

Presentation to the Joint Task Force on Improving the Safety of Behavioral Healthcare  
Workers

# **Office of Aging and People with Disabilities**

Safety, Oversight and Quality Unit  
Survey / Regulatory Overview

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July 18, 2024

# Summary of licensed care settings



## Adult Foster Homes

- Private home structure serving 1–5 residents
- Subject to Federal Home and Community Based Services (HCBS) standards for resident rights and freedoms
- Licensed annually by APD local office or Area Agency on Aging (AAA) staff
- Assists with activities of daily living such as bathing and medication management in a small homelike setting



## Community Based Care

- Setting serve 6+ residents
- Comprised of Assisted Living and Residential Care Facilities (Intensive Intervention and/or Memory Care Endorsements where applicable)
- Subject to Federal HCBS standards for resident rights & freedoms
- Licensed every two years
- RN not required 24/7, CNA not required. Assists with activities of daily living such as bathing and medication management

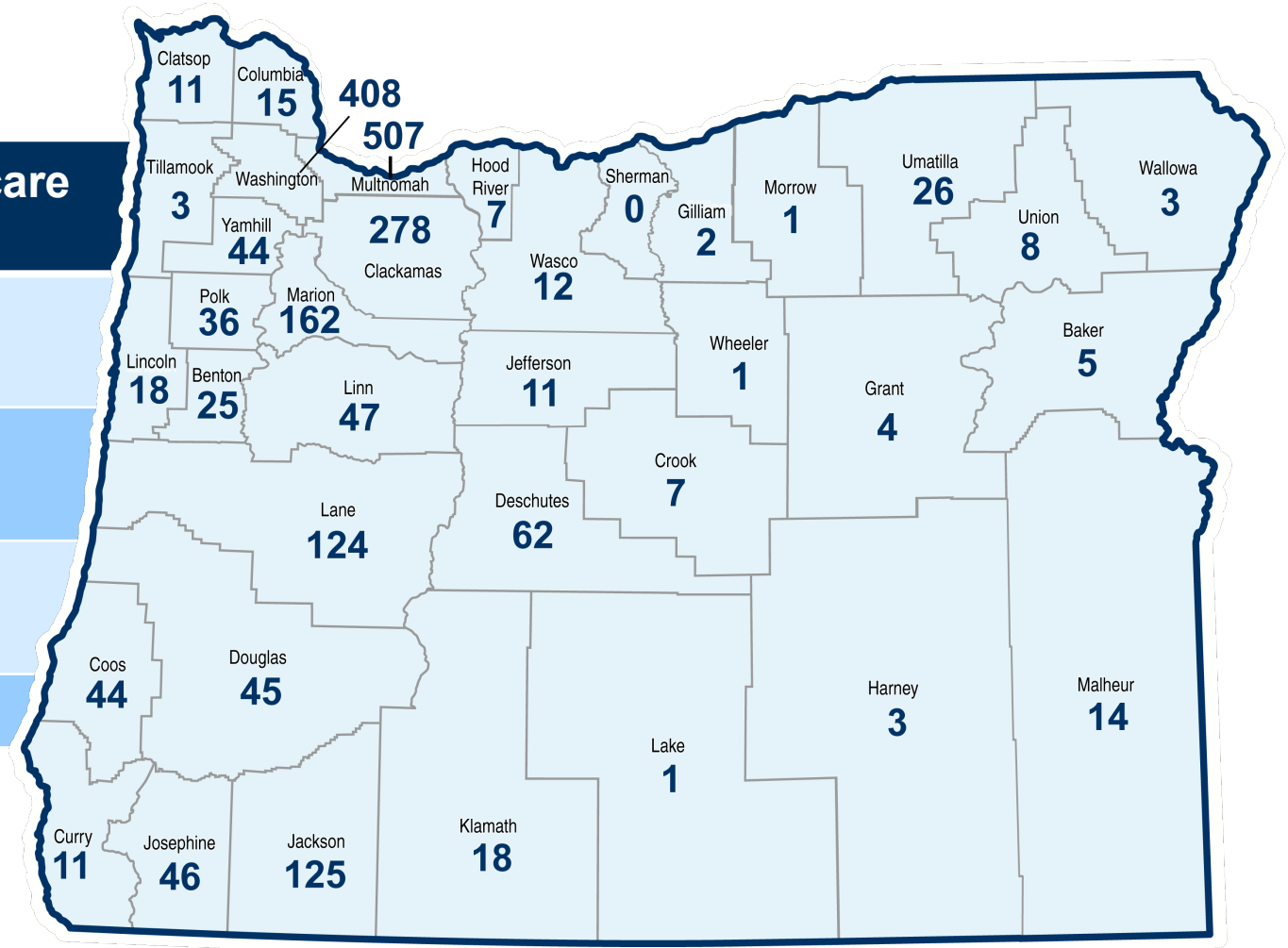


## Nursing Facilities

- Primarily federally regulated (Medicare and/or Medicaid certified)
- Licensed annually by APD staff who meet CMS required training standards
- May be short-term stays following hospitalization or long term
- 24-hour skilled care and post-acute rehabilitative and specialized medical care. 24-hour supervised nursing care.

# Number of licensed facilities and homes

Setting type	Number	Memory care endorsed
Nursing facility	128	11
Assisted living and residential care	576	253
Adult foster home	1,430	N/A
<b>Totals</b>	<b>2,134</b>	<b>264</b>



# Regulatory framework

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- Intent is to apply preventive, positive and progressively restrictive measures.
- Technical assistance is based on:
  - Scope – what is the overall impact to residents with this deficiency?
  - Severity – what is the risk of harm to residents?
  - History – has there been a pattern of similar deficiencies in recent history?
- Corrective action:
  - Civil penalties
  - License Conditions
  - Facility Enhanced Oversight and Supervision (FEOS)
  - Suspension, non-renewal or revocation of license.

# Safety, Oversight and Quality core responsibilities

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## Licensing

- Adult Foster Homes
- Community-Based Care settings
- Nursing Facilities

## Regulatory oversight

- Survey
- Corrective action
  - Technical assistance
  - Civil penalties
  - License Conditions
  - Facility Enhanced Oversight and Supervision (FEOS)
  - Suspension, non-renewal or revocation of license

