

Guidance for **successful**
resident transitions
in Oregon assisted living and
residential care communities



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Disclaimer

This practice guide is offered to assisted living and residential care communities for informational and education purposes only. The guide was created collaboratively with input from variety of stakeholders including Oregon Department of Human Services, the Office of the Long-term Care Ombudsman, and Oregon Health Care Association. The guidelines were created based upon a review of government regulations, literature review, expert opinions and consensus. They were developed to be consistent with the following principles:

- Relative simplicity;
- Illustration of holistic process and linkages between service capability, move-in, assessment, service planning, monitoring, change of condition and move-out;
- Evidence-based practices;
- Inclusion of suggested practices, appropriate forms and checklists;
- Consistency with ORS and OARs.

Recognizing the importance of implementing appropriate guidelines, various organizations plan to offer education and training to support the application and use of these guidelines. Again, this guide is an informational resource. Consult with appropriate organizational leadership and/or legal counsel, state agency staff or trade association contacts if you have question on the materials.

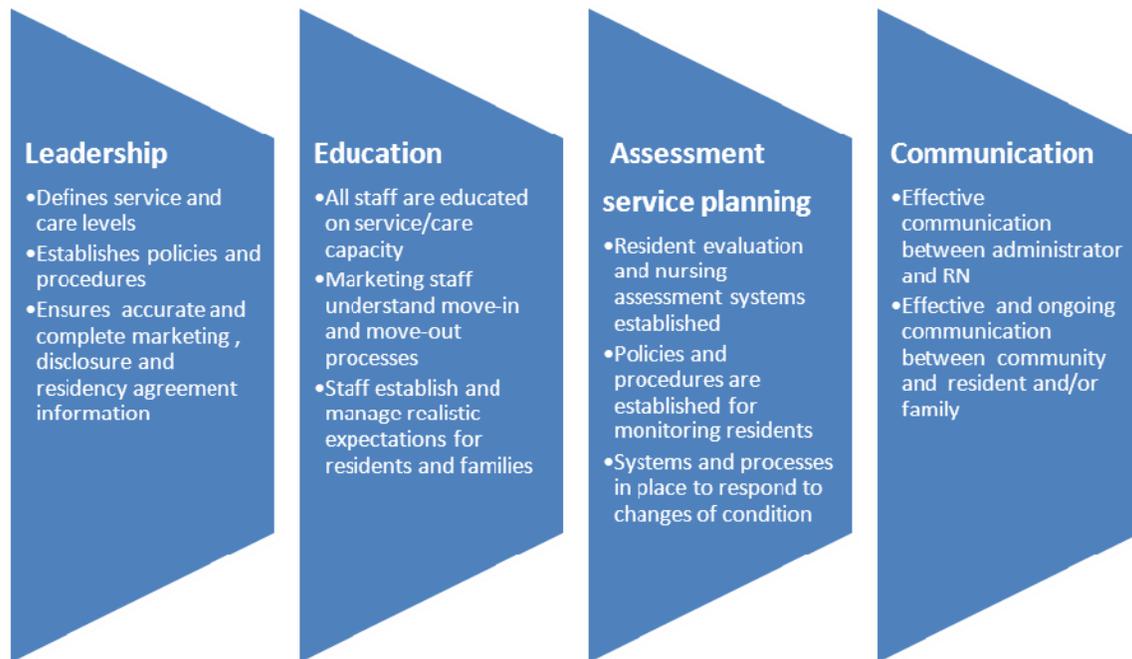
Appropriate staff at each community/program should develop specific policies, procedures and protocols to best assure the efficient implementation of these guidelines.

I. Introduction

The intent of this handbook is to improve residential care and assisted living service providers' understanding of Oregon regulatory standards that govern resident moves to and from an assisted living facility (ALF) or residential care facility (RCF) community. The Oregon home and community-based care program is intended to enhance dignity, independence, privacy, individuality and decision making for residents even when their choices may involve risk. Services are delivered in a safe and secure environment while addressing the needs of the resident in a manner that supports and enables the individual to maximize abilities to function at the highest possible level.

