MULTNOMAH COUNTY

AGING & DISABILITY SERVICES DEPARTMENT

ADULT CARE HOME PROGRAM

ADMINISTRATIVE RULES

FOR THE LICENSURE AND REGULATION

OF ADULT CARE HOMES

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INTRODUCTION

The Multnomah County Administrative Rules (MCAR) 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, Seniors and People with Disabilities Division (SPD). An exempt county provides a program for licensing and inspection of adult care homes that 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 SPD 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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PART I – AUTHORITY AND PURPOSE

023-010-100 AUTHORITY FOR AND JURISDICTION OF THE MULTNOMAH COUNTY ADMINISTRATIVE RULES (MCAR)

010-105 These rules are authorized by MCC § 23.600 through MCC § 23.617, pursuant to the procedures set forth in MCC § 23.650 through § 23.670.

010-110 These rules are necessary for the administration and enforcement of the Multnomah County Adult Care Home Licensure Ordinance, found in Chapter 23 of the Multnomah County Code.

010-115 These rules shall apply to all adult care homes operating within Multnomah County.

010-120 For those adult care homes in Multnomah County that have not entered into a contract with SPD to serve individuals whose placements and services are authorized by Developmental Disabilities Services, (DDS) all MCAR apply with the exception of Part XI (Developmental Disability Homes.)

010-125 For those adult care homes in Multnomah County that have entered into a contract with SPD to serve individuals whose placements and services are authorized by Developmental Disabilities Services (DDS) all MCAR, including Part XI (Developmental Disability Homes) apply. To the extent that Part XI contradicts any other part of the MCAR, Part XI shall control the responsibilities of DD home operators.

023-010-200 PURPOSE OF THE MULTNOMAH COUNTY ADMINISTRATIVE RULES (MCAR)

010-205 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.

010-210 Operators, Resident Managers and caregivers of adult care homes shall abide by the terms of the MCAR.

010-215 The goal of adult care is to provide necessary care while emphasizing the resident's independence. To reach this goal, the care provider, the resident, and resident's family member or legal representative are encouraged to 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.

023-010-300 PURPOSE OF THE ADULT CARE HOME PROGRAM (ACHP)

010-305 The 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 ACHP, 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 that is 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 supported.

(b) To enforce the MCAR in order to protect the health, safety and welfare of residents of adult care homes.

(c) To enforce the MCAR 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.

PART II – DEFINITIONS

023-020-100 DEFINITIONS

020-105 For the purpose of these rules, the following definitions apply:

(1) Abuse – means abuse as defined in OAR 411-020-0002 (Adult Protective Services). [See MCAR 023-120-115]

(2) Activities of Daily Living (ADL) - as defined in OAR 411-015-0006, are those personal functional activities required by an individual for continued well-being including eating, bathing/personal hygiene, toileting (bowel and bladder management), cognition and behavior management, dressing, and mobility (ambulation and transfer). [See Appendix I]

(a) "Independent" means the resident may perform the ADL without help.

(b) "Assistance" (or Assist) means the resident is able to do part of an ADL but cannot do it entirely alone even with assistive devices.

(c) "Dependent" (or Full Assist) means the resident is unable to do any part of an ADL, or it must be done entirely by someone else.

(3) Adult Care Home (ACH) - any home, adult foster home, or facility in which residential care is provided for compensation, in a home-like environment, to five (5) or fewer adults who are not related to the Operator by blood, adoption or marriage.

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

(5) Adult Protective Services Unit (APS) - the part of Aging and Disability Services that investigates incidents of abuse and neglect involving the elderly and people with physical disabilities who may be living in a facility or a home.

(6) Advance Directive for Health Care - 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.

(7) Aging and Disability Services Department of County Human Services (ADS) - a Multnomah County office responsible for a variety of social services provided for elderly persons and persons with disabilities residing in Multnomah County.

(8) Applicant - any person who submits a complete set of application materials to the ACHP to obtain a license to operate an adult care home in Multnomah County or to become a Resident Manager or caregiver in a home.

(9) Behavioral Management - those interventions which will modify the resident's behavior, or the resident's environment for the purpose of modifying behavior.

(10) 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 47.

(11) Care – the provision of supervision, and assistance with activities of daily living, such as assistance with eating, bathing/ personal hygiene, toileting, behavior management, dressing, and providing mobility. Care also means assistance to promote maximum independence and enhance the quality of life for residents. Assistance with self-medication is not included as part of care for purposes of these rules.

(12) Care Certification – the ACHP's determination during licensure of the specific resident population characteristics an adult care home may serve. Homes will be approved to provide care to one or more care certifications. Care certifications include but are not limited to: Private, Medicaid, DD, AMH, Vent, TBI, Elderly (age 65+), Younger Disabled (ages 18-64), foreign language fluency, etc.

(13) Care Plan – means Service Plan, Plan of Care, or Individual Support Plan (ISP), and is a written description of a resident's needs, preferences, and

capabilities, including by whom, when and how often care, services, and/or supervision shall be provided.

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

(15) Caregiver Assistant - any person other than the Operator who is approved by the ACHP to provide care or services to residents of an adult care home, but who may not be left alone with or have sole responsibility for residents.

(16) Case Manager/Service Coordinator - a person employed by ADS, DDS or other social service agency who oversees the care and service provided to a resident from various social and health care services.

(17) Certified 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 nurse's aide, home health aide, geriatric aide, or psychiatric aide.

(18) Classification - the ACHP's determination during licensure of the level of care an adult care home may provide. The ACHP classifies adult care homes for populations served in Multnomah County by the following divisions: Aging & Disability Services (ADS), Developmental Disabilities Services (DDS), and Mental Health and Addiction Services Division (MHASD). Homes serving ADS clients will be classified as Class 1, 2 or 3. Homes serving MHASD clients will be classified as Class 1, or Class 2. Homes serving DDS clients will be classified as Level 1, Level 2B, or Level 2M as those terms are defined in OAR 411-360-0070. [See MCAR 023-110-115]

(19) Client - a resident in an adult care home for whom the Oregon Department of Human Services pays for care or for whom case management services are provided.

(20) Clutter - an accumulation of material that impedes or obstructs a person's progress through a room, restricts use of a room and/or which may present a fire or safety hazard.

(21) Cognitive - pertaining to the mental state, thought and deliberative processes of the mind.

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

(23) Complaint - an allegation that an Operator or other person has violated these rules or an expression of dissatisfaction relating to the condition of the adult care home or to that of a resident.

(24) Compliance - meeting the requirements of ACHP rules, orders, or any applicable laws, codes, regulations or ordinances.

(25) Conditions - restrictions or additional requirements placed on a license by the ACHP.

(26) Criminal Records - 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.

(27) Day Care Resident – an individual who receives residential care in an adult care home but who does not stay overnight.

(28) Delegation - the process by which a Registered Nurse teaches and supervises a nursing task.

(29) Developmental Disabilities Services (DDS) of the Department of County Human Services - a Multnomah County program designated by the State of Oregon to provide a variety of services to eligible persons residing in Multnomah County who have a developmental disability.

(30) Director - the Director of ADS or his or her designee.

(31) Disabled – an individual with physical, cognitive or psychological impairment that limits the individual in one or more activities of daily living.

(32) Discrimination - differential treatment or denial of normal privileges to persons because of their race, age, gender, sexual orientation, disability, nationality or religion.

(33) Disposal of Medications – see Medication Disposal.

(34) Domestic violence – (also known as domestic abuse or spousal abuse) occurs when a family member, partner or ex-partner, or other household member attempts to physically or psychologically dominate, abuse, or harm another family or household member.

(35) Elderly or Aged – any person age 65 or older.

(36) Established relationship – a relationship between a prospective provider and a prospective resident of at least 12 months duration which is characterized by the exchange of emotional and/or physical supports.

(37) Exit-way - a continuous and unobstructed path of travel, separated from 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. Corridors and hallways must be a minimum of 36 inches wide or as approved by the authority having jurisdiction. Interior doorways must be wide enough to accommodate wheelchairs and

walkers if used by residents. Bedroom windows and doors identified as exits must be free of obstacles that would interfere with evacuation.

(38) 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 of the Operator, Resident Manager or live-in caregiver.

(39) Financial Abuse or Financial Exploitation - means abuse as defined in OAR 411-020-0002. [See MCAR 023-120-115(e)]

(40) 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.

(41) Flame Spread Rating - a measure of how fast flames will move across the surface of a material.

(42) Full-Time – duration of work activity equal to or greater than 32 hours per week.

(43) Hearing - an administrative proceeding in which a hearings officer hears testimony, considers evidence, makes findings of fact and conclusions of law, and enters orders relating to the duties, rights and privileges of parties.

(44) Home - the physical structure in which residents live. Home is synonymous with adult care home.

(45) Home Alone – when one resident is in the adult care home without an approved caregiver or any other resident present.

(46) Homelike - a comfortable, safe, secure environment where the adult care 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 supported.

(47) Housekeeper – a person who works in an adult care home, and whose duties may include cleaning, laundry, and cooking. A housekeeper shall not provide any care or supervision to any resident(s) in an adult care home.

(48) House Rules - Written rules which describe the home's policies. House rules are subject to ACHP approval and must be consistent with MCAR. Examples of such rules include but are not limited to, visiting hours, smoking, telephone use, pets, presence of and use of medical marijuana on the premises, and other matters.

(49) 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.

(50) Inspection - an on-site evaluation of the physical environment and related records of an adult care home in order to determine whether the home 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 or concern.

(51) Investigation - the process of finding out whether or not a violation of ACHP rules has occurred through interviews, on-site visits and other methods of inquiry.

(52) Individual Support Plan (ISP) – a written plan of support and training services for a resident with developmental disabilities covering a 12 month period that addresses the resident's support needs.

(53) Legal Representative - a person who has the legal authority to act for the resident:

(a) On matters involving care, this is a legal guardian, a health care representative under an Advance Directive, or Power of Attorney for Health Care.

(b) On financial matters, this is a legal conservator, an agent under a power of attorney, or a representative payee.

(54) Licensed Health Care Professional (HCP) – means a person who possesses a professional medical license that is valid in Oregon. Examples include but are not limited to a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), respiratory therapist (RT), physical therapist (PT), and occupational therapist (OT).

(55) Limited License – a licensed adult care home that provides residential care for compensation to only one specific individual who is not related to the Operator by blood, adoption or marriage, but with whom there is an established relationship. Twenty-four (24) hour supervision is required.

(56) Liquid Resource - cash or those assets that can readily be converted to cash such as a life insurance policy that has a cash value or stock certificates, or a guaranteed line of credit from a financial institution.

(57) Long Term Care Assessment Form – a form, provided by the ACHP and signed by a resident who pays privately for care, which verifies that he/she has been advised that he/she may have an assessment to provide the individual with his/her placement options. The Operator shall maintain a copy of the form in the resident records.

(58) Medication Disposal – the destruction of unused, outdated, discontinued, recalled and contaminated medications, including controlled substances, according to federal guidelines or according to the requirements of the adult care home's local DEQ waste management company. Disposal includes the

destruction of all labels from prescription bottles and boxed items including patches to prevent identity theft and misuse. Disposal also includes documentation of the name of the medication(s), quantity, and date of disposal.

(59) Medical Emergency - a change in medical condition that requires an immediate response 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.

(60) Multnomah County Administrative Rules (MCAR) - for the purpose of this document, MCAR refers to the Multnomah County Administrative Rules for Licensure of adult care homes.

(61) Neglect - means neglect as defined in OAR 411-020-0002 (Adult Protective Services). [See MCAR 023-120-115(b)] Additionally, for the purposes of these rules neglect of an adult care home resident means any action or inaction that causes or threatens to cause physical or mental harm to a resident. Neglect may be unintentional, through reckless endangerment, due to inadequate monitoring of residents, or because of ignorance, indifference, incompetence, carelessness or poor health.

(62) 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.

(63) 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.

(64) Occupant - anyone residing in or using the facilities of the adult care home including all residents, Operators, Resident Managers, caregivers, friends or family members, day care persons, and boarders.

(65) Ombudsman - the Oregon Long-Term Care Ombudsman or an individual designee appointed by the Long-Term Care Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of the adult care home residents.

(66) Operator - the person approved and licensed by the ACHP to operate the adult care home, and who has overall responsibility for the provision of residential care, and who must meet the standards outlined in these rules. Operator does not include the owner or lessor of the adult care home unless he/she is also the Operator.

(67) Oregon Administrative Rules (OAR) – a compilation of administrative rules adopted by the various state departments, divisions and agencies.

(68) Physical Restraint - any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, the resident's body that the resident may not 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 Geri-Chairs. 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.

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

(70) Point of Safety - is a location that is exterior to and away from the structure, with ready access to a public sidewalk or street and away from the fire area.

(71) 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.

(72) Provisional License - a 60-day temporary license issued to a qualified person in an unforeseen emergency situation where the licensed Operator is no longer overseeing the operation of the adult care home.

(73) Psychoactive/Psychotropic Medications - various medications used to alter mood, anxiety, behavior or cognitive processes. For the purpose of these rules, psychoactive medications include, but are not limited to, antipsychotics, sedatives, hypnotics, and anti-anxiety medications.

(74) Qualified person – a person who is at least 21 years of age and meets the definition of a substitute caregiver.

(75) Relative - see Family Member

(76) Relative Foster Homes - homes certified by the Department of Human Services 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.

(77) Reside - to make the adult care home a person's residence on a frequent or continuous basis.

(78) Resident – an individual who is unrelated to the Operator, and is receiving residential care in an adult care home.

(79) Resident Manager - a person employed by the adult care 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 on a 24-hour per day basis for five consecutive days and must comply with ACHP rules.

(80) Resident Rights - civil, legal or human rights, including but not limited to those rights listed in the adult care home Residents' Bill of Rights.

(81) Residential Care - the provision of care and services in an adult care home.

(82) Respite Resident – an individual who receives residential care for a continuous period of 14 calendar days or less.

(83) Restraints - any physical device or chemical substance which restricts a resident's movement, body access or functioning.

(84) Room and Board - the provision of meals, a place to sleep, laundry and housekeeping for compensation to persons who do not need assistance with activities of daily living.

(85) Room and Board Home – a licensed home or facility that offers only room and board for compensation to one or more adults who are elderly or disabled, as defined by ORS 443.480, and who are not related to the Operator by blood, adoption or marriage. Room and Board facilities do not provide any care, but may provide assistance with money management and assistance with medication management for residents that are capable of self administering their own medications. For the purposes of these rules, room and board facility does not include the following:

(a) Any facility operated by an institution of higher education.

(b) Any private room and board facility approved by an institution of higher education that has a resident student or an employee of the institution.

(c) Any private or non-profit retirement facility that does not fall under the generally understood definition of a Room and Board Facility, a Boarding House, or a Boarding Hotel, and where a majority of these residents are retirees.

(d) Any privately arranged housing the occupants of which may not be related by blood or marriage.

(e) Any facility that is licensed or registered under any other law of this state or city or county ordinance or regulation.

(86) Secondary Exit – an alternate to the common/primary exit and is a door, stairway, hall or an approved window. For residents whose bedrooms are not on the ground floor, the secondary exit needs to access exterior stairs or ramp to the ground level.

(87) 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.

(88) Self Preservation - in relation to fire and life safety, the ability of a resident~~s~~ to respond to an alarm without additional cues and to reach a point of safety on their own.

(89) Senior and People with Disabilities Division (SPD or the Division) - a division of the Oregon Department of Human Resources.

(90) Services – activities related to the clean, healthy and orderly operation of the home. These activities include, but are not limited to, housekeeping, cooking, laundry, transportation or recreation performed by an Operator, employee, or volunteer for the benefit of the residents. Services also means activities that help the residents develop skills to increase or maintain their level of functioning or which assist them to perform personal care or ADL or individual social activities.

(91) Sexual Exploitation – means sexual abuse as defined in OAR 411-020-0002 (Adult Protective Services). [See MCAR 023-120-115(f)]

(92) Shift Manager - 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. Shift Managers are required to meet all Resident Manager criteria (i.e. training, testing, experience), and they must fulfill all duties and requirements of Resident Managers. [See MCAR 023-070-845]

(93) Smoke Barrier - see Fire Barrier.

(94) Special Needs – resident care needs that are distinct or unique, which require specialized experience and skill, arising from but not limited to issues relating to language, culture, medical marijuana, sex offenses, or complex medical conditions such as ventilator care, traumatic brain injury, etc.

(95) Subject Individual – [See MCAR 023-070-415]

PART III – BILL OF RIGHTS

023-030-100 RESIDENTS' BILL OF RIGHTS

030-105 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 care and 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 discrimination in regard to race, color, national origin, gender, sexual orientation, or religion.

(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) 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 care and services the home shall provide and rates charged, and receive at least 30 calendar days written notice before the home's ownership or rates change.

(u) Receive at least 30 calendar 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.

(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 IV - LICENSING AND APPLICATIONS

023-040-100 GENERAL REQUIREMENTS

040-105 The ACHP shall license three different types of adult care homes or facilities. They are:

(a) Adult Care Homes

(b) Adult Care Homes with a Limited License

(c) Room and Board Facilities

040-110 An adult care home license is required (except as provided in MCAR 023-040-115) for any home or facility that provides residential care for compensation to five or fewer elderly or disabled persons who are not related to the Operator by blood, adoption or marriage.

040-115 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) Any other house, institution, hotel or other similar living situation that supplies room only, or where no elderly persons or persons with disabilities reside who are provided any element of residential care for compensation.

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

(d) A facility where all residents are under the age of 18.

023-040-200 GENERAL APPLICATION CRITERIA

040-205 Adult care home application packets shall be submitted in writing on ACHP forms, completed by the person requesting to be licensed as the Operator and who will be responsible for the operation of the home.

040-210 Application packets for an adult care home that has, or will have a Resident Manager or Shift Managers, shall include all required information about the Resident Manager or Shift Managers on ACHP forms.

040-213 All applications for employment in any capacity in an adult care home must include a question asking whether the applicant has been found to have committed abuse. Further, all applicants must disclose on the application for employment if they have been found to have committed abuse.

040-215 A separate application packet is required for each location where an adult care home is operated.

040-220 Operators of adult care homes shall obtain any applicable business license.

040-225 The ACHP will not process license applications until a complete application packet is received by the ACHP.

040-230 After the ACHP receives a completed application packet and the required non-refundable 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.

040-235 As part of the application process, the ACHP may request inspections of the adult care home from local fire department representatives, the County Sanitarian, City building and electrical inspectors, and other persons as determined necessary by the ACHP.

040-240 The ACHP shall grant or deny a license to an applicant within 60 calendar days of the date the ACHP receives a complete application packet.

040-245 Application packets are void 60 calendar 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.

040-250 Failure to provide accurate and complete information may result in denial of the application.

040-255 The ACHP shall deny an application that includes willful and deliberate false information.

040-260 An applicant shall state the maximum capacity requested including the number of respite residents, room and board occupants, day care residents, and relatives

needing care. The application form shall also include the total number of other occupants in or on the premises of the adult care home.

040-265 The ACHP shall determine the maximum capacity of the adult care home during the licensure process.

040-270 An applicant shall state the classification being requested and resident population to be served (re: Elderly, Disabled, DD, AMH, TBI, etc.), and provide information and supporting documentation regarding qualifications, relevant work experience, and training of staff as required by the ACHP.

040-275 The ACHP shall determine the classification of the adult care home based on the requirements in MCAR 023-041-100.

040-280 Applicants may withdraw applications at any time during the license application process by notifying the ACHP in writing.

040-295 Information from a previous license or application shall be considered in processing a later application.

023-040-300 NEW LICENSE APPLICATION

040-305 New applicants shall have attended an ACHP orientation within the past 12 months before submitting an application packet.

040-310 A current Operator in Multnomah County applying for a new or additional license must take any and all additional or remedial training deemed necessary by the ACHP. All training must be completed before a new or additional license is issued.

040-320 Application packets for new Adult Care Home Operator Licenses returned to the ACHP shall include:

(a) A completed ACHP application form.

(b) A Qualifying Test certificate.

(c) A Basic Training certificate.

(d) Proof of attending ACHP approved Operator orientation.

