



## Department of County Human Services

### Aging, Disability and Veterans Services Division

#### Adult Care Home Program

**DRAFT**

### Multnomah County Administrative Rules for the Licensure and Regulation of Adult Care Homes

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**Proposed changes:** Text **red and bolded** represents additions or replacements of removed language.

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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 Oregon Department of Human Services (DHS). An exempt county provides a program for the 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 DHS for review prior to implementation. These rules must be in compliance with Multnomah County Adult Care Home Licensure Ordinance.

## PART I – AUTHORITY AND PURPOSE

### **023-010-100 AUTHORITY FOR AND JURISDICTION OF THE MULTNOMAH COUNTY ADMINISTRATIVE RULES**

010-105 These rules are authorized by Multnomah County Code (MCC) § 23.600 through MCC § 23.617, pursuant to the procedures set forth in MCC § 23.650 through MCC § 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 MCC.

010-115 These rules shall apply to all adult care homes operating within Multnomah County pursuant to MCC 23.605.

010-120 Any home in Multnomah County that meets the definition of an adult care home or room and board home in these rules must apply and obtain a license from the Adult Care Home Program before providing care or services to any resident for compensation and shall abide by the MCAR.

010-125 For those adult care homes in Multnomah County that intend to serve individuals who are receiving services from the Aging, Disability and Veterans Services Division (ADVSD), Part XII and all MCAR, excluding Part XII and Part XIII, apply. To the extent that Part XI contradicts any other part of the MCAR, Part XI shall control the responsibilities of Aging and People with Disabilities (APD) home Operators and homes with residents who are receiving services through ADVSD.

010-135 For those adult care homes in Multnomah County that intend to serve individuals who are receiving services from the Behavioral Health Division (BHD), Part XIII and all MCAR, excluding Part XI and Part XII, apply. To the extent that Part XIII contradicts any other part of the MCAR, Part XIII shall control the responsibilities of Behavioral Health (BH) home Operators and homes with residents who are receiving services through BHD.

### **023-010-200 PURPOSE OF THE MULTNOMAH COUNTY ADMINISTRATIVE RULES**

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 are required to 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, resident, and resident's representative, or family member 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 their abilities and function at their 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 – for the purposes of the MCAR, the following definitions apply. For protective services agencies that investigate abuse, population specific definitions can be found in the OARs for the respective protective services agencies (see MCAR 023-140-320):
  - (a) Abandonment – includes the 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.
  - (b) Death of an adult caused by other than accidental or natural means or occurring in unusual circumstances.
  - (c) Financial exploitation – includes:

- (i) 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.
- (ii) 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.
- (iii) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an adult.
- (iv) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult.

(d) Involuntary seclusion or restriction – seclusion or restriction of an adult for the convenience of a provider, or to discipline the adult.

- (i) Involuntary seclusion may include restricting an adult's freedom of movement by confinement or restriction of an adult to their own room or a specific area; restriction from access to ordinarily accessible areas of the residence; or restricting an adult's ability to associate, interact, or communicate with other individuals unless agreed to in the resident's person-centered service plan through an individually-based limitation.
- (ii) The home must be accessible to all residents, but a home may separate and monitor one resident from other residents in an emergency for a limited period of time in the following situations: as part of the care plan after other interventions have been attempted and an individually-based limitation has been obtained; used as a de-escalating intervention until the case manager has been notified so that the resident's behavior can be evaluated and care plan or Behavioral Support Plan interventions have been developed to meet the resident's needs; or the resident needs to be secluded for a limited period of time from certain areas of the home when their presence in that specified area would pose an immediate risk to health or safety.

(e) Neglect – the active or passive failure to provide the basic 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. Basic 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 service essential to the well-being of the adult. Neglect also

includes the failure of an individual who is responsible to provide care or services to make a reasonable effort to protect an adult from abuse.

(i) 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 ensure the continuation of necessary care.

(ii) 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 by reason of neglect as defined in these rules.

(f) Physical abuse – includes the use of physical force that may result in bodily injury, physical pain, or impairment. Physical abuse also includes any physical injury to an adult caused by other than accidental means or that appears to be at a variance from the explanation given for the injury.

(i) For purposes of this section, physical abuse includes, but is not limited to acts of violence such as striking (with or without an object), hitting, beating, punching, shoving, shaking, kicking, pinching, choking, burning, or any other willful infliction of pain, or the use of force-feeding or physical punishment.

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

(g) Sexual abuse – includes:

(i) 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.

(ii) Verbal or physical harassment of a sexual nature, including but not limited to, severe, threatening, unwelcome, pervasive, or inappropriate exposure of an adult to, or making an adult the subject of, sexually explicit material or language, including requests for sexual favors.

(iii) Sexual exploitation of an adult.

(iv) Any sexual contact or failure to discourage sexual contact between a provider of a home and an adult served by the home, 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.

- (v) 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.
- (vi) Any sexual contact that is achieved through force, trickery, threat, or coercion. 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.
- (vii) 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.

(h) 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.
- (iii) A threat to withhold services or supports, including an implied or direct threat of termination of services.
- (iv) For the purposes of this section, 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 derogatory or degrading in nature and directed to an adult or within their hearing distance, regardless of their ability to comprehend.
- (v) For the purposes of this section, 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.
- (i) Wrongful use of a physical or chemical restraint – includes situations where a licensed health care professional or behavioral professional has not conducted a thorough assessment prior to implementing a licensed health care professional's prescription for restraint, less restrictive alternatives have not been evaluated prior to the use of the restraint, the restraint is used for convenience or discipline, or there is not a current

individually-based limitation on file for use of restraints or restraints are not used according to the limitation. Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary or until immediate action is taken by medical, emergency, or police personnel, whichever is the shorter period of time.

- (2) Abuse Investigation – reporting and investigation activities and any subsequent services or supports necessary to prevent further abuse as required by:
  - (a) **OAR 419-100-0000 through 419-100-0120** for adults with intellectual or developmental disabilities.
  - (b) **OAR 419-110-0000 through 419-110-0120**, or any other rules established by the Oregon Health Authority applicable to allegations of abuse of residents with mental illness or addictions.
  - (c) OAR 411-020-0000 **through 411-020-0130** for older adults and adults with disabilities.
- (3) Activities of Daily Living (ADL) – As defined in OAR 411-015-0006, these are 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) "Assist" means the resident is able to do part of an ADL but cannot do it entirely alone without assistance, even with assistive devices.
  - (c) "Full Assist" means the resident is unable to do any part of an ADL, or it must be done entirely by someone else.
- (4) Adult Care Home (ACH) – any home, adult foster home, or facility in which residential care is provided for compensation, in a homelike environment, to five or fewer adults who are not related to the Operator by blood, adoption, or marriage.
- (5) Adult Care Home Program (ACHP) – the regulatory part of the Aging, Disability and Veterans Services Division (ADVSD) of Multnomah County that oversees the enforcement of ACHP rules in adult care homes in the county.
- (6) Advance Directive for Health Care – the legal document signed by the resident giving instructions for health care should the resident no longer be able to give directions regarding their wishes. The directive gives the

resident the means to continue to control their own health care in any circumstances.

- (7) Aging, Disability and Veterans Services Division (ADVSD) – a Multnomah County Department of County Human Services division designated by the State of Oregon to be responsible for a variety of social services provided for older adults and adults 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, Shift Manager, or caregiver in an adult care home.
- (9) Asexual – Sometimes shortened to “Ace,” a complete or partial lack of sexual attraction or lack of interest in sexual activity with others. Asexuality exists on a spectrum, and asexual people may experience no, little, or conditional sexual attraction. Many people who are asexual still identify with a specific romantic orientation.
- (10) Background Checks – 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.
- (11) Back-Up Operator – a Multnomah County Operator or an ACHP-approved Resident Manager of the same or higher license classification who does not live in the home and who has agreed to oversee the operation of an adult care home, in the event of an emergency.
- (12) Bed-care – requiring that all assistance with activities of daily living, not including cognition and behavior, be completed in the resident’s bed.
- (13) Behavioral Health Division (BHD) – a Multnomah County Health Department division designated by the State of Oregon to provide a variety of services to eligible persons residing in Multnomah County with addictions or mental illness.
- (14) Behavioral Management – those interventions that modify the resident’s behavior or the resident’s environment for the purpose of modifying behavior.
- (15) Bisexual – an individual who has the potential to be physically, romantically, or emotionally attracted to people of more than one gender, not necessarily at the same time, in the same way, or to the same degree.
- (16) Board of Nursing Rules – the standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the

- (17) 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 the purposes of these rules.
- (18) Caregiver – any person employed by the Operator to provide residential care and services to residents.
- (19) Case Manager – a person employed by ADVSD or local, regional, or state allied agency approved by BHD who oversees the care and service provided to a resident from various social and health care services.
- (20) Certified Nursing Assistant – a person who assists licensed nursing personnel in providing 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 Nurse's Aide (CNA), a nurse's aide, home health aide, geriatric aide, or psychiatric aide.
- (21) Classification Level (Class) – 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 and Veterans Services Division (ADVSD) and Behavioral Health Division (BHD). Homes serving ADVSD consumers will be classified as Aging and People with Disabilities (APD) Class 1, 2 or 3. Class 3 homes may also be classified as APD Vent A, Vent B, or Vent C. Homes serving BHD consumers will be classified as Behavioral Health (BH) Class 1 or Class 2. See MCAR 023-041-100.
- (22) Clutter – an accumulation of material that impedes or obstructs a person's progress through a room, restricts use of a room, and/or may present a fire or safety hazard.
- (23) Code of Federal Regulations (CFR) – the codification of the rules and regulations published in the Federal Register and produced by federal government departments and agencies.
- (24) Cognitive – pertaining to the mental state, thought, and deliberative processes of the mind.
- (25) 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 **or Residency Agreement**.

Compensation does not include the voluntary sharing of expenses between or among roommates.

- (26) 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.
- (27) Compliance – meeting the requirements of ACHP rules, orders, or any applicable laws, codes, regulations, or ordinances.
- (28) Conditions – provisions or additional requirements placed on a new license or as a sanction imposed on an existing license by the ACHP, which limits or restricts the scope of the license or imposes additional requirements on the Operator.
- (29) Consumer – a Medicaid eligible resident in an adult care home. For the purposes of these rules Private-Pay residents are not considered consumers.
- (30) Day Care Resident – an individual who receives residential care in an adult care home but who does not stay overnight.
- (31) Delegation – the process by which a registered nurse teaches and supervises a nursing task.
- (32) Department of Human Services (DHS) – a department of the State of Oregon.
- (33) Director – the Director of ADVSD or their designee.
- (34) Disability – a physical, cognitive, or emotional impairment that constitutes or results in a functional limitation in one or more activities of daily living for an individual.
- (35) Discrimination – differential treatment or denial of normal privileges to persons because of their race, age, gender, sexual orientation, gender identity, disability, nationality, or religion.
- (36) Disposal of Medications – see Medication Disposal.
- (37) Domestic violence – also known as “domestic abuse” or “spousal abuse,” occurs when a family member, partner, ex-partner, or other household member attempts to physically or psychologically dominate, abuse, or harm another family or household member.
- (38) Established relationship – a relationship between a prospective provider and a prospective resident for at least 12 months that is characterized by the exchange of emotional and/or physical supports.

- (39) Evacuation Drill – an exercise performed to train staff and occupants to evaluate their efficiency and effectiveness in carrying out emergency evacuations.
- (40) Exclusion Lists – federal lists that exclude listed individuals from receiving federal awards, not limited to Medicaid and Medicare programs, including the U.S. Office of Inspector General's Exclusion List ([www.exclusions.oig.hhs.gov](http://www.exclusions.oig.hhs.gov)) and the U.S. General Services Administration's System for Award Management Exclusion List ([www.sam.gov](http://www.sam.gov)).
- (41) 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, 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.
- (42) Family Member – for the purposes of these rules, a husband, wife, domestic partner, natural parent, child, sibling, adopted child, adoptive sibling, 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.
- (43) Financial Abuse or Financial Exploitation – financial abuse or financial exploitation as defined under *Abuse* (See Definition 1).
- (44) 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 that are tight-fitting solid core wood, and are equipped with a closing device such as spring-loaded hinges and meet all applicable laws, codes, and rules.
- (45) Flame Spread Rating – a measure of how fast flames will move across the surface of a material.
- (46) Full-Time – duration of work activity equal to or greater than 32 hours per week.
- (47) Gay – the sexual orientation of an individual attracted to people of the same gender. Although often used as an umbrella term, it is used more specifically to describe men attracted to men.

(48) Gender Expression – an individual’s gender-related appearance and behavior, whether or not these are stereotypically associated with the individual’s gender identity or the sex the individual was assigned at birth.

(49) Gender Identity – an individual’s internal, deeply held knowledge or sense of the individual’s gender, regardless of physical appearance, surgical history, genitalia, legal sex, sex assigned at birth, or name and sex as it appears in medical records or as it is described by any other individual, including a family member, guardian, or legal representative of the individual. An individual’s gender identity is the last gender identity conveyed or communicated by an individual who lacks the present ability to communicate.

(50) Gender Nonconforming – having a gender expression that does not conform to stereotypical expectations of one’s gender.

(51) Gender Transition – a process by which an individual begins to live according to that individual’s gender identity rather than the sex the person was assigned at birth. The process may or may not include changing the individual’s clothing, appearance, name or identification documents, or undergoing medical treatments.

(52) Harass or Harassment – to act in a manner that is unwanted, unwelcomed, or uninvited, or that demeans, threatens, or offends a resident.

(a) This includes bullying, denigrating, or threatening a resident based on a resident’s actual or perceived status as a member of one of the federal, state, or local protected classes, such as:

- (i) Race,
- (ii) Color,
- (iii) National origin,
- (iv) Religion,
- (v) Disability,
- (vi) Sex (includes pregnancy),
- (vii) Sexual orientation,
- (viii) Gender, Gender Identity, or Gender Expression,
- (ix) Age,
- (x) Marital status,
- (xi) Veteran status.

(b) An example of harassment includes, but is not limited to, requiring a resident to show identity documents in order to gain entrance to a restroom or other area of an ACH that is available to other individuals of the same gender identity as the resident.

(53) 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.

(54) Home – the physical structure in which residents live. *Home* is synonymous with adult care home.

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

(56) Home and Community-Based Services (HCBS) – Home and Community-Based Services as defined in OAR chapter 411, division 4.

(57) Home and Community-Based Settings (HCB Settings) - a physical location meeting the qualities of OAR 411-004-0020 where an individual receives Home and Community-Based Services .

(58) 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 residents' independence and decision-making are protected and supported.

(59) 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 residential care to residents in an adult care home.

(60) Immediate Threat (Imminent Danger) – a danger that could reasonably be expected to cause death or cause harm to a person's physical or mental well-being as a result of abandonment, abuse, neglect, exploitation, hazardous conditions, or threatening behavior. It may 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.

(61) Incident Report – a written report of any injury, accident, acts of physical aggression, use of physical restraints or protective physical interventions, medication error, death, or unusual incident involving a resident or the home and/or providers. See MCAR 023-090-220(i).

(62) Indirect Ownership Interest – an ownership interest in an entity that has an ownership interest in the disclosing entity.

- (63) Individual – a resident of an adult care home receiving Home and Community-Based Services and may include adults receiving day care services in the home.
- (64) Individually-Based Limitation or Limitation – any limitation to the rights described in MCAR 023-040-125 (d-i) and defined in OAR chapter 411, division 04. A limitation must be based on a specific assessed need and may be implemented only with the informed consent of the resident or the resident's representative.
- (65) Informed Consent – **voluntary authorization provided by a resident or their legal representative prior to the administration of any healthcare or Home and Community-Based Services (HCBS) services or supports, or any limitations as described within the resident's care plan. Consent is considered “informed” only after the resident or their legal representative has been fully made aware of options (alternatives), risks, benefits, and limitations associated with care including but not limited to Individually-Based Limitations (IBLs). This information must have been verbally explained to the resident and/or their legal representative in a manner they can comprehend with an opportunity to ask questions and seek clarification. Informed consent must be documented in writing with a signature and date. Consent may be withdrawn at any time. If consent is withdrawn verbally, it must be immediately documented in the resident record including the date and time, the resident/legal representative’s statement, and any action taken.**
- (66) Intersex – someone who presents with sex traits and/or reproductive anatomy that doesn't fit the stereotypical definitions of male or female. Intersex traits greatly vary, including differences in, but not limited to, hormone production and reproductive anatomy.
- (67) 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 home; or in order to determine the validity of a complaint or concern.
- (68) 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.
- (69) Lesbian – the sexual orientation of an individual who identifies as female, feminine presenting, or nonbinary and who is physically, romantically, or emotionally attracted to other female, feminine presenting, or nonbinary individuals. Some lesbians may prefer to identify as gay, a gay woman, queer, or in other ways.

(70) LGBTQIA2S+ – an abbreviation for a list of terms: lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual, and Two Spirit (2S). The "+" is symbol used to include gender identities, gender expressions, and/or romantic and sexual orientations not specifically represented by the letters and numbers found within the LGBTQIA2S+ abbreviation.

(71) Licensed Health Care Professional (HCP) – 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), physician assistant (PA), osteopathic physician (DO), respiratory therapist (RT), physical therapist (PT), chiropractor (DC), and occupational therapist (OT).

(72) 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-hour supervision is required.

(73) Liquid Financial Resource – cash or those assets that can readily be converted to cash such as a life insurance policy or retirement fund that has a verifiable cash value. Liquid Resources cannot require third-party approval. Credit cards and lines of credit are excluded.

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

(75) 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 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 medications, quantity, and date of disposal.

(76) 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.

(77) 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.

(78) Naloxone – an FDA-approved short-acting, non-injectable, opioid antagonist medication used for the emergency treatment and temporary rapid reversal of known or suspected opioid overdose.

(79) Neglect – neglect as defined under *Abuse* (see Definition 1).

(80) Nonbinary – an individual who does not identify exclusively as a man or a woman. Nonbinary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all nonbinary people do. Nonbinary can also be used as an umbrella term encompassing identities such as agender, bigender, genderqueer, or gender-fluid.

(81) 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.

(82) 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.

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

(84) Older adult – any person age 65 or older.

(85) Ombudsman Program – the Oregon Long-Term Care Ombudsman, who has jurisdiction over homes licensed APD, and Residential Facilities Ombudsman, who has jurisdiction over homes licensed BH, have Deputy Ombudsmen who supervise individual volunteers. These volunteers are designated to act as representatives of the Ombudsman Program to investigate and resolve complaints on behalf of adult care home residents. When the term “Ombudsman” is used it refers to both the Long-Term Care and Residential Facilities Ombudsmen.

(86) Operator – the person approved and licensed by the ACHP to operate the adult care home. The operator has overall responsibility for the provision of residential care and must meet the standards outlined in these rules. An Operator does not include the owner or lessor of the adult care home unless that person is also the Operator.

(87) Opioid – natural, synthetic, or semi-synthetic chemicals normally prescribed to treat pain. This class of drugs includes, but is not limited to, illegal drugs such as heroin, natural drugs such as morphine and codeine, synthetic

drugs such as fentanyl and tramadol, and semi-synthetic drugs such as oxycodone, hydrocodone, and hydromorphone.

- (88) Opioid Overdose – a medical condition that causes depressed consciousness and mental functioning, decreased movement, depressed respiratory function and the impairment of the vital functions as a result of taking opiates in an amount larger than can be physically tolerated.
- (89) Opioid Overdose Kit – an ultraviolet light-protected hard case containing a minimum of two doses of an FDA-approved short-acting, non-injectable, opioid antagonist medication, one pair non-latex gloves, one face mask, one disposable face shield for rescue breathing, and a short-acting, non-injectable, opioid antagonist medication administration instruction card.
- (90) Oregon Administrative Rules (OAR) – a compilation of administrative rules adopted by the various state departments, divisions, and agencies.
- (91) Oregon Health Authority (OHA) – a department of the State of Oregon.
- (92) Person-Centered Service Plan – can also be the Service Plan, Plan of Care, or Personal Care Plan as determined by the Oregon Department of Human Services or Oregon Health Authority. It includes written details of the supports, desired outcomes, activities, and resources required for or preferred by an individual to achieve and maintain personal goals, health, and safety, as described in OAR 411-004. It must include who, when, and how often care, services, and/or supervision shall be provided:
  - (a) For residents receiving Medicaid or who receive case management services, it is completed by the Person– Centered Service Plan coordinator (e.g., the case manager **or** personal agent).
  - (b) For residents paying privately and not receiving case management services, it is completed by the individual, and as applicable, the legal or designated representative of the individual and others as chosen by the individual. The Operator may assist privately paying individuals in developing Person-Centered Service Plans when no alternative resources are available.
- (93) Physician – a person who has been licensed to practice medicine by the Oregon State Board of Medical Examiners, under authority of ORS Chapter 677.
- (94) Point of Safety – a location that is exterior to and away from the home. It includes both an initial and final point of safety:
  - (a) Initial Point of Safety – A location that is exterior to and at least 25 feet away from the home, has direct access to a public sidewalk or street, is away from the fire area, and is not in the backyard of a home unless the backyard has direct access to a public street or sidewalk.

(b) Final Point of Safety – A location that is exterior to and at least 50 feet away from the home, has direct access to a public sidewalk or street, is away from the fire area, and is not in the backyard of a home unless the backyard has direct access to a public street or sidewalk.

(95) Prescribing Licensed Health Care Professional – a physician, physician assistant, nurse practitioner, dentist, ophthalmologist, or other health care practitioner with prescribing authority.

(96) Professionally Reasonable Clinical Judgment – the application of healthcare knowledge based on clinical reasoning, evidence, and theories.

(97) Protective Services Agency – the program that receives reports of and investigates complaints of abuse under the direction of **OTIS**. A protective services agency is population specific; it is Adult Protective Services for older adults or adults served by Aging, Disability and Veterans Services, the Abuse Investigation Team for adults served by Developmental Disability Services, and **Behavioral Health**, Adult Protective Services **Program** for adults served by the Behavioral Health Division.

(98) Provider – any person responsible for providing residential care and services to residents in an adult care home, including the Operator, Resident Manager or Shift Manager, and any caregivers.

(99) P.R.N. (*pro re nata*) Medications and Treatments – those medications and treatments ordered by a prescribing licensed health care professional to be given as needed.

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

(101) 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.

(102) Qualified Entity Designee (QED) – an Operator appointed by the DHS Background Check Unit to submit background checks for subject individuals.

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

(104) Queer – is a term that is often used as a catch-all to refer to the LGBTQIA2S+ population as a whole. It can also be used to describe individuals who do not identify as exclusively heterosexual, who have nonbinary or gender-expansive identities, or at times, transgender individuals who identify as male or female. While this term has been reclaimed by many parts of the LGBTQIA2S+ movement, it was previously

used as a slur and should only be used to refer to a specific person if that person self-identifies as queer.

- (105) Relative – see *Family Member*.
- (106) Representative – a legal or designated representative, as applicable to a resident's needs and preferences:
  - (a) Legal Representative – a person who has the legal authority to act for a resident. The legal representative has authority to act only within the scope and limits of their authority as designated by the court or other agreement. For health care decisions, this is a court-appointed guardian, a health care representative under an Advance Directive for Health Care, or a power of attorney for health care. For financial decisions, this is a legal conservator, an agent under a power of attorney, or a representative payee.
  - (b) Designated Representative – any adult, such as a parent, family member, guardian, advocate, or other person who is chosen by the resident or, as applicable, by the resident's legal representative, and is not a paid provider for the resident and is authorized by the resident or the resident's legal representative to serve as the representative of the resident in connection with the provision of funded support. The power to act as a Designated Representative is valid until the resident modifies or ends the authorization.
- (107) Reside – to make the adult care home a person's residence on a frequent or continuous basis.
- (108) Residency Agreement or Agreement – the written and legally enforceable agreement between an adult care home Operator and an individual receiving Home and Community-Based Services, or the individual's representative, in an Operator-owned or controlled setting. The Residency Agreement identifies the home's policies, the rights and responsibilities of the individual and the Operator, and provides the individual protection from involuntary moves substantially equivalent to landlord-tenant laws.
- (109) Resident – an individual unrelated to the Operator or Resident Manager who is receiving Room and Board, day care, and/or residential care services in an adult care home that receives compensation. For the purposes of these rules, a relative will be considered a resident of the adult care home when the relative receives the above services from a licensed adult care home and the home receives compensation for providing these services to the relative.
- (110) 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.

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

(112) Residential Care – the provision of care, services, and medication management in an adult care home.

(113) Restraint – any physical method, device, or chemical substance that restricts or may restrict the resident's normal movement, body access, or functioning.

(a) A physical restraint is any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, the resident's body that the resident cannot easily remove and restricts freedom of movement or normal access to their 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 may not be considered a restraint.

(b) A chemical restraint is any substance or drug used for the purpose of discipline or convenience that has the effect of restricting the individual's freedom of movement or behavior. A chemical restraint does not include a regularly scheduled prescribed medication that is administered as ordered and is used to treat the individual's medical or psychiatric condition.

(114) Room and Board – the provision of meals, a place to sleep, laundry, and housekeeping in return for compensation that is provided to persons who do not need assistance with activities of daily living.

