

RESIDENT BILL OF RIGHTS

As a resident of a licensed residential treatment facility, you have certain rights outlined in Oregon State law. These laws are known as Oregon Administrative Rules (OAR) and Oregon Revised Statute (ORS). Your rights as a resident are listed below.

309-035-0175

Individual Rights

- (1) Each individual shall be assured the same civil and human rights accorded to other citizens. These rights shall be assured unless expressly limited by a court in the case of an individual who has been adjudicated incompetent and not restored to legal capacity. The rights described in paragraphs (2) and (3) of this section are in addition to and do not limit all other statutory and constitutional rights that are afforded to all citizens including, but not limited to, the right to vote, marry, have or not have children, own and dispose property, enter into contracts and execute documents.
- (2) A provider shall actively work to support and ensure each individual's rights described in this rule are not limited or infringed upon by the provider except where expressly allowed under these rules.
- (3) The provider shall ensure that individuals receiving mental health services have the rights set forth in ORS 430.210:
- (4) An individual also has a right to the following:
 - (a) Adequate food, shelter, and clothing;
 - (b) A reasonable accommodation if, due to their disability, the housing and services are not sufficiently accessible;
 - (c) Confidential communication including receiving and opening personal mail, private visits with family members and other guests, and access to a telephone with privacy for making and receiving telephone calls;
 - (d) Express sexuality in a socially appropriate and consensual manner;
 - (e) Access to community resources including recreation, religious services, agency services, employment, and day programs unless such access is legally restricted;
 - (f) Be free from seclusion and restraint except as outlined in OAR 309-035-0205.
 - (g) To review the program's policies and procedures; and
 - (h) Not participate in research without informed voluntary written consent.

(5) An individual also has the following HCBS rights:

(a) Live under a legally enforceable residency agreement in compliance with protections substantially equivalent to landlord-tenant laws as described in this rule;

(b) Have visitors of the individual's choosing at any time and the freedom to visit with guests within the common areas of the setting and the individual's unit;

(c) The freedom and support to control the individual's own schedule and activities including but not limited to accessing the community without restriction;

(d) Have a lockable door in the individual's unit that may be locked by the individual, and only appropriate program staff have a key to access the unit;

(e) A choice of roommates when sharing a unit;

(f) Furnish and decorate the individual's unit according to the Residency Agreement;

(g) The freedom and support to have access to food at any time;

(h) Privacy in the individual's unit; and

(i) Section (5) of this rule are effective July 1, 2016, and OAR 309-035-0115(17).

(6) An SRTF is not required to maintain the qualities or obligations identified in section (5) (b), (c), (d), (e) and (h). The provider is not required to seek an individually-based limitation to comply with these rules.

(7) A provider is not required to comply with section (5) (a) of this rule when providing an individual with crisis-respite services. The provider is not required to seek an individually-based limitation for such an individual to comply with these rules.

(8) For the purpose of this section, these terms have the following meanings:

(a) "Fresh air" means the inflow of air from outside the facility where the individual is receiving services. "Fresh air" may be accessed through an open window or similar method as well as through access to the outdoors;

(b) "Outdoors" means an area with fresh air that is not completely enclosed overhead. "Outdoors" may include a courtyard or similar area;

(c) If an individual requests access to fresh air and the outdoors or the individual's treating health care provider determines that fresh air or the outdoors would be beneficial to the individual, the program in which the individual is receiving services shall provide daily access to fresh air and the outdoors unless this access would create a significant risk of harm to the individual or others;

(d) The determination whether a significant risk of harm to the individual or others exists shall be made by the individual's treating health care provider. The treating health care provider may find that a significant risk of harm to the individual or others exists if:

(A) The individual's circumstances and condition indicate an unreasonable risk of harm to the individual or others that cannot be reasonably accommodated within existing programming should the individual be allowed access to fresh air and the outdoors; or

(B) The program's existing physical setting or existing staffing prevent the provision of access to fresh air and the outdoors in a manner that maintains the safety of the individual or others.

(e) If a provider determines that its existing physical setting prevents the provision of access to fresh air and the outdoors in a safe manner, the provider shall make a good faith effort at the time of any significant renovation to the physical setting that involves renovation of the unit or relocation of where individuals are treated to include changes to the physical setting or location that allows access to fresh air and the outdoors, so long as such changes do not add an unreasonable amount to the cost of the renovation.

(9) The program shall have and implement written policies and procedures that protect individuals' rights and encourage and assist individuals to understand and exercise their rights. The program shall post a listing of individual rights under these rules in a place readily accessible to all individuals and visitors.

Statutory/Other Authority: ORS 413.042 & 443.450

Statutes/Other Implemented: ORS 413.032, 443.400 - 443.465 & 443.991