(e) Background check authorization forms for each subject individual as that term is defined by MCAR 023-070-415.

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

(g) A current CPR and first aid certificate for the Operator and, if applicable, the Resident Manager.

(h) A completed Operator’s projected monthly budget including projected payroll expense totals, and evidence of financial reserves equal to two months operating expenses.

(i) A credit report, issued within 30 calendar days of the application submission date.

(j) Evidence of ownership of the home, or a copy of the rental or lease agreement signed by both the owner or landlord and the applicant. 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.

(k) Floor plans of the home showing the location and size of all rooms, including which rooms are to be resident bedrooms and which are to be caregiver bedrooms, doors and windows, as well as wheelchair ramps, smoke detectors and fire extinguishers.

(l) Housing and electrical inspection approval forms where applicable.

(m) An operation 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. The operation 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. The name of a back-up licensed operator or approved resident manager for emergencies must also be included.

(n) If needed, completed Resident Manager, or Shift Manager applications.

(o) License application fees.

(p) Three character references from individuals who are not current Licensed Operators, current coworkers, or relatives of the applicant. Once submitted, these references will be kept confidential.

(q) A written staffing plan.

(r) Complete contact information for the applicant, including a mailing address if different from the adult care home, and an electronic mail address.

040-325 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. If the applicant has any unpaid judgments (including accumulated arrearages of child and/or spousal support), pending lawsuits, liens or unpaid taxes, the ACHP shall require the applicant to provide proof that the applicant has sufficient resources to pay those claims. Said resources must be in addition to the financial reserves required to ensure adequate funding of all operational costs for a minimum period of two months. 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 from a financial institution as a requirement of initial licensure.

040-330 All financial information shall remain confidential and shall not be made a part of the public record.

023-040-400 GENERAL LICENSE CRITERIA

040-405 The ACHP shall have the authority to issue a license for an adult care home to an approved applicant. The ACHP shall not issue a license unless the applicant and home are in compliance with the MCAR and the applicant has cooperated in the application process.

040-410 The person and the adult care home that is licensed shall remain in compliance with all MCAR for the duration of the license, including allowing unannounced licensing and monitoring visits.

040-415 An adult care home license shall be valid for one year from the date the ACHP issues the license unless the license is revoked, suspended or voluntarily surrendered.

040-420 The adult care home license shall state the Operator's name and the home's address, the Resident Manager's name, the names of all Shift Managers if applicable, type of license, maximum capacity of the home, the classification of the home and the time period for which the license is valid.

040-425 For the first 24 months of operation, an Operator shall maintain at least two months of financial reserves. If a currently licensed Operator has more than one utility shut-off notice, or one complaint of nonpayment of any other operational cost after the initial 24 month period, the ACHP may require the Operator to re-establish and maintain financial reserves for an additional period of time to be determined by the ACHP. Financial reserves shall be liquid resources.

040-430 Operators must own, rent, or lease the home to be licensed.

040-435 If a licensed Operator rents or leases the premises where the adult care home is located, the Operator shall not enter into a contract that requires anything other than a flat rate for the lease or rental.

040-440 An exception may be granted to MCAR 023-040-430 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 care home. The organization must have a Board of Directors or Board of Trustees that must designate one person who meets the qualifications and functions as the Operator of the home. This individual's responsibilities must include those of MCAR 023-040-450.

040-445 The ACHP shall not issue an initial license unless or until:

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

(b) The applicant and adult care home are in compliance with these rules.

(c) The applicant currently operates, or has operated, any other facility licensed by the applicant in substantial compliance with ORS 443.705 to 443.825 and these rules, including any applicable conditions and other final orders of the DHS or the ACHP.

(d) The ACHP has completed an inspection of the adult care home.

(e) The ACHP has completed a criminal record check on the applicant(s), and all subject individuals in accordance with MCAR 023-070-400.

(f) The ACHP has checked the record of sanctions available from its files and the records of other agencies as appropriate.

(g) The ACHP has determined that the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the applicant or any nursing assistant employed by the applicant has been responsible for abuse.

(h) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the adult care home.

040-450 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 care home.

(b) Admission, discharge and transfer of any resident.

(c) The daily operation of the adult care home.

040-455 A license is void immediately upon issuance of a final order of revocation or non-renewal, 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.

040-460 In seeking an initial license, the burden of proof shall be on the Operator to establish compliance with the MCAR.

023-040-500 LIMITED LICENSE HOMES

040-505 A Limited License is required for all homes that provide residential care for compensation to one specific individual who is not related to the Operator by blood, adoption or marriage. The Operator or approved substitute caregiver shall provide supervision 24 hours per day when the resident is present or expected to be present in the home.

040-510 An established relationship must exist between the Operator/applicant and proposed resident as determined by the ACHP before a Limited License is issued.

040-512 To qualify for a Limited License, an applicant must:

(a) Obtain ACHP approval for all subject individuals following a criminal records check. [See MCAR 023-070-400]

(b) Obtain current CPR and First Aid certification.

(c) Complete an ACHP approved Record Keeping “Part B” Training.

(d) Submit a completed application with required fees.

(e) Submit written verification of an established relationship with the proposed resident.

(f) Obtain a statement from a physician or other qualified practitioner indicating they are physically, cognitively, and emotionally capable of providing care to the resident.

(g) Demonstrate a clear understanding of the resident’s care needs.

(h) Comply with all fire safety requirements. [See MCAR 023-100-700]

(i) Acquire any additional training deemed necessary by the ACHP to provide adequate care for the resident. [See MCAR 023-070-640]

040-520 Any part of the regular adult care home application packet not included in the Limited License application packet may be required of an applicant if determined necessary at the discretion of the ACHP.

040-525 The Limited License shall state the Operators name, the address of the home, the type of license, the name of the resident, and the time period for which the license is valid.

040-530 A Limited License shall be valid for one year from the date the ACHP issues the license unless the license is revoked, suspended, voluntarily surrendered or if the resident dies or moves from the home.

040-535 An adult care home with a Limited License shall not admit or have any resident(s) other than the one stated on the license. If the resident of a Limited License home dies or moves from the home, the Limited License shall expire on the resident’s last day in the home. A license shall not be transferred to another person or location.

040-540 Limited License Operators must live in the home.

040-545 The ACHP may require an Operator of an adult care home with a Limited License to comply with any other provision in these rules.

040-550 Adult care home Limited License applicants or Operators may apply in writing to the ACHP for an exception to a specific requirement of the ACHP rules. [See MCAR 023-050-100.]

023-040-600 LICENSE RENEWAL

040-605 At least 60 calendar 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.

040-610 The Operator must submit a complete ACHP renewal application packet prior to the expiration date of the current license.

040-615 Submission of a renewal application packet prior to the expiration date will keep the license in effect until the ACHP takes action.

040-620 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. [See MCAR 023-041-300]

040-625 The ACHP shall review and may investigate any information in the renewal application packet and will conduct an unannounced inspection of the adult care home prior to renewal. [See MCAR 023-150-140]

040-630 The Operator will be given a copy of the ACHP Inspection Report identifying any areas of non-compliance and specifying a time frame for correction set by the ACHP. The timeframe for correction shall not exceed 30 calendar days from the date of the Inspection Report. Additional time to complete corrections may be granted if deemed reasonable and necessary by the ACHP. [See MCAR 023-150-200] If any areas of non-compliance are not corrected within the timeframe specified by the ACHP, the renewal application shall be denied.

040-640 The ACHP shall not renew a license unless:

(a) The ACHP has received a completed renewal application packet from the Operator, which includes a completed financial changes form, and a physician's statement regarding the applicant's physical and mental ability to provide care to be completed every two years. This may be required to be updated sooner if there is reasonable cause for health concerns.

(b) The ACHP has completed an inspection of the adult care home.

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

(d) The ACHP has approved a criminal records check on all subject individuals.

(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 verified that the applicant currently operates, or has operated, any other facility licensed by the applicant in substantial compliance with ORS 443.705 to 443.825 and these rules, including any applicable conditions and other final orders of the DHS or the ACHP.

(g) The ACHP has determined that the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the applicant or any nursing assistant employed by the applicant has been responsible for abuse.

(h) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the adult care home.

040-645 In seeking a renewal of a license when an adult care home has been licensed for less than 24 months, the burden of proof shall be upon the Operator and the adult care home to establish compliance with the rules of the ACHP.

040-650 In proceedings for renewal of a license when an adult care 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.

040-655 The effective date of a renewal license shall be the day following the expiration date of the previous year's license.

023-040-700 MULTIPLE HOMES

040-705 If requesting a license to operate more than one home, the Operator must supply to the ACHP:

(a) Operation and staffing plans for each home.

(b) Verification of financial reserves for each home.

040-710 The ACHP shall not issue a license to operate an additional adult care home unless the Operator has the qualifications and abilities to operate the existing licensed home(s) and proposed home(s), and has not failed to maintain substantial compliance with the MCAR while operating their existing home(s).

040-715 An Operator shall have operated an adult care home in Multnomah County for a period no less than 24 months before being licensed for an additional home. For each additional home beyond an Operator's second home, an additional 24 month period of operation in Multnomah County must be completed.

040-725 A license for an Operator's second or subsequent home shall not be approved until the ACHP has checked the record of sanctions available from its files and verified that the applicant currently operates, or has operated, any other facility licensed by the applicant in substantial compliance with ORS 443.705 to 443.825 and these rules, including any applicable conditions and other final orders of the DHS or the ACHP.

023-040-800 PROVISIONAL LICENSE

040-805 Notwithstanding any other provision in the MCAR, the ACHP may issue a provisional license for up to 60 calendar 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 care home. A person would be considered qualified if they are 21 years of age and meet the requirements of a substitute caregiver as defined by MCAR 023-020-105(14).

040-810 Emergency situations that would allow the ACHP to issue a provisional license shall include, but are not limited to, the death of an Operator, an Operator's abandonment of a home, and an Operator's unexpected absence from a home for

reasons beyond the Operator's control. The sale of an adult care home conducted pursuant to MCAR 023-041-205 through MCAR 023-041-240 is not an emergency situation.

023-040-900 CAPACITY

040-905 The capacity of an adult care home shall be limited to five residents unrelated to the Operator by blood, adoption, or marriage who require care. Unrelated boarders shall be considered residents for the purpose of these rules. Individuals who are recognized as family members shall not be considered residents for the purpose of this section.

040-910 Respite residents and unrelated boarders shall be included in the licensed capacity of the home.

040-915 The number of residents permitted to reside in an adult care home shall be based on; a determination of the ability of the adult care home staff to meet the care needs of the residents; fire safety standards and the evacuation needs of the residents; 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. There must be a minimum of one qualified caregiver per five residents, including respite and day care. Consideration shall be given to whether children over the age of five have a bedroom separate from their parents.

040-920 When there are relatives requiring care or day care residents in a home in which the Operator is the primary live in caregiver, the allowable number of unrelated residents may continue to be the maximum capacity of five if the following criteria are met:

(a) The Operator is able to 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 individual above the five residents.

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

(e) The care needs of day care and respite individuals 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.

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

040-925 Adult day care in a licensed adult care home shall not be used solely for the convenience of the Operator or Resident Manager of another adult care home.

040-930 No Operator shall provide adult day care services on a frequent basis to residents of another adult care home for more than four hours during a twenty-four hour period.

040-935 The adult care 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 and day care residents.

040-940 The adult care home shall not exceed maximum capacity determined by the ACHP as stated on the license.

040-945 The ACHP shall review the adult care home's maximum resident capacity at each license renewal.

040-950 The ACHP shall review and may change the maximum capacity of the adult care home if there are any indications that ACHP standards of care are not being met or the health, safety or welfare of residents is at risk.

023-041-100 CLASSIFICATION AND CARE CERTIFICATION

041-105 The ACHP shall determine the care certification and classification of an adult care home during the licensure process. The care certification determines the specific resident population(s) an adult care home may serve (i.e. Medicaid, Private Pay, Elderly, Younger Disabled, TBI, DD, AMH). The classification level determines the level of care the adult care home may provide to residents (i.e. Class 1, 2, or 3). The ACHP shall consider requests for reclassification at any time, and a determination shall be made within 60 calendar days of receipt of the Operator's written request.

041-110 A Class 1, Class 2 or Class 3 license, except as noted in MCAR 023-041-115, will be issued by the ACHP based upon compliance with these rules and the qualifications of the Operator and the Resident Manager. The lowest level of qualification of the Operator and Resident Manager shall prevail in classification determination.

041-115 Adult care homes with a Limited License and Room and Board Facilities will be classified as Class 0.

041-117 Adult care homes in Multnomah County that have entered into a contract with SPD to serve individuals whose placements and services are authorized by Multnomah County Mental Health and Addiction Services Division (MHASD) shall be classified as Class 1, or Class 2.

041-120 A Class 1 license may be issued if the applicant and Resident Manager, if any, complete the required training and have the equivalent of at least 12 months verifiable full-time experience providing hands-on assistance with ADL to adults who are representative of population they intend to serve or a current CNA certification and the equivalent of at least six months verifiable full-time experience providing hands-on assistance with ADL to adults who are representative of population they intend to serve.

041-125 A Class 2 license may be issued if the applicant and Resident Manager or Shift Managers as applicable, complete the required training and each has the equivalent of 24 months verifiable full-time experience providing hands-on assistance with ADL to adults who are representative of population they intend to serve, or a current CNA certification and the equivalent of at 18 months verifiable fulltime experience providing hands-on assistance with ADL to adults who are representative of population they intend to serve.

041-130 A Class 3 license may be issued if the applicant, Resident Manager, or Shift Managers as applicable; complete the required training; provide current satisfactory references from at least two licensed healthcare professionals who have direct knowledge of the applicant's ability and past experience as a caregiver; demonstrate to the ACHP the ability to provide appropriate care to persons dependent in four or more ADL; and,

(a) has operated/managed a Class 2 home for a twelve month period, or,

(b) holds a current license as a health care professional in Oregon, or,

(c) has the equivalent of 36 months verifiable full-time experience providing hands-on assistance with ADL to adults who are representative of population they intend to serve and who are dependent in four or more ADL.

041-135 An Operator with a Class 1 license may provide care to individuals who need assistance in four or fewer ADL and are not dependent in any ADL, and to individuals with severe and persistent mental illness who may also have limited medical conditions. All residents must be in stable medical condition and not need skilled or continuous nursing care. Restraints may not be used in a Class 1 home.

041-140 An Operator with a Class 2 license may provide care for residents who require assistance in all ADL, but are not dependent in more than three ADL, and to individuals with severe and persistent mental illness who may also have limited medical conditions. An Operator of a Class 2 home may request an exception to provide care to one Class 3 resident.

041-145 An Operator with a Class 3 license may provide care for residents who are dependent in four or more ADL, except that no more than one bed-care or totally dependent person may be in residence at one time.

041-147 An Operator with a Class 3 license may be approved to care for ventilator-dependent residents. Such approval may only be granted by the Oregon Department of Human Services, Seniors and People With Disabilities (SPD) Central Office. [See MCAR 023-081-100 for additional requirements.]

041-150 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.

041-155 Operators shall care only for residents whose impairment levels are within the classification level and care certification of the home. If the Operator wishes a current resident who deteriorates to a more impaired level to remain in the home,

the Operator shall request in writing an exception to continue caring for that more impaired resident.

041-160 The ACHP will respond in writing within 30 calendar days of receipt of a written request for an exception and may grant an exception which allows a resident whose care needs exceed the classification of the home to live in the adult care 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, or safety 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 to 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.

(f) Outside resources are available and obtained, if necessary, to meet the resident's care needs.

041-165 Operators shall ensure that a Resident Manager meets or exceeds the experience and training standards for the classification of the adult care home.

041-170 The license will state the name of the Resident Manager or Shift Managers, as applicable.

041-175 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.

023-041-200 CLOSING, MOVING OR SELLING ADULT CARE HOMES

041-205 The adult care home license shall apply only to the person(s) and address specified on the adult care home license. A license shall not be transferred to another person or location.

041-210 If an Operator of an adult care 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.

041-215 Operators shall give at least 30 calendar 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 care home business or the real property on which the adult care home is located.

041-220 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.

041-225 Operators selling the adult care home business must separate that transaction from the sale of the real estate.

041-230 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 care home is not transferable and shall refer them to the ACHP for information about licensing.

041-235 Operators shall notify the ACHP in writing at least 30 calendar days prior to a voluntary closure, proposed sale or transfer of the ACH business or property. Operators shall inform the ACHP immediately upon listing a home for sale and when an offer is made to purchase the home. In addition, Operators shall also give residents, families, and case managers for Medicaid clients at least 30 calendar days written notice of such proposed sale or transfer of business or property, except in circumstances where undue delay might jeopardize the health, safety or well-being of residents, Operators, Resident Managers, or staff.

041-240 The ACHP may require a meeting between the Operator, proposed purchaser and appropriate ACHP staff to create a transfer plan where the ACHP has determined such a meeting or plan is necessary.

041-245 During a sale or transfer of business or property, the licensed Operator must continue to operate the home in accordance with all MCAR until a new license is issued. If the licensed Operator abandons the home prior to the issuance of a new license, the home shall be treated as an unlicensed home.

023-041-300 UNLICENSED HOMES

041-305 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.

041-310 The ACHP may require the relocation of residents immediately if there is an immediate threat to their health, safety or welfare.

041-315 If there is no immediate threat to the residents' health, safety or welfare, the ACHP may issue a 30 calendar day written notice to all residents stating that all residents must relocate. The ACHP shall monitor the home during the notice period.

041-320 The Operator of an unlicensed adult care home who is unfamiliar with the ACHP shall be informed of the licensing process.

041-325 It is unlawful, and it shall constitute an offense in violation of these rules, for any person to establish, maintain or conduct in the county any adult care home without first having been licensed by the director through the ACHP. The ACHP may impose sanctions or initiate judicial action against an unlicensed adult care home.

041-330 No person or entity shall represent themselves as an adult care home, solicit or admit a person needing care or services, or accept placement of a person without holding a current license from the ACHP. 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 care home license, and/or the initiation of legal proceedings.

041-335 The ACHP shall identify adult care homes in Multnomah County that are operating without a valid license. The ACHP shall take appropriate action to ensure that unlicensed adult care homes either become licensed or cease to operate.

023-041-400 ROOM AND BOARD HOMES

041-405 A Room and Board license is required for all homes that provide room and board for compensation to one or more adults who are elderly or disabled, as defined by ORS 443.480, and who are not related to the Operator by blood, adoption or marriage. A Room and Board license shall not be issued for a home that is licensed as an adult care home. No ADL care may be provided in a Room and Board home, however, assistance with medication management and/or money management may be provided to the residents in the home. Residents must sign a written request for assistance with medication management and/or money management before either is provided by the Operator or staff.

041-408 Operators, staff members, and all other subject individuals in Room and Board homes must have a current ACHP approved background check prior to entering their home. Operators must keep copies of current ACHP authorizations in the adult care home for all subject individuals who enter the home. [See MCAR 023-070-400]

041-410 The maximum capacity in a Room and Board home shall be determined by the physical characteristics of the home and fire safety requirements.

041-415 All residents in a Room and Board home must be capable of self-preservation. [See MCAR 023-020-105(88)]

041-420 Licensed Room and Board Operators must screen residents to ensure that each resident is independent in all activities of daily living. Screening shall occur before a resident is admitted to the home, and annually thereafter. If a prospective resident is not independent in all activities of daily living they must not be admitted to the home. If an existing resident's condition deteriorates to the point that they are no longer independent in all activities of daily living, they must be given a 30 calendar day notice to move from the home.

041-425 An Operator of a Room and Board home shall enter into a contract with each resident, dated and signed by the Operator and the resident or the resident's legal representative. The contract is subject to ACHP review prior to licensure (initial or renewal). The ACHP may disapprove contracts or contract provisions which are in conflict with the ACHP rules or any law or ordinance. [See MCAR 023-060-100]

041-430 To qualify for a Room and Board license, an applicant must:

(a) Obtain ACHP approval following a criminal records check.

(b) Pass an ACHP approved English Competency Test.

(c) Complete an ACHP approved Record Keeping (Part "B") Training.

(d) Submit a completed application with required fees.

