proposed rule or adopt the rule with modifications.” If the rule is adopted, it must be filed with the clerk of the Board within 10 days of the close of the review period. (25 days from the date of notice)

The DCHS director sends a memo to the board clerk entitled, “**Notice of Rule Adoption**” **which** includes:

- The date the Notice of Intent to Adopt Proposed Rules was filed;
- The date the review period ended ;
- Whether or not a request for postponement was received;
- A statement as to whether or not any comments were received;
- Any actions/modifications to proposed rules as a result of comments;
- A formal statement of adoption from the Director;
- Department county counsel signature.

If an “interested person” requests a postponement, the Director will determine if the grounds are sufficient and shall postpone adoption for not less than 10 days or more than 60 days to allow the requesting party to submit data, view or argument. The request for a postponement must be in writing. If the program receives a request for a postponement, the ACHP will write a letter to the requesting party asking them to provide the following information: statement of identity and interest and the grounds for requesting postponement. The letter will provide the requesting party a deadline for responding.

- A. If ten or more people or an association representing ten or more people or a corporation requests a public hearing in writing, the DCHS Director shall announce and conduct a public hearing. The Code contains provisions for the content of the Notice of Public Hearing and the method of publication. The Notice is sent to anyone who submits comments and to the mailing list of “interested persons.

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- B. At the close of the hearing, the Director files a Notice of Action Taken with the clerk within 15 days of the public hearing. Any interested person or any member of the Board may appeal the Director's action by filing a written notice with the Director within 10 days of the filing of the Notice of Action. If no appeal is made, the action of the Director shall take effect at the end of the appeal period.
- C. If an appeal request is filed within ten days of the filing of the Notice of Action, the "Director shall schedule a hearing by the Board at the Board's next regular meeting for which the agenda has not closed." If the decision is appealed, a Notice of Appeal is published. The appeal hearing is conducted as a regular meeting of the Board and the Board's action "shall take the form of a Board order."

Note: Any member of the Board may request a postponement of rule adoption, a public hearing, or a revision of the department's proposed action before the rule adoption becomes final. In order to do that the Board needs to take action within deadlines outlined in the [Multnomah County Code](#).

These revised rules have been reviewed and approved as to form by the Office of Multnomah County Attorney.

If you have any questions please contact,

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Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY,
OREGON

By Assistant County Attorney: Jonathan Strauhull Date: 2/22/17