## Licensing complaint investigations

**Abuse complaint investigations** (Nursing Facilities only)

## Regulatory rule and policy development and management

# Other programs in the regulatory system

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- Quality Measurement Program
- Quality Care Fund
- Long Term Care Referral Agents Registry
- Facility Enhanced Oversight Program

# APD Adult Foster Home licensing

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Annual licensing visits for Adult Foster Homes (AFH) are conducted by APD local office or AAA licensors and can include:

- Complaint investigation
- Renewal/ monitoring
- Corrective action oversight
- Other check-ins, as needed.

Licensors evaluate and review resident safety and care based on the following areas of rule:

- Facility standards
- Caregiver staffing
- Resident records
- Medication and treatment standards.

# Community Based Care (CBC) Survey

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Community Based Care Facilities, which are Assisted Living and Residential Care Facilities, receive surveys.

Reasons surveys are conducted:

- Licensing renewal, which occurs every two years
- Annual kitchen inspection
- Revisit due to not being in substantial compliance following a survey
- At the discretion of the Oregon Department of Human Services (ODHS).



# CBC survey procedures

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- Conducted by a team of two to five surveyors.
- Team onsite for about four to five business days.
  - Makes observations
  - Conducts interviews
  - Reviews resident records.
- If licensing violations are identified facility will:
  - Receive a statement of deficiencies with a description of each violation
  - Be required to develop plan of correction for each violation
  - Be subject to civil penalties and conditions which may be imposed based on scope and severity of violations
  - Survey will confirm correction has been made for each violation issued.

# Nursing Facility Survey Unit

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Reasons for survey by Nursing Facility Survey Unit (NFSU):

- Annual licensing renewal using a federal survey process and Long-Term Care Survey Process tool.
- Abuse and licensing complaint investigations.

Survey standards

- Facilities are held to:
  - The CMS State Operations Manual for Nursing Facilities and state administrative rules [Code of Federal Regulations \(CFRs\)](#)
  - [CMS State Operations Manual](#)
  - Oregon Administrative Rules (OARs).

❖ Federal and state standards are minimum requirements.

# Nursing Facility survey process

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Team of three to four surveyors conduct visit on site for approximately one week to:

- Make observations
- Conduct interviews
- Review resident records.