041-435 The Room and Board license shall state the Operator's name, the address of the home, the type of license, the maximum capacity, the phone number for the facility, and the time period for which the license is valid.

041-440 The ACHP may require a licensed Room and Board Operator to comply with any other provision in these rules.

041-445 An Operator may apply in writing to the ACHP for an exception to a specific requirement of the ACHP rules. [See MCAR 023-050-100]

PART V - EXCEPTIONS

023-050-100 APPLICATIONS FOR EXCEPTIONS TO THE ADULT CARE HOME RULES

050-105 Adult care 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.

050-110 The ACHP shall not grant exceptions to certain ACHP rules, including but not limited to the rules governing:

(a) Mandatory inspections.

(b) Residents' Bill of Rights.

(c) Criminal history and criminal record checks.

(d) Inspection of public files.

(e) Fire safety requirements, without prior consultation with the State Fire Marshal or the State Fire Marshal's designee.

(f) Standards set out in MCAR 023-080-105 through MCAR 023-090-840.

(g) Capacity - [See MCAR 023-040-900]

(h) Minimum age for Operators, Resident Managers, and caregivers. [See MCAR 023-070-110 & 130]

050-115 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, including the Operator's history of compliance with rules governing adult care homes or other Long Term Care facilities in this state or any other jurisdiction. The ACHP must determine the exception is consistent with the intent and purpose of these rules prior to granting an exception. The burden of proof will be on the applicant or operator to prove that the requirements of MCAR 023-050-100 have been met.

050-120 The ACHP shall review exceptions granted to an adult care home at each license renewal period and may deny or modify exceptions previously granted if there has been a change in the situation.

050-125 If an exception to any provision of these rules is denied, the applicant or licensed Operator may request an administrative conference with the ACHP.

PART VI - CONTRACTS

023-060-100 CONTRACTS FOR PRIVATE PAY RESIDENTS

060-105 Operators of adult care homes with private pay residents shall enter into a contract with the resident's, dated and signed by the Operator and the resident or the resident's legal representative. The Operators' 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.

060-110 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 and document in the resident's record the date that copies were provided.

060-115 The contract shall be updated if any provision changes, including but not limited to, increases in the home's rate for any changes in the resident's care needs.

060-120 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. A payment range may not be used unless the contract plainly states when an increase in rate may be expected based on increased care or service needs.

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

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

(e) A statement indicating the resident is not liable for damages considered normal wear and tear on the adult care home and its contents.

(f) The amount of refund and refund policy for any security deposits requested for damage caused by the resident beyond normal wear and tear. The security deposit must be retained in an interest bearing account separate from the funds of the Operator.

(g) The circumstances under which the home's monthly rates may change.

(h) The home's refund policy in instances of a resident's hospitalization, death, discharge, transfer to another care facility, or voluntary move, or when a resident leaves the home before the required notice period (the refund policy must meet the requirements of MCAR 023-090-800).

(i) Who shall be responsible for arranging and paying for any special services or equipment in the adult care home, including nursing delegations or care, and any fees for the resident's transportation.

(j) The length of the contract and under what conditions the contract between Operator and resident may be ended.

(k) 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.

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

(m) How the resident may recover personal property left in the home, how and when an Operator may dispose of the resident's property if not recovered, and charges, if any, for storage of belongings that remain in the home for more than 15 calendar days after the resident has left the home. [See MCAR 023-090-815]

(n) An acknowledgement that house rules have been signed, if applicable.

(o) How many days payment shall be required after the resident has died, or has left the adult care home for medical reasons and indicates in writing an intent not to return.

(p) Information on how to make a complaint concerning the care and welfare of a resident to Adult Protective Services (APS). The information shall include the telephone number for APS.

(q) Notice that the home does not have a Medicaid contract, if applicable.

060-125 Contracts between Operators and residents 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. Non-refundable fees to hold a bed are permissible.

(c) Charges to a resident beyond the date of closure, if the home closes, 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 calendar days written notice of general rate increases, additions, or other modifications of the rates. The Operator must give written notice of the proposed changes to private pay residents and their family or other representatives, unless the change is due to the resident's increased care or service needs, and the agreed upon rate schedule in the resident's contract has specified charges for those changes.

(f) Payment of rent and/or service payment beyond the date the resident leaves the home if the resident dies or moves out because of abuse and/or neglect which is later substantiated.

(g) Payment of the monthly rate during any period when the room has been re-rented to another person.

(h) Waiver of their rights to a 30 calendar days notice of rate increases, except for pre-established rate schedules for specified care needs.

(i) Payment for more than 15 calendar days after the resident leaves the home for medical reasons and indicates in writing the intent not to return or if a resident dies.

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

060-130 If the Operator has a Medicaid contract, the Operator cannot ask a resident to move when the resident becomes eligible for Medicaid.

023-060-200 OPERATORS WITH A MEDICAID CONTRACT

060-205 Operators who wish to serve Medicaid clients shall have a valid Medicaid contract in place, sign a completed Provider Enrollment form and comply with the terms of the Medicaid agreement before accepting Medicaid eligible residents.

060-208 No Medicaid eligible clients will be admitted into an ACH unless and until:

(a) Seniors and Persons with Disabilities (SPD) has approved a Provider Enrollment Agreement.

(b) The client has been screened according to MCAR 023-080-200.

(c) The Case Manager has approved the placement.

(d) The screening is clearly documented by the Operator in the resident's record with other required admission materials required by MCAR 023-080-300.

060-210 Service payments for Medicaid recipients cannot be made to an Operator without a valid Medicaid contract. In addition:

(a) Service payments for the current month will be issued at the beginning of the following month.

(b) Payment will not be made for the date of discharge or for any time period thereafter.

(c) The Operator who elects to provide care for a Medicaid recipient is not required to admit more than one Medicaid recipient. However, if the Operator has signed a Medicaid contract for that home; private pay residents who become eligible for Medicaid assistance cannot be asked to leave for that reason.

(d) The rate of compensation established by DHS is considered payment in full and Operators may not accept additional funds or in-kind payment from or on behalf of a Medicaid recipient.

(e) A valid contractual agreement is not a guarantee that Medicaid eligible individuals will be placed in an adult care home.

(f) Either party may terminate a Medicaid contract according to the terms of the contract.

(g) Upon the death of a Medicaid Resident with no surviving spouse and within ten business days of the date of death, the operator must forward all personal incidental funds (PIF) to the Estate Administration Unit, P.O. Box 14021, Salem, Oregon 97309-5024. [See Limits of Estate Claims, OAR 461-135-0835.]

060-215 The ACHP shall alert the contracting agency if an adult care home with residents who receive Medicaid payments is not in compliance with these rules.

PART VII - STANDARDS FOR OPERATORS, RESIDENT MANAGERS AND CAREGIVERS

023-070-100 GENERAL CRITERIA FOR OPERATORS, RESIDENT MANAGERS AND CAREGIVERS

070-105 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. Additionally, the caregiver may be required to complete all Resident Manager testing requirements and meet the Resident Manager experience requirements if the ACHP determines that such qualifications are necessary.

070-110 Adult care home Operators and Resident Managers shall be at least 21 years old.

070-115 Operators must live in the home that is licensed unless a Resident Manager lives in the home or the ACHP grants a written exception to allow Shift Managers.

070-120 Operators or Resident Managers who work outside of the adult care home or who are absent from the home 30 hours or more per week, must have a caregiver that meets all Resident Manager criteria (i.e. training, testing, and experience) in the home during the Operator's or Resident Manager's absence.

070-125 Any caregiver who works in a home 20 or more hours per week as the sole caregiver for the home, must complete ACHP approved Basic Training and

Record Keeping courses before being allowed sole responsibility for resident care.

070-130 Caregivers, other than Operators and Resident Managers, shall be at least 18 years old. Caregivers under 21 years of age shall not have sole responsibility for resident care or supervision for more than two hours during any twelve hour period.

070-135 Adult care home Operators and Resident Managers shall provide evidence satisfactory to the ACHP regarding education, training and knowledge related to the population to be served, experience required for the classification of the home, and ability to operate an adult care home.

070-140 Operators, Resident Managers and caregivers shall have good physical and mental health, good judgment, good personal character (including honesty) and the demonstrated ability to follow both verbal and written instructions. They shall also possess the ability as determined necessary by the ACHP to provide 24 hour supervision for adults who are elderly persons or persons with disabilities. Failure to meet the above standard may lead to sanctions by the ACHP, including but not limited to, fines, revocation, denial of a license, and the placement of conditions onto an existing license.

070-145 Upon request of the ACHP, an 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.

070-150 Operators, Resident Managers and caregivers (or applicants) 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.

070-155 All Operators, Resident Managers and caregivers shall demonstrate the ability to respond appropriately to emergency situations at all times.

070-160 Operators shall insure that all Resident Managers and caregivers who work in the adult care home have the necessary skills and experience to meet the needs of the residents.

070-165 If Operators, Resident Managers and caregivers do not meet the standards in MCAR 023-070-105 through MCAR 023-070-165, the ACHP shall deny the application of each individual.

023-070-200 COMMUNICATION SKILLS

070-205 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.

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

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

070-210 At least one approved Operator, Resident Manager or caregiver that meets the requirements of this section shall be in the home and available to respond to residents' needs whenever residents are present or expected to be present in the home.

070-220 Any caregiver providing care to a resident must be able to effectively communicate with the resident in English or in the primary language of the resident, or be directly supervised by a caregiver who can so communicate with the resident.

070-225 The ACHP may require that a caregiver pass an English competency test to verify they are able to effectively communicate in English before being the sole caregiver in a home.

023-070-300 COOPERATION

070-305 Operators, Resident Managers and caregivers shall cooperate with ACHP personnel or other personnel providing services to the home or residents.

023-070-400 CRIMINAL RECORDS CHECKS

070-405 Background checks shall be conducted pursuant to these rules and OAR 407-007-0200 through 407-007-0370, Criminal Record Check Rules. The ACHP shall have authorized designees approved under OAR 407-007-0240 to make fitness determinations.

070-410 A subject individual seeking a criminal records check through the ACHP must submit a Background Check Request (BCR) form with the appropriate fee as established by the ACHP.

070-415 A subject individual is any person in an adult care home who is 16 years of age or older including:

(a) All licensed adult care home Operators and new Operator applicants.

(b) All persons intending to work in or currently working in the adult care home including but not limited to caregivers, housekeepers, and individuals in training.

(c) Occupants, excluding residents, residing in or on the premises of the proposed or currently licensed adult care home.

(d) Volunteers if allowed unsupervised access to residents, resident information, or resident’s personal property.

070-420 Subject Individual does not include:

(a) Residents of the adult care home or a resident's visitors.

(b) Persons who live or work on the adult care home premises who do not:

(i) Have regular access to the home for meals.

(ii) Have regular use of the adult care home's appliances or facilities.

(iii) Have unsupervised access to residents, resident information, or resident's personal property.

(c) Persons employed by a private business that provides services to residents and is not regulated by the Oregon Department of Human Services.

070-425 All subject individuals must be approved and maintained as required in accordance with these rules and OAR 407-007-0200 to 407-007-0370, Criminal Records Check Rules:

(a) Annually (Renewal requests for Subject Individuals living in the home must be received by the ACHP before the expiration date of the previous ACHP approval.)

(b) Prior to a subject individual's change in position (i.e., changing from substitute caregiver to resident manager)

(c) Prior to working in another home, regardless of whether the employer was the same or not, unless MCAR 023-070-430 applies.

070-430 A subject individual may be approved to work in multiple homes within the jurisdiction of the ACHP. The Background Check Request form must be completed by the subject individual to show the intent to work at various adult care homes within Multnomah County.

070-435 On or after July 28, 2009, no currently licensed Operator, new Operator applicant, or employee of a licensed Operator shall be approved who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

070-440 MCAR 023-070-435 does not apply to:

(a) Employees of a licensed Operator who were hired prior to July 28, 2009 if they continue employment in the same position.

(b) Any subject individual who is an occupant of the home but is not an Operator, Resident Manager, or a caregiver.

070-445 It shall be the responsibility of the Operator to insure that all subject individuals have a current ACHP approved background check prior to entering their home. Operators must keep copies of current ACHP authorizations in the adult care home for all subject individuals who enter the home.

070-450 Subject individuals submitting their first Background Check Request to the ACHP must present their background check request form and government issued photo identification to the ACHP in person.

070-455 All subject individuals must self-report any potentially disqualifying crime or condition as described in OAR 407-007-0280 and OAR 407-007-0290. Operators shall notify the ACHP immediately upon learning that they or any subject individual associated with their home has been arrested, charged with, or convicted of a crime or that any subject individual associated with their home has self disclosed any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290.

070-460 A subject individual who receives a notice containing an adverse outcome (i.e., denial or restricted approval) may appeal that decision. Appeals will be processed in accordance with OAR 407-007-0330. If a timely request is not received, the ACHP's decision shall become final. The ACHP may designate its file as the record for purposes of default.

023-070-500 RESIDENT MANAGERS AND SHIFT MANAGERS

070-505 Operators who wish to employ a Resident Manager or Shift Managers shall obtain approval from the ACHP. The ACHP may change the classification of the home based on the Resident Manager's, or Shift Managers' qualifications.

070-510 Before a Resident Manager or Shift Manager may be approved to work in an Adult care home, the applicant shall; attend an orientation and pass the pre-qualifying test; attend the basic training course and pass the qualifying test; and pass a criminal records check. The Operator shall insure that the Resident Manager or Shift Managers submit a completed application packet, and appropriate fee.

070-512 Once approved, the Operator shall ensure the Resident Manager, or Shift Manager if applicable, submits a completed renewal application annually prior to the expiration date. The renewal application packet must include copies of annual continuing education hour certificates, and a physician's report form every two years.

070-515 If, during the period covered by the license, the Resident Manager leaves, or ceases to act as the Resident Manager, the Operator must immediately notify the ACHP including circumstances when the Operator assumes the role as primary caregiver. Before a new Resident Manager may start work, the Operator shall obtain approval from the ACHP. The Operator shall submit a request for a change of Resident Manager and the materials required by MCAR 023-070-505, an updated staffing plan, and shall obtain approval from the ACHP. The proposed new Resident Manager must satisfy the requirements listed in MCAR 023-070-510. The operator must request modification of the Adult Foster Home license to identify the change in Resident Manager within seven calendar days from the date of change. Upon a determination that the applicant meets the requirements of a Resident Manager, a revised license will be issued with the name of the new Resident Manager. The appropriate fee as determined by the ACHP must accompany the request.

070-520 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 calendar days, whichever is shorter. The Operator must demonstrate that an unexpected and urgent staffing situation exists and that such situation is an emergency not created by the Operator and that he or she is unable to move into the home. 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 experience criteria of a Resident Manager working in the Adult care home.

(d) A plan that the Operator will provide adequate supervision.

(e) A Resident Manager application for the individual proposed.

023-070-600 TRAINING

070-605 Operator~~s~~ and Resident Manager~~s~~ applicants shall successfully complete the minimum ACHP approved Basic Training Course before being licensed or approved. The minimum ACHP approved basic 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.

070-608 Operators, Resident Managers, and Shift Managers, must attend ACHP approved Record Keeping Training (Parts “A” & “B”), and an Emergency Preparedness / Fire and Life Safety Training within the first year of licensure or approval. [See also MCAR 023-100-865]

070-610 Operators, Resident Managers, and Shift Managers must complete SPD approved continuing education (CE) training annually. The minimum training hours must be completed within the 12 month licensure or certification period. Training must be related to the care of ACH residents. Up to four hours annually may be related to the ACH business operation, however, consultation with an accountant does not count toward the required training requirement. The minimum required training hours are as follows:

(a) Twelve hours for Class 1 Operators/Resident Managers/Shift Managers.

(b) Fourteen hours for Class 2 Operators/Resident Managers/Shift Managers.

(c) Sixteen hours for Class 3 Operators/Resident Managers/Shift Managers.

Registered Nurse delegation or consultation, and, CPR and First Aid certification shall not count towards the required minimum training hours.

070-615 A Resident Manager applicant who has been granted an exception and who has not completed the Basic Training Course, must meet the qualifications of a substitute caregiver before providing care to any resident or being left alone with residents. Furthermore, the Resident Manager applicant must complete at least 20 hours of documented on-the-job training specific to the home and provided by the Operator or qualified Resident Manager, which includes but is not limited to, emergency procedures and evacuation, medication management and documentation, universal precautions, body mechanics, meal preparation, resident charts and care plans, and specific care needs for each resident.

070-620 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.

070-625 Operators shall train the Resident Manager, Shift Managers, and caregivers to meet the routine and emergency needs of the residents as detailed in the ACHP approved written Emergency Preparedness Plan.

070-630 All Operators, Resident Managers, and caregivers shall have Adult CPR and First Aid certification before being licensed or before being left alone with residents in the adult care home. CPR and First Aid certification shall be renewed as necessary to remain current.

070-635 All caregivers other than Operators, Resident Managers, Shift Managers, and DDS caregivers shall study the ACHP Caregiver Preparatory Training Course and complete the workbook with no assistance or complete the ACHP approved basic 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. All DDS providers including caregivers must complete the DDS Basic Training Course that includes, but is not limited to, passing an examination on course work and necessary skills. [See OAR 411-360-0120] Operators shall keep on file the caregiver training certificate for all caregivers in the home where the caregiver works.

070-640 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.

070-645 Operators shall record and keep on file ACHP training forms, certificates, attendance records and other training documentation for all caregivers in the home where they work.

023-070-700 TESTING

070-702 Applicants shall pass an English competency test to demonstrate adequate communication skills before an application packet is issued by the ACHP.

070-703 Applicants may attempt to pass the English competency test three times in any six month period. Pre-qualification test results will be void for tests taken in excess of three times in any six month period.

070-705 Applicants must pass an ACHP approved qualifying test before being licensed, or approved to be either a Resident Manager or Shift Manager. The examination shall evaluate the applicant'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 understanding of the rules for adult care homes and the basic training course.

070-710 Applicants who fail the qualifying test on their first attempt may take the test a second time, but must pass successfully within 90 calendar days of completing the Basic Training Course. Applicants who fail a second qualifying test must retake the Basic Training Course prior to repeating the test.

070-715 Any applicant who cheats or attempts to cheat while taking the Qualifying test, or any test required by the ACHP, shall fail that test and will not be allowed to re-take the test for 12 months thereafter. The decision of the ACHP regarding cheating is final.

023-070-800 STAFF COVERAGE, SUPERVISION, AND STAFFING CHANGES

070-805 An Operator must live in the home that is licensed or hire an approved Resident Manager to live in the home. Living in the home shall mean that the Operator (or Resident Manager) does not have another primary residence. Factors that will be examined to determine place of residence shall include, but are not limited to: time spent providing care and supervision to the residents; percentage of time spent at the residence (excluding sleeping hours); presence of personal belongings including clothes and toiletries; and, the primary residence location of immediate family members. Sleeping in a home does not in itself constitute living in a home.

070-810 The Operator, approved Resident Manager or approved caregiver shall provide supervision 24 hours per day, consistent with these rules, in the adult care 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 in and about the adult care home.

070-815 Protective awareness requires that an approved caregiver always be in the home or on the lot that the home is located. The caregiver must be able to hear and respond to resident needs and to smoke detectors, other alarm devices, and the telephone at all times. A monitor is acceptable if it allows the caregiver to hear these sounds. The caregiver must, at all times, be able to respond to any emergency situation within a reasonable time and be able to evacuate the residents from the home within three minutes.

070-820 During waking hours the caregiver is expected to visually check on the residents frequently enough, considering their condition, to respond to any preventable and foreseeable problems.

070-825 Operators not living in the home shall:

(a) Be in the adult care home at least three times a week and shall provide care and supervision while in the home.

(b) Monitor the resident's health, safety and welfare.

(c) Monitor record keeping.

(d) Document his or her visits to the home.

(e) Ensure that the home is in compliance with these rules.

Operators may appoint a currently licensed Operator or other person, who is approved by the ACHP to meet this monitoring requirement on a temporary basis.

070-830 Operators shall appoint an approved designee to oversee and monitor their adult care home any time the Operator or Resident Manager will be out of the home or not present to oversee the daily operation of the home for a continuous 72 hour period. The Operator must notify the ACHP of the name of the caregiver(s) who will be responsible for overseeing the daily operation of the home at least 48 hours prior to that time. The appointed designee must be approved by the ACHP.