(115) Room and Board Home – a licensed home that offers only room and board for compensation to one or more older adults or adults with physical, mental, or developmental disabilities. These adults do not need assistance with ADLs. Room and Board Homes do not provide any care, but may provide assistance with money management and medication management (for residents who are capable of self-administering medications). For the purposes of these rules, Room and Board Homes do 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 Home, a Boarding House, or a Boarding Hotel, and where a majority of these residents are retirees.

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

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

(116) Secondary Exit – an alternate to the common/primary exit that is a door, stairway, hall, or approved window. For residents whose bedrooms are not on the ground floor or whose exterior bedroom window sill is 72 inches or more above the ground, the secondary exit needs to be an entrance to exterior stairs or a ramp to the ground level.

(117) Self-Administration of Medication – the act of a resident placing a medication in or on their own body without assistance. In addition, the resident has the ability to identify the medication and the times and manners of administration.

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

(119) 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 residents. *Services* also means activities that help the residents develop skills to increase or maintain their level of functioning or assist them with personal care or ADL or individual social activities.

(120) Sexual Exploitation – sexual abuse as defined under *Abuse* (see Definition1)

(121) Sexual Orientation – romantic or sexual attraction, or a lack of romantic or sexual attraction, to other people.

(122) 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 no Operator or Resident Manager is living in the home. Shift Managers are required to meet all Resident Manager criteria (e.g., training, testing, experience), and they must fulfill all duties and requirements of a Resident Manager (see MCAR 023-070-845).

(123) Single Action Door Lock – a lock that opens from the inside with a single action.

(a) For interior doors, a lock with a lever that opens from the inside with a single action (e.g., engaging the lever)

(b) For exterior doors with a deadbolt, the lock must have an interconnect device that links the deadbolt and the lever handle for simultaneous single action release.

(124) Smoke Barrier – see *Fire Barrier*.

(125) Special Needs – resident care needs that are distinct or unique, that 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 or traumatic brain injury.

(126) Subject Individual – See MCAR 023-070-415.

(127) Transgender – having a gender identity or gender expression that differs from the sex one was assigned at birth, regardless of whether one has undergone or is in the process of undergoing gender-affirming care. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as heterosexual, gay, lesbian, bisexual, etc.

(128) Two-Spirit (2S) – a term used within some Indigenous communities, encompassing cultural, spiritual, sexual, and gender identity. The term reflects complex indigenous understandings of gender roles, spirituality, and the long history of sexual and gender diversity in Indigenous cultures. The definition and common use of the term two-spirit may vary among Tribes and Tribal communities.

(129) Unusual Incident – those incidents involving loss of resident personal property, including treatments or adaptive equipment; acts of physical aggression; serious illnesses or accidents; any injury or illness of a resident requiring a non-routine visit to a health care practitioner; suicide attempts; death of a resident; when a resident contacts the police or is contacted by the police; a fire requiring the services of a fire department; or any incident requiring an abuse investigation.

(130) Written Warning – a written notification of a rule violation intended as a teaching tool to assist Operators in complying with Multnomah County Administrative Rules.

### **PART III – RESIDENTS' BILL OF RIGHTS, FREEDOMS, AND PROTECTIONS**

#### **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.

- (d) Be encouraged and assisted to exercise constitutional and legal rights, including the right to vote and to act on one's own behalf.
- (e) Be given information about their medical condition.
- (f) Consent to or refuse **services and supports**, treatment, medication, training, examination, and/or observation.
- (g) Have all medical and personal information kept confidential.
- (h) Receive appropriate and person-centered care and services from the adult care home and access to prompt medical care as needed.
- (i) Be free from abuse.
- (j) Be free to make suggestions or complaints without fear of retaliation.
- (k) Be free from financial exploitation, including being charged for application fees or non-refundable deposits, or the solicitation of money or property by any provider other than the amount agreed to for care and services.
- (l) Be free from physical or chemical restraints except when there is an approved individually-based limitation and as ordered by a physician, prescribing licensed health care professional, or behavioral professional. Restraints are used only for medical or behavioral reasons to maximize a resident's physical functioning and only 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, gender identity, sexual orientation, disability, 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 and electronic forms of communication in private.
- (o) Have access to and 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 their own money and financial affairs unless legally restricted.
- (t) Receive a written Residency Agreement regarding the services the home shall provide and rates charged. A resident shall receive at least 30 calendar days' written notice before the home's ownership or rates change.
- (u) Receive 30 calendar days' written notice from the Operator and an opportunity for a hearing prior to being involuntarily moved or transferred out of the adult care home, unless the ACHP has established that there is imminent danger to someone in the home. Thirty calendar days' written notice may be given only for medical reasons, the welfare of the resident or other resident residing in the adult care home, or for nonpayment as described in MCAR 023-090-615.
- (v) Receive complete privacy, especially when receiving treatment or personal care.
- (w) Be free to establish an Advance Directive, Physician's Order for Life-Sustaining Treatment (POLST), or Do Not Resuscitate (DNR) orders, and be free from discrimination in regard to the execution of these documents.
- (x) The HCBS protections and freedoms for individuals residing in provider-owned, controlled, or operated residential settings, as authorized by 42 CFR 441.301(c)(4) and 42 CFR 441.530(a)(1).
  - (1) To live under a legally enforceable Residency Agreement with protections substantially equivalent to landlord-tenant laws.
  - (2) Freedom and support to access personal food at any time.
  - (3) Visitors of one's choosing at any time.
  - (4) A lockable door in one's bedroom or living unit lockable by the resident, with the resident and only appropriate staff having a key to access the unit.
  - (5) Choice of roommate, when residing in a shared room.
  - (6) Choice to furnish and decorate one's bedroom.
  - (7) Freedom and support to control of one's schedule and activities.
  - (8) Privacy in one's bedroom or living unit.
- (y) Practice the religion of one's choice.
- (z) Not be forced to work against one's will and to be paid for agreed-upon work.

030-110 Providers and/or ACH staff may not take any of the following actions based, in whole or in part, on a resident's actual or perceived sexual orientation, gender identity, gender expression, or human immunodeficiency virus (HIV) status:

- (a) Deny admission to an ACH, transfer or refuse to transfer a resident within an ACH or to another ACH, or involuntarily move a resident from an ACH.
- (b) Deny a request by a resident to choose the resident's roommate, when a resident is sharing a room.
- (c) If rooms are assigned by gender, assign, reassign, or refuse to assign a room to a transgender or other LGBTQIA2S+ resident other than in accordance with the resident's gender identity, unless at the request of the resident or if required by federal law.
- (d) Prohibit a resident from using or harass a resident who seeks to use or does use, a restroom that is available to other individuals of the same gender identity as the resident, regardless of whether the resident is making a gender transition, has taken or is taking hormones, has undergone gender affirmation surgery, or presents as gender nonconforming.
- (e) Repeatedly and willfully refuse to use a resident's chosen name or pronouns after being reasonably informed of the resident's chosen name or pronouns.
- (f) Deny a resident the right to wear or be dressed in clothing, accessories or cosmetics, or to engage in grooming practices that are or would be permitted to any other resident regardless of gender identity or sex assigned at birth.
- (g) Restrict a resident's right to associate with other residents or with visitors, including the resident's right to consensual sexual relations or to display physical affection, unless the restriction is uniformly applied to all residents in a nondiscriminatory manner.
- (h) Deny or restrict medical or nonmedical care that is appropriate to a resident's organs and bodily needs, or provide medical or nonmedical care that, to a similarly situated, reasonable person, unduly demeans the resident's dignity or causes avoidable discomfort.
- (i) Fail to accept a resident's verbal or written attestation of the resident's gender identity or require a resident to provide proof of the resident's gender identity using any form of identification.
- (j) Fail to take reasonable actions, within the provider's control, to prevent discrimination or harassment when the provider knows or should have known about the discrimination or harassment.

- (k) Refuse or willfully fail to provide any service, care, or reasonable accommodation to a resident or an applicant for services or care.
- (l) Refuse to provide access to any assessments, therapies, and treatments that are recommended by the resident's health care provider, including but not limited to transgender-related medical care, hormone therapy, and supportive counseling.

## PART IV – LICENSING AND APPLICATIONS

### **023-040-100      GENERAL REQUIREMENTS**

- 040-105      In Multnomah County, the ACHP shall license three different types of adult care homes. They are:
  - (a) Adult Care Homes.
  - (b) Adult Care Homes with a Limited License.
  - (c) Room and Board Homes.
- 040-110      An adult care home license is required (except as provided in MCAR 023-040-115) for any home that provides residential care for compensation to five or fewer older adults or adults with disabilities.
- 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 older adults or adults 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.
- 040-120      An adult care home, as a residential Home and Community-Based Setting, shall have all of the following qualities:
  - (a) The setting is integrated in and supports the same degree of access to the greater community as people not receiving Home and Community-Based Services (HCBS), including opportunities for individuals enrolled in or HCBS to seek employment and work in competitive integrated employment settings, engage in greater community life, control personal resources, and receive services in the greater community.

- (b) The setting is selected by a resident or, as applicable, the resident's legal or designated representative, from among available setting options, including non-disability-specific settings and an option for a private unit in a residential setting. The setting options must be identified and documented in the resident's person-centered service plan, based on the needs and preferences of the resident, and based on the available resources of the resident for room and board.
- (c) The setting ensures individual rights of privacy, dignity, respect, and freedom from coercion and restraint.
- (d) The setting ensures individual right of freedom from restraints except in accordance with the standards set forth in ORS 443.739, OAR chapters 309 and 411, 1915(c) HCBS Waivers, 1915(i) State Plan HCBS, or 1915(k) Community First Choice (K State Plan Option). When the right of freedom from restraint must be limited due to a threat to the health and safety of an individual or others, individually-based limitations as described in OAR 411-004-0040 must apply in any residential or non-residential setting.
- (e) The setting optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices including but not limited to daily activities, physical environment, and with whom to interact.
- (f) The setting facilitates individual choice regarding services and supports and who provides these services and supports.

040-125

An adult care home is a provider owned, controlled, or operated Home and Community-Based Setting as defined in OAR chapter 411, division 4. As such, an adult care home must have all of the following qualities:

- (a) The setting meets all the qualities in MCAR 023-040-120.
- (b) The setting is physically accessible to each resident.
- (c) Each unit is a specific physical place that may be owned, rented, or occupied by a resident under a legally enforceable Residency Agreement. The resident has, at a minimum, the same responsibilities and protections from eviction that a tenant has under the landlord-tenant law of the state, county, city, or other designated entity. The eviction and appeal processes must be substantially equivalent to the processes provided under landlord-tenant laws.
- (d) Each resident has the freedom and support to have access food at any time.
- (e) Each resident may have visitors of their choosing at any time.
- (f) Units shall have entrance doors lockable by the resident, with the resident and only appropriate staff having a key to access the unit.

- (g) Residents sharing units must have a choice of roommates.
- (h) Each resident must have the freedom to decorate and furnish their own unit as agreed to within the Residency Agreement.
- (i) Each resident has the freedom and support to control their own schedule and activities.
- (j) Each resident has privacy in their own unit.

**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, 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, Shift Managers, or a caregiver shall include all required information about the Resident Manager, Shift Managers, or caregivers 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, including but not limited to abuse of a child or an adult.
- 040-214 Any applicant may be denied based on their failure to disclose on the employment application 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.
- 040-217 The Operator's primary residency, if other than the adult care home, must be within 25 miles of the adult care home.
- 040-220 Operators of adult care homes shall obtain any applicable business licenses.
- 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 abuse history and criminal records, evaluate financial fitness, ensure that appropriate inspections have been completed, check references, carry out interviews with the applicant(s), and inspect the home to determine compliance with ACHP rules.
- 040-235 The ACHP may request adult care home inspections from local fire department representatives, the county Health Department, 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 completed 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.

040-258 Applicants shall disclose the names of any individual who has five percent or greater direct or indirect ownership interest in the adult care home.

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 (**e.g.**, older adults/adults with disabilities or adults experiencing mental illness or addictions), 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 Applications for new adult care home Operator licenses returned to the ACHP shall include:

- (a) A completed ACHP application packet.

- (b) Verification of having taken and passed:
  - (1) A fire safety training.
  - (2) The English Competency Test within the past 12 months.
  - (3) The currently approved basic training.
  - (4) An ACHP qualifying test.
  - (5) An approved food handler's training.
  - (6) An approved mandatory reporter training.
- (c) Proof of attending an ACHP Orientation within the past 12 months.
- (d) Effective January 1, 2025, evidence that the Operator applicant and all ACH staff members have taken a state approved LGBTQIA2S+ Protections and HIV Care training.
- (e) APD applicants: Evidence that the Operator applicant and all providers have taken a state approved HCBS training.
- (f) Background Check approvals for each subject individual as that term is defined by MCAR 023-070-415. For any subject individual for whom an applicant does not possess an approval letter, a Background Check Request form shall be submitted to the ACHP.
- (g) A statement from a physician, physician assistant, or nurse practitioner on the ACHP approved form indicating the applicant is physically, cognitively, and emotionally capable of providing residential care.
- (h) A current CPR and First Aid certificate for the Operator and, if applicable, Resident Manager.
- (i) A completed Operator's projected monthly budget, including projected payroll expense totals, and evidence of liquid financial resources as defined in MCAR 023-020-105(73) and equal to two months' operating expenses that have been held for at least 3 months. Evidence of financial resources must include:
  - (1) The ACHP's approved Verification of Financial Resources form, completed and stamped or notarized by the applicant's financial institution; or
  - (2) Documentation on letterhead of the applicant's financial institution, which includes: the last four digits of the applicant's account number; the name of the account holder and, if the account is not in the applicant's name, verification that the applicant has access to the account's funds; the highest and lowest balances for each of the most recent three full

months; and the number of any non-sufficient fund payments in each of the last three full months; or

- (3) Demonstration of cash on hand equal to a minimum of two months of operating expenses.
- (j) A full credit report including three scores, issued within 30 calendar days of the application submission date.
- (k) 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 and that the lessor is aware that the home will be used as an adult care home.
- (l) 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 provider, day care, or room and board tenant bedrooms; doors and windows; wheelchair ramps; smoke detectors, and carbon monoxide alarms; fire extinguishers; designated smoking areas; and the locations of exits, planned evacuation routes, and the initial and final points of safety.
- (m) Housing and electrical inspection approval forms where applicable.
- (n) A daily operation plan covering staff qualifications and how the home shall be supervised and monitored, including the name of at least one approved caregiver or Resident Manager who can provide staffing relief. The operation plan shall include:
  - (1) A written staffing plan that shows 24-hour coverage and demonstrates that all providers have adequate time off from their employment.
  - (2) An ACH Back-Up Operator Agreement identifying the name of a back-up Multnomah County-approved Operator or Resident Manager who does not live in the home, and who has the same or higher license classification, and who has agreed to oversee the home in case of emergencies, signed by both the applicant and the back-up Operator.
  - (3) A plan of coverage that specifies whether the Operator applicant intends to live or work outside the home, how the Operator intends to staff the home if not living in the home or is working more than 30 hours per week outside the home, and how the Operator intends to supervise and monitor the home.
  - (4) If the Operator uses a Resident Manager, a written plan of coverage for Resident Manager absences must be submitted.
- (o) Caregiver and, if applicable, completed Resident Manager or Shift Manager applications. See MCAR 023-070-500.

- (p) Three references from individuals who can speak to the applicant's professional skills and who have knowledge of the applicant's experience in providing residential care. References cannot be relatives of the applicant or current residents where the applicant works. Once submitted, these references will be kept confidential.
- (q) Complete contact information for the applicant, including a mailing address if different from the adult care home and an email address.
- (r) A copy of the home's proposed Residency Agreement(s). See MCAR 023-060-100.
- (s) A copy of the home's Nondiscrimination Policy that includes: "(Name of care facility) does not discriminate and does not permit discrimination, including but not limited to bullying, abuse or harassment, based on an individual's actual or perceived sexual orientation, gender identity, gender expression or human immunodeficiency virus status, or based on an individual's association with another individual on account of the other individual's actual or perceived sexual orientation, gender identity, gender expression or human immunodeficiency virus status. If you believe you have experienced this kind of discrimination, you may file a complaint with the Adult Care Home Program at [achpcomplaint@multco.us](mailto:achpcomplaint@multco.us)."
- (t) License application fees.

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 applicant must provide proof that they have sufficient resources to pay those claims. These resources must be in addition to the financial resources required to ensure adequate funding of all operational costs for a minimum period of two months.

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 applicant or Operator and the adult care home that is licensed shall remain in compliance with the 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. When the ACHP determines that the convenience of both the Operator and the ACHP will be served, a license period may be shortened to match the renewal schedule of another license held by the same Operator.

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 All Operators, including initial applicants, shall have the financial ability to operate an adult care home for at least two months without relying on potential resident income and maintain sufficient liquid financial resources to meet two months' operating costs. An Operator shall provide documentation of the financial resources with the home's first renewal application and at any point that it is requested by the ACHP.

040-428 If the ACHP obtains documented evidence that a currently licensed Operator or Operator applicant has more than one incident of insufficient food; inadequate heat; utility shut-off notice; non-sufficient funds; or one complaint of nonpayment of employees, utilities, rent, mortgage, or any other operational cost, the ACHP may deny the application or require the Operator to submit documentation of re-establishing and/or maintaining liquid financial resources for an additional period of time as determined by the ACHP.

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 designates one person who meets the qualifications and functions of 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 home meets the requirements set forth in the Fair Housing Act.

- (c) The home meets the requirements of Home and Community-Based Services and Settings and Person-Centered Service Plans (see OAR chapter 411, division 4).
- (d) The applicant and adult care home are in compliance with all MCAR.
- (e) The applicant currently operates or has operated all other licensed facilities in substantial compliance with all licensing rules: including ORS 443.705 to 443.825, these rules, and any applicable conditions or other final orders of the DHS or the ACHP.
- (f) The ACHP has completed an inspection of the adult care home.
- (g) The ACHP has completed a background check on the applicant(s) and all subject individuals in accordance with MCAR 023-070-400.
- (h) The ACHP has checked the record of sanctions available from its files and the records of other agencies as appropriate.
- (i) 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.
- (j) The ACHP has verified that the applicant is not listed on either of the Exclusion Lists.
- (k) 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 personnel in the adult care home.
- (b) Admission and the decision to involuntarily move or transfer 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.

040-465 The Operator shall notify the ACHP of any of the following changes within 24 hours: changes in the adult care home business name, Resident Manager (see MCAR 023-070-530), telephone number (see MCAR 023-090-540), Operator email or mailing address (see MCAR 023-090-540), listing of the home for sale (see MCAR 023-041-215), issuance of a 30-day notice to a resident (see MCAR

023-090-605), or when an Operator acting as a Qualified Entity Designee receives a notice containing an adverse outcome for a subject individual (see MCAR 023-070-465(c)).

**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 caregiver shall provide supervision 24 hours per day when the resident is present or expected to be present in the home.

040-508      Applicants intending to operate a Limited License home shall comply with the standards of this section (MCAR 023-040-500) and, depending on the department the resident receives services through, Part XI, XII, or XIII. Additionally, Limited License homes may be required to comply with the MCAR. To the extent that it contradicts any other part of the MCAR, Section 023-040-500 of the MCAR shall control the responsibilities of Limited License Operators.

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.

040-515      To qualify for a Limited License, an applicant must:

- (a) Obtain ACHP approval for all subject individuals following a background check (see MCAR 023-070-400).
- (b) Be at least 21 years of age.
- (c) Obtain current CPR and First Aid certification.
- (d) Complete and pass the ACHP-Record Keeping "Part B" Training.
- (e) Attend an ACHP Orientation.
- (f) Submit a completed application with required fees.
- (g) Submit written verification of an established relationship with the proposed resident.
- (h) Submit a statement from a physician, physician assistant, or nurse practitioner on the ACHP-approved form indicating the applicant is physically, cognitively, and emotionally capable of providing residential care.
- (i) Demonstrate a clear understanding of the resident's care needs and develop a person-centered service plan (see 023-080-400).

- (j) Complete the caregiver workbook if the proposed resident's funding is through ADVSD or, if the proposed resident's funding is through BHD, study the appropriate Basic Training and pass the appropriate qualifying test.
- (k) Acquire any additional training deemed necessary by the ACHP to provide adequate care for the resident (see MCAR 023-070-640).
- (l) Submit verification of having taken and passed a fire safety training.
- (m) Submit the name of a qualified back-up caregiver (see MCAR 023-040-320(n)).
- (n) Have no founded reports of child abuse or a substantiated abuse allegation.
- (o) If transporting the resident in a personal vehicle, have a current license to drive in compliance with the laws of the Department of Motor Vehicles and vehicle insurance as required by the state of Oregon.
- (p) Be able to respond to emergency situations at all times.
- (q) Take the English Competency Test to demonstrate their ability to understand written and oral instructions in English, and communicate in oral and written English with residents, health care professionals, case managers, ACHP staff, and appropriate individuals.
- (r) Submit verification of having completed a state approved LGBTQIA2S+ Protections and HIV Care training.
- (s) APD only: Submit verification of having completed a state approved HCBS training.

040-517	The ACHP shall verify that the applicant is not listed on either of the Exclusion Lists and will determine 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.
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 Operator's 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 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 Limited License Operators shall post copies of the following in a prominent place where the resident and others can easily see them:

- (a) A current adult care home license that lists the name of the resident.
- (b) The Residents' Bill of Rights.
- (c) A Fair Housing Act poster that includes the appropriate protective services and Ombudsman program contact information.

040-550 All Limited License Operators are required to:

- (a) Comply with the requirements for medication management (see MCAR 023-080-500).
- (b) When the resident's care needs change, update the resident's care plan or personal care plan or obtain an updated copy of the **person-centered service plan**(see MCAR 023-080-400).
- (c) Comply with Home and Community-Based Services and Settings and Person-Centered Service Plans (see OAR chapter 411, division 4).
- (d) Maintain documentation of having reviewed the Residents' Bill of Rights and the Residency Agreement with the resident and/or their representative or family member, as applicable.
- (e) Provide nutritious and balanced meals in compliance with MCAR 023-080-805.
- (f) Provide activities and documentation of activities in compliance with MCAR 023-080-900.
- (g) Prior to completing any nursing care task, the Operator shall have a registered nurse evaluate whether a nursing delegation is needed. All providers shall receive delegation prior to performing any delegated tasks.
- (h) Document annual review of responsibility for mandatory reporting of abuse or neglect of a resident in compliance with MCAR 023-070-528.

040-555 The ACHP may require an Operator of an adult care home with a Limited License to comply with any other provision in these rules.

040-560 Adult care home Limited License applicants or Operators may apply in writing to the ACHP for an exception to a specific ACHP rule requirement. [See MCAR 023-050-100]

**023-040-600 LICENSE RENEWAL**

040-605 At least 90 calendar days prior to the expiration of the license, the ACHP will send a renewal application packet notifying the Operator of the license expiration date and the application's due date.

040-610 The Operator must submit a complete ACHP renewal application packet at least 30 days prior to the expiration date of the current license.

040-615 Submission of a complete renewal application packet prior to the expiration date will keep the license in effect until the ACHP makes a decision regarding the application.

040-618 A completed license renewal application packet shall include:

- (a) A complete and accurate ACHP renewal application signed and dated by the Operator.
- (b) Verification of having taken required annual continuing education training credits. [See MCAR 023-070-610], including:
  - (1) Effective January 1, 2025, evidence that the Operator applicant and all ACH staff members have taken a state approved LGBTQIA2S+ Protections and HIV Care training within the past two years, and
  - (2) For APD-licensed renewal applicants or renewal applicants who serve APD residents: Evidence that the Operator applicant and all providers have taken a state approved HCBS training within the past year.
- (c) Background Check approvals for each subject individual as that term is defined by MCAR 023-070-415. For any subject individual for whom an applicant does not possess an approval letter, a Background Check Request form shall be submitted to the ACHP.
- (d) A current CPR and First Aid certificate for the Operator and, if applicable, the Resident Manager.
- (e) A written staffing plan that shows 24 hour coverage and demonstrates that all providers have adequate time off from their employment.
- (f) An ACH Back-Up Operator Agreement identifying the name of a back-up Multnomah County-approved Operator or Resident Manager who does not live in the home and who has the same or higher license classification and who has agreed to oversee the home in case of emergencies signed by both the applicant and the back-up Operator.

- (g) A completed and signed Medicaid Provider Enrollment Agreement, if applicable.
- (h) A completed fee determination form and the appropriate license application fees.
- (i) Any other applicable supplemental forms.
- (j) At the first renewal only, a completed Operator's projected monthly budget including projected payroll expense totals, and evidence of liquid financial resources, see definition in MCAR 023-020-105(73), equal to two months' operating expenses that have been held for at least 3 months. Evidence of financial resources must include:
  - (1) The ACHP's approved Verification of Financial Resources form completed and stamped or notarized by the applicant's financial institution; or
  - (2) Documentation on letterhead of the applicant's financial institution, which includes: the last four digits of the applicant's account number; the name of the account holder and, if the account is not in the applicant's name, verification the applicant has access to the account's funds; the highest and lowest balances for each of the most recent three full months; and the number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; or
  - (3) Demonstration of cash on hand equal to a minimum of two months of operating expenses.
- (k) Every other year, a statement from a physician, physician assistant, or nurse practitioner on the ACHP approved form indicating the applicant is physically, cognitively, and emotionally capable of providing residential care.