If identified licensing violations, facility will:

- Receive a statement of deficiencies with a description of each violation
- Be required to develop plan of correction for each violation
- Is subject to federal and state civil penalties and corrective action based on scope and severity of violations
- Receive survey confirmation of correction for each violation issued.

❖Federal and state standards are minimum requirements.

# Nursing Facility complaint investigations

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- Conducted by NFSU certified surveyors.
- Required by federal and state requirements
  - State response timelines are more stringent than federal.
- Focused on specific concern(s) and systemic issues.
- Facility-developed plan of correction required for each citation.
- If abuse is substantiated, NFSU corrective action determines responsibility.
- Subject to Federal and State civil penalties and other remedies based on scope and severity.

# Rule citations

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## Adult Foster Homes

- Chapter 411 and Divisions 049, 050, 051, 052
  - Division 051 is the primary division related to the provision of care and services.

## Community Based Care Facilities

- CBC Rules 411-054
- Endorsed Memory Care Communities 411-057

## Nursing Facilities

- Code of Federal Regulations (CFRs)
- CMS State Operations Manual

## Other applicable rules for AFH and CBC

- Adult Protective Services 411-020
- Home and Community Based Services 411-004

# Enhanced Care Services overview

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Enhanced Care Services (ECS) support Medicaid eligible consumers who have serious behavioral health conditions.

- Services are provided through:
  - Four Residential Care Facilities
  - Three Nursing Facilities.
- Treatment:
  - Provided through wrap-around behavioral health providers.
  - Focused on teaching skills and coping strategies to enable individuals to live with greater autonomy in the least restrictive settings.
- APD pays the facility and Oregon Health Authority pays for the treatment.

# Enhanced Care Services: Population served

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- Admissions are approved by APD and behavioral health analysts due to limitations of resources.
- Services are specifically designed to serve APD consumers who are:
  - Eligible for Medicaid Long Term Care Services
  - Have a history of unsuccessful placements
    - ✓ Or service needs that create a barrier to securing standard placements
    - ✓ Or have had a recent discharge from the Oregon State Hospital or acute psychiatric hospitals.
  - Have documentation of a serious behavioral health diagnoses.

# Enhanced Care Services: Population served

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- Programs enable APD to serve consumers who otherwise might not be able to be served.
- Individuals served have documentation of recent:
  - Dangerous or criminal behavior resulting in hospitalization, criminal charges; injury to self or others
  - Physical or sexual aggression towards others
  - Inability to regulate emotions with disruptive, agitated and intrusive behaviors
  - Verbally aggressive behaviors that have resulted in a valid move out notice from other facilities
  - History of generating false memories, resulting in inaccurate or distorted reporting of events and leading to allegations against others
  - Behaviors creating biohazardous situations, which lead to unsanitary or dangerous environments
  - Frequent self-harm behaviors or threat of self-harm; or
  - Psychiatric symptoms requiring intensive supervision.



## ECS: Locations served

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- Current facilities:
  - Hood River – one Nursing facility
  - Multnomah County – one nursing facility and three Residential Care Facilities
  - Yamhill County – One Residential Care Facility
  - Marion County – One Nursing Facility
- Capacity has continued to decline because of a lack of behavioral health providers.
- At the programs peak, there were 5 nursing facilities and 6 residential care facilities

# ECS: Wrap-around services

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- Wrap-around services are funded through the OHA Medicaid Behavioral Health program.
- Each ECS facility has Memorandum of Understanding (MOU) with the embedded behavioral health treatment program.
- The MOU addresses coordination with:
  - Communication regarding treatment plans
  - Coordinating Services like activities
  - Quarterly trainings for direct support staff
  - Admission criteria
  - Emergency/crisis services
  - Activities
  - How care conferences will be coordinated, frequency and who will attend.

# ECS: Staff supports

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- Lower resident-to-caregiver ratio than standard requirements
- Daily access to a clinician
- Crisis support
  - 24-hour access to support when consumers are in crisis, which is determined by an agency that is familiar with the consumer.
- Training
  - Training on how to safely implement activities plans for residents.
  - All direct-care staff must receive 12 hours per year of in-service training from the embedded behavioral health clinician.

# ECS: Limitations

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Facilities must follow all licensing regulations:

- No involuntary injections
- No holds seclusions or restraints
- Facilities are not secure facilities unless authorized by licensing and approved by the resident's guardian, if applicable
  - Individuals have access to broader community on their own
- Individuals or their representatives/guardians must consent to apply for Medicaid.