070-835 Operators shall give the current addresses and telephone numbers of all Resident Managers and caregivers employed by the Operator to the ACHP upon request.

070-840 A resident shall not provide supervision, care or services, or act as a Resident Manager or other caregiver.

070-845 Shift Managers may be used in lieu of a Resident Manager only after they have submitted a completed application to the ACHP and the Operator has been granted a written exception allowing the use of Shift Managers. Use of Shift Managers 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 Managers are used, they must meet the standards of a Resident Manager and the classification of the home and their names must be listed on the license.

070-850 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. Operators shall maintain records verifying hours worked for each Resident Manager and approved caregiver.

070-855 Operators shall keep adequate staff necessary to maintain a stable environment and to provide quality care in the home. There shall be a minimum of one approved caregiver for every five residents, including respite and day care residents in the home.

070-860 To maintain a stable environment and to provide quality care in the home, the Operator shall ensure that Resident Managers and caregivers have adequate time off from their employment.

070-865 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.

070-870 An Operator (whether or not present in the home) is responsible for the supervision, training and conduct of Resident Managers, caregivers, family members and friends. This applies to Resident Managers and caregivers when acting within the scope of their employment, duties, or when they are present in the home.

070-875 Operators shall be responsible for paying relief caregivers, private monitoring RN's, and for all other costs associated with staffing the adult care home to ensure adequate staff coverage.

PART VIII - BASIC CARE

023-080-100 GENERAL CRITERIA

080-105 Adult care 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.

080-110 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.

080-115 Operators, Resident Managers and other caregivers shall meet the nighttime care needs of the residents.

080-120 Operators, Resident Managers and caregivers shall provide care and services in a homelike environment 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 are protected and promoted.

080-125 Operators, Resident Managers and other caregivers shall provide supervision for resident use of hot tub, sauna, and swimming pool. Hot tubs and saunas may only be used by residents with written doctor approval.

080-130 Operators shall ensure that residents receive all nurse or physician prescribed medical treatments, medications, or care, unless the resident refuses such treatments, medications or care. 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.

080-135 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.

080-140 Operators, Resident Managers and caregivers shall promptly seek medical help, as needed, and continue to seek help until the resident receives the appropriate care. This includes persistent attempts to obtain medication orders and ordered prescriptions. Attempts to seek medical help, obtain current medication orders, or ordered prescriptions must be documented in the resident's records. [See MCAR 023-080-540.]

080-145 In the event of a serious medical emergency, including the possible death of a resident, the Operator/staff shall call 911 or the appropriate medical emergency number (which may include hospice provider or private health care organization emergency number) for their community. This does not apply to residents who practice Christian Science. For residents on hospice programs, the caregiver shall follow the written instructions from the hospice RN. The physician/nurse practitioner, family or legal representative and the case manager (when applicable) shall also be called. The Operator/staff shall have copies of any Advance Directives, Do Not Resuscitate (DNR) orders, Physician's Orders for Life Sustaining Treatment (POLST) and/or other pertinent medical information available when emergency personnel arrive.

080-150 Operators must be able to provide or arrange for appropriate resident transportation. This does not mean the Operator has to pay for transportation.

080-155 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, loan to, or pledge any funds of a resident. Personal Incidental Funds (PIF) for Medicaid clients shall only 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 Operator, Operator's family, 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.

080-160 Operators, Resident Managers and other caregivers in the home may not act as a resident's guardian, conservator, trustee, or attorney-in-fact unless related by birth, marriage, or adoption to the resident as follows: parent, child, brother, sister, grandparent, grandchild, aunt, uncle, niece, or nephew. Nothing in this rule shall be construed to prevent an Operator, Resident Manager, or other caregiver from acting as a representative payee for the resident. [See also OAR 411-020-0001(3)(e).]

023-080-200 SCREENING

080-205 Operators shall screen a potential new resident for care needs using an ACHP approved screening form before admitting a resident to the adult care home. Operators must also re-screen a current resident who has been admitted to a hospital and/or other care facility prior to allowing the resident to return to the adult

care home. The screening shall determine if the resident has nursing care needs [See MCAR 023-080-608]; whether the care needs of the resident fall within the license classification of the home; and, if the Operator can meet the care and emergency evacuation needs of the resident along with meeting the care and emergency evacuation needs of the other residents currently in the home.

080-210 The screening shall include interviews with the prospective resident in person, and the resident's family, prior caregivers, and case manager as appropriate. The Operator shall also interview as necessary any physician, nurse or other health care professional involved in the prospective resident's care.

080-212 The Operator shall disclose to a prospective resident or their representative, any house rules that will limit the resident's activities or preferences while living in the home. Examples include, but are not limited to: the use of tobacco or alcohol, pets, religious practices, dietary restrictions, intercoms. Operators must disclose the home's policy regarding the legal presence and use of medical marijuana.

080-215 The Operator's screening of a prospective resident's care needs shall include, but is not limited to:

(a) An assessment of Activities of Daily Living.

(b) Consideration of all diagnoses.

(c) Consideration of all current medications.

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

(e) Consideration of the resident's personal care needs.

(f) Consideration of the resident's ability to communicate.

(g) Consideration of nursing care needs and RN delegations.

(h) Consideration of the resident's nutritional needs.

(i) Consideration of the resident's night care needs.

(j) Consideration of the resident's personal preferences regarding activities and lifestyle.

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

(l) Consideration of behaviors that would endanger the health or safety of occupants or visitors in the home.

080-220 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.

080-225 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.

023-080-300 ADMISSION TO THE ADULT CARE HOME

080-305 Prior to admission to the home, the Operator shall obtain and document in the 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 medical insurance numbers, birth date, and prior residence. At an appropriate date, the Operator shall obtain mortuary information if available.

080-310 Prior to 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.

080-315 Prior to admission, the Operator shall ask for copies of any documents regarding the care, decision making, and end of life directions for the resident if the resident has them, including but not limited to the following: Advance Directive, letters of guardianship, letters of conservatorship, POLST, and Do Not Resuscitate (DNR) orders. The copies shall be placed in a prominent place in the resident record and copies sent with the resident when transferred for medical care.

080-320 Prior to 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.

080-325 At the time of admission, the Operator shall list the resident possessions brought into the home.

080-330 When Operators have contracts with more than one public human service agency, including but not limited to the State of Oregon DHS Children Adults, and Families (CAF), Mental Health and Addiction Services Division (MHASD) or Seniors and People with Disabilities (SPD), the Operator shall obtain written permission from each contracting agency with clients already in the home before admitting new residents to the home; the Operator shall notify each contracting agency whose clients already are residents in the home at least five business days prior to admitting private pay residents.

080-335 Operators shall have written approval from the ACHP and other appropriate contracting agencies before admitting any foster child into an adult care home.

080-340 The ACHP may deny the admission of any prospective resident if at the determination of the ACHP, after consultation with other appropriate agencies, that resident poses a threat or would jeopardize the life, heath, or safety of other residents, the Operator, employees, other household members, or frequent visitors of the home. Reasons for denial shall be documented.

080-350 The Operator shall, upon request, provide a copy of the most recent inspection report to each resident, or person applying for admission to the adult care home, or the family or legal representative of the resident or potential resident.

023-080-400 CARE PLAN

080-405 The 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, and 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.

080-410 During the initial 14 days following the resident's admission to the home, the Operator shall continue the assessment process that includes documenting the resident's preferences and care needs. The assessment shall include observations of the resident and review of information obtained from the screening assessment process.

080-415 The resident care plan shall be finalized by the Operator within 14 days of admission to the home. The care plan shall be signed by those who have prepared the plan.

080-420 Care plans shall be rewritten annually. Additionally, 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 Operator shall review care plans with the resident and/or a legal representative at least once each year. This review shall be documented in the resident's records.

080-425 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 ADL.

(b) Need for special equipment.

(c) Communication needs (e.g., hearing or vision needs, sign language, non-English speaking, etc.).

(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, teaching, or delegation.

(i) Need for behavioral interventions.

(j) Social, spiritual and 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) Goals for maintaining and, if possible, improving or restoring the resident's level of functioning.

023-080-500 ADMINISTRATION OF MEDICATIONS, TREATMENTS AND THERAPIES

080-505 No medications, treatments, procedures or therapies shall be administered to a resident without a prior doctor's order, or prior review in the case of over-the-counter or home remedies pursuant to MCAR 023-080-525.

080-510 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 care home and shall be readily available.

080-515 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.

080-520 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.

080-525 Over-the-counter medications or home remedies 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. Any additional over-the-counter medications or home remedies may only be administered with review by the resident's physician/nurse practitioner or pharmacist.

080-530 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. Changes in the dosage of an existing medication require a new pharmacy label. If a new

pharmacy label is not obtained, the change must be written on the existing pharmacy label and match the new medication order. [See MCAR 023-080-595]

080-535 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.

080-540 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.

080-545 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, how often it may be administered, and the expected outcome. These written directions may be given by a physician, nurse practitioner, Registered Nurse or pharmacist. P.R.N. medications with specific parameters must be recorded on the medication administration record. Any additional instructions must be available for the caregiver to review before the medication is administered to the resident.

080-550 In the case of hospice residents under an authorized hospice program, the administration of medication shall be conducted according to a hospice, home health, or other physician generated order. An Operator who implements such an order must:

(a) Have a copy of the hospice or home health document that communicates the written order.

(b) Transcribe the order onto the medication administration record.

(c) Implement the order as written.

(d) Include the order on subsequent medical visit reports for the physician or nurse practitioner to review.

080-552 If a resident receives home health or hospice services in the adult care home but services are not provided by the adult care home staff, the Operator shall obtain a copy of the hospice or home health document that communicates the order and include the order on subsequent medical visit reports for the physician or nurse practitioner to review.

080-555 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 the resident’s response to trials of all other alternative interventions, 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 care home. Psychoactive medications as defined in these rules may be used only pursuant to a prescription that specifies the circumstances, dosage and frequency of use.

080-560 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. The care plan must identify and describe the behavioral symptoms for which psychoactive medications are being used and list all interventions, including behavioral, environmental and medication.

080-565 The frequency of reassessment of the psychoactive medication use shall be determined by the physician or nurse practitioner or Registered Nurse completing the initial assessment.

080-570 A resident, or a relative of the resident or a Oregon licensed 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 that 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.

080-575 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. Over-the-counter medications belonging to a resident must be clearly marked with the resident’s name.

080-580 The Operator may set up each resident's medications for up to seven calendar 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.

080-585 Unused, outdated, discontinued, recalled, or contaminated medications, including controlled substances, shall not be kept in the home and shall be disposed of according to federal guidelines for drug disposal, or to the requirements of the local DEQ waste management company (e.g., removing the medications from their containers and smashing or liquefying them before mixing them in with garbage). Disposal of these medications shall be documented on the medication administration record or in the resident's record. Documentation shall include the date, name of the medication, the number of pills disposed of, and the signature of the disposer.

080-589 All controlled substances to be disposed of shall be documented according to the requirements of MCAR 023-080-585, and witnessed by at least one other

approved caregiver. The signature of the witness is to be included in the resident's record.

080-590 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.

080-592 A prescription medication may be given only to the person for whom the medication was prescribed.

080-594 A current, written medication administration record (MAR) shall be kept for each resident and shall identify all of the medications prescribed 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 that identifies each set of initials appearing on the MAR.

080-595 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 the 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. All administrations of as needed (P.R.N.) medications shall be documented with the time, dose, the reason the medication was given, and the outcome.

080-597 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 that 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.

023-080-600 NURSING CARE TASKS

080-605 Operators of Class 2 and Class 3 adult care homes shall insure monitoring in the home of all residents by a Registered Nurse or physician. Monitoring shall be required as medically indicated. Medicaid funded monitoring of eligible residents must be authorized by the resident's case manager. [See OAR 411-048-0000] At a minimum, monitoring shall include a resident interview (if appropriate), and a review of resident records, medication management, doctor's orders and resident's care. Documentation of nurse consultations, delegations, assessments and reassessments must be maintained in the resident's record.

080-608 A Registered Nurse consultation shall be obtained prior to admitting a new resident when nursing care needs are identified during the screening process; or when a nursing care task [see MCAR 023-020-105(63)] has been ordered by a physician or other qualified practitioner; or, when a change in a resident's condition results in a health concern or behavioral symptom that may benefit from a nursing assessment. [See OAR 411-050-0447(4)]

080-610 A 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.

080-615 If a Registered Nurse determines that a nursing task (skilled or otherwise) for a resident requires delegation, the Operator, Resident Manager or caregiver shall receive prior delegation before performing such task for the resident. The provisions of the Oregon State Board of Nursing rules shall apply to all delegations.

080-625 Performing a nursing task without prior delegation if such delegation is required by a Registered Nurse or pursuant to the Board of Nursing rules, performing such a task incorrectly, or allowing another individual, who is not delegated, to perform a delegated task shall result in a sanction pursuant to these rules.

023-080-700 RESTRAINTS

080-705 Restraints may only be used with the resident's or resident's legal representative's written consent that 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.

080-710 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 it is determined, following the assessment and trial of other measures that a restraint is necessary, then the least restrictive restraint shall be used as infrequently as possible. All physical restraints must allow for quick release at all times.

080-715 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.

080-720 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 shall include specific parameters including type, circumstances and duration of the use of the restraint (P.R.N. orders for restraints are not allowed).

080-725 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 attempted, and dangers and precautions related to the use of a restraint.

080-730 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.

080-735 Residents physically restrained during waking hours must have the restraints released at least every two hours for a minimum of fifteen (15) minutes. During this period, they are to be repositioned, offered toileting, fluids, exercised or provided range of motion.

080-740 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 assistance shall be determined during the assessment and documented in the resident's records. There will be no tie restraints of any kind used to keep a resident in bed.

080-745 Restraints may not be used for discipline of a resident or for the convenience of the Operator, Resident Manager or caregiver.

080-750 The frequency for reassessment of 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.

080-755 Full side rails used to keep a resident in bed are considered restraints. Half rails or half side-rails, which are requested by the resident to allow the resident to easily get in and out of bed or improve the resident's functioning, are not considered restraints.

080-760 Use of restraints shall not impede the three-minute evacuation of all household members.

080-770 Physical Restraints are not allowed in MHASD homes. Providers, resident managers, or substitute caregivers will not employ physical restraints for individuals receiving personal care services authorized or funded through the Office of Mental Health and Addiction Services.

023-080-800 MEALS

080-805 Three balanced nutritious meals will be served daily at times consistent with those in the community. The U.S Department of Agriculture (USDA) will determine what constitutes balanced and nutritious. Each daily menu will include food from the five basic food groups and will include seasonal fresh fruits and vegetables. There shall be no more than a 14-hour span between the evening meal and breakfast. Snacks do not substitute for a meal in determining the 14-hour span. Nutritious snacks and liquids shall be offered to fulfill each resident's nutritional requirements. Consideration shall be given to residents' preferences, cultural and religious and ethnic preferences. 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.

080-810 The quantity and quality of food served to residents should not be substantially different from that eaten by the Operator or Resident Manager and the Operator's or Resident Manager's family.

080-815 If the ACHP has a concern regarding the quantity or quality of food served to residents or that a residents' preferences or ethnic background are not being considered, the ACHP may assess the food served and may require a change or supplementation to the menu.

080-820 Operators shall follow all special diets as prescribed in writing by the resident's physician/nurse practitioner or other qualified professional.

080-825 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.

080-830 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.

080-835 Operators shall prepare and post a planned weekly menu of the residents' meals and schedule of meal times. Operators shall follow the posted menu and/or offer substantially similar substitutions in compliance with MCAR 023-080-805. The ACHP may require additional record keeping if problems with meals or nutrition arise.

080-840 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.

080-845 Food, utensils, dishes and glassware shall not be stored in bedrooms, bathrooms or living areas.

080-850 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.

080-855 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.

023-080-900 RESIDENT ACTIVITIES

080-905 Operators, Resident Managers and caregivers shall make available at least six hours of activities to residents each week, not including television, movies, adult day care, vocational programs. Visits from family or friends can count for only two hours of the required activities per week. 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.

080-910 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.

080-915 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 care home do not encourage contact between the Operator, Resident Manager, caregivers and residents, the Operator must demonstrate how regular positive contact will occur.

080-920 Operators shall insure clear documentation of each resident's participation or refusal to participate in at least six hours of activities each week.

023-081-100 ADULT CARE HOMES FOR VENTILATOR DEPENDENT RESIDENT(S)

081-105 Licensed Operators intending to provide ventilator care to residents shall, in addition to standards set forth in these rules, meet the following requirements:

(1) Qualifications - licensed Operators must meet and maintain compliance with OAR 411-050-0440. In addition:

(a) The Operator must demonstrate competency in providing care for ventilator dependent residents.

(b) The Operator must have operated a Class 3 home in substantial compliance with the MCAR for the past 12 months.

(c) The Operator must complete SPD approved training pertaining to ventilator-dependent residents and other training as may be required.

(2) Operational Standards – licensed Operators must meet and maintain compliance with OAR 411-050-0444. In addition:

(a) Qualified staff must be awake and available to meet the routine and emergency care and service needs of residents 24 hours a day.

(b) All caregivers must demonstrate competency in providing care for a ventilator-dependent population.

(c) All caregivers must be able to evacuate the residents and any other occupants in the home within three minutes or less.

(d) The Operator must have a satisfactory system in place to ensure caregivers are alert to the 24-hour needs of residents who may be unable to independently call for assistance.

(e) All caregivers must know how to operate the back-up generator without assistance and be able to demonstrate its operation upon request by SPD.

(3) Facility Standards – licensed Operators must meet and maintain compliance with OAR 411-050-0445. In addition:

(a) Resident bedrooms must be a minimum of 100 square feet, or larger if necessary, to accommodate the standard requirements of MCAR 023-100-400, in addition to equipment and supplies necessary for the care and services needed by individuals with ventilator equipment.

(b) Homes that provide ventilator care for residents must have a functional, emergency back-up generator that is installed by a licensed electrician. The generator must be adequate to maintain electrical service for resident needs until regular service is restored.

(c) The home must have a functional, interconnected smoke alarm system with back-up batteries.

(d) The home must have a functional sprinkler system, and maintenance must be completed as recommended by the manufacturer.

(e) Each resident's bedroom must have a mechanism in place that shall enable residents to summon a caregiver's assistance when needed. The summons must be audible in all areas of the adult care home.

(4) Standards and Practices for Care and Services – licensed Operators must meet and maintain compliance with OAR 411-050-0447. In addition:

(a) The Operator must conduct and document a thorough screening on the SPD required form.

(b) Prior to admitting a resident requiring ventilator care to the adult care home the Operator must obtain preauthorization from SPD Central Office.

(c) The Operator must have a primary care physician identified for each resident being considered for admission.

(d) The Operator must retain the services of a registered nurse to work in the home who is trained in the care of ventilator dependent individuals. RN services include, but are not limited to the provision of medical consultation for and supervision of resident care, skilled nursing care as needed and delegation of nursing care to caregivers. When the licensed Operator is an RN, a back-up RN must be identified and available to provide nursing services in the absence of the Operator.

(e) The Operator must develop individual care plans with RN consultants that address the expected frequency of nursing supervision, consultation and direct service intervention.

(f) The Operator must have physician, RN and respiratory therapist consultation services available on a 24-hour basis and for in-home visits as appropriate. The Operator must call the appropriate medical professional to attend emergent care needs of the residents.

081-115 Adult care homes for ventilator dependent residents shall not have more than three residents who are either dependent in four or more activities of daily living or

ventilator dependent without prior approval by the ACHP and the Oregon Department of Human Services Seniors & People with Disabilities Program.

PART IX - STANDARDS FOR OPERATION

023-090-100 PROHIBITING PERSONS FROM THE HOME

090-105 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.

090-110 The ACHP may prohibit any person from working or being in an adult care home if the ACHP finds that his/her presence would jeopardize the health, safety or welfare of the resident(s) or other occupants in the home. [See also MCAR 023-070-140, 145, 150, 155, 160 and 165]

090-115 The ACHP may consider persons who have committed an act of violence a threat to the health, safety and welfare of residents in an adult care home. The ACHP may prohibit the following persons from being in any adult care home in Multnomah County:

(a) An individual who, based on reliable evidence, has committed an act of violence during the past five years.