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 timeframe 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 the ACHP deems it reasonable and necessary. [See MCAR 023-150-110] If any areas of non-compliance are not corrected within the specified timeframe, the renewal application shall be denied.

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

- (a) The ACHP has received a complete renewal application packet from the Operator, which includes:
  - (1) For the first renewal, verification of liquid financial resources sufficient to pay the home's operating costs for at least two months at the home's first renewal. [See MCAR 023-040-320(i)]
  - (2) A statement on the ACHP form completed by a physician, a physician assistant, or a nurse practitioner every two years regarding the applicant's physical and mental ability to provide care. This may be required sooner if there is reasonable cause for health concerns. [See MCAR 023-070-100]
- (b) The home meets the requirements set forth in the Fair Housing Act.
- (c) The home meets Home and Community-Based Services and Settings and Person-Centered Service Plans (see OAR chapter 411, division 4).
- (d) The ACHP has completed an inspection of the adult care home.
- (e) The home, Operator, Resident Manager, Shift Managers, and caregivers are in compliance with the MCAR.
- (f) The ACHP has an approved background check on all subject individuals.
- (g) All appropriate application fees have been paid. In addition, all fines, penalties, and fees shall be paid unless there is a hearing pending regarding the fine or penalty.
- (h) 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.
- (i) 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.
- (j) The ACHP has verified that the applicant is not listed on either of the Exclusion Lists.
- (k) The applicant has demonstrated to the ACHP the financial ability and resources necessary to operate the adult care home.

040-645      In seeking a license renewal 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 in Multnomah County, the Operator must meet the requirements in MCAR 023-040-300 and provide to the ACHP:

- (a) Operation and staffing plans for each home.
- (b) Verification of financial resources for each home. [See MCAR 023-040-320(g) for accepted forms of verification] If an applicant uses income from another adult care home to document possession of at least two months of operating costs, the applicant must demonstrate the financial ability to maintain sufficient liquid resources to pay the operating costs of each home for at least two months without solely relying on potential resident income.
- (c) Verification of having taken and passed a current ACHP-approved basic training and qualifying test.

040-710 The ACHP shall not issue a license to operate an additional adult care home if the Operator has failed to meet the qualifications and demonstrate the ability to operate the existing licensed home(s), or has failed to achieve or 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 it is in the best interests of the residents currently residing in the home and that an emergency situation exists after being notified that the licensed Operator is no longer overseeing operation of the adult care home. A person

would be considered qualified if they are 21 years old and meet the requirements of a caregiver as defined by MCAR 023-020-105(18).

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 023-041-200 is not an emergency situation.

**023-040-900 CAPACITY**

040-905 The capacity of an adult care home, not including unclassified room and board homes, shall be limited to five residents. Unrelated room and board tenants residing in APD or BH homes shall be considered residents for the purpose of these rules. Individuals who are recognized as family members and who do not receive residential care in return for compensation 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, day care, and relatives receiving care. Consideration shall be given to whether a child under the age of five will need a bedroom separate from its parent(s) before the end of the certification period.

040-920 When there are relatives requiring care or day care residents in a home where the Operator is the primary live-in caregiver, the allowable number of 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 24-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 the 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**

041-105 The ACHP shall determine the classification of an adult care home during the licensure process. The classification level determines the specific resident population(s) an adult care home may serve (i.e., APD or BH) and the level of care the adult care home may provide to residents. 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 APD 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 an APD or BH Limited License will be classified as Class 0. Room and Board Homes will be unclassified.

041-117 Adult care homes in Multnomah County that serve individuals whose placements and services are authorized by Multnomah County Behavioral Health Division (BHD) shall be classified as BH Class 1 or Class 2. [See MCAR 023-130-255]

The lowest level of qualification of the Operator and Resident Manager shall prevail in classification determination.

041-120 An APD or BH 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 the population they intend to serve. Or they must have 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 the population they intend to serve.

041-125 An APD or BH 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 the population they intend to serve. An applicant with a current CNA certification may request by exception to submit a current CNA certification and the equivalent of at 18 months' verifiable full-time experience providing hands-on assistance with ADL to adults who are representative of the population they intend to serve to meet this requirement. 041-130 An APD Class 3 license may be issued if the applicant, Resident Manager, or Shift Managers, as applicable, have: completed the required training; provided current satisfactory references from at least two licensed health care professionals who have direct knowledge of the applicant's ability and past experience as a caregiver; demonstrated to the ACHP the ability to provide hands-on assistance with ADL to older adults or adults with disabilities who require assistance in four or more ADL; and

- (a) Holds a current license as a health care professional in Oregon or,
- (b) Has the equivalent of 36 months' verifiable full-time experience providing hands-on assistance with ADL to adults who are representative of the population they intend to serve and who require full assistance in four or more ADL. This can be demonstrated by having operated a Class 2 home with at least one out-of-class exception for a resident requiring full assistance in four or more ADLs for at least 12 months.

041-135 An Operator with a Class 1 license may provide care to individuals who need assistance in four or fewer ADL and who do not require full assistance in any ADL, 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 Class 1 homes.

041-140 An Operator with an APD or BH Class 2 license may provide care for residents who require assistance in all ADL, but do not require full assistance in more than three ADL, and for individuals with severe and persistent mental illness who may also have limited medical conditions.

041-145 An Operator with an APD Class 3 license may provide care for residents who require full assistance in four or more ADL, but only one resident who requires bed-care or full assistance with all ADL, not including cognition or behavior, may be in residence at one time.

041-147 An Operator with an APD Class 3 license may be approved to provide Ventilator-Assisted care. [See MCAR 023-110-500 for additional requirements.]

041-150 Operators shall not admit a resident whose care needs exceed the license classification level of the home. If the Operator has assessed the potential resident and feels that the home can meet the resident's needs, the Operator shall submit a written exception request and obtain prior written approval from the ACHP before admitting the resident.

041-155 Operators shall care only for residents whose care needs are within the classification level of the home. If the Operator wishes a current resident whose care needs have increased and now exceed the classification of the home 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 receiving a written request for an exception. It may grant an exception that 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 can provide appropriate care to the resident in addition to the care of the other residents.
- (e) Adequate staff is 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 a registered nurse'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 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 inform the ACHP immediately upon listing a home for sale and when an offer is made to purchase the home.

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 an 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 give at least 30 calendar days written notice to the resident, the resident's representative, and/or the resident's family member, the resident's Medicaid case manager, and the ACHP before the voluntary closure or the proposed sale, lease, or transfer of the adult care home business or the real property on which the adult care home is located, except in circumstances where undue delay might jeopardize the health, safety, or well-being of residents, Operators, Resident Manager, 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.

041-250 An Operator must provide written notification to the ACHP regarding any default or any notice of potential default affecting the adult care home. Notification must be submitted to the ACHP within ten calendar days after initial receipt of any notice of default or potential default. Additional updates will be made as requested by the ACHP.

**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 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 and 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 older adults or adults with disabilities, 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, and all other subject individuals in Room and Board Homes must have a current ACHP-approved background check prior to entering the 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(18)]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 cannot be admitted to the home. If an existing resident's medical or psychological condition changes 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 rental contract with each resident, dated and signed by the Operator and the resident or resident's representative or family member, as appropriate. The rental contract is subject to and shall include protections equivalent to current federal, state, and local landlord-tenant laws. The rental contract is subject to ACHP review prior to licensure (initial or renewal). The ACHP may disapprove the rental contract or any contract provisions that conflict with ACHP rules or any law or ordinance.

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

- (a) Obtain ACHP approval following a background check.
- (b) Pass an ACHP-approved English Competency Test.
- (c) Complete an ACHP-approved Record Keeping "Part B – Medication Management" Training.
- (d) Submit a completed application with required fees.

041-435 The Room and Board license shall state the Operator's name, address of the home, type of license, maximum capacity, phone number for the facility, and 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 ACHP rule requirement. 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) Background 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 023-090-815.
- (g) Capacity. [See MCAR 023-040-900]
- (h) Minimum age for Operators, Resident Managers, and caregivers. [See MCAR 023-070-110 & 130]
- (i) Training requirements as listed in MCAR 023-070-700, except as allowed for:
  - (1) Provisional licenses as described in MCAR 023-040-800.
  - (2) Resident Managers who obtain an exception as described in MCAR 023-070-530.
  - (3) Caregivers who hold an Oregon health care professional license may be exempt from completing the caregiver workbook.
  - (4) Any provider who holds an Oregon health care professional license may take and pass an ACHP-approved qualifying test in lieu of taking an approved basic training. [Authorized under ORS 443.738(3)].
- (j) Communication ability. [See MCAR 023-070-200]

050-113 The ACHP shall not grant an exception request to any rule that is inconsistent with Oregon Revised Statutes or 42 CFR 441.301(c)(2)(xiii) and 42 CFR 441.530(a)(1)(vi).

050-114 Requirements in this rule that are also outlined in ORS 441.111 through 441.119 and 441.993 may be eligible for an exception. In order to be considered for an exception:

- (a) The requirement must be incompatible with one of the following:
  - (1) The professionally reasonable clinical judgement of an individual's licensed health care professional; or
  - (2) A state or federal statute or regulation that applies to the ACH.
- (b) Exception(s) proposed must not violate a resident's rights as described within MCAR 023-030-100, and
- (c) An operator must provide adequate documentation, as determined by the ACHP, demonstrating the above and justifying the need for any exception(s) requested.

050-115 The ACHP shall respond to written requests for exceptions within 30 days of receipt. 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.

050-130 An exception granted to one adult care home Operator does not constitute a precedent for any other adult care home Operator.

## **PART VI – RESIDENCY AGREEMENTS, REFUNDS, PROVIDER ENROLLMENT AGREEMENTS**

### **023-060-100 RESIDENCY AGREEMENTS**

060-105 Operators shall use the ACHP-approved written Residency Agreement when entering into an agreement with any Medicaid funded resident. Operators entering into an agreement with a prospective resident who intends to pay privately may choose to use the ACHP approved Residency Agreement or may choose to draft

their own. All Residency Agreements and any changes or additions to ACHP approved Residency Agreements shall be approved by the ACHP prior to licensure and implementation of any changes to the Agreement. The ACHP may disapprove Agreement provisions that are in conflict with the ACHP rules or any law or ordinance.

060-110 Operators of adult care homes must enter into a written Agreement with each resident and/or the resident's representative or family member, as appropriate, that meets the requirements of MCAR 023-060-120. The written Agreement must be signed and dated by all parties prior to the admission of the resident, and the Operator shall give a signed copy of the Agreement to the resident and the resident's representative. The Operator shall document in the resident's record the date that copies were provided and shall retain the original signed Agreement and any amendments on the premises available for review.

060-115 The Agreement shall be subject to review for compliance with the MCAR by the ACHP before the implementation of any changes to the agreement.

060-120 The Agreement shall address, at a minimum:

- (a) The specific care and services the home shall provide to the resident.
- (b) The monthly rates for room and board, care, and services; the circumstances under which rates may change; and what notice is required for changes, specifically:
  - (1) For individuals receiving Medicaid, the Residency Agreement shall state the rates will be "as authorized by the Department."
  - (2) For residents paying privately, these rates may include but are not limited to 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 transportation fees for the resident.
  - (3) A payment range may not be used unless the Agreement has a rate schedule that plainly states when an increase in rate may be expected based on increased care or service needs.
  - (4) A written notice is required for any proposed changes and shall be given to residents who pay privately and/or their representative or family member, as appropriate. Notices of proposed changes in monthly rates for care and services must be given at least 30 days prior to implementation of the proposed change unless the change is due to the resident's increased care or service needs and the agreed upon rate schedule in the Residency Agreement has specified charges for those changes.
- (c) Whether the resident's bedroom is private or shared.

- (d) The due dates for payment and, for residents who pay privately, 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) Refunds in instances of a resident's hospitalization, death, move, or transfer to another care facility, other voluntary or involuntary move, or whenever a resident leaves the home before the required notice period.
- (g) The home's policy on moves including voluntary moves, whether or not the Operator requires written notification of a privately-paying resident's intent not to return, and involuntary moves and resident's rights according to MCAR 023-090-600 and 023-090-700.
- (h) The resident's right to a hearing before being involuntarily moved from the home in a non-emergency situation.
- (i) 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 within 30 days, 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]
- (j) How to make a complaint concerning the care and welfare of a resident, including the telephone number to the appropriate protective services agency.
- (k) Whether the home has a Medicaid Provider Enrollment Agreement.
- (l) Refunds for privately paying residents who become eligible for Medicaid services, including whether partial months will be prorated and whether the room and board is refundable.
- (m) The resident's right to have visitors of their choosing at any time and include a disclosure that a visitor may be prohibited from the premises if the visitor threatens the health, safety, or welfare of the resident or other occupants. [See MCAR 023-090-105]
- (n) Policies that the adult care home may have on the use of alcohol and the presence and use of medical and recreational marijuana on the premises.
- (o) The home's policy on intercoms and monitors, in compliance with MCAR 023-100-185 and 023-100-425.
- (p) The home's smoking policy. If smoking is permitted, it must be in compliance with MCAR 023-100-740.
- (q) The home's policy regarding animals. Restrictions may not apply to assistance or service animals.

- (r) Whether or not the home has the ability to make long-distance calls and if the home intends to charge long distance fees.
- (s) A disclosure stating that the Operator is committed to supporting a home-like environment where noise levels are such that they do not disturb the comfort and peace of other residents. This does not include the normal level of noise arising from an individual's care needs, from conversation or other activities, including television and music, and shall not limit resident and/or visitor access to the home.
- (t) The home's schedule of meal times with no more than a 14-hour span between the evening meal and the following morning's meal. The Residency Agreement shall clearly state that meal choices and time will be offered per the resident's preferences. [See MCAR 023-080-805]
- (u) Any limitation to the implementation of Advance Directives, specifically regarding the withdrawal or withholding of life-sustaining procedures or of artificially administered nutrition or hydration, on the basis of conscience. This rule does not apply to medical professional or hospice orders for administration of medications. The statement must include:
  - (1) A description of conscientious objections as they apply to all occupants of the adult care home.
  - (2) The legal authority permitting such objections under ORS 127.505 to 127.660. [See also MCAR 023-080-170]
  - (3) A description of the range of medical conditions or procedures affected by the conscientious objection.

060-125      The Agreement must include the freedoms authorized by 42 CFR 441.301(c)(4) and 42 CFR 441.530(a)(1), which must not be limited without the informed, written consent of the resident or their representative, which includes the right:

- (a) To the freedom and support to access food at any time.
- (b) To have visitors of the resident's choosing at any time.
- (c) To have a lockable door in the resident's bedroom that may be locked by the resident.
- (d) To choose a roommate when sharing a bedroom.
- (e) To furnish and decorate the resident's bedroom according to the Residency Agreement.
- (f) To the freedom and support to control the resident's schedule and activities.
- (g) To privacy in the resident's bedroom.

060-130 Residency Agreements shall not:

- (a) Conflict with the Residents' Bill of Rights, the family atmosphere of the home, or any of these rules.
- (b) Include any illegal or unenforceable provision, and the Operator may not ask or require a resident to waive any of the resident's rights or the Operator's liability for negligence.
- (c) Include application fees or non-refundable deposits.
- (d) Charge fees beyond the date of closure or the resident's departure, whichever is sooner, if the adult care home closes or the Operator gives written notice for the resident to leave.
- (e) Charge a resident who pays privately 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 the resident dies.
- (f) Charge a resident rent and/or a service payment beyond the date the resident leaves the home if the resident dies or moves out because of abuse and/or neglect that is later substantiated or due to conditions of imminent danger of life, health, or safety.
- (g) Require advance payments for care and services beyond one month (this does not apply to security deposits).
- (h) Permit less than 30 calendar days' written notice of general rate increases, additions, or other modifications of the rates except for changes based on a rate schedule as outlined in the residency agreement.
- (i) Require payment of the monthly rate during any period when the room has been rented to another person.
- (j) Require a resident to waive their rights to a 30-calendar-day notice of rate increases except for a pre-established rate schedule with clearly defined conditions for increases related to specified care needs. [See MCAR 023-060-120(b)].

060-135 Operators may not charge or ask for application fees or non-refundable deposits. Fees to hold a bed are permissible for privately-paying residents.

060-140 If the Operator has a Medicaid Provider Enrollment Agreement, the Operator cannot ask a privately paying resident to move if the resident becomes eligible for Medicaid. The Operator must accept payment from DHS from the date of eligibility forward as payment in full.

060-145 The Operator shall give written notice to a privately paying resident and the resident's representative and/or family member 30 days prior to any general rate increases, additions, or other modifications of the rates. The Operator is not

required to give 30-day written notice if the rate change is due to the resident's increased care or service needs and if the agreed-upon rate schedule in the resident's Agreement has specified charges for those changes.

023-060-150

## REFUNDS FOR PRIVATELY PAYING RESIDENTS

060-155 Fully refundable security deposits for damage caused by a resident beyond normal wear and tear shall be specified in the Residency Agreement. The security deposit must be retained in an interest-bearing account separate from the funds of the Operator.

060-160 The Operator shall refund any unused advance payment or money owed to the resident, or the resident's representative or family member, as appropriate, within 30 calendar days after the resident dies or permanently leaves the home.

060-165 The Operator shall refund any money paid past the 15 calendar days or time specified in the Residency Agreement, whatever is less, for a resident who has died or left the adult care home for medical reasons and has indicated the resident's intent not to return. [See MCAR 023-060-130(e)]

060-175 The Operator shall act in good faith to reduce the charge to a resident who has left the home by seeking a new resident to fill the vacancy.

060-180 The Operator must reimburse the resident or the resident's representative within 30 calendar days after the Operator receives payment from DHS for any private payment received after the resident becomes eligible for Medicaid services.

023-060-200

## OPERATORS WITH MEDICAID PROVIDER ENROLLMENT AGREEMENTS

060-205 Operators who intend to care for residents who are or become eligible for Medicaid services must enter into a Medicaid Provider Enrollment Agreement with DHS and abide by the terms of the Agreement.

060-210 No Medicaid-eligible resident shall be admitted into an adult care home unless:

- (a) DHS or OHA, depending on the resident population, has approved the Medicaid Provider Enrollment Agreement.
- (b) The consumer 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.

060-215 Service payments for Medicaid recipients cannot be made to an Operator without a valid Medicaid Provider Enrollment Agreement. 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 move or transfer or for any time period thereafter.
- (c) The Operator who elects to provide care for a Medicaid recipient may deny admittance of any additional residents. However, if the Operator has signed a Medicaid Provider Enrollment Agreement for that home, privately paying residents who become eligible for Medicaid assistance cannot be asked to leave based on Medicaid eligibility or the Medicaid rate.
- (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 Medicaid Provider Enrollment Agreement is not a guarantee that Medicaid-eligible individuals will be placed in an adult care home.
- (f) Either party may terminate a Medicaid Provider Enrollment Agreement according to the terms of the Agreement. If either the Operator or DHS terminates a Medicaid Provider Enrollment Agreement, a new Medicaid Provider Enrollment Agreement shall not be approved by the ACHP for a period of not less than 180 days from the date the Operator or DHS terminated the Provider Enrollment Agreement.
- (g) If the Operator submits a notice of termination of the Provider Medicaid Enrollment Agreement, the Operator must simultaneously issue the ACHP Notice of Involuntary Move or Transfer to all residents eligible for Medicaid services in the Operator's adult care home. In addition, the Operator shall update the Residency Agreement, submit a copy to the ACHP, and, once approved by the ACHP, review with and obtain signatures from each current resident or the resident's representative on the updated Residency Agreement.
- (h) 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.]

060-220      The Residency Agreement for a resident who receives Medicaid services shall state if the Operator charges for storage of belongings that remain in the adult care home for more than 15 calendar days after the resident has left the home. The policy shall be consistent with the Operator's policy with privately paying residents and entered into at the time of the resident's admission or at the time the resident becomes eligible for Medicaid services. In addition, the Operator must give written notice to the resident and the resident's representative or family member 30 calendar days before any increases, additions, or other modifications to the charges for storage.

060-225 DHS may terminate a Medicaid Provider Enrollment Agreement under the following circumstances: the Operator fails to maintain substantial compliance with all related federal, state, and local laws, ordinances, and regulations, or the license to operate the adult foster home has been voluntarily surrendered, revoked, or non-renewed.

060-230 DHS must terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

- (a) The Operator fails to permit access by DHS, the ACHP, or the Centers for Medicare and Medicaid Services to any adult care home licensed to and operated by the Operator.
- (b) The Operator submits false or inaccurate information.
- (c) Any person with five percent or greater direct or indirect ownership interest in the adult care home did not submit timely and accurate information on the Medicaid Provider Enrollment Agreement form or fails to submit fingerprints if required under the criminal records and abuse check rules in OAR 407-007-0200 to 407-007-0370.
- (d) Any person with five percent or greater direct or indirect ownership interest in the adult care home has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI programs in the last ten years.
- (e) Any person with an ownership or control interest, or who is an agent or managing employee of the adult care home, fails to submit timely and accurate information on the Medicaid Provider Enrollment Agreement form.

060-235 The ACHP shall alert DHS or OHA 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, SHIFT MANAGERS, AND CAREGIVERS**

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

070-105 Caregivers left in charge of a home for multiple 24-hour periods during a month or for any period that exceeds 48 hours 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.

070-125 Any caregiver who works in a home 20 or more hours per week, as the sole caregiver for the home, must take Recordkeeping "Part B – Medication Management" within their first year as a caregiver and before being allowed to administer any medications, including being the sole caregiver responsible for possible administration of PRNs.

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 12-hour period.

070-135 Adult care home Operators, Resident Managers, and Shift Managers shall provide evidence satisfactory to the ACHP regarding education, training, skills, 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 and all other providers 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 in English. [See MCAR 023-070-205] They shall also possess the ability as determined necessary by the ACHP to provide 24-hour supervision for the population that they intend to serve. 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 or other provider must obtain a statement from a physician, physician assistant, or nurse practitioner indicating they are physically, cognitively, and emotionally capable of providing care to residents.

070-146 If transporting residents in a personal vehicle, Operators or providers shall have a current license to drive in compliance with the laws of the Department of Motor Vehicles and vehicle insurance as required by the state of Oregon.

070-150 Operators, other providers, 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 the population they intend to or currently serve.

070-155 All Operators and other care providers shall demonstrate the ability to respond appropriately to emergency situations at all times.

070-160	Operators shall ensure that all providers who work in the adult care home have the necessary skills and experience to meet the needs of residents. Operators are responsible for employee actions or inaction while working in the adult care home.
070-165	If Operators and other care providers do not meet the standards in MCAR 023-070-105 through MCAR 023-070-165, the ACHP shall deny the application of each individual.
<b>023-070-200</b>	<b>COMMUNICATION SKILLS</b>
070-205	All Operators, Resident Managers, Shift Managers, and caregivers shall be able to demonstrate all of the following: <ul style="list-style-type: none"> <li>(a) An understanding of written and oral instructions in English, including medication instructions and doctor orders.</li> <li>(b) The ability to communicate in oral and written English with residents, health care professionals, case managers, ACHP staff, and appropriate others.</li> <li>(c) The ability to respond appropriately to emergency situations at all times.</li> </ul>
070-225	The ACHP may require that a caregiver pass the English Competency Test to verify they are able to effectively understand and communicate in English before being a caregiver in a home.
<b>023-070-300</b>	<b>COOPERATION</b>
070-305	Operators and all other care providers shall cooperate with ACHP personnel, DHS, OHA, the Centers for Medicare and Medicaid Services, or other personnel providing services to the home or residents. This includes, but is not limited to, inspections, complaint investigations, planning for resident care, application procedures, participation with department surveys, data collection, or any necessary activities that support quality care and ensure health, welfare, and safety.
<b>023-070-400</b>	<b>BACKGROUND CHECKS</b>
070-405	Background checks shall be conducted pursuant to these rules and OAR 407-007-0200 through 407-007-0370, Criminal Records 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 background 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) Any employee, contractor, temporary worker, or volunteer who provides care or has access to residents, resident information, or resident funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the department or authority.
- (c) Occupants, excluding residents, residing in or on the premises of the proposed or currently licensed adult care home.
- (d) Volunteers of the adult care home.
- (e) Any person who owns a five percent or more direct or indirect interest in the adult care home.

070-420 A Subject Individual does not include:

- (a) Residents of the adult care home or a resident's visitors.
- (b) Persons who do not meet the definition of occupant and who do not have a five percent or more direct interest in the adult care home.
- (c) Persons employed by a private business that provides services to residents and is not regulated by the Oregon Department of Human Services.
- (d) Volunteers who do not have any interaction with residents and who are on the premises no more than 3 times a year.

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 for adult care homes licensed BH, or as directed by **the ODHS BCU**.
- (b) Every two years for adult care homes licensed for APD.
- (c) Renewal background check requests for all Subject Individuals living or working in an adult care home must be received by the ACHP prior to the expiration date of the Subject Individual's previous ACHP approval.
- (d) Prior to a subject individual's change in position or role (e.g., changing from caregiver to Resident Manager)
- (e) Prior to working in another home, regardless of whether the employer is the same or not, unless MCAR 023-070-430 applies.
- (f) Prior to working in another home that is licensed to serve a different population from the population listed on the Subject Individual's initial approved background check.