Assisted living and residential care providers in Oregon are required to provide a minimum scope of services as outlined in the Oregon Administrative Rules (411-054-0030). However, ALF and RCF providers are able to design communities that offer resident services that **exceed** the minimum service requirements. Irrespective of the services providers choose to offer, Oregon's community-based care (CBC) model encourages a sophisticated balance that requires facilities to support a resident's choice to remain in his or her living environment while, at the same time, recognizing that some residents may truly no longer be appropriate for the CBC setting due to safety and medical limitations.

When a resident's needs exceed the services required by regulation and those available in your community, either a voluntary or involuntary move-out may occur. Both are **legal** processes outlined in the OARs. Residents can access administrative and judicial due process if they dispute a decision that would cause them to move from a licensed community. Using this guide will help provide more routine and proactive communication with residents and families, minimizing problems. Employing these recommendations will improve understanding and make the move-out process smoother and more efficient for all parties.



Proactive leadership of move-in and move-out

Because of regulation, diversity among residents, services offered and the complexities of the fees, it is critical for providers to present their customers with complete, concise and candid information about their community and the services it offers. By carefully providing this information, you can prepare the groundwork for successful resident transitions both to and from your community.

Proactive leadership means that it is also critical to have policies and procedures in place to ensure that when a resident needs to move, the process is supportive, smooth and does not come as a surprise to the consumer. In order for this first step to happen, marketing, disclosure and residency documents must be clear, specific, consistent with regulatory standards, and routinely reviewed and updated.

Leadership is also responsible for ensuring all staff are trained and understand their role and the standards for move-in and transfer of residents. The conversation with residents and families does not stop after move-in. Each change of condition and service plan meeting is an opportunity to review present and future needs in relation to the service capability of the community.

Staff education

For staff, especially those doing marketing, knowledge and understanding of move-in and move-out criteria is essential to disclosing accurate information to consumers and providing quality care consistent with your service capability. Training at employee orientation, periodic in-services and staff meetings should continually address your standards and processes. Staff should all understand the following practices related to move-in and transfers:

- Criteria specific to your organizations move in and move out processes
- Resident rights related to move out
- Importance of objective and thorough pre move in screening
- Good customer service strategies and creative problem solving
- Importance of continuous communication & documentation
- Requirements related to issuance of a move out notices

Establishing realistic expectations for residents and families from the beginning

Many consumers believe once residents move into an ALF/RCF, they can remain there for the rest of their life. Because the Oregon Administrative Rules (411-054-0045) allow flexibility in the types of services a community can offer beyond the basic services, it is important to avoid any misperceptions by establishing and enforcing realistic and accurate expectations with residents and families both before move-in **and** throughout the residents' stay. This is especially true if the community has disclosed limitations on its service and care capabilities. Move-out criteria must be designed in accordance with Oregon Administrative Rules, the Fair Housing Act and the Americans with Disabilities Act. However, this guide is focused primarily on OARs for assisted living and residential care.



Service capability and move out information in residency agreements and disclosure standards

Keep in mind that prospective residents and families are likely to experience information overload when selecting a community. The Oregon Uniform

Disclosure Statement (UDS) serves as a comparison tool for consumers. In addition to the UDS, the OARs outline a list of disclosure information that must be included in residency agreements or resident handbooks. Carefully reviewing and explaining service agreements, criteria for admission and discharge, fee schedules and related documents will create an atmosphere of open communication among all parties. This is the perfect beginning to a long-term relationship built on trust and will help avoid future misunderstandings or misaligned expectations.

Assessment and service planning as a platform for communication

Routine communication via service plan meeting When resident evaluation, nursing assessment systems and policies and procedures for monitoring care and change of condition are established, they not only form a foundation for quality care, they also provide a structure to support ongoing communication. It's this service-related communication that keeps everyone's expectations on the same page. Again, disclosure and residency agreements should be reviewed at each service plan meeting or anytime a change of condition could necessitate a future transition to another community or level of care, e.g. a resident with mild dementia is beginning to exhibit wandering behavior or a resident's projected near-term medical need is likely to exceed the disclosed scope of service.

Document conversations with family and residents

From the moment a resident says, "Yes, I want to live here," the story begins. Documentation is integral to quality care, effective communication, coordination of care and accountability. It supports all parties to provide an accurate reflection of a resident's general health and well-being, change of condition, course of treatment, interventions and actions, reasoning behind actions, nonaggressive nutritional strategies for some end-of-life residents, and communications between other health providers, resident and family.