(b) An individual who, based on reliable evidence, has committed more than one act of violence during the past ten years.

(c) An individual who, based on reliable evidence, has both committed an act of violence and received a conviction in relation to any other crime within the past ten years.

023-090-200 RESIDENT RECORDS

090-205 Operators, Resident Managers and caregivers shall keep accurate and up to date resident records on file in the adult care home where the resident lives. Such records must be kept in an organized and professional manner so as to be understood by ACHP staff.

090-210 Resident records maintained by the Operator shall be readily available at the adult care home to all Resident Managers and caregivers and to representatives of the ACHP conducting inspections, as well as to residents and their legal representative.

090-215 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 ACHP upon request.

090-220 The resident records shall contain the following information:

(a) A Resident Screening form. [See MCAR 023-080-200]

(b) A Resident Information form. [See MCAR 023-080-305]

(c) A Long Term Care Assessment form for private pay residents. [See MCAR 023-080-225]

(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. [See MCAR 023-080-310]

(2) Current written and signed physician/nurse practitioner orders. [See MCAR 023-080-310]

(3) Any special diets or care instructions prescribed by a physician, including special therapies, treatments, and orders for the use of restraints or delegations. [See MCAR 023-080-515]

(4) Guardianship letters, Oregon Directive to Physicians, POLST and DNR forms, and/or a Power of Attorney for Health Care, if applicable. [See MCAR 023-080-315]

(e) Medication administration records. [See MCAR 023-080-500]

(f) A care plan. [See MCAR 023-080-400]

(g) Copies of the current written house rules and Residents' Bill of Rights, both signed by the resident and/or his/her representative. [See MCAR 023-080-320]

(h) Written reports 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 contract for private pay residents. (The contract may be kept in a separate file but must be made available for inspection.) [See MCAR 023-060-100]

(k) An up-to-date list of the resident's personal belongings kept in the home. [See MCAR 023-080-325]

(l) If the Operator has been authorized by a resident or resident's legal representative to handle a resident's money, then there shall be 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. [See MCAR 023-080-155]

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

090-225 Operators shall keep all resident records on file in the adult care home for three years including copies of any 30 day notices requiring a resident to move out involuntarily.

090-230 When, for any reason, a resident moves from the adult care home, the Operator shall forward copies of pertinent information from the resident's record to the resident's new place of residence. Pertinent information shall include at a minimum:

(a) Copies of current medication sheets and an updated care plan to be used as reference only.

(b) Copies of current progress notes that must include documentation of actions taken by the adult care home staff, resident, or the resident's representative, pertaining to the move, transfer or discharge, as events take place.

090-235 A falsification or omission of information from resident or facility records shall be a violation of ACHP rules and shall subject the Operator to sanctions.

023-090-300 HOUSE RULES

090-305 House rules shall be written and a copy given to the resident and the resident's family or representative. At a minimum, the Operator must disclose his/her written rules regarding on the use of alcohol, tobacco, pets, visiting hours, dietary restrictions or religious preferences as well as the presence and use of legal medical marijuana on the premises. House rules shall not be in conflict with the Residents' Bill of Rights or the family atmosphere of the home.

090-310 House rules are subject to review and approval by the ACHP.

090-315 House rules shall include daily visiting hours of at least seven hours with at least two hours after 6:00 p.m. Operators shall make reasonable accommodations to visitors upon request.

023-090-400 POSTINGS

090-405 Operators shall post copies of the following in a prominent place where residents and others can easily see them:

(a) A current Adult Care Home License.

(b) Statement of Conditions (if a conditional license).

(c) The Residents' Bill of Rights.

(d) House Rules.

(e) The home's floor plan with emergency evacuation map.

(f) The Inspection Report for the most recent annual inspection by the ACHP.

(g) The home's range of monthly rates for private pay residents.

(h) An Ombudsman poster.

(i) An APS complaint poster.

(j) Weekly menus.

(k) A List of emergency telephone numbers, including the contact number for at least one licensed Operator or approved Resident Manager who has agreed to respond in person in the event of an emergency, and an emergency contact number for the Operator, if the Operator does not live in the home. The list must be readily visible and posted by a central telephone in the adult care home.

(l) A current staffing plan listing the names of all caregivers who will be in the home providing care, including the name of the Operator, Resident Manager, or Shift Managers as appropriate.

(m) The SPD notice pertaining to the use of any intercoms, monitoring devices and video cameras that may be used in the adult care home.

023-090-450 FACILITY RECORDS

090-455 Facility records must be maintained and available for inspection in the adult care home. Facility records include, but are not limited to:

(a) Proof of current criminal record check approval for all persons as required in MCAR 023-070-400.

(b) Proof that the Operator and all other caregivers have met and maintained the minimum qualifications as required in MCAR 023-070-600. The following documentation must be available for review upon request:

(1) Names, addresses and telephone numbers of the substitute caregivers employed by or used by the Operator.

(2) Completed certificates to document caregivers' completion of the Caregiver Preparatory Training Study Guide and Workbook or certificate verifying caregiver completed ACHP approved Basic Training Course.

(3) Documentation of all substitute caregivers' orientation to the adult care home with completion of Caregiver Checklist form.

(4) Proof of required continuing education hours.

(c) Copies of notices sent to the ACHP pertaining to changes in the Resident Manager, Shift Managers (if applicable) or other primary

caregiver.

(d) Proof of required vaccinations for animals on the premises.

(e) Well water tests, if required. [See MCAR 023-100-205]

(f) A copy of the adult care home's private pay contract and a copy of any contract the Operator may have with DHS (Oregon Dept. of Human Services).

(g) Fire Drill and Evacuation Records for the past three years.

023-090-500 TELEPHONE

090-505 The home shall have a working landline telephone (not cell or satellite) with a listed number that is separate from any other number the home may also have, such as, but not limited to, a business or personal phone number, and internet or fax lines, unless the system includes features that notify the caregiver of an incoming call, or automatically switches to the appropriate mode. The home number may not be forwarded to a different telephone or mobile phone located at another location. If the Operator has caller identification service on the home number, the blocking feature must be disabled to allow calls from the ACHP, other state or local government agencies and emergency services to be received unhindered. An Operator may have only one phone line as long as it conforms to the requirements above.

090-510 The telephone shall be available and accessible in the adult care home for residents' use with reasonable accommodation for privacy for incoming and outgoing calls.

090-515 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.

090-520 Appropriate use of the residents' personal telephone shall not be restricted by the Operator, Resident Manager or caregiver.

090-525 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).

090-530 Long distance service shall be available in the adult care home to residents who may be required to pay for personal long distance telephone calls.

090-535 Residents with hearing impairments (to the extent that they cannot hear over a normal telephone) shall be provided with a telephone in the adult care home that is amplified with a volume control or is hearing aid compatible or a TTY if appropriate.

090-540 The Operator shall notify the ACHP, the resident's family, legal representative and any case manager or service coordinator within 24 hours of a change in the Operator's electronic mail address, the telephone number for the Operator, and the telephone number of the adult care home.

090-545 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.

023-090-600 MOVING A RESIDENT FROM THE ADULT CARE HOME

090-605 Operators shall not request or require a resident to move from the adult care home or move to another room in the adult care home without giving the resident, the resident's legal representative, family, case manager and any other appropriate person(s) at least 30 calendar 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.

090-607 If a Medicaid resident or the resident's representative voluntarily gives notice of the resident's intent to move from the adult care home, or the resident moves from the home abruptly, the Operator must promptly notify the resident's case manager (Medicaid residents are not required to give notice of an intent to move).

090-610 Except in situations defined in MCAR 023-090-615, a resident may be moved between bedrooms in a home or between an Operator's multiple homes only if the resident consents in writing. Moving or requesting a resident to move between bedrooms in a home or between an Operator's multiple homes without consent is an eviction requiring 30 calendar days notice.

090-615 Operators shall evict residents for the following reasons only:

(a) Medical Reasons – The resident has a medical or nursing condition that is complex, unstable or unpredictable and exceeds the level of care the home can provide.

(b) Welfare of the resident or other residents:

(1) The resident exhibits behavior that poses an imminent danger to self or others including acts that result in the resident's arrest or detention.

(2) The resident engages in behavior or actions that repeatedly and substantially interfere with the rights, health, or safety of residents or others.

(3) The resident engages in illegal drug use, or commits a criminal act that causes potential harm to the resident or others.

(c) Nonpayment for room, board, care or services.

(d) The home is no longer licensed or there is a voluntary surrender of a license.

(e) The adult care home is unable to accomplish evacuation of the home in

three minutes or less in accordance with MCAR 023-100-810.

(f) The resident engages in the use of medical marijuana in violation of the homes' written house rules or contrary to Oregon Law under the Oregon Medical Marijuana Act, ORS 475.300 to 475.346.

(g) At the direction of the ACHP.

090-620 Residents may waive an Operator's 30 day notice to move in writing.

090-625 Before requiring a private pay resident to give the Operator a 30 calendar day notice prior to a move, the Operator shall include this requirement in the signed contract.

090-630 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 the right to have the ACHP hold an informal conference (notice must provide ACHP contact information).

(f) The name, signature, address and telephone number of the person giving the notice.

(g) The date of the notice.

090-635 Residents may be removed from the home with less than the 30 day written notice if the Director of Aging Services or his/her designee finds that an emergency exists. Such a finding will be made only if there is a medical emergency or if there is an immediate threat to the life, health, or safety of the resident, other residents, the Operator, employees, or other household members. Findings shall be documented. The request for a waiver from the 30 day notice requirement may be made by the Operator, the resident or the ACHP. Residents who move from the home under these circumstances shall not be charged beyond their last day in the home.

023-090-700 RESIDENT HEARING RIGHTS

090-705 A resident who has been or will be evicted or is refused the right to return to a home by the Operator will be entitled to an informal conference with the ACHP as promptly as possible, and an administrative hearing, if requested, except in instances when the home is no longer licensed or the ACHP has directed such eviction.

090-715 The ACHP shall issue a written determination following the conference either approving or disapproving the eviction. After the ACHP determination, either party may request a formal hearing within 14 calendar days of the date the ACHP

issues its decision. The Operator shall not move the resident or require the resident to move while the informal and formal hearings are pending. If the resident has not requested a formal hearing within 14 calendar days, the decision of the ACHP shall become final.

090-720 Factors to be considered by the ACHP in a conference, and by 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 behavior that substantially interferes with the orderly operation of the home.

(b) Medical evidence including 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 licensed classification of the Operator.

(e) Transfer trauma to the resident.

090-725 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.

023-090-800 REFUNDS/RETURN OF PERSONAL PROPERTY

090-805 The Operator shall refund any money owed to the resident, the resident's family or legal representative within 30 calendar days of when the resident dies or permanently leaves the home.

090-810 Operators shall make a resident's personal property, including mail, available within seven calendar days after the resident leaves the home. If the resident does not claim his or her personal property within seven calendar days of leaving the home, the Operator shall give written notice to the resident or legal representative and allow 30 calendar days before disposing of the resident's personal property.

090-815 The Operator may charge a reasonable fee for storage of a private pay resident's belongings beyond 15 calendar days after the resident dies or leaves if the contract/admission agreement includes fees for storage.

090-820 If the home closes or if the Operator gives notice to move, the Operator waives the right to collect any rent or fees incurred beyond the date of closure or the resident's departure, whichever is sooner.

090-825 The Operator shall not charge a private pay resident or a resident’s estate for payment of the monthly rate for more than 15 calendar days after the resident has died, or has left the adult care home for medical reasons and indicates in

writing the intent not to return. 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.

090-830 If a resident dies or leaves an adult care home due to substantiated neglect or abuse or due to conditions of immediate threat to life, health or safety, the Operator shall not charge the resident for payment of the monthly rate beyond the resident's last day in the home.

090-840 Operators must forward all personal incidental funds (PIF) to the SPD, Estate Administration Unit, P.O. Box 14021, Salem, Oregon 97309-5024, within ten (10) business days of the death of a Medicaid resident with no surviving spouse.

PART X - STANDARDS FOR ADULT CARE HOME FACILITIES

023-100-100 GENERAL CONDITIONS OF THE HOME

100-105 The adult care 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 care home Operator to ensure that all applicable local codes have been met.

100-110 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 compliance with any additional standards that are recommended by the State Fire Marshal or his/her designee, for a single family residence.

100-115 The buildings of the adult care home shall be of sound construction and kept clean and in good repair. The grounds shall be kept clean and well maintained.

100-120 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 on the taillight end of the unit itself that 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.

100-125 The exterior, interior, and furnishings of the adult care 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.

100-130 All interior walls of the adult care 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 exit way of the adult care 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.

100-135 Interior and exterior stairways and steps of the adult care home shall have properly installed handrails. The yard, approved exits and stairs of the adult care home shall be accessible and appropriate to the condition of the residents. The interior premises must be accessible to the individual needs of the residents.

100-140 Interior hallways of the adult care home shall be at least 36 inches wide. They shall be wide enough to accommodate wheelchairs or walkers if used by the resident(s). Each room, stairway and exit way shall be free of barriers that impede evacuation.

100-145 Each room, stairway and exit way of the adult care 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.

100-150 There shall be at least 150 square feet of common living space for the residents that must be accessible to all the residents. The common space must have 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.

100-155 The adult care home shall be furnished to meet the needs of the residents.

100-160 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.

100-165 Operators shall keep current first aid supplies and a first aid manual available at all times.

100-170 The address of the adult care home shall be easily visible from the street.

100-175 Operators shall notify the ACHP at least 15 calendar days before beginning work on structural changes that require a building permit, and submit a copy of a revised floor plan before remodeling is begun.

023-100-200 HEALTH AND SANITATION

100-205 Operators shall use a public water supply for the adult care home if available. If a non-municipal water source is used a sanitarian or a technician from a certified

water-testing laboratory must collect a sample for testing annually. Collection and testing shall be at the Operator's expense. The sample shall be tested for Coliform bacteria and corrective action taken if necessary to ensure potability. Test records shall be retained in the adult care home for three years.

100-210 Septic tanks or other non-municipal sewage disposal system shall be in good working order.

100-215 Commodes shall be emptied frequently and cleaned daily or more frequently if necessary.

100-220 Garbage and refuse shall be suitably stored in readily cleanable, rodent proof, covered containers. Garbage must be removed at least once a week.

100-225 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.

100-230 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.

100-235 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.

100-240 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.

100-245 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.

100-250 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 approved red 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 in accordance with local regulations and resources. [See ORS 459.386 through ORS 459.405]

023-100-300 BATHROOMS

100-305 Bathrooms shall be kept clean and free from objectionable odors.

100-310 The adult care 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. A sink shall be located near each toilet, and, a toilet and sink shall be located on each floor occupied by residents.

100-315 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.

100-320 Bathrooms shall have a finished interior, with floors, walls, tubs/showers, toilets, sinks and mirrors in good repair.

100-325 Bathrooms shall have an operable window or other means of ventilation.

100-330 Bathrooms shall allow for privacy and have a door that 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.

100-335 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.

100-340 Shower enclosures shall have nonporous surfaces. Glass shower doors shall be tempered safety glass. Tubs and shower shall have non-slip floor surfaces. Shower curtains shall be kept clean and in good condition.

100-345 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 that 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.

023-100-400 BEDROOMS

100-405 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 that 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 open-able window or exit door that meets fire regulations.

(e) Have 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.

100-410 Bedrooms shall not contain furnaces, laundry tubs, washers, dryers, freezers, dishwashers or other common use equipment.

100-415 The adult care home shall have at least one bedroom for use by the Operator, Resident Manager or other caregivers. Operators, Resident Managers, other caregivers, or family members 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.

100-420 No more than two people shall occupy a bedroom, not including children under five years of age.

100-425 Resident bedrooms shall be in close enough proximity to the Operator or caregiver in charge to alert him or her to nighttime 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.

100-430 Use of interior video monitors detracts from a home-like environment and Operators shall not use them in resident bedrooms, bathrooms or living areas, unless requested in writing by the resident or their representative, and with the written exception approval from the ACHP.

100-435 Bedrooms shall be on ground level for residents who are non-ambulatory, have impaired mobility, or are otherwise not capable of self-preservation. 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.

100-440 Homes with resident bedroom exterior window sill heights exceeding 72 inches from the ground must have a safe secondary exit to the ground. [See MCAR 023-020-105(86)]

100-445 Bedrooms shall be adequately heated with a permanent source of heat.

100-450 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.

100-455 Drapes or shades for windows shall be in good condition and allow privacy for residents.

100-460 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. Residents may not use cots, rollaways, bunks, trundles, day beds with restricted

access, couches, and folding beds. 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 individuals.

100-465 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 open-able 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 34.25 inches wide); the minimum net clear opening width dimension shall be 20 inches (by 41.125 inches high). Windows with a clear opening of not less than 5.0 square feet (720 square inches) or 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 inches 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.

023-100-500 HEATING AND COOLING SYSTEMS AND ELECTRICAL EQUIPMENT

100-505 Heating and electrical equipment, including wood stoves and pellet 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.

100-510 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 68 degrees Fahrenheit during waking hours and no less than 60

degrees Fahrenheit during sleeping hours. Maximum temperatures shall not exceed 85 degrees Fahrenheit at any time. Variations from the requirements of this rule must be based on resident care needs or preferences and must be addressed in the care plan. The Operator shall take the following measures to assure the comfort and safety of residents:

(a) During times of extreme heat, the Operator must make reasonable effort to keep the residents comfortable using ventilation, fans, or air conditioning. Precautions must be taken to prevent resident exposure to stale, non-circulating air.

(b) If the home is air conditioned, the system must be functional and must be checked yearly and the filters cleaned or changed as needed to ensure proper maintenance.

(c) If the Operator is unable to maintain a comfortable temperature for residents during times of extreme heat, air conditioning or other cooling system may be required.

100-515 Operators shall not use un-vented 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 Marshal's guidelines. State Fire Marshal guidelines refer to Appendix L of the Uniform Fire Code of the State of Oregon and are available from the ACHP.

100-520 Operators shall not use extension cords or multi-plug adapters in place of permanent wiring.

100-525 Portable air conditioners shall not block the exit window and shall be UL listed and used only in accordance with manufacturer's instructions.

100-530 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.

100-535 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.

100-540 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.

023-100-600 DOORS AND LOCKS

100-605 Exit and interior doors of the adult care 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 easily

open-able from the inside without the use of a key, tool, special knowledge or effort, or more than one motion.

100-610 Adult care 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.

100-615 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.

023-100-700 FIRE SAFETY

100-705 Operators shall post an up-to-date evacuation plan for the adult care 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.

100-710 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.

100-715 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. The alarms must be loud enough to wake occupants when all bedroom doors are closed. Intercoms and room monitors must not be used to amplify alarms.

100-720 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.

100-725 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, hard-wiring of the detectors into the electrical system shall be required.

100-730 At least one fire extinguisher classed as 2A -10BC shall be securely mounted to the interior structure of the home in a visible and readily accessible location on each level of the home, including basements. Extinguishers shall be recharged every six years. Extinguishers shall be mounted with the top no higher than five 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.

100-735 Operators shall keep at least one plug-in rechargeable flashlight in good functional condition readily accessible on each floor of the home for emergency lighting.

100-740 Smoking regulations must be in accordance with the Oregon Indoor Clean Air Act, OAR 333-015-0025 to 333-015-0090. If an Operator allows smoking in the adult care home, house rules shall be adopted to restrict smoking to designated areas. Smoking shall be prohibited in sleeping areas (including that of a resident, Operator, Resident Manager, caregiver, boarder, or family member), areas where prescribed 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.

023-100-800 EVACUATION AND EMERGENCY PREPAREDNESS

100-805 A written evacuation plan to be used in the event of an emergency shall be developed and revised as necessary to reflect the current condition of the residents in the home. The plan must be rehearsed with all occupants. 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.

100-810 Operators, Resident Managers and all caregivers may 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 60 days in the first year of operation and at least every 90 days thereafter, with at least one drill 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 all residents requiring assistance for evacuation, and signature of person conducting the drill.