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 in 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 OARs 407-007-0275 through 407-007-0277.

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, a Resident Manager, Shift Manager, or a caregiver.

070-445 It shall be the responsibility of the Operator to ensure that all subject individuals have a current approved background check. All employees shall have an approved background check before providing residential care or working in the 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 (e.g., a denial or a restricted approval) may appeal that decision. Appeals will be processed by the State of Oregon Background Check Unit in accordance with OAR 407-007-0330.

070-465 If the Operator is a QED, the Operator shall:

- (a) Submit background check requests only for subject individuals who are associated with the Operator's home(s).
- (b) Submit a copy of the approved background check determination with the appropriate ACHP application for all providers to the ACHP.

(c) Inform the ACHP in writing of the name of any subject individual who receives a notice containing an adverse outcome (e.g., denial or restricted approval) within 24 hours.

**023-070-500      RESIDENT MANAGERS, SHIFT MANAGERS, AND CAREGIVERS**

070-505      Operators who wish to employ a caregiver shall obtain approval from the ACHP. No caregiver shall work in an adult care home without an approved background check from the Background Check Unit.

070-510      Prior to interacting with residents and providing residential care to residents in a Multnomah County Adult Care Home, all caregivers must complete and submit a caregiver application and appropriate fees and be approved by the ACHP. If the caregiver already has a current approved caregiver application within Multnomah County, the Operator shall submit a copy of the Employment Notification form within 15 days of the caregiver's start date.

070-513      A completed caregiver application includes:

- (a) Verification that the caregiver workbook has been completed.
- (b) A copy of the completed Provider Checklist for the specific home.
- (c) A current ACHP background check request or approval for the caregiver.
- (d) If the Operator intends for the caregiver to work alone, verification of current approved CPR and First Aid certification for the caregiver.
- (e) Verification of having taken and passed a mandatory reporter training.
- (f) For BH caregivers, verification that the applicant has completed an ACHP-approved basic training course and passed a qualifying test.

070-515      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 Manager's qualifications. The Operator shall ensure that Resident Managers or Shift Managers submit a completed application packet with the appropriate fee and have received approval from the ACHP prior to allowing the individual work in the home.

070-520      A complete Resident Manager or Shift Manager initial application shall include:

- (a) A completed Resident Manager application packet and required fees.
- (b) Verification of having taken and passed:
  - (1) A fire safety training.
  - (2) The English Competency Test within the past 12 months.

- (3) The currently approved basic training course.
- (4) An ACHP qualifying test.
- (5) An approved food handler's training.
- (6) An approved mandatory reporter training.

(c) Proof of attending an ACHP Orientation within the past 12 months.

(d) A current Background check approval for the Resident Manager.

(e) A statement from a physician, physician assistant, or nurse practitioner on the ACHP-approved form indicating the applicant is physically, cognitively, and emotionally capable of providing residential care.

(f) A copy of the completed Provider Checklist for the specific home.

(g) A current CPR and First Aid certificate for the applicant.

070-523 All providers must disclose on initial and renewal applications if they have been found to have committed child abuse or have substantiated abuse allegations. The ACHP shall review provider history of abuse and maintain a compliance history for all providers.

070-525 Once approved, the Operator shall ensure Resident Managers, Shift Managers, and caregivers submit a completed renewal application annually prior to the individual's expiration date.

- (a) All renewal applications shall include an approved background check or background check request for that role and population.
- (b) Application packets for Resident Managers, Shift Managers, and caregivers who work alone shall include verification of current CPR and First Aid.
- (c) Resident Manager and Shift Manager renewal application packets must include copies of annual continuing education certificates as appropriate to the individual's certification level and a physician's report every two years.
- (d) BH caregiver renewal applications must also include copies of at least 12 hours of annual continuing education credits.

070-528 All providers will be notified annually of their responsibilities as a mandatory reporter of abuse. The renewal application will document the provider's acknowledgement of their responsibilities as a mandatory reporter of abuse.

070-530 If, during the period covered by the license, the Resident Manager leaves, or ceases to act as the Resident Manager, the Operator must notify the ACHP within 24 hours, including circumstances when the Operator moves into the home and 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 023-070-520, an updated staffing plan, and shall obtain approval from the ACHP. The proposed new Resident Manager must satisfy the requirements listed in MCAR 023-070-520. The Operator must request modification of the adult care 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.

070-535 If the ACHP determines an unexpected and urgent staffing situation exists, the ACHP may permit, in writing, a person who has not completed an ACHP Orientation to act as a Resident Manager until the orientation is completed or for 60 calendar days, whichever is shorter. Population-specific requirements may be found in sections XI through XIII of these rules. 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 the Operator is unable to move into the home. The Operator must notify the ACHP of the situation and submit an exception request for ACHP approval that provides:

- (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, Resident Manager, Shift Manager, and BHD caregiver applicants shall at a minimum successfully complete an ACHP approved basic training course before being licensed or approved to provide care to any resident. The ACHP-approved basic training hours may include but are not limited to: demonstrations and practice in physical care giving; screening for care and service needs; appropriate behavior towards residents with physical, cognitive, or emotional disabilities; issues related to accessibility for persons with disabilities; fire safety and evacuation issues; emergency procedures; medication management; personal care products; food preparation; home environment and safety procedures; residents' rights; and mandatory abuse reporting.

070-607 Prior to being licensed or approved, Operators, Resident Managers, and Shift Managers shall complete an online fire safety course and complete an approved food handler's course.

070-608 All Operators, Resident Managers, and Shift Managers must attend the ACHP-approved diversity training, Emergency Preparedness Planning, **Record Keeping** **“Part A – Screening and Care Planning,”** and Record Keeping “Part B – Medication Management” within the first year of licensure or approval.

070-609 Caregivers may be required to attend Record Keeping “Part B – Medication Management” within the first year of employment.

070-610 Operators, Resident Managers, and Shift Managers must complete ACHP-approved continuing education 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, and BH caregivers (see MCAR 023-130-410).
- (b) Fourteen hours for Class 2 Operators, Resident Managers, Shift Managers.
- (c) Sixteen hours for Class 3 Operators, Resident Managers, Shift Managers.

070-612 Registered nurse delegation or consultation, CPR and First Aid certification, the Ensuring Quality Care Course, the ACHP-approved Orientation, the Ventilator Assisted Care Course and skills competency checks, or consultation with an accountant shall not count towards the required minimum training hours.

070-620 Operators shall orient all Resident Managers, Shift Managers, and caregivers to the physical characteristics of the home and the residents of the home and their care needs using the ACHP Provider Checklist before providers are left alone with residents. The Operator shall keep on file a copy of each providers' signed and completed ACHP Provider Checklist for that home. The completed Provider Checklist shall be kept in the adult care home business records per MCAR 023-090-455(b).

070-625 Operators shall train all providers 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 Shift Managers shall have Adult CPR and First Aid certification before being licensed or before providing residential care to residents, and caregivers shall have Adult CPR and First Aid certification before being left alone with residents in the adult care home. CPR and First Aid certification shall be renewed as necessary to remain current. Valid CPR and First Aid courses shall:

- (a) Be provided by or meet the standards of the American Heart Association or the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.
- (b) If conducted online, include an in-person skills competency check conducted by a qualified instructor meeting the standards of the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

070-633 Prior to being approved, all providers shall complete a mandatory reporter training. In addition, all providers shall complete an annual review of the responsibility for mandatory reporting of abuse or neglect of a resident. The initial and annual review shall be documented on the provider's application. This review shall not count towards annual continuing education requirements.

070-635 All caregivers working in APD homes shall study the ACHP-approved Caregiver Study Guide and complete the Caregiver Workbook with no assistance or complete an ACHP approved basic training prior to providing residential care. All BH providers, including caregivers, must complete the BHD Basic Training Course, which includes, but is not limited to, passing an examination on course work and necessary skills. [See MCAR 023-070-605]

070-636 All Operators, Resident Managers, Shift Managers, and Caregivers, other ACH staff members, and contracted staff as described within MCAR 023-070-637, must complete an Oregon State-approved LGBTQIA2S+ protections and human immunodeficiency virus (HIV) care training as mandated by ORS 441.111 to 441.122.

- (a) Effective December 31, 2024, all Operators and ACH staff members must have completed the required training.
- (b) All Operators licensed on or after January 1, 2025 must have completed the required training as part of the application process, and
- (c) ACH staff hired on or after January 1, 2025 must complete the required training prior to beginning job responsibilities.
- (d) Following the initial training described above, all Operators, Resident Managers, Shift Managers, Caregivers, and other ACH staff members are required to complete the training biennially (once every two years) as described within MCAR 0023-070-638 below.
- (e) The Oregon State-approved training shall address the elements described in MCAR 023-070-638 below.

070-637 Contractors who provide services or supports directly to residents must complete the LGBTQIA2S+ protections and HIV care trainings outlined in MCAR 023-070-638.

- (a) Contractors who must be trained include, but are not limited to, RN consultants and administrative consultants, housekeeping services, dietary services, beauticians, barbers, or other contractors who provide services or supports directly to residents.
- (b) Exempt from this training requirement are contractors who contract directly with the resident or the resident's representative, and contractors who do not generally provide services or supports directly to residents, including but not limited to, contractors for landscaping, pest control, deliveries and building repairs.
- (c) By December 31, 2024, operators shall ensure that all contracts entered into with entities described in paragraph (a) of this section shall include language requiring contractors provide Oregon State-approved LGBTQIA2S+ protections and HIV care training to their employees within 12 months of entering into the contract with the operator, the ACH, and/or business representing the ACH; and every two years thereafter.
- (d) For existing contracts in effect January 1, 2025, operators shall require the contractor provide Oregon State-approved LGBTQIA2S+ protections and HIV care training to employees by December 31, 2025, and every two years thereafter.
- (e) For new contracts created after January 1, 2025, operators shall require contractors provide Oregon State-approved LGBTQIA2S+ protections and HIV care training to employees within 12 months of entering into the contract with the ACH, and every two years thereafter.
- (f) Operators must inform contractors that the cost of all LGBTQIA2S+ protections and HIV care trainings for contracted employees shall be paid by the contractor.

070-638

TRAINING CONTENT REQUIREMENTS. All Operators, Resident Managers, Shift Managers, and Caregivers, other ACH staff members and contracted staff are required to complete initial/preservice and biennial (every other year) training addressing LGBTQIA2S+ protections and HIV care, as described in this section. Operators are responsible for the cost of providing this training to all ACH staff. The cost of all LGBTQIA2S+ and HIV care trainings for contracted employees shall be paid by the contractor.

- (a) Each ACH must designate two employees, as reasonable, one to represent management and one to represent direct care staff by July 1, 2024. The individual designated to represent management shall serve as a point of contact for the ACH regarding compliance with preservice training and biennial training. This person shall develop a general training plan for the ACH. For operators that are also the primary caregiver in the home, only one staff person will be required to be designated.

(b) The operator must select the LGBTQIA2S+ protections and HIV care training to be used by the ACH by either:

- (1) Choosing to use the standard Oregon State-approved biennial LGBTQIA2S+ protections and HIV care training; or
- (2) Applying to Oregon State to request approval of a biennial LGBTQIA2S+ protections and HIV care training to be developed and provided by the operator.

(c) ORS 441.116 requires all LGBTQIA2S+ protections and HIV care trainings address:

- (1) Caring for LGBTQIA2S+ residents and for residents living with HIV; and
- (2) Preventing discrimination based on a resident's sexual orientation, gender identity, gender expression, or HIV status.
- (3) The defined terms commonly associated with LGBTQIA2S+ individuals and HIV status.
- (4) Best practices for communicating with or about residents living with HIV and LGBTQIA2S+ residents, including the use of an individual's chosen name and pronouns.
- (5) A description of the health and social challenges historically experienced by LGBTQIA2S+ residents and by residents living with HIV, including discrimination when seeking or receiving care at care facilities and the demonstrated physical and mental health effects within the LGBTQIA2S+ and community associated with such discrimination.
- (6) Strategies to create a safe and affirming environment for LGBTQIA2S+ residents and residents living with HIV, including suggested changes to care facility policies and procedures, forms, signage, communication between residents and their families, activities, in-house services and staff training.
- (7) The individual or entity providing the training must demonstrate a commitment to advancing quality care for LGBTQIA2S+ residents and for residents living with HIV in this state.

(d) If the operator chooses to apply to Oregon State to request training approval, the proposal for training submitted by an operator must comply with the requirements described within OAR 411-049-0125 (11) and 411-360-0175.

070-639      HOME AND COMMUNITY-BASED SERVICES (HCBS) TRAINING. For all APD licensed homes and ACHP licensed homes serving APD residents: All Operators

and ACH staff members are required to complete an Oregon State-approved HCBS initial training and annual training thereafter.

- (a) Effective March 31, 2024, all Operators and ACH staff members must have completed the required initial training.
- (b) All Operators licensed on or after April 1, 2024 must have completed the required initial training as part of the application process, and
- (c) ACH staff hired on or after April 1, 2024, must complete the required initial training prior to beginning job responsibilities.
- (d) Effective April 1, 2025, all Operators and ACH staff members are required to complete an Oregon State-approved HCBS training annually.

070-640 The ACHP may require Operators, Resident Managers, Shift Managers, and 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 Resident Managers, Shift Managers, and caregivers in the home where they work and available for review.

## **023-070-700 TESTING**

070-702 Operator, Resident Manager, and Shift Manager applicants shall pass the English Competency Test to demonstrate adequate communication skills before an application packet is issued by the ACHP. The English Competency Test shall be taken within 12 months of an application approval for any role for which the test is required.

070-703 Applicants or providers may attempt to pass the English Competency Test three times in any six-month period. Any applicant who fails the English Competency Test three times within a six-month period must wait three months from the date of the last failed test before attempting to retest.

070-705 Applicants must pass an ACHP approved qualifying test before being licensed, or approved to be either a Resident Manager or Shift Manager, or prior to providing residential care as a caregiver in a BH home. 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 No Operator or Resident Manager applicant may take the qualifying test more than twice in a six-month period. Failing to pass a qualifying test on the second attempt may lead to an application being denied. A BHD caregiver applicant who

fails the second qualifying test must wait 14 days to retake the test, and each subsequent test failure shall require a 14-day waiting period.

070-715 Any applicant who cheats or attempts to cheat while taking a 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 or approved provider 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 provider 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.

070-818 Operators shall maintain and post a current and accurate staffing plan that reflects sufficient staffing needs to ensure that residents are receiving their required care. Any updates to staffing shall be marked on the plan. Staffing plans should be archived in the adult care home business records.

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 residents' health, safety, and welfare.

- (c) Monitor record keeping.
- (d) Document their visits to the home.
- (e) Ensure that the home is in compliance with these rules.
- (f) 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 At least seven business days prior to an anticipated vacation or absence, Operators shall submit for approval a Vacation-Absence from the Home form any time the Operator or Resident Manager will be out of the home or not present to oversee daily operation of the home for a continuous 72-hour period. The ACHP shall respond within 72 hours of receipt of request. The Operator shall also submit:

- (a) The name of a Back-Up Operator or Resident Manager who is not currently a provider in the Operator's home(s) to oversee and monitor the adult care home in accordance with MCAR 023-070-825. The person named must be an Operator or Resident Manager in Multnomah County who meets or exceeds requirements for the classification of the home.
- (b) A temporary operation plan that includes the name(s) of qualified caregiver(s) who will live in the home and be responsible for providing direct care in the home, any back-up caregivers, and verification of the caregiver(s) qualifications. The operation plan must be in compliance with MCAR 023-070-850 through 023-070-860.
- (c) Caregivers who will be left in charge of a home or who provide care alone for any period that exceeds 20 hours shall meet the currently approved initial training and testing requirements for a Resident Manager.

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, Shift Manager, or 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 detracts from the intent of a homelike environment, and may only be allowed for specific resident populations 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 providers in compliance with all applicable provisions of federal and state wage and hour laws. Operators shall maintain records verifying hours worked for each provider working in the home.

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 provider 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 providers have adequate time off from their employment.

070-865 Operators shall ensure that providers have a clear understanding of job responsibilities, have knowledge of residents' care plans, **and person-centered service plans when applicable**, 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 providers, family members, and friends. This applies to all providers 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 all providers, private monitoring registered nurses, 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 and all other providers shall protect resident's rights and help residents to exercise them as listed in the Residents' Bill of Rights.

080-110 Operators and all other providers shall provide a resident with the care and services as agreed to in the resident's care plan and as appropriate to meet their needs.

080-115 Operators and all other providers shall meet the nighttime care needs of the residents.

080-120 Operators and all other providers 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 and providers of the home is encouraged; and the residents' independence and decision-making are protected and promoted.

080-123 If an Operator or any provider intends to take a resident on a trip or vacation for a period that is expected to exceed 24 hours, advance notification must be given to and written approval must be obtained prior to departure from appropriate persons, including the case manager, representative, or any other appropriate people. The Operator shall send a copy of that approval to the ACHP. The advance notification shall include documentation of any arrangements including staffing, support, transportation, and expenses for the trip or vacation. If the Operator plans to be absent from the home more than 72 hours, the Operator must comply with MCAR 023-070-830.

080-125 Operators and all other providers shall supervise resident use of hot tubs, saunas, spas, and swimming or other pools. Operators shall know any warnings for hot tub or sauna use for resident medications and shall inform other providers and residents when medication warnings exist.

080-130 Operators and all other providers 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 or if a resident's medication or adaptive equipment (including, but not limited to, glasses, dentures, or hearing aids) is missing, the incident shall be immediately (no later than 24 hours) documented in the resident's records and appropriate persons notified, including the doctor, the resident's representative or family member, as applicable, and the resident's case manager. Other persons involved in resident care, including any providers, shall also be informed.

080-135 Operators and all other providers shall immediately inform the resident, the resident's physician or nurse, the resident's representative or family, as appropriate, the resident's case manager, when applicable, and any other appropriate people of the resident's change in condition, including when the resident has a major behavioral incident, accident, or illness; a resident's unexplained or unanticipated absence, hospitalization, or death; when the provider becomes aware of alleged or actual abuse of the resident; or if the resident contacts or is contacted by the police. The Operator will follow up on the initial contact with a written incident report.

080-137 In the event of any unusual incident, including the incidents listed in MCAR 023-080-135, injury, accident, or other unusual incidents involving a resident the Operator or provider shall complete a written incident report on the ACHP approved form. Documentation shall include how and when the incident occurred, who was involved, what action was taken by the Operator or staff, and the outcome for the resident. Separate reports must be written for each resident involved in an incident. Within five working days of the incident, the Operator shall submit the completed incident report to the resident's case manager.

080-140 Operators and all other providers 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 or any provider with the resident at the time of the emergency 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 resident's primary care provider, representative, or family member, as appropriate, and the case manager, if 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 and support residents in having the same degree of access to the greater community as others not receiving Home and Community-Based Services . This does not mean the Operator has to pay for transportation.

080-155 Operators may be asked to manage or handle a resident's money. If the Operator agrees to manage or handle a resident's money, the Operator shall ensure the following:

- (a) The money shall be maintained in a separate account in the resident's name and the Operator shall keep a record of funds received and spent as directed by or on behalf of the resident. [See MCAR 023-090-220(m)]
- (b) Under no circumstances will the Operator commingle, borrow from, loan to, or pledge any funds of a resident.
- (c) Personal Incidental Funds (PIF) for Medicaid consumers are used only at the discretion of the consumer for personal items including, but not limited to, clothing, tobacco, and snacks (not part of daily diet).
- (d) Operators and any other providers shall not influence, solicit from, or suggest to any resident that they or their family give the Operator or other providers, or the Operator's or provider's family, money or property for any purpose.
- (e) The Operator and any provider or the Operator's family and any provider's family shall not accept gifts, including an inheritance or loans from the resident or the resident's family, and shall not assist, arrange, or coerce a resident into adding them as a beneficiary of a current resident's will or life insurance policy.

(f) The Operator shall reimburse the resident any funds that are missing due to mismanagement or theft as a result of mismanagement on the part of the Operator or any provider in the home, or for any funds within the custody of the Operator that are missing. Such reimbursement must be made within ten business days of verifying that funds are missing.

080-160 Operators or any other providers 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, sibling, 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.

080-165 Operators shall not accept advance payments for care and services beyond one month.

080-170 Operators are under no duty to participate in the withdrawal or withholding of life-sustaining procedures or of artificially administered nutrition or hydration. If a health care provider is unable or unwilling to carry out a health care instruction or the decisions of the health care representative, the Operator shall immediately notify the resident, the resident's health care representative or family member, as appropriate, the resident's licensed health care professional, and the ACHP of their objection. [See ORS 127.505 through 127.660 for additional information]

**023-080-200 SCREENING**

080-205 All Operators of adult care homes shall screen a potential new resident for care needs using an ACHP approved screening form before admitting a resident to the adult care home. The screening shall determine if the potential resident has nursing care needs [See MCAR 023-080-608]; whether the care needs of the potential resident fall within the license classification of the home; and, if the Operator can meet the care and emergency evacuation needs of the potential resident along with meeting the care and emergency evacuation needs of the other residents currently in the home. The Operators shall review the Residency Agreement and discuss with potential residents any restrictions regarding the use of alcohol, pets, the legal presence and use of medical or recreational marijuana, and the use of intercoms. [See MCAR 023-060-120]

080-208 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. If it is determined that the resident's care needs exceed the classification of the home, the Operator may submit an out-of-class exception to the ACHP prior to readmitting the resident if the Operator determines that the home can continue to meet the resident's care needs. Prior to admitting the resident, the Operator shall obtain written approval from the ACHP. If the Operator determines that the home can no longer meet the resident's care needs, this determination shall be documented on the screening sheet and shall clearly demonstrate the basis for refusing the resident's readmission to the home. A copy

of the screening shall be given to the resident or the resident's representative, the resident's case manager, and the ACHP within 24 hours of making the determination.

080-210 All screenings shall include interviews with the potential resident in person, and the potential resident's representative and family, as appropriate, 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.

080-215 The Operator's screening of a potential resident's care needs shall be completed to ensure that the resident's care needs are within the classification of the home and that the home will be able to meet the resident's needs. The screening 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 potential resident shall be documented; a copy given to the potential resident and any representative; and, a copy kept with the resident's records.

080-225 Before admitting an individual who pays privately, the Operator shall advise the potential resident and the resident's representative or family member, as appropriate, 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's 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 prospective resident's records general information regarding the prospective resident. The information shall include, as applicable, names, addresses, and telephone numbers of the prospective resident's representative, relatives, and other significant persons; case manager; preferred medical, mental health, and dental providers; the prospective resident's day program or employer; and any other representative providing care and services to the prospective resident. The record shall also include the date of admission and, if available, the prospective resident's Medicaid prime number, Medicare number, and private medical insurance numbers, birth date, gender, marital status, religious preference, preferred hospital, guardianship status, and prior residence. At an appropriate date, the Operator shall obtain mortuary information, if available. This information shall be kept up to date and shall be maintained according to MCAR 023-090-220(b).

080-310 Prior to admission to the home, the Operator shall have made every effort to obtain orders from the prospective resident's prescribing licensed health care professional for medications, treatments, therapies, and special diets. Any telephone orders must be followed with written signed orders within 72 hours and the Operator must document attempts to get them. A review by the prospective resident's prescribing licensed health care professional of the prospective resident's preferences for over-the-counter medications and home remedies shall also be obtained at that time and shall be filed according to MCAR 023-090-220.

080-313 Prior to admission the Operator shall also obtain and place in the record any medical information available including a list of known physical, emotional, and medical health conditions and diagnoses; a history of incidents, accidents, or illnesses affecting the health, safety, and or emotional well-being of the prospective resident; known food or medication allergies, immunizations, Hepatitis B status and the results of previous TB tests, if known; or history of emotional or mental health status that may be pertinent to current care and services.

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 prospective 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's record and copies sent with the resident when transferred for medical care.

080-317 Prior to admission for Medicaid-funded consumers; the Operator shall ensure that a case manager has approved the prospective resident's placement. [See MCAR 023-060-210]

080-320 Prior to admission, the Operator shall review the Residents' Bill of Rights, the home's Nondiscrimination Policy, and the home's current and approved Residency Agreement with the prospective resident, the prospective resident's representative or family, as appropriate. The discussion shall be documented by having the prospective resident sign the Residency Agreement, the Nondiscrimination Policy, and the Residents' Bill of Rights. These signed documents shall be filed according to MCAR 023-090-220 and a copy of each must be given to the prospective resident and/or resident representative.

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

080-330 Prior to admitting any prospective resident who is from a different population than the population listed on the Operator's license or who receives services from any other public service agency, the Operator shall complete a safety assessment as part of the ACHP Interagency Form. In addition, the public service agencies serving the residents and the prospective resident shall review the Interagency Form, including the safety assessment, and the Operator shall obtain written permission from the ACHP and agencies before placement. Additionally:

- (a) A public service agency may include but is not limited to the State of Oregon Department of Human Services Child Welfare, Refugee Program, Office of Developmental Disabilities Services, and Aging and People with Disabilities, and the Oregon Health Authority Health Systems Division.
- (b) Operators whose current residents are served by various public service agencies must reassess and request approval when admitting a new resident.
- (c) For residents who are not served by a public service agency and intend to pay privately, the Interagency Form and safety assessment shall be completed and submitted to the appropriate parties.