Critical times for communication

- Changing medical condition that may necessitate move to a different type of care, e.g., hospitalization;
- Resident safety, i.e., wandering, inability to evacuate;
- The first 30 days after move-in when the community learns more about the resident;
- Changing finances, i.e., spend-down;
- Change of ownership or management.



When these situations arise, staff should always communicate promptly, openly and directly with residents and families.

How to conduct the move-out notification meeting with the resident

Throughout the resident’s stay, the resident, family members or responsible parties look to the administrator, and often the nurse, to provide answers, solve problems and manage staff. Once again, leadership is essential during the move-out process. Leadership assures continuity and expresses the importance of communication.

II. Practical guidance for each involuntary move-out

If all efforts have been exhausted and an involuntary move-out notice is the next step, the following chart provides guidance in addressing each type of move-out criteria. All move-out criteria are listed with corresponding practice guidelines and questions to consider. These guidelines are intended as a resource to assure you have met regulatory requirements and considered successful transition strategies.

<p style="text-align: center;">OAR MOVE- OUT CRITERIA</p>	<p style="text-align: center;">PRACTICE GUIDELINES</p>	<p style="text-align: center;">QUESTIONS TO CONSIDER</p>
<p>(1) The resident’s needs exceed the level of ADL services the facility provides as specified in the facility’s disclosure information;</p> <p>Rule reference: 411-054-0030(e);</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Evaluate all disclosure materials to ensure that they contain all required information. <input type="checkbox"/> Focus on service capability, reasons for move-out and resident rights associated with each. Be specific with regard to disclosure. If under certain conditions services above the basic scope of service will be offered on an individual basis, describe your process for evaluating individual circumstances. <input type="checkbox"/> Review the resident’s records to determine past recommendations and discussions 	<ul style="list-style-type: none"> <input type="checkbox"/> What specifically does this resident need that you cannot provide? <input type="checkbox"/> How do the resident’s current needs differ from prior evaluations of this resident? <input type="checkbox"/> What changes did you make to the resident’s service plan to

OAR MOVE- OUT CRITERIA	PRACTICE GUIDELINES	QUESTIONS TO CONSIDER
411-054-0080(1)	<p>with resident and family about ways to accommodate the resident’s increasing ADL needs. Ensure that the service plan has been updated to reflect attempted interventions and the current plan for care.</p> <ul style="list-style-type: none"> □ Review your disclosure statement: Examples: <ul style="list-style-type: none"> • Will the facility provide two-person transfer assistance (e.g., from bed to chair)? • Can the facility care for the resident if he or she requires sliding-scale insulin injections? • If the resident is temporarily confined to bed, can he or she remain in the facility? • If the resident becomes forgetful or confused and begin wandering outside, can he or she continue to live at the facility? 	<p>meet these new care needs?</p> <ul style="list-style-type: none"> □ How were staff made aware of these changes? □ Where has staff documented their efforts to incorporate the changes into the resident’s care? □ Did your disclosure statement say that you did or did not provide the service that the resident needs now?
(2) The resident engages in behavior or actions that repeatedly and substantially interfere with the rights, health or safety of	<ul style="list-style-type: none"> □ Determine that the behavior is not a result of a medical condition by requesting labs, mental health consults, etc. □ Contact the resident’s physician for assistance in addressing the behaviors. □ Observe the resident to determine if there are certain settings, people or situations 	<ul style="list-style-type: none"> □ What are the specific behaviors that the resident engages in that are causing conflict? □ If the behavior interferes with the rights, health or safety of other residents, how have you addressed these problems with

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<p>residents or others;</p> <p>Rule reference: 411-054-0030(e)(I)</p>	<p>that trigger the resident’s behavior.</p> <ul style="list-style-type: none"> □ Identify timelines of when the behavior symptoms began. □ Review the resident’s service plan to ensure it reflects the facility’s attempts at intervention/resolution. 	<p>all parties involved?</p> <ul style="list-style-type: none"> □ Have attempts been made to involve a third party to mediate the conflicts? □ Has a managed risk agreement (411-054-00365) been tried to show the facility’s attempts to accommodate the resident’s behavior choices?
<p>(3) The resident has a medical or nursing condition that is complex, unstable or unpredictable and exceeds the level of health services the facility provides as specified in the facility’s disclosure information;</p> <p>Rule reference: 411-054-0040(1)(e)</p>	<ul style="list-style-type: none"> □ There should be ongoing communication with the resident and family about move-out criteria when the resident’s health indicators begin to indicate/require more acute levels of care that cannot be provided. □ After a hospitalization results from continued changing health conditions, the administrator or RN should promptly communicate those changes to family members or other responsible parties and how it may affect the resident’s continued residency in the facility. 	<p>Does the resident’s current medical condition exceed the level of care the facility can currently provide?</p> <p>Do the resident and family have clear guidance of the facility’s limits for complex medical conditions?</p>