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# Overview of foster home and residential home regulations: Office of Developmental Disabilities Services (ODDS)

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July 18, 2024

# ODDS

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1. Residential facilities
2. Other regulated programs and services
3. Regulatory framework
4. Reviews
5. Capacity and staffing

# Residential facilities

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## **24-hour residential homes**

- 24-hour direct-care staff for adults and children in group homes
- 1,552 currently licensed; 146 pending

## **Host homes**

- Homes where one or two children live with their provider
- 4 currently licensed

## **Adult foster homes**

- 24-hour direct-care for adults living in the home of their provider
- 983 currently licensed

## **Child foster homes**

- 24-hour direct-care for children living in the home of their provider
- 163 currently licensed

# Other regulated programs and services

**Supported living:** Individuals live in residence of their choice in the community

**Community living supports:** In-home services for community support and integration

- Community Living Supports Agency
- Standard Model Agency

**Behavior supports:** Designated person assists individual with behavioral needs

**Employment services:** To be more successful in finding, obtaining and keeping a job

**Direct nursing services:** Extra support and resources for individuals with complex medical needs

**Note:** There are 885 ODDS-certified Medicaid agencies provide services and supports. There are 219 pending Medicaid agencies.



# Regulatory framework

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**ODDS' rules regulatory framework are centered on protecting the individuals we serve and meeting their unique needs for necessary services and supports.**

- Responsible for assuring the health and welfare of the individuals we serve across Oregon
- Focus on the safety of individuals receiving services
- Regulate provider agencies who employ and are responsible for the safety of their staff and direct support workers

# Regulatory framework: ODDS general duties

- Administers application processes, licensing, certifications, and endorsements changes
- Reviews policies and procedures
- Conducts monitoring and complaint investigation
- Conducts on-site reviews
  - Reviews personnel records for qualifications, background checks, and training
  - Reviews individual records
  - Conducts interviews
  - Reviews environment for safety and evacuation standards
- Identifies and reports deficiencies in review reports
- Reviews critical incidents for appropriate interventions and actions
- Imposes corrective actions and sanctions
- Reviews plans of correction to ensure completion and rule requirements
- Provides technical assistance
- Takes progressive actions to reinforce compliance based on scope, severity and facility history

# Regulatory framework:

## ODDS Licensing Unit responsibilities

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- Certifies, endorses and licenses facilities and providers
- Conducts onsite inspections
  - Initial walkthroughs
  - 120-day reviews
  - Renewals
  - Quality assurance
- Complaint investigations
- Enforcement and sanctions
- Technical assistance
- Monitoring
- Follow-up reviews

# Reviews: Regulatory cycle

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## 1-year: licensing

- Adult foster homes



## 2-year: licensing

- 24-hour residential
- Host Homes
- Medicaid agency
- Child Foster Homes



## 2-year: quality assurance

- Supported living
- Employment
- Community living supports



# Reviews: 24-hour residential reviews conducted July 1, 2023–June 30, 2024

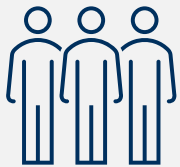
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- **120-day:** 127
  - With complaint: 14
- **Follow-up to 120-Day:** 17
  - With complaint: 7
- **Renewal:** 1,157
  - With complaint: 30
- **Follow-up to renewal:** 215
  - With complaint: 23
- **Complaint only:** 32
- **Follow-up to complaint:** 5
- **Medicaid agency renewal:** 2
- **Medicaid agency — add endorsement:** 97
- **Monitoring:** 2

# Capacity and staffing: Residential and foster homes

## Adult 24-hour residential homes

- Maximum capacity: none
- Minimum staffing ratio: 1:15



## Child 24-hour residential homes

- Maximum Capacity: none
- Minimum staffing ratio: 1:15



## Adult foster homes

- Capacity: 1–5
- Minimum staffing: Resident manager, provider or caregiver always present when individuals are home unless stated in one's individual support plan or ODDS variance

## Child foster homes

- Capacity:
  - Up to 4 with one certified adult
  - Up to 7 with two certified adults
- Maximum of 2 children under two years old
- Includes provider's biological children



Questions?

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# Thank you