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.

080-337 The Operator may refuse to admit an individual who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805.

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, health, or safety of other residents, the Operator, employees, other household members, or 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 representative of the resident or potential resident.

**023-080-400 PERSON-CENTERED SERVICE PLANS, INDIVIDUALLY BASED LIMITATIONS**

080-405 Person-centered services plans will be required in all Home and Community-Based Settings.

080-410 Person-centered service plans for Medicaid-eligible residents will be completed by the resident's case manager, pursuant to OAR 411-004-0030. The Operator must incorporate all applicable elements identified in the person-centered service plan into the resident's care plan. To effectively provide services, providers must have access to the portion of the person-centered service plan that the provider is responsible for implementing.

080-415 A privately paying resident, and as applicable, the representative of the resident shall be given every opportunity to direct the development of the person-centered service plan. The Operator may assist privately paying residents in developing a person-centered service plan when no alternative resources are available.

080-420 When conditions under 023-040-125 (d-i) may not be met due to threats to the health and safety of a resident or others, the person-centered service plan may apply an individually-based limitation with the consent of the resident or, as applicable, the resident's representative as described in this rule. See OAR 411-004-0040 for implementation effective dates.

080-425 An individually-based limitation must be supported by a specific assessed need and documented in the person-centered service plan by completing and signing a program approved form documenting the resident's or the resident representative's consent to the appropriate limitation. The form identifies and documents:

- (a) The specific and individualized assessed need justifying the limitation.
- (b) The positive interventions and supports used prior to any limitation.
- (c) Less intrusive methods that have been tried but did not work.
- (d) A clear description of the condition that is directly proportionate to the specific assessed need.
- (e) Regular reassessment and review to measure the ongoing effectiveness of the limitation.
- (f) Established timeframes for periodic review of the limitation to determine if the limitation should be terminated or remains necessary. The limitation must be reviewed at least annually.

- (g) The informed consent of the resident or, as applicable, the resident's representative, including any discrepancy between the wishes of the resident and the consent of the representative.
- (h) An assurance that the interventions and support do not cause harm to the individual.
- (i) For restraints, signed order from a prescribing licensed health care professional for the use of restraints. [See MCAR 023-080-700]

080-430 Operators are responsible for:

- (a) Maintaining a copy of the completed and signed form documenting the consent to the appropriate limitation. The form must be signed by the resident, or, if applicable, the resident's representative.
- (b) Regular collection and review of data to measure the ongoing effectiveness of and the continued need for the individually-based limitation.
- (c) Requesting a review of the individually-based limitation when a new individually-based limitation is indicated, or change or removal of an individually-based limitation is needed.

080-435 The Operator must notify the resident's case manager in the event a review and change or removal of an existing limitation appears warranted, and when a new limitation is supported by a specific assessed need. The case manager shall approve all changes with the consent of the resident and/or the resident's representative.

- (a) All attempts to notify the resident's case manager about a review to change, remove or add a limitation must be documented, and available in the resident's record.
- (b) The Operator will not be held responsible for any failure on the case manager's part to conduct a review of current limitations or to complete the person-centered service plan.

080-440 Limitations are not transferable between care settings. If a resident moves, continued need for any limitation at the new care setting must comply with the requirements as stated in this MCAR 023-080-400.

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

080-505 No medications, treatments, procedures, therapies, or adaptive equipment shall be administered to a resident without a signed order from a prescribing licensed health care professional. This includes over-the-counter and home remedies, except as otherwise permitted under MCAR 023-080-576.

080-510 Operators and other providers who administer medications shall demonstrate an understanding of the administration of each resident's medications. Operators

and other providers 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 resident's prescribing licensed health care professional.

080-520 Orders must be carried out as prescribed unless the resident or, if the resident is incapacitated, the resident's representative, within the scope and limits of the representative's authority, refuses consent. The resident's prescribing licensed health care professional must be notified if a resident refuses to consent to an order.

080-523 The Operator shall have all currently prescribed medications, including P.R.N. medications, and all prescribed over-the-counter medications available in the home for administration. Refills must be obtained before current medication supplies run out or expire. Attempts to order refills must be documented in the resident's record. In the case that a resident refuses or is financially unable to purchase a medication that is not covered by insurance, the Operator shall document the resident's decision on the back of the MAR and shall document all attempts made to order or obtain an alternate medication that is approved by the insurance, a prescribing licensed health care professional's signed order to discontinue the medication, and/or purchase the medication.

080-524 When controlled substances are prescribed, the dispensing of the controlled substances shall be documented on an ACHP approved form separate from the MAR.

080-525 At least annually, the Operator will obtain orders for a resident's medications, including prescribed medications, over-the-counter medications, and home remedies. These orders shall be signed by the resident's prescribing licensed health care professional and filed in the resident's record. Over-the-counter medications or home remedies may only be administered following receipt of a signed order by the resident's prescribing licensed health care professional.

080-530 Changes to orders, including the discontinuation of medications or treatments, may not be made without a prescribing licensed health care professional's order. Attempts to call the prescribing licensed health care professional 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 cannot be immediately obtained, the change must be written on an additional label attached to the medication container, not to deface the existing original pharmacy label, and must match the new medication order. This may **be** done temporarily until a new label is obtained or until the next fill cycle and attachment of the additional label. All attempts to obtain a new label

shall be documented in the resident's record. [See MCAR 023-080-595 for additional requirements]

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 representative or family member, as appropriate, case manager, and any other appropriate people to protect the health and safety of the resident.

080-540 Operators shall obtain a written signed order within 72 hours of receiving a prescribing licensed health care professional'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 that 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, physician assistant, 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, physician assistant, 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 and all providers shall know the specific reasons for the use of the psychoactive medication for a resident, the common side effects, and when to contact the prescribing licensed health care professional regarding those side effects. The care plan must identify and describe the resident's behavioral symptoms and shall address the psychoactive medications, behavioral and environmental supports, and any other intervention used to address the behavior symptoms identified.

080-565 The frequency of reassessment of the psychoactive medication use shall be determined by the prescribing licensed health care professional completing the initial assessment.

080-570 A resident, or a relative of the resident or an Oregon licensed registered nurse may administer subcutaneous, intramuscular, and intravenous injections. A Licensed Practical Nurse can give subcutaneous and intramuscular injections. An Operator or other provider that has been delegated and trained by a registered nurse under provision of the Oregon State Board of Nursing rules may give subcutaneous injections only. Intramuscular and intravenous injections cannot be delegated to Operators, Resident Managers, and caregivers. [See MCAR 023-100-250 for storage and disposal requirements of sharps]

080-575 Except as otherwise permitted under MCAR 023-080-576, each resident's medication container shall be:

- (a) Clearly labeled with the pharmacist's label or be in the original, labeled container or bubble pack
- (b) Be kept in a locked, central location, separate from that of the Operator, providers, all other occupants, laundry facilities, and cleaning supplies or other chemicals. Medications shall be stored as indicated by the product manufacturer and medications requiring refrigeration shall be locked and stored separately from non-resident medications.
- (c) Medications must remain in their original packaging and shall not be mixed together or stored in another container prior to administration.
- (d) Residents shall not have access to any medications in the home unless they have an order to self-medicate. In addition, non-providers shall not have access to the resident medications.

(e) Stock bottles are not permitted. Over-the-counter medications belonging to a resident must be clearly marked with the resident's name.

080-576      Adult care homes in Multnomah County licensed to serve residents whose placements and services are authorized by the Behavioral Health Division (BHD) must ensure at least one unexpired opioid overdose kit for emergency response to suspected overdose is available in the home at all times. Opioid overdose kits do not require a prescription and are not specific to an individual (see ORS 689.684).

(a) All opioid overdose kits must include an ultraviolet light-protected hard case and must contain, but not be limited to:

- (1) Two doses of an FDA-approved short-acting, non-injectable, opioid antagonist medication;
- (2) One pair non-latex gloves;
- (3) One face mask;
- (4) One disposable face shield for rescue breathing; and
- (5) One short-acting, non-injectable, opioid antagonist medication administration instruction card.

(b) Opioid overdose kits must be installed:

- (1) In an easily accessible, highly visible, and unlocked location;
- (2) At a height of no more than 48 inches from the floor;
- (3) In a location without direct sunlight;
- (4) In an area where temperatures are maintained between 59°F and 77°F; and
- (5) And must have a sign clearly indicating the location and content of the kit.

(c) Short-acting, non-injectable, opioid antagonist medication not within installed opioid overdose kits must be stored in a locked cabinet with other resident medications.

(d) Opioid overdose kits must be maintained as follows:

- (1) Checked daily to ensure the required components have not been removed or damaged;
- (2) Checked monthly to ensure the short-acting, non-injectable, opioid antagonist medication has not expired; and

- (3) Restocked immediately after use.
- (4) Daily and monthly checks must be documented. Documentation must be stored in the ACH business record and must be retained for a minimum of three years.

(e) Upon recognizing a person is likely experiencing an overdose, program staff must immediately respond based on the medical emergency procedures of the facility.

(f) A person who has reasonable cause to believe an individual is experiencing an overdose, and in good faith administers short-acting, non-injectable, opioid antagonist medication, is protected against civil liability or criminal prosecution unless the person, while rendering care, acts with gross negligence, willful misconduct, or intentional wrongdoing as described in Oregon Revised Statute (ORS) 689.681."

(g) Administration of short-acting, non-injectable, opioid antagonist medication must be documented by the ACH staff member who administered the medication. Documentation must be submitted to the Oregon Health Authority within 48 hours of the incident and must include:

- (1) Name of the individual;
- (2) Description of the incident including date, time, and location;
- (3) Time 9-1-1 contacted;
- (4) Time of administration(s) of short-acting, non-injectable, opioid antagonist medication;
- (5) Individual's response;
- (6) Transfer of care to EMS; and
- (7) Signature of ACH staff member.

(8) ACH staff members must fully cooperate with emergency medical service (EMS) personnel, and must not interfere with or impede the administration of emergency medical services.

080-577	Opioid overdose medication and kits which are the personal property of a resident, do not need to be kept in a locked location or maintained as described under MCAR 023-080-576.
080-580	The Operator may set up a resident's medications for up to seven calendar days in advance (excluding P.R.N. medications) only if a resident will be administering medication outside of the home and without adult care home provider supervision. The resident shall have their own closed container manufactured for that purpose 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, full name of each medication, time to be given, dosage, amount, route, and description of the medications. When not in use, the empty container shall be stored in the locked medication area. Medications shall be set up no more than 24 hours prior to when a resident intends to leave.

080-585 All medication, including controlled substances, shall be disposed of within ten days of becoming outdated, discontinued, unused, recalled, or contaminated. Routine medications not used in the current month and P.R.N. medications not used by the time a new prescription is received are considered unused medications. Unused medication shall be returned to the pharmacy or the resident, if possible, or disposed of per federal guidelines. Medications past the pharmacy's expiration date are considered outdated medications and shall be disposed of within ten days of the expiration date as defined herein. Disposal shall be:

- (a) Completed according to federal guidelines for drug disposal (e.g., dropping the medications off at an approved secure collection site or removing the medications from their containers and smashing or liquefying them before mixing them in with garbage).
- (b) Documented on the medication administration record or in the resident's record. Documentation shall include the date, the name and dosage of the medication, the number of pills disposed of, the reason for disposal, the method of disposal, 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 provider. The signature of the witness is to be included in the resident's record.

080-590 Operators and all other providers shall be responsible for making certain that all medications and supplies for treatment prescribed for a resident are fully accounted for and used only by that resident. If there are problems with accounting for controlled substances, the ACHP may require that the adult care home use a controlled substances tracking sheet.

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:

- (a) Identify all medications prescribed to that resident, including over-the-counter medications, prescribed dietary supplements, and self-administered medications.
- (b) Indicate the medication name, dosage, route, the date, and time to be given.

- (c) Be immediately initialed at the time of administration by the person giving the medications using only black or blue permanent ink.
- (d) Include all treatments and therapies prescribed to the resident. 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.
- (e) Contain a legible signature that identifies each set of initials appearing on the MAR.

080-595 A discontinued or changed medication order shall be immediately 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. Any medication administration or documentation irregularities, including when a resident misses or refuses a medication, treatment or therapy, shall be documented by circling the provider initials on the front of the MAR and recording a brief but complete explanation 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 prescribing licensed health care professional's written approval that shall be kept in the resident's records. The written approval shall include documentation that the licensed health care professional has trained the resident for self-administering medications or treatment or has documented that training is unnecessary; documentation that the resident is able to manage their own medication regimen; and documentation of retraining when there is a change in dosage, medication, or time of delivery. A resident shall keep self-administered medications locked in a secure place in their bedroom. Medications must be kept locked except those medications on the residents' own person. Operators and other providers shall not be responsible for administering or documenting medications when residents self-medicate, but shall notify appropriate health care professionals if a resident shows signs of being unable to self-medicate safely. Self-administration of medications shall be documented in the resident's care plan.

**023-080-600 NURSING CARE TASKS**

080-605 Adult care homes with privately paying resident(s) shall ensure resident(s) are monitored in the home by a physician, physician assistant, nurse practitioner, or registered nurse. 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; when a nursing care task [see MCAR 023-020-105(82)] has been ordered by a physician or other prescribing licensed health care professional; or when a change in a resident's condition results in a health concern or behavioral symptom that may benefit from a nursing assessment.

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 or other provider 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 Oregon State 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 RESTRAINT**

080-705 Restraints may be used only with the resident's or resident's representative's written consent and according to an approved individually based limitation 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 representative refuses consent.

080-710 Except in an emergency situation, as described in MCAR 023-020-105(1)(i), 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 or behavioral 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 as determined by the assessment. All physical restraints must allow for quick release at all times.

080-715 Restraints may be used only after an assessment by a physician, physician assistant, nurse practitioner, registered nurse, Christian Science practitioner, mental health clinician, behavioral professional, physical therapist, or occupational therapist assessment.

080-720 A written, signed order for the restraint from the physician, physician assistant, nurse practitioner, or Christian Science practitioner shall be obtained and placed in the resident's 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 signed restraint order in the resident record. The order 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 or **person-centered service 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 15 minutes. During this period, they are to be repositioned, offered toileting, offered 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. No tie restraints of any kind will be used to keep a resident in bed.

080-750 The frequency for reassessment of restraint use shall be determined by the prescriber based on the recommendations made in the initial assessment and shall be documented on the order. The reassessment may be performed by the physician, physician assistant, nurse practitioner, registered nurse, Christian Science practitioner, mental health clinician, behavioral professional, 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 may not be considered restraints.

080-760 Use of restraints shall not impede the ability of the Operator to evacuate all household members within three minutes.

080-765 Restraints may not be used for discipline of a resident or for the convenience of the Operator or any other provider.

080-770 Wrongful restraint may be considered abuse. However wrongful restraint does not include physical emergency restraint to prevent immediate injury to a resident who is in danger of physically harming themselves or others, provided only that the degree of force reasonably necessary for protection is used for the least amount of time necessary.

080-775 Physical Restraints are not allowed in BH homes. Operators and other providers will not employ physical restraints for individuals receiving personal care services authorized or funded through the Behavioral Health Division. [See MCAR 023-130-540]

**023-080-800 MEALS**

080-803 The Operator shall support the freedom of the resident to have access to their personal food at any time.

080-805 Three balanced nutritious meals will be served daily at times consistent with those in the community. The US Department of Agriculture (USDA) will determine what constitutes balanced and nutritious. 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, religious, and ethnic preferences. Special consideration must be given to residents with chewing difficulties and other eating limitations.

080-807 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 resident's preferences or ethnic background is 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 directed by a resident or the resident's representative and as prescribed in writing by the resident's physician, physician assistant, or nurse practitioner or other licensed health care professional. The Operator shall maintain documentation that identifies how modified or special diets are prepared and served to residents.

080-825 Operators shall not serve home canned foods unless prepared according to the latest guidelines of the Oregon State University Extension Service and must be dated at the time they were sealed. Freezing is the most acceptable method of food preservation. Milk must be pasteurized. Operators shall not serve wild game. All meat 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 elsewhere, alone, or in their rooms. Operators are responsible for ensuring that an alternate meal is available for a resident to take out into the community if the resident will be away from the home during a scheduled meal time. Normal eating out (e.g., restaurant meals, takeout,

or picnics) is permitted. Payment for meals eaten away from home for the convenience of the Operator (e.g., restaurants, senior meal sites) is the responsibility of the Operator. Payment for food beyond the required three meals and two required snacks or as part of an individual recreational outing by choice is the responsibility of the resident.

080-835 Operators shall prepare and post a planned weekly menu for the current week of the residents' meals that honors the input and preferences of the residents, is appropriate to resident modified or special diets as agreed to by the resident, and includes a proposed schedule of meal and snack times. Each daily menu will include food from the five basic food groups and will include seasonal fresh fruits and vegetables. Operators shall follow the posted menu and/or offer substantially similar substitutions in compliance with MCAR 023-080-805. The ACHP may require additional recordkeeping and/or training if problems with meals or nutrition arise. Weekly menus shall be archived and kept in the adult care home for 12 months.

080-837 The Operator must support the resident's right to access food at any time. If a resident misses a meal at a scheduled time, an alternative meal must be made available. Residents shall not be restricted to specific meal times and shall be encouraged to choose when, where, and with whom to eat.

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 maintained at 40 degrees Fahrenheit (4.4 degrees Celsius) or less and a freezer maintained at 32 degrees Fahrenheit (0 degrees Celsius) or lower. All working refrigerators and freezers will have a thermometer in working order.

080-843 Storage, including freezers, and food preparation areas shall be such that food is protected from dirt and contamination and areas must be free from food that is spoiled or expired. Leftovers placed in the refrigerator shall be marked with the date cooked and shall be disposed of within 4 days. Food placed in the freezer shall be dated with the date placed in the freezer. If the ACHP has a concern regarding the quality of food in the home according to USDA recommendations, the ACHP may request that items be disposed of.

080-844 The Operator shall maintain adequate supplies of food on the home's premises, which is defined as a supply of staple foods for a minimum of one week and perishable food for a minimum of two days.

080-845 Operator food, utensils, dishes, and glassware shall not be stored in bedrooms, bathrooms, laundry rooms, or living areas. A resident may choose to store their personal food or belongings in their bedroom.

080-850 If the home does not have a dishwasher, utensils, dishes, and glassware shall be washed in hot, soapy water, rinsed, air dried, 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, or vocational programs. Visits from family or friends can count for only two hours of the required activities per week. Activities shall optimize and promote individual initiative, autonomy, self-direction, and independence in making life choices. 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 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 ensure clear documentation of each resident's participation or refusal to participate in at least six hours of activities each week.

## **PART IX – STANDARDS FOR OPERATION**

**023-090-100 PROHIBITING PERSONS FROM THE HOME**

090-105 Operators and any providers may prohibit visitors from visiting a resident in the home 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 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 person's presence would jeopardize the health, safety, or welfare of the resident(s) or other occupants in the home.

**023-090-200 RESIDENT RECORDS**

090-205 Operators and providers shall keep accurate and up-to-date resident records on file in the adult care home where the resident lives.

090-207 Resident records must be kept in a legible, organized, and professional manner so as to be understood by ACHP staff. **Initials may substitute for signatures**

**on documents if a signature log with a corresponding printed name, signature, and initial is included in the record.**

090-210 Resident records maintained by the Operator shall be stored in a locked location that is accessible to the Operator and providers. Records shall readily be made available at the adult care home to all providers and to representatives of the ACHP conducting inspections, as well as to residents and their representatives. In addition, access must be readily available to the case manager and the Centers for Medicare and Medicaid Services. Resident records shall also be made readily available to the appointed State Long Term Care Ombudsman (LTCO), the Residential Facilities Ombudsman, Deputy State LTCO and Certified Ombudsman Volunteers with permission from the resident or resident's guardian or representative, as appropriate. [See MCAR 023-150-160]

090-215 Operators must put in place safeguards to protect resident health information and ensure protected health information (PHI) is not used or disclosed improperly. Operators must reasonably limit uses and disclosures to the minimum necessary to accomplish their intended purpose. Operators must have procedures in place to limit who can view and access resident's health information as well as implement training programs for their employees about how to protect health information. This includes that all resident information shared electronically is done so via secure email, additionally:

- (a) Unless required or allowed by state or federal law, a provider shall not disclose any personally identifiable information regarding:
  - (1) A resident's sexual orientation.
  - (2) Whether a resident is LGBTQIA2S+.
  - (3) A resident's gender transition status.
  - (4) A resident's human immunodeficiency virus status.
- (b) A provider must take appropriate steps to minimize the likelihood of inadvertent or accidental disclosure of information described in subsection (a) of this section to other residents, visitors, or staff, except to the minimum extent necessary for staff to perform their duties. Appropriate steps may include policies and procedures, training, or other documented actions or plans that address record disclosure by the provider and staff. The provider must notify the individual or individual's legal guardian or representative if an unauthorized disclosure of information occurs.

090-217 In compliance with Health Insurance Portability and Accountability Act (HIPAA) rules, only one resident's name will be used on each care plan, progress note, incident report, and in any other documents that contain PHI. If two or more residents are involved in an incident, an incident report shall be completed for each resident, outlining the role of the resident and not including the names of the other residents.

090-218 A resident's record must, before move-in and when updated, include the following information:

- (a) Legal name for billing purposes.
- (b) To promote person-centered care, any difference from legal records, as indicated by the individual, concerning:
  - (1) Chosen name.
  - (2) Pronouns.
  - (3) Gender identity.

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

- (a) A Resident Screening form. [See MCAR 023-080-220]
- (b) A Resident Information form. [See MCAR 023-080-305]
- (c) A Long Term Care Assessment form for privately paying residents. [See MCAR 023-080-225]
- (d) Medical information, including:
  - (1) Medical history, including any known allergies, the resident's history of hospitalizations, accidents and injuries accompanied by relevant incident reports, and a description of any physical, emotional, or mental health conditions. [See MCAR 023-080-313]
  - (2) Current written and signed prescribing licensed health care professional orders for all medications. [See MCAR 023-080-310]
  - (3) Any special diets or care instructions prescribed by a licensed health care professional, including special therapies treatments, orders for the use of restraints or adaptive equipment, or delegations. [See MCAR 023-080-515]
  - (4) Guardianship or Conservatorship letters, an Advance Directive for Health Care, Physician's Order for Life Sustaining Treatments (POLST) and Do Not Resuscitate (DNR) forms, and/or a Power of Attorney for Health Care, if applicable. [See MCAR 023-080-315]
- (e) Medication administration records. [See MCAR 023-080-594]
- (f) A complete, accurate, and current care plan (see MCAR 023-110-405 and 023-110-425) and documentation of any limitations, as described in MCAR 023-080-425, and data to support or eliminate an individually-based limitation.

- (g) Copies of the current Residents' Bill of Rights signed by the resident and/or the resident's representative or family member, as appropriate. [See MCAR 023-080-320]
- (h) Copies of the home's Nondiscrimination Policy signed by the resident and/or the resident's representative or family member, as appropriate. [See MCAR 023-080-320]
- (i) Copies of the ACHP-approved incident report form that document all significant incidents relating to the health or safety of a resident. The original shall be placed in the resident's record and a copy of the incident report will be submitted to ADVSD or BHD within five working days of the incident.
- (j) Narrative entries describing the resident's progress documented in ink at least once a week, dated and signed by the person writing them. If typed, each computerized progress note entry shall be immediately printed out and signed by the person who wrote the entry.
- (k) A signed and dated copy of the Residency Agreement. If the Residency Agreements are kept in a separate file, current copies of the Residency Agreement for each resident shall be kept together and must be made available for inspections. [See MCAR 023-060-100]
- (l) An up-to-date list of the resident's personal belongings kept in the home. [See MCAR 023-080-325]
- (m) If the Operator has been authorized by a resident or resident's representative to handle a resident's money, then there shall be a dated personal account record that includes the date, amount, and source of income received; the date, amount, and purpose of funds dispersed; the signature of the person who made the expenditure and receipts retained for purchases over \$5.00 for ADVSD or privately paying residents and \$10.00 for BHD residents. Each record shall include the disposition of the room and board fee the resident pays to the Operator monthly. Receipts shall not be required for purchases made by the resident themselves. [See MCAR 023-080-155] Resident financial records, per MCAR 023-090-225 shall be kept on file in the adult care home for seven years.
- (n) 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 notifications or authorizations of voluntary or involuntary moves or transfers. Resident financial records shall be maintained for seven years.
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 signed orders.
- (b) Current medication administration records, a care plan and support documents, the person-centered service plan, behavioral support plan, or nursing service plan, and any documentation of limitations. These documents shall be used as reference only.
- (c) Copies of current progress notes and incident reports, including documentation of actions taken by the adult care home staff, resident, or the resident's representative or family, as appropriate, pertaining to the move or transfer, as events take place.
- (d) Copies of any documents regarding the care, decision-making, and end-of-life directions for the resident, including but not limited to the following: Advance Directive, letters of guardianship, letters of conservatorship, POLST, and Do Not Resuscitate (DNR) orders.