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<p>(4) The facility is unable to accomplish resident evacuation in accordance with OAR 411-054-0090 (Fire and Life Safety);</p> <p>Rule reference: 411-054-0090 (1)(c)</p>	<ul style="list-style-type: none"> □ The evacuation capability of the residents is a function of both the ability of the resident to evacuate and the assistance provided by the staff. The expectation for resident participation in fire drills should be clearly stated in disclosure material and explained to the resident upon move-in. □ Staff must provide fire evacuation assistance to residents from the building to a designated point of safety as determined by the fire authority having jurisdiction. Points of safety may include outside the building, or through a horizontal exit or other areas as determined by the fire authority having jurisdiction. □ Each resident must be instructed within 24 hours of admission and re-instructed at least annually in general safety procedures, evacuation methods, responsibilities during fire drills, and designated meeting places outside the building or within the fire-safe area in the event of an actual fire. This requirement does not apply to residents whose mental capability does not allow for following such instruction. 	<ul style="list-style-type: none"> □ Have alternatives been considered, such as increasing staff levels, changing staff assignments, change of resident’s room or adding assistive devices to accomplish evacuation? □ Does your disclosure information state your expectations for residents’ participation in fire drills? Does the disclosure information include the potential for having to move if a resident is unable to evacuate within a timeframe? □ Does your documentation address resident training and individual participation or non-participation in fire drills?

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<p>(5) The resident exhibits behavior that poses a danger to self or others.</p>	<ul style="list-style-type: none"> □ Observe the resident to determine if there are certain settings, people or situations that trigger the resident’s behavior. □ Identify timelines of when the behavior symptoms began. □ Review the resident’s service plan to ensure it reflects the facility’s attempts at intervention. 	<ul style="list-style-type: none"> □ How is the resident’s behavior a danger (e.g., medical or physical issues, verbal threats, etc.)? □ Has a managed risk agreement (411-054-00365) been attempted to show the community’s attempts to accommodate the resident’s behavior/choices while offering constructive interventions that might minimize the risk/harm? □ When did the behavior symptoms begin? What attempts have been made to mitigate the resident's behavior? Is there an action plan for staff to refer to in the event of an extreme emergency?
<p>(6) The resident engages in illegal drug use, or commits a criminal act that causes potential harm to the resident or others.</p>	<ul style="list-style-type: none"> □ Document incidents and interventions that have been attempted. □ Changes must be made in the resident’s service plan to instruct staff how to approach resident if there is illegal activity. □ Obtain copies of any police reports describing the incident. 	<ul style="list-style-type: none"> □ Has the criminal act been reported to local law enforcement? How is the criminal activity causing potential harm to other residents?
<p>g) Resident’s charges are not paid.</p>	<ul style="list-style-type: none"> □ Have you followed community policies and procedures regarding accounts receivable? 	<ul style="list-style-type: none"> □ What is your assessment of this resident’s ability to handle his or her own finances?

OAR MOVE- OUT CRITERIA	PRACTICE GUIDELINES	QUESTIONS TO CONSIDER
	<ul style="list-style-type: none"> □ Was written communication set regarding late payment and timeline for resolution? 	<ul style="list-style-type: none"> □ If the resident does not have the mental capacity to manage his or her own finances, what steps have you taken to get assistance for the resident? □ If someone else is handling the resident’s finances: □ What efforts have you made to contact this third party? □ Have your efforts at collection been consistent with your disclosed policy? □ Have you reported this failure to pay to APS?