100-815 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.

100-820 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 evacuation drills, installing fire barriers, increased smoke detector systems or alarms or increased fire and life safety protection.

100-825 In the event one or more residents cannot participate in an evacuation drill, substitutes for such residents of similar size shall be used in conducting drills to determine Operator's, Resident Manager's or caregiver's evacuation capability.

100-830 Operators shall not place residents who are unable to walk without assistance or who are not capable of self-preservation in a basement, split-level, second story

or other area of the adult care home that does not have two safe ground level exits (i.e., stairs or ramps).

100-832 Residents sleeping areas shall not be in any area of the adult care home that does not have a safe secondary exit that leads directly to the exterior ground level of the home. Bedrooms located on stories above the second floor shall not be used for sleeping purposes.

100-835 Stairs shall have a riser height of between 6-8 inches and tread width of between 8–10½ inches.

100-840 All common use areas of the adult care home and exit ways must be barrier free and corridors and hallways shall be a minimum of 36 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.

100-845 There must be two safe means of exit from all sleeping areas. Operators whose sleeping rooms are above or below the first floor may be required to demonstrate an evacuation 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.

100-850 Evacuation exit-ways beginning from a secondary floor (above ground level) must comply with current state and local fire code regulations.

100-855 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 and must comply with the Americans with Disabilities Act (ADA). Wheelchair ramps shall have non-skid surfaces, handrails, and have a maximum slope of one inch rise in each twelve inches of distance. The maximum rise for any run without a platform shall be 30 inches. Operators shall bring existing ramps into revised compliance.

100-860 An adult care 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.

100-865 Operators shall develop, maintain, update, and implement a written Emergency Preparedness Plan (EPP) for the protection of residents in the event of an emergency or disaster. The EPP must:

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

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

(C) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three (3) days under the following conditions:

(i) Extended utility outage.

(ii) No running water.

(iii) Inability to replace food supplies.

(iv) Caregivers unable to report as scheduled.

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

(i) The duties of caregivers during evacuation, transporting, and housing of residents including instructions to caregivers to notify ADS or DDS or a designee of the plan to evacuate or the evacuation of the home as soon as the emergency or disaster reasonably allows.

(ii) The method and source of transportation.

(iii) Planned relocation sites that are reasonably anticipated to meet the needs of the residents.

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

(v) A method for tracking and reporting to ADS or DDS or a designee the physical location of each resident until a different entity resumes responsibility for the resident.

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

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

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

(iii) Anticipated needed behavior supports during an emergency.

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

(F) Operators shall instruct and provide training to all caregivers about the caregiver's duties and responsibilities for implementing the EPP.

(i) Documentation of caregiver EPP training shall be kept on record in the adult care home.

(G) Operators shall re-evaluate the EPP at least annually or when there is a significant change in the home.

023-100-900 STORAGE OF FLAMMABLE LIQUIDS, HAZARDOUS SUBSTANCES, AND HUNTING AND SPORTING EQUIPMENT

100-905 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.

100-910 Cleaning supplies, poisons, insecticides, etc. shall be stored in original labeled containers, in a safe area that is not accessible to residents. Kitchen cleaning supplies may be kept in a separate enclosed space in the kitchen.

100-915 Firearms must be stored, unloaded, in a locked cabinet. The firearms cabinet must be located in an area of the home that is not accessible to residents. Ammunition must be secured in a locked area separate from the firearms. Other hunting and sporting equipment (i.e. knives, swords, arrows, and martial arts weapons) must be stored in a safe and secure manner.

PART XI – DEVELOPMENTAL DISABILITY ADULT CARE HOMES (DD-ACH)

023-110-100 LICENSING AND FACILITY STANDARDS FOR ADULT CARE HOMES – (DD)

110-105 Adult care homes in Multnomah County that serve or intend to serve adult individuals whose placements and services are authorized by Developmental Disabilities Services (DDS) must apply for a license through the ACHP. [See MCAR 023-040-200]

110-110 Homes that serve residents with developmental disabilities shall comply with the standards of this section (Part XI) and OAR 411-360-0010 through 411-360-0310. Additionally, as stated in MCAR 023-010-125, adult care homes in Multnomah County that have entered into a contract with SPD to serve individuals whose placements and services are authorized by Developmental Disabilities Services (DDS) must comply with all MCAR. To the extent that Part XI contradicts any other part of the MCAR, Part XI shall control the responsibilities of operators serving residents with developmental disabilities.

110-115 An Operator may apply in writing to the ACHP for an exception to a specific requirement of the ACHP rules. [See MCAR 023-050-100]

110-120 All license applications must include written disclosure of founded reports of child abuse or substantiated abuse allegations with dates, locations, and resolutions of those reports for all persons living in the home, as well as all applicant or provider employees, independent contractors, and volunteers.

110-125 Homes serving residents with developmental disabilities will receive a Care Certification of “DD”, and will be classified as Level 1, Level 2B, or Level 2M as those terms are defined in OAR 411-360-0070. The homes’ classification will be

determined by the ACHP at the time of initial licensing. The classification will be examined at each license renewal and may be changed as determined by the ACHP. The ACHP shall not renew a license where a licensed Operator has failed to obtain contract certification from DDS within 12 months of initial licensing.

110-130 A Limited License may be issued to an applicant who meets the qualifications listed in OAR 411-360-0110(1)(a-ki), and who fulfills the requirements of MCAR 023-040-500. Additionally, Limited License applicants may be required to complete additional training necessary to meet the specific needs of the individual.

110-135 In addition to the facility standards set forth in Part X of the MCAR, all homes that serve residents with developmental disabilities shall have simple hardware that cannot be locked against exit and must have an obvious method of single action operation for all exit doors and interior doors used for exit purposes.

023-110-200 DEFINITIONS - (DD)

110-205 For homes serving residents whose placements and funding are authorized by DDS, the following terms shall be defined as found in OAR 411-360-0020:

(a) Abuse (See OAR 407-045-0260) means:

(1) "Abandonment" including desertion or willful forsaking by a person who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.

(2) Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.

(3) "Financial exploitation" including:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an adult.

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

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an adult.

(D) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult. "Effectively" means use of income or assets for the benefit of the adult.

(4) "Involuntary seclusion" means the involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult. Involuntary seclusion may include placing restrictions on an

adult's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence, or program, unless agreed to by the Individual Support Plan (ISP) team included in an approved Behavior Support Plan (BSP) or included in a brokerage plan's specialized support. Restriction may be permitted on an emergency or short term basis when an adult's presence would pose a risk to health or safety.

(5) "Neglect" including:

(A) Active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an adult that creates a risk of significant harm or results in actual harm to an adult. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the adult.

(B) Failure of a caregiver to make a reasonable effort to protect an adult from abuse.

(6) "Physical abuse" means:

(A) Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury.

(B) Willful infliction of physical pain or injury.

(C) Physical abuse is presumed to cause physical injury, including pain, to adults otherwise incapable of expressing pain.

(7) "Sexual abuse" including:

(A) Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315.

(B) Sexual harassment, sexual exploitation, or inappropriate exposure to sexually explicit material or language including requests for sexual favors. Sexual harassment or exploitation includes but is not limited to any sexual contact or failure to discourage sexual contact between an employee of a community facility or community program, provider, or other caregiver and an adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome physical sexual contact and other physical conduct directed toward an adult.

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver. Sexual abuse does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse or partner of the adult.

(D) Any sexual contact that is achieved through force, trickery, threat, or coercion.

(E) Any sexual contact between an adult with a developmental disability and a relative of the person with a developmental disability other than a spouse or partner. "Relative" means a parent, grandparent, children, brother, sister, uncle, aunt, niece, nephew, half brother, half sister, stepparent, or stepchild.

(F) As defined in ORS 163.305, "sexual contact" means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(8) "Wrongful restraint" means:

(A) A wrongful use of a physical or chemical restraint, excluding an act of restraint prescribed by a licensed physician, by any adult support team approved plan, or in connection with a court order.

(B) "Wrongful restraint" does not include physical emergency restraint to prevent immediate injury to an adult who is in danger of physically harming himself or herself or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(9) "Verbal abuse" includes threatening significant physical harm or causing emotional harm to an adult through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an adult.

(D) For purposes of this section, verbal conduct includes but is not limited to the use of oral, written, or gestured

communication that is directed to an adult or within their hearing distance, or sight if gestured, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

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

(10) An adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall for this reason alone not be considered subjected to abuse.

(b) Abuse Investigation and Protective service means reporting and investigation activities as required by OAR 407-045-0300, and any subsequent services or supports necessary to prevent further abuse as required by OAR 407-045-0310. [See also MCAR 023-110-610]

(c) Care means:

(1) Supportive services that encourage maximum individual independence and enhance quality of life including but not limited to:

(A) Provision of 24-hour supervision, being aware of the individual's whereabouts, and protection.

(B) Assistance with activities of daily living such as bathing, dressing, grooming, eating, management of money, transportation, socialization, recreation, and medication management.

(C) Monitoring the activities of the individual to ensure the individual's health, safety, and welfare.

(2) For purposes of this section the term "care" is synonymous with services.

(d) Developmental Disability (DD) means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

(1) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the condition must be manifested before the age of 18.

(2) Originates and directly affects the brain and has continued, or must be expected to continue, indefinitely.

(3) Constitutes a significant impairment in adaptive behavior.

(4) Is not primarily attributed to a mental or emotional disorder, substance abuse, personality disorder, learning disability, or Attention Deficit and Hyperactivity Disorder.

(e) Incident report means a written report of any injury, accident, acts of physical aggression, use of protective physical interventions, or unusual incident involving an individual.

(f) Individual Support Plan means the written details of the supports, activities, and resources required for an individual to achieve personal goals. The ISP is developed at a minimum annually, and as needed as the individual's support needs change, to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP is the individual's plan of care for Medicaid purposes.

(g) Individual Support Plan Team (ISP Team) means a team composed of the individual served, agency representatives who provide service to the individual including the ACH provider, services coordinator, the individuals legal guardian (if any), and may include family or other persons requested to develop the ISP or requested by the individual. If the individual is unable to, or does not express a preference, the ISP team shall determine appropriate team membership.

(h) Restraint means any physical hold, device, or chemical substance that restricts, or is meant to restrict, the movement or normal functioning of an individual.

(i) Services means those activities that assist the individual to develop appropriate skills to increase or maintain their level of functioning. Services available in the community and arranged for by the provider may include mental health services, habilitation services, rehabilitation services, social services, ADL, medical, dental, and other health care services, educational services, financial management services, legal services, vocational services, transportation, recreational and leisure activities, and other services required to meet an individual's needs as defined in the ISP.

(j) Unusual Incident means incidents involving acts of physical aggression, serious illnesses or accidents, any injury or illness of an individual requiring a non-routine visit to a health care practitioner, suicide attempts, death of an individual, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

023-110-300 STANDARDS FOR OPERATORS, RESIDENT MANAGERS, SHIFT MANAGERS AND CAREGIVERS – (DD)

110-305 All DDS training requirements must be completed by all DD applicants, Operators, Resident Managers, Shift Managers and other caregivers who work in homes serving DD clients. New applicants must attend an orientation offered by the ACHP prior to being licensed.

110-310 All Operators, Resident Managers and Shift Managers must complete SPD approved continuing education (CE) training annually. The minimum training hours must be completed within the 12 month licensure or certification period. Class 1 Operators, Resident Managers and Shift Managers are required to receive a minimum of 12 hours of approved training related to the care of persons with developmental disabilities. Class 2 Operators, Resident Managers and Shift Managers are required to receive a minimum of 14 hours of approved training related to the care of persons with developmental disabilities. Registered Nurse delegation or consultation and CPR and First Aid certification shall not count towards the required training hours.

110-315 Each year all caregivers working in homes serving residents whose placements and funding are authorized by DDS are required to receive a minimum of 12 hours of SPD approved continuing education (CE) training related to the care of persons with developmental disabilities. The minimum hours must be completed within the 12 month ACHP approval period. Registered Nurse delegation or consultation and CPR and First Aid certification shall not count towards the required training hours. It is the responsibility of the Operator to ensure that all caregivers receive the required training and that the training is documented at the home where the caregivers are employed.

110-320 Operators, Resident Managers and Shift Managers, if applicable, must comply with all requirements for the classification of the home as set forth in OAR 411-360-0070. Failure to maintain the standards for a classification may result in sanctions if deemed appropriate.

110-325 Operators of homes serving residents with developmental disabilities shall not have any founded reports of child abuse or a substantiated abuse allegation.

110-330 Operators of homes serving residents with developmental disabilities shall maintain completed employment applications which ask if the applicant has ever been found to have committed abuse. [See OAR 411-360-0170(10), and MCAR 023-040-213]

023-110-400 BASIC CARE - (DD)

110-405 All decisions regarding resident's case managed by DDS and residing in homes licensed for developmental disabilities will be guided by the ISP process and made in consultation with the ISP team for each individual resident.

110-410 Not-withstanding the requirements of MCAR 023-070-810, a resident with developmental disabilities or cognitive or psychological impairments who has an Individual Support Plan (ISP) approved by the appropriate county or state case manager/service coordinator, and approved by written exception from the ACHP, may be left alone in the home for the length of time specified by the ACHP in the written exception.

110-415 A record shall be developed, kept current and available on the premises for each resident admitted to the adult care home, including the Individual Support Plan (ISP). In accordance with OAR 411-360-0170(4), the ISP is the functional equivalent of the “care plan” for individuals whose placements are authorized through DDS. The resident's ISP is prepared by the ISP Team. The ISP Team includes the adult care home Operator. The team addresses each resident's support needs, each service provider's program plan and prepares an ISP for the resident. A health and safety transition plan must be developed at the time of admission for the first 60 days of service and a complete ISP must be developed by the end of those 60 days. It shall be developed at the time of admission and updated annually or whenever the resident's condition changes. It shall describe the resident's needs and capabilities including by whom, when, and how often care and services will be provided. The ISP shall include at least six hours of activities each week which are of interest to the resident, not including television or movies made available by the provider. Specific information in the ISP will include:

(a) The ADL the resident is able to do without assistance.

(b) The ADL the resident needs help with.

(c) The ADL the resident may be able to do more independently with encouragement and training.

(d) Other problems or needs requiring services.

(e) Any mental or physical disabilities or impairments relevant to services needed by the resident.

(f) The ability of the resident to exit from the AFH in an emergency and the time required to exit.

(g) Instruction and documentation of tasks delegated to the provider by the registered nurse, with the name and license number of the delegating registered nurse.

(h) Dates of review and signature of person preparing the ISP.

110-420 The DD adult care homes must only employ protective physical intervention techniques that are included in the current approved OIS curriculum or as approved by the OIS Steering Committee. [See OAR 411-360-0160]

(1) Protective physical intervention techniques must only be applied:

(a) When the health and safety of the individual and others is at risk, and the ISP team has authorized the procedures as documented by an ISP team decision, included in the ISP and the procedures are intended to lead to less restrictive intervention strategies.

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

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

(2) Training. Provider(s), Resident Manager and substitute caregivers who support individuals who have a history of behavior that may require the application of protective physical intervention, and when the ISP team has determined that there is probable cause for future application of protective physical intervention, must be trained by an instructor certified in the Oregon Intervention System (OIS). Documentation verifying such training must be maintained in the personnel file of the provider, resident manager and substitute caregiver.

(3) Modification of OIS protective physical intervention procedures. The Operator must obtain the approval of the OIS Steering Committee for any modification of standard OIS protective physical intervention technique(s). The request for modification of protective physical intervention technique(s) must be submitted to the OIS Steering Committee and must be approved in writing by the OIS Steering Committee prior to the implementation of the modification. Documentation of the approval must be maintained in the individual's record.

(4) Protective physical intervention techniques in emergency situations. Use of protective physical intervention techniques that are not part of an approved plan of behavior support in emergency situations must:

(a) Be reviewed by the Operator or Resident Manager or designee within one hour of application.

(b) Be used only until the individual is no longer an immediate threat to self or others.

(c) Require submission of an incident report to the DDS service coordinator, or other Department designee (if applicable) and personal agent (if applicable) no later than one working day after the incident has occurred.

(d) Prompt an ISP team meeting if an emergency intervention is used more than three times in a six-month period.

(5) Incident report. Any use of protective physical intervention(s) must be documented in an incident report. The report must include:

(a) The name of the individual to whom the protective physical intervention was applied.

(b) The date, type, and length of time the protective physical intervention was applied.

(c) A description of the incident precipitating the need for the use of the protective physical intervention.

(d) Documentation of any injury.

(e) The name and position of the caregiver(s) applying the protective physical intervention.

(f) The name(s) and position(s) of the caregivers witnessing the protective physical intervention.

(g) The name and position of the person conducting the review of the incident that includes the follow-up to be taken to prevent a recurrence of the incident.

(6) Copies submitted. A copy of the incident report must be forwarded within five working days of the incident, to the DDS service coordinator or other Department designee (if applicable) unless the protective physical intervention results in an injury. DDS must be immediately notified of any protective physical interventions resulting in an injury. The incident must be documented in an incident report and forwarded to the DDS service coordinator or other Department designee (if applicable), within one working day of the incident. Copies of incident reports not associated with protective service investigations will be provided to the personal agent (if applicable) and the person's legal guardian (if applicable) within the timeframes specified above.

110-425 When any resident whose placement is authorized and funded through DDS uses or self-administers medications, including over-the-counter medications and treatments and psychotropic medications, the operator shall comply with OAR 411-360-0140. When psychotropic medication is first prescribed and annually thereafter, the provider must obtain a signed balancing test from the prescribing health care provider using the DHS Balancing Test Form or by inserting the required form content into the Operator's forms. Operators must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed, as well as any side effects observed. PRN (as needed) psychotropic medication orders will not be allowed unless requested by the ISP team, and with the written exception approval from the ACHP.

110-430 For clients whose placements are funded through DDS, any arrangements including staffing, support, transportation, and expenses for client trips or vacations that are expected to exceed a 24-hour period require advance notification and written approval of the resident's ISP team. It is the responsibility of the operator to notify the ISP team no later than seven business days prior to the planned trip or vacation and to obtain the written ISP team approval before departure.

110-435 If a resident accesses the community independently, the Operator must provide the resident with information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

110-440 As required in MCAR 023-100-865, Operators shall develop, maintain, update, and implement a written Emergency Preparedness Plan (EPP) for the protection of residents in the event of an emergency or disaster. Operators of DD homes must also:

(A) Send to DDS, annually and upon change of licensee or location of the DD home, the Emergency Plan Summary on the form supplied by the Division.

(B) Coordinate applicable parts of the EPP with each applicable Employment, Alternative to Employment, or Day Program provider to address the possibility of an emergency or disaster during day time hours.

(C) Maintain emergency information for each individual receiving services in the DD home. [See OAR 411-360-0170(1)(b-e)]

110-445 Residents in DD homes shall continue to receive the same services pending the appeal of an involuntary transfer. [See OAR 411-360-0190(6)(b)]

023-110-500 STANDARDS FOR OPERATION – (DD)

110-505 In addition to the records referenced in MCAR 023-090-200 the records of residents in DD homes shall contain: A written report ("incident report") of all significant or unusual incidents in the home or in the community relating to the health or safety of a resident, including non-routine visits to a health care practitioner and incidents in which abuse is alleged or a call to 911 is made. Incident reports shall include how and when the incident occurred, who was involved, what action was taken by Operator/staff, and the outcome to the resident. Incident reports for DDS clients must be forwarded the DDS case manager within five working days, (except in the case of abuse allegations, where a report must be made to DDS or local law enforcement agency immediately). Documentation in resident progress notes of the case manager notification and response should be completed."

110-510 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 60 days in the first year of operation and at least every 90 days thereafter, with at least one drill 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 and location in the home of the simulated fire.

110-515 When Operators have contracts with more than one public human service agency, including but not limited to the State of Oregon DHS Children Adults, and Families (CAF), Mental Health and Addiction Services Division (MHASD), or Seniors and People with Disabilities (SPD), the Operator shall obtain written permission from each contracting agency with clients already in the home before admitting new residents from another. Additionally, the Operator shall notify each contracting agency, whose clients already are residents in the home, at least five business days prior to admitting private pay residents.