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

**023-090-400** **POSTINGS**

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

- (a) A current adult care home license, including a statement of conditions, if applicable.
- (b) The Residents' Bill of Rights.
- (c) A copy of the home Nondiscrimination Policy that includes:

"(Name of care facility) does not discriminate and does not permit discrimination, including but not limited to bullying, abuse or harassment, based on an individual's actual or perceived sexual orientation, gender identity, gender expression or human immunodeficiency virus status, or based on an individual's association with another individual on account of the other individual's actual or perceived sexual orientation, gender identity, gender expression or human immunodeficiency virus status. If you believe you have experienced this kind of discrimination, you may file a complaint with the you may file a complaint with the Adult Care Home Program at [achpcomplaint@multco.us](mailto:achpcomplaint@multco.us)."
- (d) Current blank copy of the Residency Agreement that has been reviewed and approved by the ACHP.

- (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) A Fair Housing Act poster that includes the procedure for making complaints and grievances, including abuse complaints, and the contact numbers for:
  - (1) Protective services for ADVSD and BHD.
  - (2) The ACHP.
  - (3) **Disability Rights Oregon, and the ADVSD Helpline or the BHD Crisis Line.**
  - (4) The Ombudsman for ADVSD **and/or BHD as applicable.**
- (j) Current weekly menus. [See MCAR 023-080-835]
- (k) A current and accurate 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.
- (l) The DHS Monitoring Device Notice, if monitoring devices are used in the home.

090-410 A list of emergency telephone numbers shall be readily visible and posted by a central telephone in the adult care home. The list shall include:

- (a) 911 and the number for poison control.
- (b) The local ADVSD or BHD office and protective services.
- (c) The contact number for the Operator or Resident Manager who is identified on the Back-Up Operator Agreement form and who has agreed to respond in person in the event of an emergency.
- (d) An emergency contact number for the Operator, if the Operator does not live in the home.
- (e) An emergency licensed health care professional who has been contracted to monitor the home's residents, if appropriate.
- (f) Any additional persons to be contacted in the case of an emergency.
- (g) The name, telephone number, and address of the adult care home.

090-455

Adult care home business records must be maintained and available for inspection in the adult care home. Business records include but are not limited to:

- (a) Proof of a current background check approval for all persons as required in MCAR 023-070-400.
- (b) Proof that the Operator and all other providers 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) Employment applications and the names, addresses, and telephone numbers of 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 completion of an ACHP-approved basic training course.
  - (3) Documentation of all providers' orientation to the adult care home with completion of Provider Checklist form.
  - (4) Proof of required continuing education hours.
  - (5) Verification that all caregivers are not listed on either of the Exclusion Lists.
  - (6) Documentation verifying that all Operators and ACH staff members have completed LGBTQIA2S+ protection and HIV care training as required in MCAR 023-070-600.
    - (i) For all Operators and ACH staff members licensed or hired on or before December 31, 2024, documentation of initial LGBTQIA2S+ protection and HIV care training completed on or before December 31, 2024.
    - (ii) For all Operators and ACH staff members licensed or hired on or after January 1, 2025, documentation of initial LGBTQIA2S+ protection and HIV care training completed prior to beginning job duties.
    - (iii) Documentation of ongoing biennial LGBTQIA2S+ protection and HIV care training for all Operators and providers.
  - (7) For all APD licensed homes and ACHP licensed homes serving APD residents: Verification that all caregivers have completed Home and Community-Based Services (HCBS) training as required in MCAR 023-070-600. Documentation must address:

- (i) Initial HCBS training prior to beginning job duties.
- (ii) Annual HCBS training.
- (c) Copies of notices sent to the ACHP pertaining to changes in the Resident Manager, Shift Managers (if applicable), or other primary caregiver.
- (d) Copies of archived staffing plans. [See MCAR 023-070-818]
- (e) Proof of rabies or other vaccinations given by a licensed veterinarian and required by local law for all pets and service animals on the premises.
- (f) If required, well water tests. [See MCAR 023-100-205]
- (g) A copy of the home's Residency Agreement(s) and, if applicable, specialized contracts with DHS and rental agreements with room and board tenants or day care residents.
- (h) Evacuation drill records. [See MCAR 023-100-813].
- (i) Smoke alarm and carbon monoxide testing records. [See MCAR 023-100-718]

090-460 All adult care home business records shall be maintained and available for three years.

**023-090-500 TELEPHONE**

090-505 The home shall have at least one working landline telephone with a listed number that meets the following requirements:

- (a) The phone line shall be separate from any other phone line in the home.
- (b) The phone line may not be forwarded to a different telephone or mobile phone.
- (c) The phone line shall not have a blocking feature in order to allow calls from the ACHP, other state or local government agencies, and emergency services to be received unhindered.

090-508 The home shall have a working fax and fax line, separate from the main telephone line unless the system includes a feature that notifies staff of an incoming call, or automatically switches to the appropriate mode.

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.

090-520 Appropriate use of the residents' personal telephone shall not be restricted by the Operator or any provider.

090-525      Restrictions for telephone use for a specific resident shall require a limitation and the person-centered service plan shall include documentation of the specific reasons for the restriction (e.g., behavior management).

090-530      Long distance service shall be available in the adult care home to residents. Residents may be required to pay for personal long distance telephone calls. [See MCAR 023-060-120(s)]

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, the resident's representative or the resident's family, as appropriate, and any case manager within 24 hours of a change in the telephone number for the Operator, the telephone number of the adult care home, or the Operator's mailing or email address.

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 in accordance with MCAR 023-090-410.

**023-090-600      VOLUNTARY AND INVOLUNTARY RESIDENT MOVES**

090-602      Operators shall make every opportunity to work with a resident prior to issuing an involuntary move notice. Attempts to support a resident shall be documented in the resident's record and may include but are not limited to problem solving, working with the resident's family, working with the case manager to obtain an individually-based limitation or behavioral support specialist, requesting an exceptional rate, and increasing or changing staffing. Involuntary notices may be considered invalid if the documentation fails to demonstrate the attempts to support the resident.

090-604      Operators may not use the threat of an involuntary notice as inducement to control a resident's behavior; such action could be considered abuse. [See 023-020-100 Definition (1) Abuse]

090-605      Operators shall not request or require a resident to involuntarily move from the adult care home or move to another room in the adult care home without giving at least 30 days' written notice of the move. All notices shall be in a format and/or language that is understood by the resident. The notice shall be delivered in-person to the resident or sent by registered or certified mail to the resident's representative or family, as appropriate, and a copy shall be immediately sent to the case manager, the ACHP, and any other appropriate person(s). If the resident lacks capacity and there is no representative, a copy of the notice must also be immediately submitted to the State Long Term Care Ombudsman or Residential Facilities Ombudsman. 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. [See MCAR 023-090-630]

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, moving or requesting a resident to move between bedrooms in a home or between an Operator's multiple homes is an involuntary move requiring 30 calendar days' written notice.

090-615 Operators shall give notice of an involuntary move or transfer of a resident 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 has been licensed to 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 legal medical marijuana, recreational marijuana, or both, in violation of the homes' Residency Agreement or contrary to Oregon Law under ORS 475B.
- (g) The home was not notified before the resident's admission, or learns following the resident's admission, that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805 (see MCAR 023-080-337).
- (h) For residents eligible for Medicaid, the Operator's Medicaid Provider Enrollment Agreement or specialized contract is terminated.

(g) At the direction of the ACHP.

090-620 The Operator may not ask or require the resident to waive the right to a written notice to move per 023-030-105(u).

090-625 Before requiring a resident who pays privately to give the Operator a 30-calendar day notice prior to a move, the Operator shall include this requirement in the signed Residency Agreement per MCAR 023-060-120(h).

090-630 All written notices regarding involuntarily moving or transferring a resident must be completed by the Operator on the ACHP form, be sent to the appropriate parties (see MCAR 023-090-605), and shall include:

- (a) The resident's name.
- (b) The reason for the proposed move or transfer.
- (c) The date of the proposed move or transfer.
- (d) The location to which the resident is moving, if known.
- (e) Multnomah County hearing rights 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.
- (h) The resident's right to waive the 30-day notice in writing.

090-635 Residents may be involuntarily moved from the home with less than the 30-day written notice if the Director of Aging, Disability, and Veterans Services or the Director's 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.

090-640 Operators shall immediately place a copy of any notification and document all actions taken pertaining to a move or transfer in the resident's file. Required documents shall be made available to the resident's new place of residence per MCAR 023-090-230.

090-650 For adult care homes in Multnomah County licensed to serve residents whose placements and services are authorized by the Behavioral Health Division (BHD), upon resident transfer, discharge, or voluntary or involuntary move from the home, ACH staff must offer two doses of an FDA-approved short-acting, non-

injectable, opioid antagonist medication to the departing resident. If the resident accepts, ACH staff must:

- (a) Provide the resident, and their representative when applicable, with an instruction card on the use of short-acting, non-injectable, opioid antagonist medication; and
- (b) Document distribution of the short-acting, non-injectable, opioid antagonist medication via progress note in the resident's record.

**023-090-700      RESIDENT HEARING RIGHTS**

090-705      A resident who has been or will be involuntarily moved 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 involuntary move.

090-710      The Operator shall not move the resident or require the resident to move while the informal administrative conference and/or formal hearing is pending. Residents shall continue to receive the same services pending the appeal of an involuntary move or transfer.

090-715      The ACHP shall issue a written determination following the conference either approving or disapproving the involuntary move. After the ACHP determination, either party may request a formal hearing within 14 calendar days of the date the ACHP issues its decision. 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 involuntary move 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 involuntary move or may approve, conditionally approve, or disapprove an involuntary move.

**023-090-800 RETURN OF PERSONAL PROPERTY**

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 their personal property within seven calendar days of leaving the home, the Operator shall give written notice to the resident or representative and allow 30 calendar days from the date of notice before disposing of the resident's personal property.

090-815 The Operator may charge a reasonable fee for storage of a privately paying resident's belongings beyond 15 calendar days after the resident dies or leaves if the Residency Agreement includes fees for storage.

## **PART X – STANDARDS FOR ADULT CARE HOMES**

**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 the Fire Marshal's designee for a single family residence.

100-115 The home, including any outbuildings, and the home's furnishings, patios, decks, and walkways 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 the unit meets the required specifications, the Operator must take the necessary steps to secure verification of compliance from the manufacturer.

100-125 The interior and exterior walls, ceilings, and floors shall be finished to permit frequent washing, cleaning, or painting. Counters used for food preparation and serving shall have smooth, nonabsorbent, and cleanable surfaces. There shall be no accumulation of clutter, garbage, debris, or rubbish, and no 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 ten 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 on both sides. 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.

100-153 There shall be an accessible outdoor area that is available to residents. A portion of the outdoor area shall be covered and have an all-weather surface, such as a patio or deck.

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 (see MCAR 023-080-125). Swimming pools, hot tubs, spas, saunas, water features, patios, decks, walkways, and stairways, as appropriate, shall also be equipped with safety barriers and devices designed to prevent accidental injury or unsupervised access when that access poses a risk 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. The address numbers must be at least four inches in height, made of reflective material, and contrast with the background.

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 to the ACHP before remodeling is begun.

100-180 Interior video monitors are not permitted and detract from a homelike environment. If exterior video monitors are used, the Monitoring Device Notice shall be posted.

100-185 Monitors and intercoms shall only be used in common areas with resident consent and that written consent shall be obtained from each resident and anyone else impacted by the monitor. If a resident or residents do not want monitors to be used, the Operator shall develop a safe alternative plan to ensure the needs of residents are met. Intercoms shall not violate the residents' right to privacy and must have the capability of being turned off by or at the residents' request. Monitors shall utilize a secure feed.

## **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 portability. Test records shall be retained in the adult care home for three years.

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

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

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

100-223 Biohazard waste will be disposed of in compliance with the rules of the Department of Environmental Quality.

100-225 Operators shall store soiled linens and clothing in closed containers kept separate from bedrooms, the kitchen, and dining, food preparation, and food and medication 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 shall be maintained on the premises for household animals. [See MCAR 023-090-455(e)] Pets and other animals 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 bodily fluids.

100-250 Operators and all other providers shall take precautions to prevent injuries caused by needles, lancets, and other sharp instruments or devices during procedures. After they are used, disposable syringes and needles, lancets, and other sharp items must be placed in approved red puncture-resistant containers for disposal. The containers shall:

- (a) Be puncture resistant and leak proof.
- (b) Be labeled or be red to indicate that the contents are hazardous.
- (c) Have a lid, flap, door, or other means of closing the container that inhibits the ability to remove sharps from the container.
- (d) Not be overfilled.
- (e) Be stored upright in a secure location that is not accessible to residents and that is located as close as practical to the use area. Containers holding sharp objects or medical waste shall not be stored in food preparation or storage areas.

(f) Be closed immediately once full and properly disposed of within ten days, in accordance with local regulations and resources. [See ORS 459.386 through ORS 459.405]

100-255 Cleaning waste water shall be disposed of in a bathroom toilet or in a utility sink.

**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's and/or provider'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 barrier-free access to toilet and bathing facilities and have appropriate grab bars for toilets, tubs, and/or showers for resident's safety. 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 lockable door that opens to a hall or common use room. The locking device must release with a single-action lever on the inside of the room. If a resident's private bedroom includes a private bathroom with a door that opens to the bedroom, a lock, as just described, is not required. 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 and the temperature shall not exceed 120 degrees Fahrenheit (49 degrees Celsius). Hot water temperature shall not be lower than 105 degrees Fahrenheit (41.5 degrees Celsius). 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 showers shall have non-slip floor surfaces. Shower curtains shall be kept clean and in good condition.

100-345 The Operator shall provide sufficient supplies of toilet paper for each toilet, soap for each sink, and shampoo. 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) Have a finished interior with walls of standard construction that extend from floor to ceiling.
- (c) Have a lockable door for the resident's privacy with only the resident and appropriate staff having keys, as stated in MCAR 023-100-608. The locking device must release with a single-action lever on the inside of the room, and the door must open directly to a hallway or common use room without passage through another bedroom or common bathroom.
- (d) Be adequately ventilated and lighted with at least one openable window 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.
- (g) Have at least two safe means of exit. [See MCAR 023-100-845]

100-410

Bedrooms shall not contain furnaces, washers, dryers, freezers, dishwashers, or other communally used household equipment.

100-415

The adult care home shall have at least one bedroom for use by the Operator or other providers. Operators, providers, Operator family members, or provider family members shall not share bedrooms with residents or sleep in common living areas or rooms not approved as bedrooms. Operators whose bedrooms are above or below the first floor must have a plan for evacuating from their secondary exit and includes evacuating their family and all other occupants within three minutes. [See MCAR 023-100-845]

100-420

There shall be no more than two occupants per bedroom, not including children under five years of age.

100-423

If a resident chooses to share a bedroom with another resident, the residents must be given an opportunity to have a choice of roommates.

100-425

Resident bedrooms shall be in close enough proximity to the Operator or provider in charge to alert staff to nighttime needs or emergencies, or they shall be equipped with a call bell or intercom. Intercoms and monitors shall only be used with resident consent and that consent shall be documented in each residents' person-centered service plan. If a resident does not want monitors to

be used, the Operator shall develop alternative plans to ensure the needs of residents are met. 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. Monitors shall utilize a secure feed. Video monitoring is not permitted and any intercom or monitor used shall have no video function.

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 an exterior safe secondary exit to the ground that accesses stairs or a ramp to the ground level that meets all local and ADA requirements. The safe secondary exit shall have a landing that is at least 36 inches by 36 inches and that is no more than 44 inches below the exterior window sill. [See MCAR 023-020-105(116) and 023-100-832]

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. Residents shall have the freedom to decorate and furnish their own bedroom as agreed to within the Residency Agreement.

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 with a frame 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, rollaway beds, bunks, trundles, day beds with restricted access, couches, or 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 openable from the inside without the use of keys, tools, or any special knowledge or effort.

- (b) Provide a clear opening of not less than 5.7 square feet (821 square inches). The minimum net clear opening height dimension shall be 24 inches (by 34.25 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, an exception request may be submitted to install a permanently attached step (minimum width 30 inches, rise of 4 to 8 inches) that is constructed so the sill height is no more than 44 inches from the top of the step. The ACHP may grant an exception, but only if the step and aids are readily accessible and not used for storage and only if their use is within the demonstrated evacuation capability of the resident(s) of the room. In no case may 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, pellet stoves, and furnaces shall be installed in accordance with manufacturer's specifications and the Oregon Mechanical and Residential Specialty Code. Such equipment shall be used and maintained properly with annual inspections 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 65 degrees Fahrenheit during sleeping hours. Maximum temperatures shall not exceed 78 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. It is permissible that resident bedrooms where temperatures can be controlled individually be kept at the resident's preferred temperature. The Operator shall take the following measures to ensure 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 systems may be required.

100-515 Operators shall not use unvented portable oil, gas, or kerosene heaters. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used only if approved by the State Fire 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. UL-approved, relocatable power taps (RPTs) (e.g., power strips) with circuit-breaker protection with no more than six electrical sockets are permitted for indoor use only. If used, RPTs must be installed and used in accordance with the manufacturer's instructions and must be directly connected to an electrical outlet, never connected to another RPT or an extension cord.

100-525 Portable air conditioners shall not block the exit window, shall be UL listed, and be 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, pellet stove, or gas fireplace shall have it inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule.

100-545 Heat-producing equipment, such as a furnace that is enclosed in a small space, must have a minimum working space clearance of three inches on all sides and a vent opening, such as levered slats or at least a 3-inch space between the floor and bottom of the door.

## **023-100-600      DOORS AND LOCKS**

100-605 Exit and interior doors used by residents of the adult care home shall have readily visible and simple hardware that cannot be locked to prevent exit and must have an obvious method of single action operation. Hasps, sliding bolts,

sliding chain locks, hooks and eyes, and double key deadbolts shall not be used. All hardware shall be mounted between 34 inches and 48 inches from the floor. Locks must be easily openable from the inside without the use of a key, tool, special knowledge or effort, or more than one motion.

100-608 All resident bedroom doors must have one locking device on the inside of the door, released by a single action lever. The lock on each resident's bedroom must have a personalized key that locks and unlocks only the lock on that resident's bedroom door. Residents shall be provided a key to the lock for their bedroom. Keys to each of the resident's locked doors must be safeguarded but readily available to the Operator and appropriate providers in the home.

100-609 Operators are responsible for replacing the key if a resident loses the personalized key to their bedroom door. If a resident is unable to appropriately maintain their key, Operators are encouraged to work with the resident, the resident's representative, the resident's case manager to engage in behavioral support and write support into the resident's care plan, **person-centered service plan**, and/or behavioral support plan. Operators may charge privately-paying residents a lost room key replacement fee, not to exceed the actual cost of the key.

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 that 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 location and size of each bedroom and that identifies which rooms are to be used by residents, the Operator, any providers, day care, or room and board tenants. It shall also include the location of smoke detectors, carbon monoxide alarms, fire extinguishers, and any sprinkler shut-offs. The evacuation plan shall clearly indicate the locations of all doors, windows, and other exits on each level of the home, the location of wheelchair ramps, and the path occupants shall use to evacuate the home in an emergency, including the initial and final points of safety. Any designated smoking area shall be identified.

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 a low battery when battery operated or with a battery back-up if hard-wired.

100-712 Carbon monoxide alarms must be listed as complying with ANSI/UL 2034 and must be installed and maintained in accordance with the manufacturer's instructions. Carbon monoxide alarms must be installed within 15 feet of each bedroom on each level of the home where bedrooms are located at the height recommended by the manufacturer. If bedrooms are located in multi-level homes, carbon monoxide alarms must be installed on each level, including the basement. Carbon monoxide alarms may be hard-wired, plug-in, or battery-operated. Hard-wired and plug-in alarms must be equipped with a battery back-up. Battery-operated carbon monoxide alarms must be equipped with a device that warns of a low battery.

100-715 All smoke detectors and carbon monoxide alarms shall contain a sounding device or be interconnected to other detectors in order to provide an alarm 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.

100-718 Operators shall test all smoke alarms and carbon monoxide alarms in accordance with the manufacturer's instructions at least monthly (per NFPA 72). Testing must be documented in the business records.

100-720 Bedrooms used by hearing impaired residents must be equipped with an additional visual/audio or vibration alerting smoke alarm and carbon monoxide detector to wake the residents when they are asleep.

100-725 The Operator shall maintain exits, detectors, alarms, and extinguishers in functional condition. If there are more than two violations of failure to maintain battery-operated detectors in working condition, hard-wiring 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 and vaping 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, this shall be indicated in the Residency Agreement and the floor plan shall identify the designated smoking areas.

Smoking and vaping 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 made 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 that require rapid evacuation such as forest fires or flash floods must be aware of community resources for evacuation assistance.

100-810 Operators and all providers may be required to demonstrate the ability to evacuate all occupants from the home within three minutes to the initial point of safety outside the home and within an additional two minutes to the final point of safety. [See MCAR 023-020-100(82)] Drills shall occur at different times of the day, evening, and night, with exit routes being varied based on the location of a simulated fire. 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, except in BHD homes, which are required to complete drills monthly. [See MCAR 023-130-605]

100-813 A record shall be maintained of evacuation drills. Records of drills shall be maintained for three years and include date, time of day, time for full evacuation, the location of the simulated fire and the evacuation route, names of all residents and occupants, and names of residents and occupants requiring assistance and type of assistance provided for evacuation, and signature of person conducting the drill.

100-815 Within 24 hours of admission, any new resident shall be shown how to respond to a fire or carbon monoxide alarm, shown how to participate in an evacuation drill from the home in an emergency, and receive an orientation to basic fire safety. This orientation shall be documented in the resident's progress notes.

100-817 If a resident goes out into the community independently, the Operator shall provide the resident with information about how to respond in an emergency, including emergency contact telephone numbers for the Operator, the home, and emergency personnel.

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, development of an emergency evacuation procedure, 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, increasing smoke detector systems or alarms, or increasing fire and life safety protection.

100-825 In the event one or more residents cannot participate in an evacuation drill, substitutes shall be used who are of similar size to and can simulate the evacuation needs of the resident 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 (e.g., 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 9–11 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 U.S. Department of Justice's 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design. Wheelchair ramps shall have non-skid surfaces and handrails and have a maximum slope of one inch rise in each 12 inches of distance. The maximum rise for any run without a platform shall be 30 inches. Operators shall bring existing ramps into revised compliance.

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 that meets the requirements of the NFPA 72A and 72E and with approved automatic reporting to the local jurisdiction providing fire protection.

Operators shall develop, maintain, update, and implement a written Emergency Preparedness Plan (EPP) on the ACHP-approved template 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 consistent with community standards, such as sanitation and food supplies, to shelter in place when unable to relocate for a minimum of three days under the following conditions:
  - (1) Extended utility outage.
  - (2) No running water.
  - (3) Inability to replace food supplies.
  - (4) Caregivers unable to report as scheduled.
- (d) Include provisions for evacuation and relocation that identify:
  - (1) The duties of providers during evacuation, transportation, housing of residents, and instructions to providers to notify ADVSD, BHD, or a designee of the plan to evacuate or the evacuation of the home as soon as the emergency or disaster reasonably allows.
  - (2) The method and source of transportation.
  - (3) Planned relocation sites that are reasonably anticipated to meet the needs of the residents.
  - (4) The physical description of the resident that provides persons unknown to the resident the ability to identify each resident by name, which may include a picture of the resident with the date the picture was taken, and identification of the race, gender, height, weight range, hair, and eye color of the resident; and any other identifying characteristics that may assist in identifying the resident, such as marks or scars, tattoos, or body piercings.
  - (5) A copy of the resident's current and accurate Care Plan-.
  - (6) A method for tracking and reporting to ADVSD, BHD, or a designee the physical location of each resident until a different entity assumes responsibility for the resident.

- (e) Address the needs of each resident, including provisions to provide:
  - (1) Immediate and continued access to medical treatment by including the resident information sheet; an updated medication order; and other information necessary to obtain care, treatment, food, and fluids for residents.
  - (2) Continued access to life-sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation.
  - (3) Anticipated needed behavior supports during an emergency.
  - (4) Adequate staffing to meet the life-sustaining and safety needs of residents.
- (f) Operators shall instruct and provide training to all providers and the home's Back-Up Operator about the provider's and Back-Up Operator's duties and responsibilities for implementing the EPP. Documentation of caregiver EPP training shall be kept on record in the adult care home.
- (g) Operators shall coordinate applicable parts of the EPP with each employment or day program provider, if applicable, to address the possibility of an emergency or disaster during day time hours.
- (h) 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, other than oxygen and other gas cylinders for use by a resident, is prohibited inside the home and any outbuildings attached to the home.

100-907

Oxygen and other gas cylinders in service or in storage, must be adequately secured to prevent the cylinders from falling or being knocked over. No smoking signs must be visibly posted where oxygen cylinders are present. Oxygen and other gas cylinders may not be used or stored in rooms where a wood stove, fireplace, or open flames are located.