Nonpayment Right to Cure Notice

Serving a move-out notice on a resident should be an act reserved for situations where moving the resident from the community is necessary and in compliance with OAR 411-054-0080. A move-out notice should not be served on the resident and submitted to DHS for any other reason. The Nonpayment Right to Cure Notice (see sample in appendix) is an optional tool you can use to make sure the resident understands the gravity of the situation, while avoiding the need to issue a formal move-out notice. If you plan to use this notice, check your residency agreement to ensure you have a policy in place regarding nonpayment situations.

If this notice does not resolve the resident's nonpayment condition, you may need to proceed to the involuntary move-out process.

If you appear at a formal hearing, this notice can be provided to an administrative law judge as evidence of your attempt to resolve the situation prior to issuing the move-out notice.

Please note: When filling out the nonpayment notice, please make sure you fill in all the blank sections and keep a copy of the completed notice for your records. It is recommended you give the resident a minimum of 72 hours to resolve the nonpayment violation before issuing an actual move-out notice. Additional factors such as amount in dispute and length of nonpayment condition may require giving a resident more time to resolve nonpayment conditions.

III. Summary of the involuntary move-out process



Consumer Disclosure

- Explain service capabilities and limitations
- Ongoing review of services



Attempts to Resolve

- Meetings and Service Plan modifications
- Creative problem solving
- Managed Risk Agreements



Issuance of Notice

- Complete Involuntary Move Out Notice
- Review notice and rights with resident/family
- Assist with identifying alternative options

IV. Summary of involuntary move-out forms

- a) **30 Day Move-out Notice (Form SDS 0567)**. The facility must give written notification on form number SDS 0567 to the resident, the resident's legal representative and case manager, if applicable, when the facility requests a resident to move from the facility. The resident must be given 30 days advance written notice to move from the facility unless criteria in section (6) of this rule are met. Complete OAR 411-054-0080 (5) Notice to Long-term Care Ombudsman if resident lacks capacity or has no legal representative.
- b) **Less Than 30 Day Move-out Notice (Form SDS 0568)**. The resident must be given 30 days' advance written notice before being moved from the facility, except in the following unusual circumstances:
 - i) A resident who leaves the facility to receive urgent medical or psychiatric care may return to the facility unless, at the time the resident is to return, facility staff have re-evaluated the resident's needs and have determined that the facility cannot meet the resident's needs.

- ii) An appropriate facility staff person must re-evaluate the resident's condition prior to determining that the facility cannot meet the resident's needs.
- iii) A written notice on form number SDS 0568 must be given to the resident or the resident's legal representative on the date the facility makes its determination. The written notice will contain the specific reasons the facility is unable to meet the resident's needs, as determined by the facility's evaluation.

Administrative Hearing Request (Form DHS 0443). In addition to a move-out notice, the provider must also provide the resident and/or representative with a copy of the Administrative Hearing Request: <https://apps.state.or.us/Forms/Served/de0443.pdf>.

- c) Providers can point out information on the second page of the document that outlines the hearings process.

If the resident or resident's designee requests an administrative hearing, the facility must hold the resident's room or unit and may charge room and board payment pending resolution of the administrative hearing.

You can either:

- a. Find both the 30 Day Move-out Notice (form SDS 0567) and Less Than 30 Day Move-out Notice (form SDS 0568) on the Forms server. Go to <https://apps.state.or.us/cf1/FORMS>.

or

- b. You use the following links to automatically download the required form:

[SDS 0567.doc](#)

[SDS 0567.pdf](#)

[SDS 0568.doc](#)

[SDS 0568.pdf](#)

V. Appendix

A. Hearing process description

If the resident objects to the move-out notice and requests a hearing, it then becomes a legal process. This means there are rules that need to be followed regarding evidence, witnesses, etc. The resident may, but is not required to, have an attorney; you may want to consider hiring or talking with corporate counsel or a private attorney regarding this proceeding. The hearings office will mainly communicate with you by mail. The two types of notice are the Notice of Telephone Pre-hearing and the actual Hearing Notice.

Telephone Pre-hearing

Before the hearing, the Office of Administrative Hearings will send you a notice of the telephone pre-hearing. You are required to attend this hearing by telephone. The purpose of the pre-hearing is to determine if this case will proceed to an actual hearing. If so, discuss any issues surrounding documents and witnesses, and identify specific allegations that will be addressed at the hearing.

The pre-hearing notice will also include a deadline for submitting exhibits, e.g., chart notes, letters or photographs that support your position. Remember, if you submit exhibits, you need to provide copies to the other party at the same time you submit them to the hearings office.