110-520 In addition to the requirements of MCAR 023-070-805, an Operator, or Resident Manager if applicable must sleep in the adult care home at least four (4) nights each week.

110-525 Marijuana shall not be grown in or on the premises of any DD home. Individuals with Oregon Medical Marijuana Program (OMMP) registry cards must arrange for and obtain their own supply of medical marijuana from a designated grower as authorized by OMMP. The Operator, the caregiver, other employee, or any occupant in or on the premises shall not be designated as the individual's grower and shall not deliver marijuana from the supplier. Resident use of Medical Marijuana must comply with ORS 475.300 to 475.346, and OAR 411-360-0140(7).

110-530 Emergency telephone numbers for the local DDS office, police, fire, medical if not served by 911, an emergency number to reach a provider who does not live in the DD home, and an emergency physician and additional persons to be contacted in the case of an emergency, must be posted in close proximity to all phones utilized by the Operator, Resident Manager, individuals, and caregivers. Telephone numbers for making complaints or a report of alleged abuse to DDS and Disability Rights Oregon must also be posted.

023-110-600 INVESTIGATIONS & ADMINISTRATIVE ACTION – (DD)

110-605 Operators, Resident Managers, and caregivers shall report suspected abuse in accordance with MCAR 023-120-100. Operators, Resident Managers, and caregivers shall not, in the act of reporting allegations of abuse or neglect, conduct their own internal investigations with intent to gather details of alleged incidents in order to determine for them selves whether the allegation can be substantiated. Operators, Resident Managers and all caregivers must instead report such allegations to DDS and, if there is concern that a crime has been committed they also must report to the local law enforcement agency immediately. The appropriate agencies will investigate and determine whether an allegation can be substantiated. It is the Operator's responsibility in situations where such allegations have been made to place emphasis on assuring the health and safety of the residents.

110-610 The ACHP will notify DDS when administrative action is taken in regard to a developmental disability home.

PART XII – ABUSE NEGLECT AND EXPLOITATION

023-120-100 ABUSE, NEGLECT AND EXPLOITATION OF ADULT CARE HOME RESIDENTS

120-105 Operators, Resident Managers and caregivers shall exercise all reasonable precautions against conditions that could threaten the health, safety or welfare of adult care home residents. It is prohibited for anyone who lives or works in an adult care home to, abuse, neglect or exploit residents or other occupants. 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.

120-110 Abuse or neglect may result from the conduct of an Operator, Resident Manager, caregiver or other household member towards a resident or other occupant of the home.

120-115 (1) "Abuse" means any of the following:

(a) PHYSICAL ABUSE.

(A) Physical abuse includes:

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

(ii) Any physical injury to an adult caused by other than accidental means.

(B) For purposes of this section, conduct that may be considered physical abuse includes but is not limited to:

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

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

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

(b) NEGLECT. Neglect including:

(A) Active or passive failure to provide the care, supervision, or services necessary to maintain the physical health and emotional well-being of an adult that creates a risk of serious harm or results in physical harm, significant emotional harm or unreasonable discomfort, or serious loss of personal dignity. The expectation for care, supervision, or services may exist as a result of an assumed responsibility or a legal or contractual agreement, including but not limited to where an individual has a fiduciary responsibility to assure the continuation of necessary care.

(B) Failure of an individual who is responsible to provide care or services to make a reasonable effort to protect an adult from abuse.

(C) An elderly person who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall, for this reason alone, not be considered subjected to abuse by reason of neglect as defined in these rules.

(c) ABANDONMENT. Abandonment including desertion or willful forsaking of an adult for any period of time by an individual who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.

(d) VERBAL OR EMOTIONAL ABUSE.

(A) Verbal or emotional abuse includes threatening significant physical harm or threatening or causing significant emotional harm to an adult through the use of:

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

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

(B) For the purposes of this section:

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

(ii) The emotional harm that may result from verbal or emotional abuse includes but is not limited to anguish, distress, fear, unreasonable emotional discomfort, loss of personal dignity, or loss of autonomy.

(e) FINANCIAL EXPLOITATION. Financial exploitation including:

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

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

(C) Misappropriating or misusing any money from any account held jointly or singly by an adult.

(D) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult.

(f) SEXUAL ABUSE. Sexual abuse including:

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

(B) Sexual harassment or sexual exploitation of an adult or inappropriately exposing an adult to, or making an adult the subject of, sexually explicit material or language.

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

(D) Any sexual contact that is achieved through force, trickery, threat, or coercion.

(E) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467, or 163.525 except for incest due to marriage alone.

(g) INVOLUNTARY SECLUSION. Involuntary seclusion of an adult for the convenience of a caregiver, or to discipline the adult.

(A) Involuntary seclusion may include:

(i) Confinement or restriction of an adult to his or her room or a specific area.

(ii) Placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.

(B) In a facility, emergency or short-term monitored separation from other residents may be permitted if used for a limited period of time when:

(i) Used as part of the care plan after other interventions have been attempted.

(ii) Used as a de-escalating intervention until the facility can evaluate the behavior and develop care plan interventions to meet the resident's needs.

(iii) The resident needs to be secluded from certain areas of the facility when their presence in that specified area would pose a risk to health or safety.

(h) WRONGFUL USE OF A PHYSICAL OR CHEMICAL RESTRAINT OF AN ADULT.

(A) A wrongful use of a physical or chemical restraint includes situations where:

(i) A licensed health professional has not conducted a thorough assessment prior to implementing a licensed physician's prescription for restraint.

(ii) Less restrictive alternatives have not been evaluated prior to the use of the restraint.

(iii) The restraint is used for convenience or discipline.

(B) Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.

120-120 In addition to the other provisions of these rules, homes that serve individuals who are 18 years of age or older and who have a mental illness or a developmental disability and who are receiving services from a community program, facility or care provider that is licensed or certified by or that contracts with the

Department, shall comply with the standards set forth in ORS 407-045-0250 through 407-045-0370.

120-125 Operators, Resident Managers, caregivers, and any other person identified in ORS 124.050, with reasonable cause to believe that abuse, neglect or exploitation has taken place in an adult care home shall immediately make a report to Adult Protective Services or a local law enforcement agency.

PART XIII – ABUSE REPORTING

023-130-100 ABUSE REPORTING

130-105 Abuse is prohibited. [See MCAR 023-120-100] The Operator and ACH staff may not permit, aid, or engage in abuse of residents who are under their care. Abuse and suspected abuse must be reported in accordance with OAR 411-020-0020.

(a) All ACH employees must immediately report abuse and suspected abuse to the local Adult Protective Services Unit (APS), or local ADS office.

(b) Operators must immediately notify the local Adult Protective Services Unit (APS), or the local ADS office of any incident of abuse or suspected abuse, including events overheard or witnessed by observation.

(c) The local law enforcement agency must be called first when the suspected abuse is believed to be a crime (e.g., rape, murder, assault, burglary, kidnapping, theft of controlled substances, etc.).

130-110 The Operator may not retaliate against any resident, after the resident or someone acting on the resident's behalf has filed a complaint, in any manner including but not limited to:

(a) Increasing or threatening to increase charges or rates.

(b) Decreasing or threatening to decrease services.

(c) Withholding rights or privileges.

(d) Taking or threatening to take any action to coerce or compel the resident to leave the home.

(e) Threatening to harass or abuse a resident in any manner.

130-115 Operators must ensure that any complainant, witness, or employee of an ACH may not be subject to retaliation by any caregiver (including their family and friends who may live in or frequent the adult care home) for making a report, being interviewed about a complaint, or being a witness, including but not limited to restriction of access to the home or a resident or, if an employee, dismissal or harassment.

130-120 Anyone who, in good faith, reports abuse or suspected abuse shall have immunity, as approved by law, from any civil liability that might otherwise be incurred or imposed with respect to the making or content of an abuse complaint.

130-125 Immunity under this section does not protect self-reporting Operators from liability for the underlying conduct that is alleged in the complaint.

PART XIV – COMPLAINTS, COMPLAINT INVESTIGATIONS, AND NOTIFICATION OF FINDINGS

023-140-100 COMPLAINTS AND COMPLAINT INVESTIGATIONS

140-105 APS has the authority to investigate complaints made in regard to adult care homes.

140-110 The ACHP shall provide the adult care home with a complaint poster that the Operator shall post in a conspicuous place. The complaint poster shall list the APS telephone number and explain how to make a complaint.

140-115 Operators, Resident Managers and caregivers shall not make or cause to be made a bad faith complaint.

140-120 APS shall investigate complaints in accordance with the adult protective services rules in OAR chapter 411, division 20.

140-125 APS or the ACHP may take immediate actions to protect the health, safety and welfare of residents when the APS receives a complaint of abuse or neglect, regardless of whether the investigative report is completed, and whenever APS or 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. The Operator must immediately cease any practice that places a resident at risk of serious harm.

140-130 APS or the ACHP shall not release information about the content of the complaint investigation until the complaint investigation is completed.

140-135 If an Operator denies access to the home during an investigation of a complaint of abuse or neglect, the APS may obtain the help of law enforcement agents to gain immediate access to the home and residents.

023-140-200 NOTIFICATION OF FINDINGS

140-205 APS shall provide, by written communication or electronic mail, a copy of the preliminary investigation report to the Operator and complainant within seven business days of the completion of the investigation.

140-210 The report shall be accompanied by a notice informing the Operator and complainant of their right to give additional information about the content of the report to APS within ten calendar days of receipt of the report.

140-215 APS shall review the responses and reopen the investigation or amend the report if additional evidence warrants a change.

140-220 A copy of the entire report shall be sent to the Division upon completion of the investigation report, whether or not the investigation report concludes the complaint is substantiated or wrongdoing occurred.

140-225 A report shall include: the Operator's name and adult care home address, the investigator's name, observations, a review of relevant documents and records, a summary of witness statements, and a conclusion.

140-230 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).

140-235 The investigative report and any responses shall become part of the public file.

140-240 Any person shall have the right to inspect public files including investigative reports and to make photocopies at reasonable cost.

140-245 Upon completion of substantiation of abuse or rule violation, the Division shall immediately provide written notification of it's findings to the Operator. The written notice shall:

(a) Explain the nature of each allegation.

(b) Include the date and time of each occurrence.

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

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

(e) Include a copy of the complaint investigation report.

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

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

140-250 If the Division determines there is substantiated abuse, the Division may determine that the Operator, an individual, or both the Operator and an individual were responsible for abuse. In determining responsibility, the Division shall consider intent, knowledge and ability to control, and adherence to professional standards, as applicable.

140-255 Examples of when the Division shall determine that the Operator is responsible for the abuse include, but are not limited to:

(a) Failure to provide sufficient staffing in accordance with these rules without reasonable cause.

(b) Failure to check for or act upon relevant information available from a licensing board.

(c) Failure to act upon information from any source regarding a possible history of abuse by any staff or prospective staff.

(d) Failure to adequately train, orient or provide sufficient oversight to staff.

(e) Failure to provide adequate oversight to residents.

(f) Failure to allow sufficient time to accomplish assigned tasks.

(g) Failure to provide adequate services.

(h) Failure to provide adequate equipment or supplies.

(i) Failure to follow orders for treatment or medication.

140-260 Examples of when the Division shall determine the individual is responsible shall include, but are not limited to:

(a) Intentional acts against a resident including assault, rape, kidnapping, murder, sexual abuse, or verbal or mental abuse.

(b) Acts contradictory to clear instructions from facility, such as those identified in MCAR 023-120-115, unless the act is determined by the Division to be the responsibility of the facility.

(c) Callous disregard for resident rights or safety.

(d) Intentional acts against a resident's property (e.g., theft or misuse of funds).

140-265 An individual shall not be considered responsible for the abuse if the individual demonstrates the abuse was caused by factors beyond the individual's control. "Factors beyond the individual's control" are not intended to include such factors as misuse of alcohol or drugs or lapses in sanity.

140-270 If a nursing assistant has a finding of substantiated abuse, the nursing assistant has due process in accordance with OAR 411-089-0140(2).

140-275 The Division's written notice shall be mailed to:

(a) The Operator

(b) Any person reported to have committed wrongdoing.

(c) The complainant, if known.

(d) The Long-term Care Ombudsman.

(e) The Type B AAA office.

140-280 A copy of the written notice shall be placed in the Division's facility complaint file.

140-285 Upon receipt of a notice that substantiates abuse for victims covered by ORS 430.735 *(DD or AMH res receiving services from a community program)*, the facility must provide written notice of the findings to the individual found to have committed abuse, residents of the facility, the residents case managers, and the residents' quardian(s).

140-290 The Division may not disclose information that may be used to identify a resident in accordance with OAR 411-020-0030, Confidentiality, and federal HIPAA Privacy Rules. Completed reports placed in the public file must be in compliance with OAR 411-050-0450(10), and:

(a) Protect the privacy of the complainant and the resident. The identity of the person reporting suspected abuse must be confidential and may be disclosed only with the consent of that person, by judicial process (including administrative hearing), or as required to perform the investigation by the Department or a law enforcement agency.

(b) Treat the names of the witnesses as confidential information.

(c) Clearly designate the final disposition of the complaint.

(e) Any information regarding the investigation of the complaint may not be filed in the public file until the investigation has been completed.

(f) The investigation reports, including copies of the responses, with confidential information deleted, must be available to the public at the APS office along with other public information regarding the adult care home. [See MCAR 023-180-100]

PART XV – INSPECTIONS/CORRECTION OF VIOLATIONS

023-150-100 INSPECTIONS

150-105 The ACHP shall conduct announced or unannounced inspections of an adult care home, in situations including but not limited to, the following:

(a) Licensing inspections for new 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.

150-110 The Operator will be given a copy of the ACHP Inspection Report identifying any areas of non-compliance and specifying a time frame for correction set by the

ACHP. The timeframe for correction shall not exceed 30 calendar days from the date of the Inspection Report. Additional time to complete corrections may be granted if deemed reasonable and necessary by the ACHP. The Inspection Report may not include information that may be used to identify a resident in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules, and OAR 411-020-0030.

150-115 In the course of an inspection, the ACHP may require that an RN conduct an assessment of the nursing care needs of any residents of an adult care home to evaluate the level of nursing care required by the resident(s), and/or the classification of the Operator/home, and/or the ability of personnel to be providing nursing care.

150-120 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.

150-125 The ACHP inspection shall also include the private living area of the Operator, Resident Manager, caregiver and their families only to the extent to determine fire, sanitation and safety hazards or to respond to a specific complaint or concern.

150-135 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 and interviews.

150-140 The ACHP has the authority to conduct inspections with or without advance notice to the Operator, Resident Manager or caregiver 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 the MCAR. License renewal inspections shall be unannounced. [See MCAR 023-040-625]

150-145 If Operators, Resident Managers or caregivers deny the ACHP access for inspections or interviews, the ACHP may obtain help from law enforcement agents or obtain a search warrant to gain access to the home and may impose administrative sanctions.

150-150 ACHP inspectors shall respect the private possessions of Operators, Resident Managers, caregivers, residents and other household members when carrying out inspections.

150-155 Operators, Resident Managers and caregivers shall permit state or local; health and safety inspectors, fire inspectors, or other necessary inspectors to enter and inspect the facility.

150-160 The State Long Term Care Ombudsman shall have access to all resident and facility records. Deputy Ombudsman and Certified Ombudsman Volunteers shall have access to facility records and, with written permission from the resident or the resident's legal representative, may have access to resident records.

023-150-200 PROCEDURES FOR THE CORRECTION OF VIOLATIONS

150-205 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, if necessary.

(d) Timelines for correction of the problem, where applicable.

(e) A written warning or sanction, where appropriate. [See MCAR 023-160-600]

(f) The right to an administrative conference if a written warning or sanction is imposed.

(g) The right to a hearing if a sanction is imposed.

(h) The right to request an exception as provided in MCAR 023-050-100, if applicable.

150-210 Operators shall correct any violation as soon as possible but in no case beyond the timeline specified by the ACHP.

150-215 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.

150-220 If there is an immediate threat to the residents, the ACHP may immediately suspend the license and may assist with arrangements to move the residents.

PART XVI - SANCTIONS

023-160-100 ADMINISTRATIVE SANCTIONS

160-105 ACHP sanctions may include but are not limited to:

(a) Fines.

(b) Conditions on a license.

(c) Reductions in the licensed capacity.

(d) Reductions in the classification of a license.

(e) Changes in the care certification of a license.

(f) Denial, suspension, revocation or non-renewal of a license.

160-110 The ACHP shall deny, revoke, or refuse to renew a license where it finds:

(a) There has been substantial non-compliance with these rules or with any local, state or federal laws, rules, regulations or ordinances applicable to the health and safety of residents in an adult care home.

(b) The ACHP has conducted a criminal history check and the applicant or Operator is determined “unfit” in accordance with the criminal history clearance rules in MCAR 023-070-400.

(c) The Operator employs caregivers, allows household members, or any other subject individual, as that term is defined in MCAR 023-070-415, to work/volunteer or reside in the adult care home who have been convicted of potentially disqualifying crimes and been determined “unfit” or refused to cooperate with the ACHP in accordance with the criminal records check process. [See MCAR 023-070-400]

(d) The applicant or Operator falsely represents that they have not been convicted of a crime.

160-115 The ACHP may impose sanctions if an applicant, Operator, Resident Manager or caregiver:

(a) Has violated or is not in compliance with the MCAR, or has failed to correct a violation as required when a reasonable time frame for correction was given.

(b) Has violated or is non-compliant with local, state or federal laws, rules, codes, or ordinances applicable to adult care homes.

(c) Has been found to be the substantiated perpetrator of abuse, neglect or exploitation of any resident.

(d) Has given fraudulent or misleading information to the ACHP or other government agency.

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

(f) Is associated with a person whose license for a Care 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 is able to 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:

(1) Resides with the person.

(2) Employs the person in the adult care home.

(3) Receives financial backing from the person for the benefit of the adult care home.

(4) Receives managerial assistance from the person for the benefit of the adult care home.

(5) Allows the person to have access to the adult care home.

(6) Rents or leases the adult care home from the person.

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

(h) Does not control the daily operation of the home, the hiring and firing of all employees, and the admission, discharge and transfer of any resident.

(i) 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 care home.

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

(k) Has failed to pay a fine within time limits specified by the ACHP.

(l) Has operated or continues to operate an unlicensed adult care home.

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

(n) Has previously surrendered a license while under investigation or administrative sanction.

(o) Has denied access to ACHP staff to enter the home.

(p) Fails to obtain an approved criminal records check for any subject individual. [See MCAR 023-070-400]

(q) Fails to maintain financial solvency or resources sufficient to ensure the orderly operation of the home.

(r) There is reliable evidence of abuse, neglect or exploitation of any resident that caused grave harm or the death of that resident.

023-160-200 ACHP FINES

160-205 If, an Operator does not fully correct a violation that has resulted in a fine within the timeframe specified in the sanction notice, additional fines may be levied. [See MCAR 023-160-215].

160-210 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) The immediacy and extent to which the violation threatens or threatened the health, safety or welfare of residents.

(c) The seriousness, frequency and duration of the rules violation.

(d) Whether all feasible steps or procedures were taken to correct the violation prior to sanction.

(e) Past history of violations of rules or laws, and feasibility and appropriateness of steps taken or procedures necessary to correct any violation.

(f) The economic and financial conditions of the person incurring the fine.

160-215 Except as provided in ORS 443.775(11), and MCAR 023-160-248, 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 of up to $250.00 per day, to a maximum of $1000.00 per violation for continuing violations, until the violation is discontinued.

160-220 The ACHP shall impose a mandatory fine of not less than $500.00 for falsifying resident or facility records or causing another to do so.

160-225 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 care home.

160-230 The ACHP shall impose a mandatory fine of not less than $250.00 for dismantling or removing the battery from any required smoke detector or failing to install any required smoke detector.

160-235 The ACHP shall impose a mandatory fine of not less than $500.00 for operating any home without an approved Resident Manager, or written Resident Manager exception, where a Resident Manager is required by these rules.

160-240 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.