100-910

Cleaning supplies, poisons, insecticides, and other hazardous materials shall be stored in original labeled containers, or in a container manufactured for the type of product. The containers must be properly labeled and kept in a safe area that is not accessible to residents, and is not near food preparation areas, food storage areas, dining areas, or medications. 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 (e.g., knives, swords, arrows, and martial arts weapons) must be stored in a safe and secure manner.

## **PART XI – MULTNOMAH COUNTY ADULT CARE HOME RULES FOR AGING, DISABILITY AND VETERANS SERVICES DIVISION (ADVSD) HOMES**

### **023-110-100      AUTHORITY AND PURPOSE (ADVSD)**

110-105      Adult care homes in Multnomah County that serve or intend to serve adult individuals who are receiving services from the Aging, Disability and Veterans Services Division (ADVSD) must apply for a license through the ACHP. [See MCAR 023-040-200]

110-110      Homes that serve older adults or adults with disabilities shall comply with the standards of this section (Part XI). Additionally, as stated in MCAR 023-010-125, adult care homes in Multnomah County that serve or intend to serve residents whose placements and services are authorized by ADVSD must comply with all MCAR (with the exception of Part XII and XIII). To the extent that Part XI contradicts any other part of the MCAR, Part XI shall control the responsibilities of Operators serving residents whose placements and services are authorized by ADVSD.

### **023-110-200      DEFINITIONS (ADVSD)**

- (1) Aging and People with Disabilities (APD) – a division of the Oregon Department of Human Services.
- (2) Adult Protective Services Unit (APS) - the program within Aging, Disability and Veterans Services that investigates incidents of abuse and neglect involving older adults and adults with physical disabilities who may be living in a facility or a home.
- (3) Care Plan – 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.

### **023-110-300      STANDARDS FOR OPERATORS, RESIDENT MANAGERS, SHIFT MANAGERS, AND CAREGIVERS (ADVSD)**

110-305      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.

110-310 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 who meets the basic Resident Manager criteria (i.e., completing the appropriate basic training and passing the appropriate qualifying test) in the home during the Operator's or Resident Manager's absence.

110-315 Any caregiver who works in a home 20 or more hours per week, as the sole caregiver for the home, must take Recordkeeping "Part B – Medication Management" within their first year as a caregiver and before being allowed to administer any medications, including being the sole caregiver responsible for possible administration of PRNs.

110-320 If the ACHP determines an unexpected and urgent staffing situation exists, the ACHP may permit in writing, in addition to the situation described in MCAR 023-070-535, a person who has not completed an ACHP-approved basic training course or passed a qualifying test to act as a Resident Manager until the basic training and required testing are completed or for 60 calendar days, whichever is shorter. The Operator must meet all other requirements of MCAR 023-070-535.

110-325 A Resident Manager applicant who has been granted an exception and who has not completed an ACHP-approved basic training course must meet the qualifications of a 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.

110-330 Operator, Resident Manager, and Shift Manager applicants shall at a minimum successfully complete Ensuring Quality Care, which is the ACHP-approved basic training course for ADVSD providers, and pass the EQC test before taking the ACHP's qualifying test.

110-335 Applicants must successfully pass an ACHP qualifying test and applicants who fail a qualifying test on their first attempt may take the test a second time. Applicants who fail a second qualifying test must retake an ACHP-approved basic training course prior to repeating the test.

**023-110-400 BASIC CARE (ADVSD)**

110-405 The Operator **must** develop a care plan for each resident. The resident and/or **their legal representative must be involved in the development of the care plan. Other people involved in the resident's care (e.g. case manager, family members, home health nurse) may participate in care plan development as needed. The initial and/or 14-day care plan must also** include information

from the screening assessment of the resident. The intent of the care plan is to accurately reflect the resident's care needs.

110-410 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.

110-415 The resident care plan **must** be finalized **and implemented** by the Operator within 14 days of admission to the home. **Prior to implementation, the care plan must be signed and dated by the Operator and by the resident and/or their Legal Representative, indicating informed consent to the services described within the plan. Additionally, all new and/or updated plans must be reviewed and signed by each provider/caregiver prior to providing care to residents.**

110-420 Care plans **must** be **reviewed and** rewritten annually. Additionally, **a review of the care plan must occur** whenever the resident's care needs change and at minimum every six months. **Residents must be included in the care plan reviews described in this section. At the time of review, the care plan must be updated as needed. Care plan reviews and updates must be documented as follows:**

- (a) **Reviews:** Care plan reviews must be documented in the resident record. Documentation must note the date of the review, whether or not the review resulted in an update to the plan, decisions made during the review or other significant review topics, and who was present during the review (e.g. Operator, resident, legal representative, other ACH staff members, case manager.)
- (b) **Updates:** All written-in additions or deletions must be dated and signed/initialed by the Operator and resident or their legal representative; and all individuals involved in the plan's update must sign and date the care plan's final signature page.
- (c) **Consent:** The resident's and/or legal representative's signature indicates informed consent to services, supports, and limitations as described. Informed consent is required prior to implementation of any initial or updated care plan. A resident/legal representative's consent may be revoked either verbally or in writing at any time.
- (d) **Care staff review:** Following the implementation of an initial, 14-day, or updated care plan, the Operator must ensure that all providers/caregivers review and sign the plan prior to providing care to residents.

**(e) Legibility:** Care plans must be fully legible at all times. If a care plan contains changes **that render it difficult to read or understand**, a new care plan must be written.

110-425 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).
- (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, activities, and natural supports involved.
- (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.
- (o) Legal name, preferred or chosen name, pronouns used, and gender identity.

110-430 For privately paying residents, if the resident agrees and has directed the development of the Care Plan, the plan may be used as a person-centered service plan.

110-505 Licensed Operators intending to provide ventilator care to residents shall comply with the standards of this section (MCAR 023-110-500) in addition to all MCAR. To the extent that MCAR 023-110-500 contradicts any other part of the MCAR, section 023-110-500 shall control the responsibilities of Operators providing ventilator-assisted care.

110-510 An Operator of an APD adult care home may not present themselves as operating an adult care home that provides ventilator-assisted care or accept placement of an individual requiring ventilator-assisted care without being licensed as a ventilator-assisted care adult care home.

110-515 To apply for a license to provide ventilator-assisted care, an Operator must complete the ACHP ventilator-assisted care application form and submit the application with the required information and nonrefundable fee to the ACHP and must obtain approval prior to providing ventilator-assisted care.

110-520 To renew a license to provide ventilator-assisted care, an Operator must complete a renewal application as outlined in MCAR 023-040-600 and submit copies of required annual ventilator trainings for all providers.

110-525 Before being licensed to operate a ventilator-assisted adult care home, an applicant must:

- (a) Provide verification that the Operator and all providers have one year of full-time experience in providing ventilator-assisted care.
- (b) Have operated an APD - Class 3 home in substantial compliance with the MCAR for the past 12 months.

110-530 The ACHP shall determine the level of a ventilator-assisted care adult care home and shall issue an APD - Class 3 - Vent A, Vent B, or Vent C ventilator-assisted care home license to qualified applicants.

- (a) The ACHP may issue an APD - Class 3 – Vent C license if the applicant has satisfied the basic requirements listed (above). An Operator with an APD - Class 3 – Vent C license may admit a maximum of one resident who requires ventilator-assisted care.
- (b) The ACHP may issue an APD - Class 3 - Vent B license if the applicant has satisfied the basic requirements listed (above), has successfully operated and provided ventilator-assisted care in their APD - Class 3 – Vent C home in substantial compliance with these rules for a period not less than 12 months, and the Operator has a current license as a health care professional in Oregon. An Operator with an APD - Class 3 - Vent B license may admit a maximum of three residents who require ventilator-assisted care.

(c) The ACHP may issue an APD - Class 3 - Vent A license if the applicant has satisfied the basic requirements listed (above), has successfully operated and provided ventilator-assisted care in their APD - Class 3 - Vent B home in substantial compliance with these rules for a period not less than 12 months, and the Operator has a current license as a health care professional in Oregon. An Operator with an APD - Class 3 - Vent A license may admit a maximum of five residents who require ventilator-assisted care.

110-535 Adult care homes providing ventilator-assisted care shall not have more than three residents who require full assistance with all activities of daily living, not including cognition or behavior, without prior approval by the ACHP.

110-540 The Operator must be the primary provider and live in the home where the ventilator-assisted care is to be provided for a minimum of one year from the date the initial ventilator-assisted license is issued. The Operator may employ an ACHP-approved Resident Manager to be the primary live-in caregiver after providing ventilator-assisted care for the one year period.

110-545 A minimum of two qualified and approved providers must be on site and able to provide protective awareness (see MCAR 023-070-815) 24 hours per day. A minimum of one of the two qualified and approved providers must be awake during the nighttime hours.

110-550 All providers must demonstrate competency in providing ventilator-assisted care.

110-555 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.

110-558 The Operator must complete DHS-approved training pertaining to ventilator-assisted care and other training as may be required. Training is required annually and must be completed by all providers prior to the renewal of the license. Verification of completion for all staff shall be submitted with the renewal application.

110-560 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.

110-565 Homes that provide ventilator care for residents must have a functional, emergency back-up generator. The generator must be adequate to maintain electrical service for resident needs for a minimum of 72 hours (see MCAR 023-100-905 for additional information if storing gasoline). In addition, the Operator must ensure that:

(a) If hard-wired, standby generators are installed by a licensed electrician.

- (b) Back-up generators must be tested monthly and the test must be documented in the business records.
- (c) All caregivers know how to operate the back-up generator without assistance and are able to demonstrate its operation upon request by the ACHP.

110-570 The home must have a functional, interconnected carbon monoxide and smoke alarm system with back-up batteries.

110-575 The home must have a functional sprinkler system, and maintenance must be completed as recommended by the manufacturer. The presence of a sprinkler system in no way absolves an Operator from ensuring that all staff can evacuate the residents and any other occupants in the home within three minutes or less per MCAR 023-100-810.

110-580 Each resident's bedroom must have a mechanism in place that is within the abilities of the resident to use and shall enable residents to summon a caregiver's assistance when needed. The summons must be audible in all areas of the adult care home.

110-585 Prior to admitting a resident requiring ventilator care to the adult care home, the Operator must obtain preauthorization from the ACHP. The Operator must submit a screening on the ACHP required form and include:

- (a) Identification of a primary care physician for the potential resident.
- (b) Information relating to the potential resident's medical history, diagnosis, and medications.

110-586 Ventilator tubing shall be checked frequently to ensure no accumulation of condensation or water and mask connectors for a trach should be replaced or cleaned with soap and water frequently and air-dried per the licensed health care provider's instructions.

110-588 The MAR for residents requiring ventilator care should include documentation of all treatments, therapies, and supply checks relating to ventilator care, including but not limited to when tubing is changed, when the mask is changed or cleaned, and when maintenance of the machinery is completed (see MCAR 023-110-597).

110-590 The Operator must retain the services of a registered nurse (RN) to work in the home who is licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care. RN services shall 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 providers. 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.

110-593 The Operator must develop the care plan with the registered nurse consultant that addresses the expected frequency of nursing supervision, consultation, and direct service intervention. The RN consultation must be documented on the resident's completed care plan with the RN's signature and date signed.

110-595 The Operator must have physician and respiratory therapist consultation services, all licensed by the state of Oregon and trained in the care of individuals requiring ventilator-assisted care available on a 24-hour basis and for in-home visits as appropriate. The Operator must call the appropriate medical professional to attend to emergent care needs of the residents.

110-597 Ventilator machinery equipment shall be inspected and maintained by the home's respiratory therapist per the manufacturer's requirements and shall be documented on the resident's MAR.

## **PART XIII – MULTNOMAH COUNTY ADULT CARE HOME RULES FOR BEHAVIORAL HEALTH DIVISION (BHD) HOMES**

### **023-130-100 AUTHORITY AND PURPOSE (BHD)**

130-105 Adult care homes in Multnomah County that serve or intend to serve residents whose placements and services are authorized by Behavioral Health Division (BHD) must comply with the standards of this section (Part XIII). Additionally, as stated in MCAR 023-010-135, adult care homes in Multnomah County that serve or intend to serve residents whose placements and services are authorized by BHD must comply with all MCAR (with the exception of Part XI and XII). To the extent that Part XIII contradicts any other part of the MCAR, Part XIII shall control the responsibilities of Operators serving residents whose placements and services are authorized by BHD.

130-110 Adult care homes in Multnomah County that serve or intend to serve adult individuals whose placements and services are authorized by BHD must apply for a license through the ACHP.

### **023-130-200 DEFINITIONS (BHD)**

- (1) Authority - the Oregon Health Authority.
- (2) Behavioral Interventions - those interventions that will modify the resident's behavior or the resident's environment.
- (3) Community Mental Health Program (CMHP) - the organization of all services for persons with mental or emotional disturbances, drug abuse problems, and alcoholism and alcohol abuse problems, operated by, or contractually affiliated with, a local mental health authority, operated in Multnomah County as the Behavioral Health Division (BHD) under an intergovernmental agreement with the Division.

- (4) Declaration for Mental Health Treatment - a document that states the resident's preferences or instructions regarding mental health treatment as defined by ORS 127.700 through 127.737.
- (5) Director - the Director of the Oregon Health Authority or that person's designee.
- (6) Discharge Summary - a document that describes the conclusion of the planned course of services described in the resident's individualized personal care plan, regardless of outcome or attainment of goals described in the resident's individualized personal care plan. In addition, the discharge summary addresses resident's financial assets and monies, medication and personal belongings at time of discharge.
- (7) Division - the Addictions and Mental Health Division of the Oregon Health Authority.
- (8) Initial Care Plan - a written document developed for a resident within 24 hours of admission to the home. The document must address the care and services to be provided for the resident during the first 30 days or less until the Personal Care Plan can be developed. At a minimum the IPCP must contain goals that address the following: Immediate health care support needs, medication management issues, safety and supervision needs, activities of daily living that the resident needs assistance with completing as well as any pertinent information as required by the case manager or their designee at the time of the admission. The provider must develop an Initial Care Plan within 24 hours of admission to the Adult Foster Home.
- (9) Local Mental Health Authority (LMHA) – in Multnomah County, the Behavioral Health Division operates a community mental health program and operates a CMHP for Multnomah County.
- (10) Care Plan (PCP) - a written plan outlining the care and services to be provided to a resident. The PCP is based upon the review of current assessment, referral, observations, resident preference, and input from members of the Personal Care Plan Team. The plan identifies the care, services, activities, and opportunities to be provided by the caregiver to promote the resident's recovery and independence.
- (11) Personal Care Plan Team (PCP Team) - a group composed of the resident, the case manager or other designated representative CMHP representative, the provider and or resident manager, and others, including the resident's legal guardian, representatives of all current service providers, advocates or others determined appropriate by the resident receiving services. If the resident is unable or does not express a preference, other appropriate team membership must be determined by the PCP team members.
- (12) Personal Care Services - services prescribed by a physician or other designated person in accordance with the individual's plan of treatment. The

services are provided by a caregiver who is qualified to provide the service and is not a member of the individual's immediate family. For those adult care home individuals who are Medicaid eligible, Personal Care Services are funded under Medicaid.

**023-130-300****LICENSING AND EXCEPTIONS (BHD)**

130-305 Homes serving residents served by BHD will be classified as BH Class 1 or Class 2 as those terms are defined in MCAR 023-041-100. The home's 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.

130-310 Notwithstanding the requirements of MCAR 023-070-810 and in compliance with 023-050-100, an Operator or applicant may apply for a home alone exception to the ACHP specific to each individual resident receiving services from the Behavioral Health Division, subject to the following requirements:

- (a) The exception is effective only for the specific resident who has been assessed and meets the safety requirements prescribed by the ACHP. This assessment shall become part of the resident's care plan.
- (b) An exception allowing a specific resident to be in the adult care home alone for a specific time that shall not exceed four hours in a 24-hour period.
- (c) No exception allows an Operator to leave a resident alone in the adult care home between the hours of 11:00 p.m. to 6:00 a.m.
- (d) 24 hour care shall continue for any resident that does not qualify to be in the adult care home alone.

**023-130-400****STANDARDS FOR OPERATORS, RESIDENT MANAGERS, SHIFT MANAGERS, AND CAREGIVERS (BHD)**

130-405 An ACHP-approved basic training in compliance with MCAR 023-070-605 is required for all Operators, Resident Managers, and caregivers in compliance with ORS 443.738.

130-410 Operators and all providers will satisfactorily pass an ACHP approved qualifying test that meets the requirements of MCAR 023-070-705 before being licensed or becoming a Resident Manager or caregiver. The test will be completed without the help of any other person.

130-415 Operators, Resident Managers, and caregivers are required to complete a minimum of 12 hours of training annually directly related to the care and services for persons with mental illness. The training for the Operator, Resident Manager, and caregiver of an adult care home will be documented in the Operator, Resident Manager, and caregiver's training records. Such training will be in

addition to any orientation, which is attended by applicants prior to licensing and will include but is not limited to:

- (a) Understanding and recognizing severe and persistent mental illness.
- (b) Mandatory abuse reporting.
- (c) Medication management, dispensing, and documentation.
- (d) Incident report writing.
- (e) Resident rights.
- (f) Adult care home emergency planning.
- (g) Fire safety.
- (h) Complaints and grievances.
- (i) Opioid overdose kits and administration of an FDA-approved short-acting, non-injectable, opioid antagonist medication.

## **023-130-500**

### **BASIC CARE (BHD)**

130-505 The initial care plan will be developed within 24 hours of admission to the adult care home. The document must address the care and services to be provided for a resident during the first 14 days or less until the Care Plan can be developed. At a minimum the initial care plan must contain goals that address the following: Immediate health care support needs, medication management issues, safety and supervision needs, activities of daily living that the resident needs assistance with completing as well as any pertinent information as required by the case manager or their designee at the time of the admission. **The initial care plan must be reviewed with and signed and dated by the resident and/or their legal guardian indicating informed consent to the services and supports described within the plan.**

130-510 The Operator will develop the Care Plan together with the resident **and/or** the resident's **legal** representative, **and as appropriate, the resident's** case manager, mental health treatment provider, physician, nurse, and, with the documented consent of the resident, any other appropriate people. Development of the care plan **must** include information from the screening assessment of the resident. The intent of the care plan is to accurately reflect the resident's care needs and implement and document the provider's delivery of services.

130-515 During the initial 14 days following the resident's admission to the home, the Operator **is required to** continue the assessment process **which** includes documenting the resident's preferences and care needs. The assessment **must** include observations of the resident and review of information obtained from the screening assessment process. The resident care plan **must** be finalized **and implemented** by the Operator within 14 days of admission to the home. **Prior to**

implementation, the care plan must be signed and dated by the Operator and others involved in the development of the plan; and must be signed and dated by the resident and/or their Legal Representative, indicating informed consent to the services described within the plan. Consent may be revoked verbally or in writing at any time. Additionally, all new and/or updated plans must be reviewed and signed by each provider/caregiver prior to providing care to residents.

130-520 A resident's care plan **must be reviewed and** rewritten annually. Additionally, **the care plan must be reviewed by the care plan team** whenever the resident's care needs change and at **minimum** every 6 months. **Residents must be included in the care plan reviews described in this section. At the time of review, the care plan must be updated as needed. Care plan reviews and updates must be documented as follows:**

- (a) **Reviews:** Care plan reviews must be documented in the resident record. Documentation must note the date of the review, whether or not the review resulted in an update to the plan, decisions made during the review or other significant review topics, and who was present during the review (e.g. Operator, resident, legal representative, other ACH staff members, case manager.)
- (b) **Updates:** All written-in additions or deletions must be dated and signed/initialed by the Operator and resident or their legal representative; and all individuals involved in the plan's update must sign and date the care plan's final signature page.
- (c) **Consent:** The resident's and/or legal representative's signature indicates informed consent to services, supports, and limitations as described. Informed consent is required prior to implementation of any initial or updated care plan. A resident/legal representative's consent may be revoked either verbally or in writing at any time.
- (d) **Care staff review:** Following the implementation of an initial, 14-day, or updated care plan, the Operator must ensure that all providers/caregivers review and sign the plan prior to providing care to residents.
- (e) **Legibility:** Care plans must be fully legible at all times. If a care plan contains changes **that render it difficult to read or understand**, a new care plan must be written.

130-525 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, activities, and natural supports involved.
- (k) Emergency exit ability including assistance and equipment needed.
- (l) Need for use of psychoactive medications.
- (m) Dietary needs and preferences.
- (n) Goals for maintaining and, if possible, improving or restoring the resident's level of functioning.
- (o) Person Centered Service-Plan and documentation of any individually based limitations. These documents may be attached to the care plan. [See MCAR 023-080-400].

130-530 Operators shall obtain signed orders for all medications from the prescribing licensed health care professional who prescribed the medications.

130-535 In addition to the requirements of MCAR 023-080-580, for residents served by BHD, permission from a prescribing licensed health care professional and a written order are needed prior to setting up a container with mixed medications.

130-540 Physical restraints are not permitted. Operators and providers will not use physical restraints for individuals receiving personal care services authorized or funded through the Department.

#### **023-130-600 STANDARDS FOR OPERATION (BHD)**

130-605 A written incident report for residents served by BHD shall be completed when a resident misses or refuses a medication or when there is a medication error, in addition to when the unusual incidents listed in MCAR 023-080-135 and 023-

080-137 occur. Incident reports shall be completed on the BHD-approved form and include how and when the incident occurred, who was involved, what action was taken by the Operator and/or staff, and the outcome to the resident. Incident reports for BHD residents shall be forwarded to the resident's case manager and BHD within five working days (except in the case of abuse allegations, for which a report must be made to BHD or local law enforcement agency immediately). Documentation of the case manager and BHD notification and response shall be completed and maintained in the resident's records.

130-610 Emergency telephone numbers for the BHD, police, fire, medical, poison control, and the Operator, if the Operator does not live in the home, and other emergencies will be posted by the resident's telephone. The posting will include the name, address and telephone number of the adult care home, telephone numbers for making complaints or a report of alleged abuse to BHD, the Office of Investigations and Training, and the Oregon Advocacy Center.

**023-130-700 STANDARDS FOR ADULT CARE HOMES (BHD)**

130-705 Evacuation drills shall be held at least once every 30 days. One drill practice will be held at least once every 90 days during residents' nighttime sleeping hours.

130-710 A locked storage area separate from food and medications will be designated when there are toxic or hazardous materials on the premises.

**PART XIV – ABUSE, NEGLECT, AND EXPLOITATION; ABUSE REPORTING; AND COMPLAINTS, COMPLAINT INVESTIGATIONS, AND NOTIFICATION OF FINDINGS**

**023-140-100 ABUSE, NEGLECT, AND EXPLOITATION OF ADULT CARE HOME RESIDENTS**

140-105 Operators and all providers 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 permit, aid, or engage in the abuse, neglect, or exploitation of 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, neglectful treatment, or exploitation of any resident by any occupant in the ACH.

140-120 In addition to the other provisions of these rules, homes that serve individuals who are 18 years or older; who have a mental illness or developmental disability; and who are receiving services from a community program, facility, or care provider that is funded through DHS shall comply with the standards set forth in ORS 407-045-0250 through 407-045-0370.

140-125 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.

140-205 Abuse is prohibited. [See MCAR 023-140-100] The Operator and ACH staff may not permit, aid, or engage in the abuse of residents. Abuse and suspected abuse must be reported in accordance with OAR 411-020-0020.

(a) Operators and all providers of adult care homes must immediately notify the local protective services agency or the local ADVSD, DDSD, or BHD office of any incident of abuse or suspected abuse, including events overheard or witnessed by observation.

(b) 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).

140-210 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 or actually harassing or abusing a resident in any manner.

140-215 Any adverse action, as described in MCAR 023-140-210(a-e), creates a presumption of retaliation if taken within 90 days of a report of abuse. Adverse action may also be evidence of retaliation after 90 days even though the presumption of retaliation no longer applies.

140-220 Operators must ensure that any complainant, witness, or employee of an ACH is not subjected 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.

140-225 Per ORS 430.755, any provider who retaliates against any person receiving services through BHD because of a report of suspected abuse or neglect is liable in a private action to that person for actual damages and, in addition, is subject to a penalty up to \$1,000.00, notwithstanding any other remedy provided by law.

140-230 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.

140-235 Immunity under this section does not protect self-reporting Operators from liability for the underlying conduct that is alleged in the complaint.

**023-140-300 COMPLAINTS AND COMPLAINT INVESTIGATIONS**

140-305 Local protective service agencies and the ACHP have the authority to investigate complaints made in regard to adult care homes.

140-310 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 telephone number for the appropriate protective services agency, the ACHP, and the appropriate Ombudsman, and explain how to make a complaint.

140-315 Operators and ACH providers shall not make or cause to be made a bad faith complaint.

140-320 The protective services agencies investigate complaints of abuse and neglect in accordance with their protective service rules:

- (a) Adult Protective Services (APS) investigates complaints in accordance with adult protective services rules in OAR chapter 411, division 20.
- (b) The **IDDSD Abuse Investigations Team and Behavioral Health Adult Protective Services Program** investigate complaints in accordance with OAR **419-100-0000 through 419-100-0120**.

140-325 The protective services agency or the ACHP shall take immediate actions to protect the health, safety, and welfare of residents when the protective services agency or the ACHP receives a complaint of abuse or neglect, regardless of whether the investigative report is completed, and whenever the protective services agency 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.