Hearing

You will receive a second notice from the Office of Administrative Hearings with the date and time for the actual hearing. Your notice will state whether the hearing will be conducted in person or over the phone. On the date of your hearing, be prepared to present information supporting your allegation of why the resident can no longer live in your facility. Remember that this hearing is a legal proceeding. You or your representative will need to be ready to present

your case. If you intend to call anyone as a witness, that person will be readily available to testify. The resident, or his/her representative, will be able to ask questions of those who testify. Once you have presented your information, witnesses for the resident can testify on his/her behalf. You, or your representative, will be able to ask questions of those witnesses. Once the resident has presented information, the judge will end the hearing. Most judges do not make a decision on the hearing date. They usually mail their decision to all parties at a later date.

Canceling a hearing

The hearings office needs to know if, prior to the hearing date, circumstances change and the hearing is no longer needed. If a hearing is no longer needed because you have rescinded the move-out notice, it is up to you to put this rescission in writing and fax it to the hearings office. If the resident has decided not to contest the move-out notice, he or she needs to put that information in writing and provide it to the hearings office.

For more information

For more information on the hearing process, what to expect and how to prepare for it, go to:

<https://apps.state.or.us/Forms/Served/DE9003.pdf>.

B. Sample Hearing Notice

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF) **NOTICE OF IN-PERSON HEARING**
)
Resident, Claimant) OAH Reference No. XXXXXX
) Department Case No. XXXXXX

PLEASE TAKE NOTICE that a contested case hearing on the above captioned matter has been scheduled for the following date and time:

DATE:

TIME:

LOCATION:

If you do not speak English and need an interpreter, or if you are disabled and need an accommodation to participate in the hearing, please contact the hearing coordinator listed below.

If you wish to withdraw your request for hearing or do not plan to attend the hearing, please contact the hearing coordinator listed below. You may call this number collect.

In addition to the issues stated in the agency's notice of action, the timeliness of the hearing request and the jurisdiction of the Office of Administrative Hearings to consider the subject matter may be issues at the hearing.

IMPORTANT: Read the information enclosed with this notice. It contains information that may be helpful to you in preparing for your hearing.

Your Administrative Law Judge is: XXXXXX

Hearing Coordinator
Office of Administrative Hearings
PO Box 14020
Salem, OR 97309-4020
503-947-1510; 503-947-1503 (fax)

C. Nonpayment Right to Cure description

You may sometimes feel you need to issue a move-out notice, but the ultimate goal is for the resident's bill to be paid. The Nonpayment Right to Cure Notice is an optional tool you can use to make sure the resident understands the gravity of the situation; however, this notice stops short of being a formal move-out notice. If you plan to use this notice, ensure that your residency agreement has a policy regarding nonpayment situations.

If you have to appear at a formal hearing, this notice could then be provided to an administrative law judge as evidence of your attempt to resolve the situation prior to issuing the move-out notice.

Please note: When filling out the nonpayment notice, please make sure you fill in all the blank sections and keep a copy of the completed notice for your records. It is suggested you allow the resident 14 days to solve the nonpayment dispute before issuing an actual move-out notice. The number of days' notice needs to conform to the individual community nonpayment policy as outlined in disclosure information.

**D. Sample Nonpayment Right To Cure Notice
(created by facility)**

Intent to Issue move-out notice for nonpayment

Date issued: _____

Resident's name: _____

Facility's name:

Address:

Pursuant to the Involuntary Move-out Rules (OAR 411-054-0080), you are hereby notified that you are not in compliance with your rental agreement because you have failed to pay rent since _____.

Currently you owe a total of \$_____.

This issue can be resolved by taking the following action(s):

If you do not attempt to resolve your nonpayment of rent, the facility will issue a Move-out Notice for Nonpayment in _____ days.

Signature

Date

Title

Copies of this document have also been issued to the following people and agencies:

Name and relationship:

Address and phone number:



This document can be provided upon request in alternative formats for individuals with disabilities or in a language other than English for people with limited English skills. To request this form in another format or language, contact Warren Bird, Office of Licensing and Quality of Care, at 503-945-5823. You can also email CBCTeam@state.or.us or call 503-378-8966 (fax) or 1-800-282-8096 (TTY).