160-245 The ACHP shall impose a mandatory fine of not less than $250.00 for the failure to submit a completed Criminal History Release Authorization form to the ACHP before allowing a subject individual as defined in MCAR 023-070-415 to reside in the home or on the property, work in, or be in the home. The same mandatory fine shall apply for allowing a subject individual to reside, work, or be in the home without prior approval from the ACHP.

160-248 The ACHP shall impose a mandatory fine, as required by ORS 443.775(11), of not less than $2,500.00 for each occurrence of substantiated abuse if the abuse resulted in the death, serious injury, rape, or sexual abuse of a resident.

(a) To impose this civil penalty, the ACHP shall establish that:

(A) The abuse arose from deliberate or other than accidental action or inaction.

(B) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident.

(C) The person with the finding of abuse had a duty of care toward the resident.

(b) For the purposes of this rule, the following definitions apply:

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

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

(C) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(D) "Other than accidental" means failure on the part of the Operator, or the Operator's employees, agents, or volunteers for whose conduct the Operator is responsible, to comply with applicable Oregon Administrative Rules.

160-250 Any civil penalty imposed under these rules becomes due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal. The failure to pay a fine within time limits specified by the ACHP shall result in an automatic penalty of $100.00 every 30 calendar days, to a maximum of $1,000.00, until the fine and penalties are paid in full.

160-260 Unless the fine is paid within 10 calendar 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.

160-265 Fines issued to Operators shall be paid by the Operator and not passed on to a Resident Manager or other caregiver in any way, including, but not limited to,

withholding wages or other forms of compensation. Such action by an Operator shall be considered retaliation and a violation of these rules.

023-160-300 CONDITIONS PLACED ON A LICENSE

160-305 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. Conditions on a license must directly relate to a risk of harm or potential harm to residents.

160-310 The ACHP may place conditions on a license when the ACHP finds:

(a) The Operator is not in full compliance with ACHP rules.

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

(c) There is reliable evidence of abuse, neglect, or exploitation and a pending investigation.

(d) Information on the application or initial inspection requires a condition to protect the health, safety or welfare of residents.

160-315 Conditions which may be imposed on a license 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 when there is a threat to the current residents of the home and admitting new residents would compound that threat.

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

(h) Requiring an Operator to notify the ACHP when accepting residents with skilled or continuous nursing care needs, or when residents develops such needs.

(i) Requiring an Operator to contract with a Registered Nurse if one or more residents of an adult care home have nursing care needs.~~;~~

160-320 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.

160-325 The notice of condition shall:

(a) Indicate the reason for the condition(s).

(b) State the consequence for failing to comply with the condition(s).

(c) Indicate the right to request an informal administrative conference.

(d) Indicate the right to a hearing if requested within 21 calendar days after receipt of the notice.

160-330 Operators may request that the condition be removed if the Operator believes that the reason for the condition has been remedied.

023-160-400 SUSPENSION

160-405 The ACHP may immediately suspend a license when it is found that the Operator has been convicted of a crime that would have resulted in a denied fitness determination. Additionally, the ACHP may immediately suspend a license for reason of abuse, neglect, or exploitation that causes an immediate threat to any resident, or, if the Operator fails to operate or has failed to operate any facility licensed by the Operator in substantial compliance with ORS 443.705 through 443.825, or these rules.

160-410 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 90 calendar days of the order.

160-415 An Operator may also request an administrative review of an ACHP order to immediately suspend his or her license by submitting a written request within ten calendar days after receipt of the notice and order of suspension. Within 10 calendar days after receipt of the Operator’s request for review, the ACHP shall review all material relating to the allegation of abuse, neglect, or exploitation and to the suspension, including any written documentation submitted by the Operator within that time frame. If the ACHP sustains the decision, the suspension shall remain in effect. If the ACHP does not sustain the decision, the suspension shall be rescinded immediately. The decision of the ACHP is subject to a contested case hearing under ORS 183.310 to 183.550.

160-420 A suspension that has been rescinded may not be re-imposed unless and until a final order has been issued pursuant to the hearing process in MCAR 023-170-200 or until the Operator's right to request a hearing under these provisions has expired.

160-425 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 assist in arrangements for them to move.

023-160-500 REVOCATION/NON-RENEWAL/DENIAL

160-505 Denial of an initial license application shall be preceded by a hearing if requested by the applicant within 60 calendar days after receipt of the denial notice. Non-renewal or revocation of a license shall be preceded by a hearing if requested by the Operator within 21 calendar days of the date of receipt of the notice.

160-510 If a license is revoked for reasons of abuse, neglect, or exploitation of a resident, the Operator may request an administrative review of an ACHP order to revoke the license by submitting a written request within 10 calendar days after receipt of the notice and order of revocation. Within 10 calendar days after receipt of the Operator's request for review, the ACHP shall review all material relating to the allegation of abuse, neglect, or exploitation and to the revocation. If the ACHP sustains the decision, the revocation shall remain in effect. If the ACHP does not sustain the decision, the license shall be restored immediately. The decision of the ACHP is subject to a contested case hearing under ORS 183.310 to 183.550. A license in the revocation or non-renewal process will remain in effect pending a final order.

160-515 If a license is revoked, or not renewed, the ACHP may assist in arrangements for residents to move for their protection.

160-520 An Operator whose license has been revoked, relinquished during a revocation or non-renewal process, or an applicant whose application has been denied shall not be permitted to make a new application for 12 months from the date the revocation, relinquishment, or denial is final or for a longer period specified in the final order.

023-160-600 NOTIFICATION OF SANCTIONS

160-605 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.

160-610 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) If a fine is levied, when the fine is due and penalties if the fine is not paid.

(e) That failure to pay a fine or otherwise comply with a sanction shall subject the Operator to further legal action.

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

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

(h) The authority and jurisdiction for the hearing.

(i) 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.

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

(k) That the Operator may be represented by an attorney if they so choose.

160-620 Any written notice, such as a written warning, notice of sanction, or statement of condition may not include information that may be used to identify a resident in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules, and OAR 411-020-0030.

023-160-700 CRIMINAL PENALTIES

160-705 Operating an adult care home without a license is punishable as a Class C misdemeanor.

160-710 Refusing to allow access and inspection of a home by ACHP staff or for state or local fire inspections is a Class B misdemeanor.

160-715 The ACHP may ask a court to prohibit a person from:

(a) Operating an adult care home without a license.

(b) Operating an adult care 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 XVII – CONFERENCES AND HEARINGS

023-170-100 ADMINISTRATIVE CONFERENCES

170-105 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.

170-110 An Operator or the ACHP may request an informal administrative conference at any time after notice of problems, rule violations or sanctions and before a final

order is issued. The meeting shall be scheduled within 10 business days of a request by either party. Requesting an informal administrative conference does not diminish or extend an Operator's right to a hearing.

170-115 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.

023-170-200 HEARINGS

170-205 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 the time specified in the notice of sanction. 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 order shall become final. The ACHP may designate its file as the record for purposes of default.

170-210 Hearings shall be conducted by a hearing officer who shall hear witnesses, take in evidence presented and determine issues of fact and of law based on the evidence presented.

170-215 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, and pursuant to ORS 183.310 et seq. Any party may be represented by an attorney.

170-220 The ACHP shall provide copies of relevant correspondence, reports and other information to the hearings officer.

170-225 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.

170-230 A party may receive a copy of the tape recording upon payment of copying costs. The party requesting the transcript shall pay costs of transcription of the court reporter's record.

170-235 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 ADS 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.

170-240 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.

170-245 In reaching a decision, the hearings officer shall only consider evidence that has been admitted, and shall evaluate the weight of all such evidence in light of the presentations of the parties during the hearing.

170-250 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.

170-255 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.

PART XVIII - PUBLIC INFORMATION

023-180-100 PUBLIC INFORMATION ABOUT ADULT CARE HOMES

180-105 APS shall maintain current information about all licensed adult care homes in Multnomah County. APS shall make all information that is not confidential available to prospective residents and members of the public.

180-110 The information in the public file shall include:

(a) The name of the Operator and the location of the adult care home and mailing address if different.

(b) The adult care 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 non-confidential portions of complaint investigations filed by home and date, APS findings and actions taken by the ACHP, and responses of the Operator or person making the complaint, if any. Complaint terminology must be clearly defined.

(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.

180-115 The registry maintained by the ACHP shall be regularly updated to indicate homes that have been issued a regular, limited, conditional, or provisional license, homes that have been issued a renewal license. This registry shall be available to the public upon request.

180-120 The ACHP shall report on a quarterly basis to SPD the number of exceptions for residents whose care needs exceed the classification of the home granted during the preceding quarter.

APPENDIX I - ACTIVITIES OF DAILY LIVING

Activities of Daily Living (ADL)

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

(2) Evaluation of the individual's needs for assistance in Activities of Daily Living is based on:

(a) The individual's abilities rather than the services provided.

(b) How the individual functioned during the thirty days prior to the assessment date, with consideration of how the person is likely to function in the thirty days following the assessment date.

(c) Evidence of the actual or predicted need for assistance of another person within the assessment time frame and it can not be based on possible or preventative needs.

(3) "Independent" means the individual may perform an ADL without help and does not meet the definition of "Assist" or "Full Assist" for each Activity of Daily Living as defined in this rule.

(4) Bathing/Personal Hygiene. Bathing/Personal Hygiene is comprised of two components. To be considered Assist, the individual must require Assistance in Bathing or Full Assistance in Hygiene. To be considered Full Assist, the individual must require Full Assistance in Bathing:

(a) Bathing means the activities of bathing and washing hair and using assistive devices if needed. Bathing includes the act of getting in and out of the bathtub or shower:

(A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of bathing without the assistance of another person. This means hands-on assistance for part of the task, cueing during the activity or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish any task of bathing without the assistance of another person. This means the individual needs hands-on assistance of another person through all phases of the activity, every time the activity is attempted.

(b) Personal Hygiene means the activities of shaving and caring for the mouth:

(A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of personal hygiene activities without the assistance of another person. This means hands-on assistance for part of the task, cueing during the activity or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish personal hygiene activities, without the assistance of another person. This means the individual needs hands-on assistance of another person through all phases of the activity, every time the activity is attempted.

(5) Cognition/Behavior means functions of the brain of adaptation, awareness, judgment/decision-making, memory and orientation. Cognition/Behavior includes three components of behavioral symptoms: demands on others, danger to self or others and wandering:

(a) The individual's ability to manage each component of cognition/behavior is assessed by how the person would function without supports, meaning the assistance of another person, a care setting or an alternative service resource as defined in OAR 411-015-0005. Lack of medication or lack of medication management is not considered when evaluating cognition/behavior.

(b) The assessment time frame in OAR 411-015-0008 of thirty (30) days prior to the date of the assessment may be expanded when assessing cognition/behavior without supports. History or incidents in the past more than 30 days prior to the assessment date may be considered if they negatively impacted health and safety in the past and are also current concerns that need to be addressed.

(c) An individual under age 65 with cognition/behavior assistance or full assistance needs based on a mental or emotional disorder does not meet the criteria for service eligibility per OAR 411-015-0015.

(d) An individual must require assistance in at least three of the eight components of cognition/behaviors to meet the criteria for assist in cognition/behaviors. An individual must require full assistance in three of the eight components to meet the criteria for full assistance in cognition/behaviors:

(A) Adaptation is the ability to respond, cope and adjust to major life changes such as a change in living situation or a loss (such as health, close relationship, pet, divorce or a death):

(i) Assist: The individual requires reassurance from another person to cope with or adjust to change. Assistance involves multiple occurrences less than daily.

(ii) Full Assist: The individual requires constant emotional support and reassurance or is unable to adapt to change. These occurrences are ongoing and daily.

(B) Awareness means the ability to understand basic health and safety needs (such as the need for food, shelter and clothing):

(i) Assist: The individual requires assistance of another person to understand basic health and safety needs.

(ii) Full Assist: The individual does not have the ability to understand those needs and requires ongoing and daily intervention by another person.

(C) Judgment means decision-making. It is the ability to identify choices and understand the benefits, risks and consequences of those choices. Individuals who lack the ability to understand choices or the potential risks and consequences need assistance in decision-making. Judgment/Decision making does not include what others might deem a poor choice:

(i) Assist: At least weekly, the individual needs protection, monitoring and guidance from another person to make decisions.

(ii) Full Assist: The individual's decisions require daily intervention by another person.

(D) Memory means the ability to remember and appropriately use current information, impacting the health and safety of the individual:

(i) Assist: The individual has difficulty remembering and using current information and requires reminding from another person.

(ii) Full Assist: The individual cannot remember or use information and requires assistance beyond reminding.

(E) Orientation means the ability to accurately understand or recognize person or place or time to maintain health and safety:

(i) Assist: The individual is disoriented to person, or place or time and requires the assistance of another person. These occurrences are episodic during the week but less than daily.

(ii) Full Assist: The individual is disoriented daily to person, or place or time and requires the assistance of another person.

(F) Danger to Self or Others means behavioral symptoms, other than wandering, that are hazardous to the individual (including self-injury), or harmful or disruptive to those around the individual:

(i) Assist: At least monthly, the individual is disruptive or aggressive in a non-physical way, agitated, or sexually inappropriate and needs the assistance of another person. These behavioral symptoms are challenging but the individual can be verbally redirected.

(ii) Full Assist: The individual has had more than one episode of aggressive, disruptive, agitated, dangerous, or physically abusive or sexually aggressive behavioral symptoms directed at self or others. These behavioral symptoms are extreme, may be unpredictable, and necessitate intervention beyond verbal redirection, requiring an individualized behavioral care plan (as defined in OAR 411-015-0005) that all staff are trained to deliver.

(G) Demands on Others means behavioral symptoms, other than wandering, that negatively impact and affect living arrangements, providers or other residents:

(i) Assist: The individual's habits and emotional states limit the types of living arrangements and companions, but can be modified with individualized routines, changes to the environment (such as roommates or noise reduction) or general training for the provider that is not specific to the individual.

(ii) Full Assist: The individual's habits and emotional states can be modified only with a 24-hour specialized care setting or an individualized behavioral care plan (as defined in OAR 411-015-0005) that all staff are trained to deliver.

(H) Wandering means moving about aimlessly, or elopement, without relationship to needs or safety:

(i) Assist: The individual wanders within the home or facility, but does not jeopardize safety.

(ii) Full Assist: The individual wanders inside or out and jeopardizes safety.

(6) Dressing/Grooming: This is comprised of two elements. To be considered Assist, the individual must require Assistance in Dressing or Full Assistance in Grooming. To be considered Full Assist the individual must require Full Assistance in Dressing:

(a) Dressing means the activities of dressing and undressing:

(A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of dressing without the assistance of another person. This means hands-on assistance for part of the task, cueing during the activity, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish any tasks of dressing without the assistance of another person. This means the individual needs hands-on assistance of another person through all phases of the activity, every time the activity is attempted.

(b) Grooming means nail care and the activities of brushing and combing hair:

(A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of grooming without the assistance of another person. This means hands-on assistance for part of the task, cueing during the activity, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to perform any tasks of grooming without the assistance of another person. This means the individual needs the assistance of another person through all phases of the activity, every time the activity is attempted.

(7) Eating means the activity of feeding and eating and may include using assistive devices:

(a) Assist: When eating, the individual requires another person to be immediately available and within sight. Assistance requires hands-on feeding, hands-on assistance with special utensils, cueing during the act of eating, or monitoring to prevent choking or aspiration. Assistance with eating is a daily need or can vary if an individual's medical condition fluctuates significantly during a one-month period.

(b) Full Assist: When eating, the individual always requires one-on-one assistance for direct feeding, constant cueing, or to prevent choking or aspiration. This includes nutritional IV or feeding tube set-up by another person. This means the individual needs the assistance of another person through all phases of the activity, every time the activity is attempted.

(8) Elimination: This is comprised of three components. To be considered Assist, the individual must require Assistance in at least one of the three components. To be considered Full Assist the individual must require Full Assist in any of the three components. Dialysis care needs are not assessed as part of elimination:

(a) Bladder means managing bladder care. This includes tasks such as catheter care, toileting schedule, monitoring for infection, ostomy care and changing incontinence supplies:

(A) Assist: Even with assistive devices or supplies, the individual is unable to accomplish some of the tasks of bladder care without the assistance from another person at least monthly.

(B) Full Assist: The individual is unable to manage any part of bladder or catheter care without the assistance of another person. This means the individual needs the assistance of another person through all phases of the activity, every time the activity is attempted.

(b) Bowel means managing bowel care. This includes tasks such as digital stimulation, toileting schedule, suppository insertion, ostomy care, enemas and changing incontinence supplies:

(A) Assist: Even with assistive devices the individual is unable to accomplish some tasks of bowel care without the assistance of another person at least monthly.

(B) Full Assist: The individual is unable to accomplish any part of bowel care without the assistance of another person. This means the individual needs the assistance of another person through all phases of the activity, every time the activity is attempted.

(c) Toileting means the activity of getting to and from, and on and off the toilet (including bedpan, commode or urinal), cleansing after elimination or adjusting clothing, cleaning and maintaining assistive devices, or cleaning the toileting area after elimination because of unsanitary conditions that would pose a health risk. This does not include routine bathroom cleaning:

(A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of toileting without the assistance of another person at least monthly.

(B) Full Assist: The individual is unable to accomplish any part of toileting without the assistance of another person. This means the individual needs the assistance of another person through all phases of the activity, every time the activity is attempted.

(9) Mobility: This is comprised of two components, Ambulation and Transfer. In the Mobility cluster only, assistance is categorized into three levels. To be considered Minimal Assist, the individual must require Minimal Assistance in Ambulation. To be considered Substantial Assist, the individual must require Substantial Assistance with Ambulation or an Assist with Transfer. To be considered Full Assist, the individual must require Full Assistance with Ambulation or Transfer:

(a) Mobility does not include the following activities: getting in and out of a motor vehicle, getting in or out of a bathtub/shower, moving on or off the toilet, or moving to and from the toilet.

(b) In mobility, for the purposes of this rule, inside the home or care setting means inside the entrance to the client's home or apartment unit or inside the care setting (as defined in OAR 411-015-0005). Courtyards, balconies, stairs or hallways exterior to the doorway of the home or apartment unit that is not within a care setting are not considered inside.

(c) A history of falls with an inability to rise without the assistance of another person or with negative physical health consequences may be considered in assessing ambulation or transfer if occurring within the assessment time frame. Falls previous to the assessment time frame or the need for prevention of falls alone, even if recommended by medical personnel, is not a sufficient qualifier for assistance in ambulation or transfer.

(d) Ambulation means the activity of moving around both inside within the home or care setting and outside, during the assessment time frame while using assistive devices, if needed. Ambulation does not include exercise or physical therapy:

(A) Minimal Assist: Even with assistive devices, if needed, the individual can get around inside his or her home or care setting without the assistance of another person. Outside of the individual's home or care setting, the individual requires the assistance of another person.

(B) Substantial Assist: Even with assistive devices, the individual is unable to ambulate without the assistance of another person inside his or her home or care setting. Even with assistive devices, this assistance may also be needed outside.

(C) Full Assist: Even with assistive devices, the individual is unable to ambulate without the assistance from another person. This means the individual needs the hands-on assistance of another person through all phases of the activity, every time the activity is attempted.

(e) Transfer means the activity of moving to or from a chair, bed or wheelchair using assistive devices, if needed. This assistance must be needed inside the individual's home or care setting:

(A) Assist: Even with assistive devices, the individual is unable to accomplish a transfer without the assistance of another person at least four days during a month.

(B) Full Assist: Even with assistive devices, the individual is unable to transfer and is dependent on one or more other persons to perform the transfer. This means the individual needs the assistance of another person through all phases of the activity, every time the activity is attempted.

APPENDIX II – APPEAL TIMELINES

When a sanction is issued, the Operator has a right to request a contested case hearing under ORS 183.310 to 183.550. The sanction notice shall specify the time frame permitted for submitting a request for a hearing. Please refer to the following rules for hearing request timeframes:

MCAR 023-160-325: 21 calendar days following a notice of conditions on a license
MCAR 023-160-410: 90 calendar days for suspension of a license
MCAR 023-160-505: 21 calendar days for revocation or non-renewal of a license
MCAR 023-160-505: 60 calendar days for denial of initial license application