140-330 The protective services agency or the ACHP shall not release information about the content of the complaint investigation until the complaint investigation is completed.

140-335 If an Operator denies access to the home during an investigation of a complaint of abuse or neglect, the protective services agency may obtain the help of law enforcement agents to gain immediate access to the home and residents.

**023-140-400 NOTIFICATION OF FINDINGS**

140-405 The protective services agency shall provide a written copy of their investigation report to the Operator and the complainant within the timeframes established by their rules. [See MCAR 023-140-320].

140-410 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 the protective services agency within the timeframes established by their rules.

140-415 The protective services agency shall review the responses and re-open the investigation or amend the report if additional evidence warrants a change.

140-420 A copy of the entire report shall be sent to the ACHP upon completion of the investigation report, whether or not the investigation report concludes the complaint is substantiated or wrongdoing occurred.

140-425 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.

140-430 The investigative report shall list each allegation and 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).

140-435 The investigative report and any responses shall become part of the public file.

140-440 Any person shall have the right to inspect public files, including investigative reports, and to make photocopies at reasonable cost.

140-445 Upon completion of substantiation of abuse or rule violation, the protective services agency shall immediately provide written notification of its 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) Include a copy of the complaint investigation report.
- (e) State the timeframe that the complainant and the home have to provide additional or different information.
- (f) For each allegation, explain the applicable appeal rights available.

140-450 After the ACHP receives a substantiated protective services agency report, the ACHP shall determine whether the violation was abuse or some other rule violation. If the ACHP makes a determination of abuse or some other rule violation, the ACHP will send notice to the perpetrator and the Operator.

140-455 If the ACHP determines there is substantiated abuse, the ACHP may determine that the Operator, an individual, or both the Operator and an individual were responsible for abuse. In determining responsibility, the ACHP shall consider intent, knowledge, ability to control, and adherence to professional standards, as applicable.

140-460 Examples of when the ACHP 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 a reasonable effort to correct.
- (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.

140-465 Examples of when the ACHP 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, verbal, or mental abuse.
- (b) Acts contradictory to clear instructions from the home, such as those identified in MCAR 023-140-460, unless the act is determined by the Division to be the responsibility of the home.
- (c) Callous disregard for resident rights or safety.
- (d) Intentional acts against a resident's property (e.g., theft or misuse of funds).

140-470 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" do not include such factors as misuse of alcohol or drugs or lapses in sanity.

140-475 If a nursing assistant has a finding of substantiated abuse, the written notice shall explain the ACHP's intent to enter the finding of abuse into the Nursing Assistant Registry and the nursing assistant's right to provide additional information and request a contested case hearing, as provided in OAR 411-089-0140.

140-480 The protective services agency's written notice shall be mailed to:

- (a) The Operator.
- (b) The complainant, if known and if requested.
- (c) The ACHP.

140-485 A copy of the written notice shall be placed in the Department's facility complaint file, also known as the Public File. Copies of all completed complaint reports must be maintained and available to the public at the Department's designated location. Individuals may purchase a photocopy upon requesting an appointment to do so.

140-490 Upon receipt of a report that substantiates abuse for victims covered by ORS 443.875, the home must provide written notice of the findings to the individual found to have committed abuse, the residents of the home, the residents' case managers, and the residents' representatives within five days of receiving the completed report.

140-495 The Department may not disclose information that may be used to identify a resident in accordance with OAR 411-020-0030 and ORS 430.763, confidentiality rules, and federal HIPAA privacy rules. Completed reports placed in the public file must be in compliance with MCAR 023-180-100 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.
- (d) Any information regarding the investigation of the complaint may not be filed in the public file until the investigation has been completed.
- (e) 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.

## 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 and all structures on the adult care home property, in situations including but not limited to the following:

- (a) Before issuance of a new license.
- (b) Before the annual renewal of a license.
- (c) To determine if any identified areas of non-compliance in a home have been corrected.
- (d) Any time such inspections are authorized by these rules and any other time the ACHP considers it necessary to monitor compliance with ACHP rules and standards.
- (e) To monitor resident care.
- (f) To determine if a home is operating without a license.
- (g) Any time the ACHP has probable cause to believe a home has violated a rule or provision of the MCAR.
- (h) Whenever the ACHP receives an oral or written complaint of violations to the MCAR, and/or violations that threaten the health, safety, or welfare of residents.

150-110 The Operator will be given a copy of the ACHP Inspection Report identifying any areas of non-compliance and specifying a timeframe 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 HIPAA privacy rules, and OAR 411-020-0030.

150-115 In the course of an inspection, the ACHP may require that a registered nurse 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), the classification of the home, and/or the ability of personnel to provide nursing care.

150-120 ACHP staff shall have full access and authority to examine and copy adult care home business records and resident records. The ACHP shall also have access to inspect the entire physical premises, including Operator/family areas, all buildings, the grounds, equipment, and any vehicles.

150-125 The ACHP inspection shall also include the private living area of the Operator, any providers, and the Operator's or provider's family 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 providers 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 or any provider of the home. The ACHP shall not give advance notice of any inspection if the ACHP believes that notice might obstruct or seriously diminish the effectiveness of the inspection or enforcement of the MCAR. License renewal inspections shall be unannounced. [See MCAR 023-040-625]

150-145 If Operators or any providers deny the ACHP access for inspections or interviews, the ACHP may obtain help from law enforcement agents or a search warrant to gain access to the home and may impose administrative sanctions.

150-150 ACHP staff inspectors shall respect the private possessions of Operators, any providers, residents, and other household members when carrying out inspections.

150-155 Operators and any providers shall permit federal, state, or local health and safety inspectors, fire inspectors, or other necessary inspectors to enter and inspect the home.

150-160 The State Long-Term Care Ombudsman and Residential Facilities Ombudsman Programs shall have private and unimpeded access to the adult care home, adult care home records, and residents and shall have access to all the resident's records if the resident or the resident's guardian or representative gives permission. If the resident is unable to communicate consent to the review and has no representative or the guardian or representative refuses to give permission to access the resident's records as is necessary to investigate a complaint and the Ombudsman representative has reasonable cause to believe that the guardian is not acting in the best interests of the resident, the Ombudsman representative may access the resident's records after obtaining the approval of the Ombudsman.

150-165 DHS, the ACHP, APS, and CMS staff have authority to interview the Operator, any providers, and the residents. Interviews may be confidential and conducted privately.

#### **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) Timeframes for correction of the problem, where applicable.
- (e) A written warning or sanction, where appropriate. [See MCAR 023-160-620]
- (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 timeframe specified by the ACHP.

150-213 If, as a result of an inspection or investigation, the ACHP determines that abuse has occurred, the Operator shall be notified verbally to immediately cease the abusive act. The ACHP shall follow up with a written confirmation of the verbal notification to cease the abusive act and shall include notification that further sanctioning may be imposed.

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 will 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) Change or reduction in the classification of a license.
- (e) Denial, suspension, revocation, or non-renewal of a license.

160-110 The ACHP shall deny, revoke, or refuse to renew a license where:

- (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 or background check unit has conducted a background check, and the applicant or Operator is determined "unfit" in accordance with the background check rules in MCAR 023-070-400.
- (c) The Operator employs caregivers or 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 background check process. [See MCAR 023-070-400]
- (d) The applicant or Operator falsely represents that they have not been convicted of a crime.
- (e) DHS has received notice from the Department of Revenue in accordance with ORS 305-385.

160-115 The ACHP may impose sanctions, including the ability to deny an application, or deny, revoke, or refuse to renew a license, if an applicant, Operator, or provider:

- (a) Has violated or is not in compliance with the MCAR, or has failed to correct a violation as required when a reasonable timeframe 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 another government agency.
- (e) Has a prior license denial, suspension, or 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, including when the person has 5% or more direct or indirect ownership interest in the 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 decision to admit and involuntary move or transfer any resident.

(i) Has a medical, psychiatric, or psychological problem, or an alcohol or drug use problem that 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 background 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) Provides reliable evidence of abuse, neglect, or exploitation of any resident that caused serious harm to or the death of that resident.

- (s) Is not currently or has not previously been in compliance with employment or tax laws.
- (t) Fails to take or pass an ACHP-approved basic training course and qualifying test.

**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 \$1,000.00 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 \$1,000.00 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 home 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 when one or more residents are present or expected to be present 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 obtain a current background check approval prior to allowing a provider to work in the home. The same mandatory fine shall apply to all subject individuals, as defined in MCAR 023-070-415, who reside, work, or are in the home without a current approved background check.

160-246 The ACHP shall impose a mandatory fine of not less than \$250.00 for the failure to obtain or renew a delegation of a nursing task prior to performing a task that is determined to require delegation.

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, sexual abuse, or sexual exploitation of a resident.

(a) To impose this civil penalty, the ACHP shall establish that:

(1) The abuse arose from deliberate or other than accidental action or inaction.

(2) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident.

(3) 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:

(1) Serious Injury - 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.

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

(3) Sexual Abuse - 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.

(4) Other than Accidental - 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 MCARs.

160-250 Any civil penalty imposed under these rules becomes due and payable ten 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 timeframes 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 ten 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 provider 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.

160-270 In accordance with MCAR 023-160-610 the written notice of civil penalty shall indicate:

- (a) The reason for the fine(s).
- (b) The right to request an informal administrative conference.
- (c) The right to a hearing if requested within 21 calendar days after receipt of the notice.

## **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 that 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) Changing the classification of the license based on the Operator's ability to meet the specific care needs of the residents.
- (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      In accordance with MCAR 023-160-610 a sanction notice containing a 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 the health, safety, or welfare of any resident per MCAR 023-150-220, or, if the Operator fails to operate or has failed to operate any facility licensed to the Operator in substantial compliance with ORS 443.705 through 443.825, or the MCAR.

160-410 If the ACHP determines that a license shall be suspended, 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 that Operator's license by submitting a written request within ten calendar days after receipt of the notice and order of suspension. Within ten 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 timeframe. 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.

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.

160-423 The ACHP shall suspend a license upon written notice from the Department of Revenue in accordance with ORS 305.385, and after notice to the Operator and a hearing if requested.

160-425 In the event the license is suspended or a threat to resident safety is identified, the ACHP shall notify the resident, the resident's representative or family, as appropriate, 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 ten calendar days after receipt of the notice and order of revocation. Within ten 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. 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 timeframe 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 an informal administrative conference or 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 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 ten 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 or provider may appeal a sanction given by the ACHP. To appeal, the Operator or provider must file a written request for a hearing with the ACHP within the timeframe 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.

170-217 If the appellant fails to appear in person, and there is reliable evidence that the appellant was provided with proper and timely notice of the date and time for hearing and did not request a set over of the hearing date or time, an order upholding the agency action shall be entered.

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 unless the parties agree to forgo this right. 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 involuntary move, or in a hearing requested by a resident or person acting on a resident's behalf to contest an involuntary move. There are four types of admissible evidence:

- (a) Knowledge of the agency: The Director of ADVSD 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 consider only 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 involuntary move, or may approve, conditionally approve, or disapprove an involuntary move. 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 Residency Agreement or Medicaid Provider Enrollment Agreement.
- (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, 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 and 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 DHS 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**

- (1) Activities of Daily Living (ADL) - those personal functional activities required by an individual for continued well-being that 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 and bowel/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 ability to complete activities and tasks rather than the services provided.

(b) How the individual functioned during the 30 days prior to the assessment date, with consideration of how the person is likely to function in the 30 days following the assessment date.

(c) Evidence of the actual or predicted need for assistance of another person within the assessment timeframe and it cannot be based on possible or preventative needs.

(3) Assistance Types needed for activities of daily living and instrumental activities of daily living include, but are not limited to the following terms:

- (a) Cueing - giving verbal or visual clues during an activity to help an individual complete the activity without hands-on assistance.
- (b) Hands-on - a provider physically performs all or parts of an activity because an individual is unable to do so.
- (c) Monitoring - a provider must observe an individual to determine if intervention is needed.
- (d) Reassurance - to offer an individual encouragement and support.
- (e) Redirection - to divert an individual to another more appropriate activity.
- (f) Set-up - getting personal effects, supplies, or equipment ready so that an individual may perform an activity.
- (g) Stand-by - a provider is at the side of an individual ready to step in and take over the task if the individual is unable to complete the task independently.
- (h) Support - to enhance the environment to enable an individual to be as independent as possible.

(4) Bathing/Personal Hygiene - Bathing/Personal Hygiene is comprised of two **components** which are bathing and personal hygiene. 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 tasks of washing the body, washing hair, or getting in or out of **a bathtub or shower, while using assistive devices if needed**. For individuals who are confined to a bed, bathing is assessed without considering the need to get in or out of the bathtub or shower:
  - (A) Assist: Even with assistive devices, requires assistance of another person for a task of bathing at least one day each week totaling four days per month. This means hands-on assistance, cueing, 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 tasks of the activity, every time the activity is attempted.

(b) Personal Hygiene means the tasks of shaving, caring for the mouth, or assistance with the tasks of menstruation care:

(A) Assist: Even with assistive devices, the individual requires assistance of another person for a task of personal hygiene at least once each week totaling four days per month. This means hands-on assistance, cueing, or stand-by presence during the activity.

(B) Full Assist: Even with assistive devices, the individual is unable to accomplish at least two personal hygiene tasks, without the assistance of another person. This means the individual needs hands-on assistance of another person through all tasks, every time the activity is attempted.

(5) **Cognition/Behavior refers to how the individual is able to use information, make decisions, and ensure their daily needs are met. There are four components to cognition: self-preservation, decision-making, ability to make one's self-understood, and unsafe behaviors. For purposes of this rule, assist levels are defined within each of the four components. For each assist level, individuals must have a documented history of actions or behaviors demonstrating they need assistance with ensuring their health and safety.**

(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 timeframe in OAR 411-015-0008 of 30 days prior to the date of the assessment may be expanded when assessing cognition/behavior without supports. **Documented history or incidents that occurred more than 30 days prior to the assessment date may be considered if they demonstrate the need for assistance and that need would likely occur in the absence of existing supports.**

(c) An individual under age 65 with cognition or behavior assistance or full assistance needs based on a mental, emotional, or substance abuse disorder does not meet the criteria for service eligibility per OAR 411-015-0015.

(d) **To assess an individual as meeting the assist criteria for cognition/behavior, an individual must require: Substantial assistance in one of the four components of cognition/behavior; or minimal assistance in at least two of the four components of cognition/behavior.**

(e) **To meet the criteria for full assist in cognition/behavior an individual must require: Full assistance in at least one of the four components of cognition/behavior; or Substantial Assistance in at least two of the four components.**

(f) **The four components of cognition/behavior are:**

(A) **SELF-PRESERVATION. Self-Preservation means an individual's actions or behaviors reflecting the individual's understanding of their health and safety needs and how to meet those needs. When assessing for cognition/behavior, self-**

**preservation refers to an individual's cognitive ability to recognize and take action in a changing environment or a potentially harmful situation.**

- (i) **Self-Preservation includes, but is not limited to an individual:**
  - (I) **Being oriented to their community and surroundings such that they can find their way to their home or care setting.**
  - (II) **Understanding how to safely use appliances.**
  - (III) **Understanding how to take their medications.**
  - (IV) **Understanding how to protect themselves from abuse, neglect, or exploitation.**
  - (V) **Understanding how to meet their basic health and safety needs.**
- (ii) **Self-preservation does not include the individual engaging in acts that may be risky or life threatening when the individual understands the potential consequences of their actions.**
- (iii) **Self-preservation includes the following assistance types (see OAR 411-015-0005) unless otherwise indicated in the assist level:**
  - (I) **Cueing.**
  - (II) **Hands-on.**
  - (III) **Monitoring.**
  - (IV) **Reassurance.**
  - (V) **Redirection.**
  - (VI) **Support.**
- (iv) **Minimal Assist:** The individual needs assistance at least one day each month to ensure they are able to meet their basic health and safety needs because they are unable to act on the need for self-preservation or they are unable to understand the need for self-preservation. The need may be event specific.
- (v) **Substantial Assist:** The individual requires assistance because they are unable to act on the need for self-preservation nor understand the need for self-preservation at least daily.
- (vi) **Full Assist:** The individual requires assistance to ensure that they meet their basic health and safety needs throughout each day. The individual is not able to be left alone without risk of harm to themselves or others or the

individual would experience significant negative health outcomes. This does not include assistance types of support or monitoring.

**(B) DECISION-MAKING.** Decision-making means an individual's ability to make everyday decisions about ADLs, Instrumental Activities of Daily Living (IADLs), and the tasks that comprise those activities. An individual needs assistance if that individual demonstrates they are unable to make decisions, needs help understanding how to accomplish the tasks necessary to complete a decision, or does not understand the risks or consequences of their decisions.

- (i) Decision-making includes the following assistance types, unless otherwise indicated in the assist definitions:
  - (I) Cueing.
  - (II) Hands-on.
  - (III) Monitoring.
  - (IV) Redirection.
  - (V) Support.
- (ii) **Minimal Assist:** The individual requires assistance at least one day each month with decision-making. The need may be event specific.
- (iii) **Substantial Assist:** The individual requires assistance in decision-making and completion of ADL and IADL tasks at least daily.
- (iv) **Full Assist:** The individual requires assistance throughout each day to make decisions, understand the tasks necessary to complete ADLs and IADLs critical to one's health and safety. The individual may not be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. This does not include assistance types of support or monitoring.

**(C) ABILITY TO MAKE SELF-UNDERSTOOD.** Ability to make self-understood means an individual's cognitive ability to communicate or express needs, opinions, or urgent problems, whether in speech, writing, sign language, body language, symbols, pictures, or a combination of these including use of assistive technology. An individual with a cognitive impairment in this component demonstrates an inability to express themselves clearly to the point their needs cannot be met independently.

- (i) Ability to make self-understood does not include the need for assistance due to language barriers or physical limitations to communicate.
- (ii) Ability to make self-understood includes the following assistance types, unless otherwise indicated in the assist definitions:

- (I) Cueing.
- (II) Monitoring.
- (III) Reassurance.
- (IV) Redirection.
- (V) Support.

- (iii) **Minimal Assist:** The individual requires assistance at least one day each month in finding the right words or in finishing their thoughts to ensure their health and safety needs. The need may be event specific.
- (iv) **Substantial Assist:** The individual requires assistance to communicate their health and safety needs at least daily.
- (v) **Full Assist:** The individual requires assistance throughout each day to communicate and is rarely or never understood and cannot be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. Full assist includes hands on assistance in addition to or beyond the communication strategies and/or assistive technology included in paragraph (C). This does not include assistance types of support or monitoring.

**(D) CHALLENGING BEHAVIORS.** Challenging Behaviors means an individual exhibits behaviors that negatively impact their own, or others', health or safety. An individual who requires assistance with challenging behaviors does not understand the impact or outcome of their decisions or actions.

- (i) Challenging behaviors include, but are not limited to, those behaviors that are verbally or physically aggressive and socially inappropriate or disruptive.
- (ii) Challenging behaviors does not include the individual exhibiting behaviors when the individual understands the potential risks and consequences of their actions.
- (iii) Challenging behaviors includes the following assistance types, unless otherwise indicated in the assist definitions:
  - (I) Cueing.
  - (II) Hands-on.
  - (III) Monitoring.
  - (IV) Redirection.

- (iv) **Minimal Assist:** The individual requires assistance at least one day each month dealing with a behavior that may negatively impact their own or others' health or safety. The individual sometimes displays challenging behaviors, but can be distracted and is able to self-regulate behaviors with reassurance or cueing. Minimal assist includes reassurance assistance.
- (v) **Substantial Assist:** The individual requires assistance in managing or mitigating their behaviors at least daily. The individual displays challenging behaviors and assistance is needed because the individual is unable to self-regulate the behaviors and does not understand the consequences of their behaviors.
- (vi) **Full Assist:** The individual displays challenging behaviors that require additional support to prevent significant harm to themselves or others. The individual needs constant assistance to the level that the individual may not be left alone without risk of harm to themselves or others or the individual would experience significant negative health outcomes. This does not include assistance types of monitoring.

(6) Dressing/Grooming: This is comprised of two **components:** dressing and grooming. 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 **is comprised of three tasks; putting on clothing, taking off clothing, and putting on or taking off shoes and socks. This includes, but is not limited to, the consideration of an individual's ability to use clothing with buttons, zippers, and snaps, and reflects the individual's choice and reasonable preferences.**
  - (A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of dressing without the assistance of another person at least one time each week totaling four days per month. This means hands-on assistance, cueing, 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 tasks of the activity, every time the activity is attempted.
- (b) Grooming means tasks of nail and hair care **based on the individual's reasonable personal preferences. This includes, but is not limited to, tasks of clipping and filing both toe nails and finger nails, and brushing, combing, braiding, or otherwise maintaining one's hair or scalp.**
  - (A) Assist: Even with assistive devices, the individual is unable to accomplish some tasks of grooming without the assistance of another person at least one time each week totaling four days per month. 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 tasks of eating, feeding, or nutritional IV **set up**, or feeding tube set-up by another person and may include using assistive devices:

(a) Assist: When eating, the individual requires another person to be **within sight and** immediately available to actively provide hands-on assistance with feeding, special utensils, or immediate hands-on assistance to address choking, or cueing during the act of eating at least one time each week totaling four days per month during the assessment timeframe.

(b) Full Assist: When eating, the individual always requires one-on-one assistance through all tasks of the activity for direct feeding, constant cueing to prevent choking or aspiration every time the activity is attempted.

(8) Elimination: This is comprised of three **components** which are Bladder, Bowel and Toileting. 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 the tasks of catheter care and ostomy care.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance with a task of bladder care at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual requires hands-on assistance of another person to complete all tasks of bladder care every time the task is attempted even with assistive devices.

(b) Bowel means the tasks of digital stimulation, suppository insertion, ostomy care, and enemas.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance with a task of bowel care at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual requires hands-on assistance of another person to complete all tasks of bowel care every time the task is attempted, even with assistive devices.

(c) Toileting means tasks requiring the hands-on assistance of another person to cleanse after elimination, change soiled incontinence supplies or soiled clothing, **adjust** clothing to enable elimination, or cue to prevent incontinence.

(A) Assist: Even with assistive devices, the individual requires hands-on assistance with a task of toileting **or cueing to prevent incontinence** at least one day each week totaling four days per month during the assessment timeframe.

(B) Full Assist: The individual is unable to accomplish any task of toileting without the assistance of another person. This means the individual needs the assistance of another person through all tasks of the activity, every time the activity is attempted.

(9) Mobility: This is comprised of two **components**, which are 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 getting in and out of a motor vehicle or getting in or out of a bathtub/shower.
- (b) In mobility, for the purposes of this rule, inside the home or care setting means inside the entrance to the consumer'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 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 timeframe. 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 **and outside** the home or care setting. This includes assessing the individual's needs after taking into consideration their level of independence while using assistive devices such as walkers, canes, crutches, manual and electric wheelchairs, and motorized scooters. **Ambulation does not include exercise or physical therapy.**

(A) Minimal Assist: Even with assistive devices, the individual requires hands-on assistance from another person to ambulate outside the home or care setting at least once each **week, totaling** four days per month. The individual **requires hands-on assistance from another person to ambulate inside their home or care setting less than one day each week.**

(B) Substantial Assist: Even with assistive devices the individual requires hands-on assistance from another person to ambulate inside their home or care setting at least one day each week totaling four days per month.

(C) Full Assist: Even with assistive devices the individual requires hands-on assistance from another person to ambulate every time the activity is attempted. Individuals who are confined to bed are a full assist in ambulation.

(e) Transfer means the tasks of moving to or from a chair, bed, or wheelchair using assistive devices, if needed. **This includes assessing an individual's ability to transfer from areas used on a daily or regular basis, such as sofas, chairs, recliners, beds, and other areas inside the home based on their reasonable personal preferences. When individuals are confined to their bed or a wheelchair, repositioning is also considered as a transfer**

**task.** This assistance must be required because of the individual's physical limitations, not their physical location:

- (A) Assist: Even with assistive devices the individual requires hands-on assistance with a task of transferring inside the home or care setting at least one day each week totaling at least four days per month.
- (B) Full Assist: The individual requires hands-on assistance from another person every time the activity is attempted, even with assistive devices.

## **APPENDIX II — APPEAL TIMEFRAMES**

When a sanction is issued, the Operator has a right to request a contested case hearing under ORS 183. The sanction notice shall specify the timeframe permitted for submitting a request for a hearing. Please refer to the following rules for hearing request timeframes:

MCAR 023-160-270: 21 calendar days following a notice of a fine

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

## **APPENDIX III — RECORD RETENTION REQUIREMENTS**

Resident and adult care home business records are required to be maintained and available in the home for certain periods of time.

**MCAR 023-090-225** All resident records shall be maintained in the home for a minimum of three years. If the Operator acts as the resident's rep payee, any resident financial records shall be maintained for seven years. [See MCAR 023-090-220(I) and 023-090-225]

MCAR 023-090-460 All adult care home business records shall be maintained in the home for a minimum of three years, including but not limited to well-water test results per MCAR 023-100-205 and evacuation drill records per MCAR 023-100-813.