

House Bill 2054

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Department of Human Services and Oregon Health Authority to delay annual renewal of health care facility license until compliance is certified following on-site inspection. Requires annual on-site inspections.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care facility licensing; amending ORS 441.025 and 441.060; and declaring an
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 441.025 is amended to read:

6 441.025. (1) Upon receipt of a license fee and an application to operate a health care facility
7 other than a long term care facility, the Oregon Health Authority shall review the application and
8 conduct an on-site inspection of the health care facility. The authority shall issue a license if it finds
9 that the applicant and health care facility comply with ORS 441.015 to 441.063 and the rules of the
10 authority provided that the authority does not receive within the time specified a certificate of
11 noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS
12 479.215.

13 (2) Upon receipt of a license fee and an application to operate a long term care facility, the
14 Department of Human Services shall review the application and conduct an on-site inspection of the
15 long term care facility. The department shall issue a license if the department finds that the appli-
16 cant and long term care facility comply with ORS 441.015 to 441.063 and 441.087 and the rules of
17 the department provided that it does not receive within the time specified a certificate of noncom-
18 pliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

19 (3) **The department or the authority shall, following an on-site inspection and payment**
20 **of the fee, annually renew each license issued under this section unless:**

21 (a) **The facility's license has been suspended or revoked or the facility is not in substan-**
22 **tial compliance with the annual inspection.**

23 (b) *[Each license, unless sooner suspended or revoked, shall be renewable annually for the calen-*
24 *dar year upon payment of the fee, provided that]* A certificate of noncompliance has *[not]* been issued
25 by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

26 (4) Each license shall be issued only for the premises and persons or governmental units named
27 in the application and shall not be transferable or assignable.

28 (5) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by
29 rule of the authority or the department.

30 (6) No license shall be issued or renewed for any health care facility or health maintenance

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 organization that is required to obtain a certificate of need under ORS 442.315 until a certificate
2 of need has been granted. An ambulatory surgical center is not subject to the certificate of need
3 requirements in ORS 442.315.

4 (7) No license shall be issued or renewed for any skilled nursing facility or intermediate care
5 facility, unless the applicant has included in the application the name and such other information
6 as may be necessary to establish the identity and financial interests of any person who has incidents
7 of ownership in the facility representing an interest of 10 percent or more thereof. If the person
8 having such interest is a corporation, the name of any stockholder holding stock representing an
9 interest in the facility of 10 percent or more shall also be included in the application. If the person
10 having such interest is any other entity, the name of any member thereof having incidents of own-
11 ership representing an interest of 10 percent or more in the facility shall also be included in the
12 application.

13 (8) A license may be denied to any applicant for a license or renewal thereof or any stockholder
14 of any such applicant who has incidents of ownership in the health care facility representing an
15 interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for
16 the facility, if during the five years prior to the application the applicant or any stockholder of the
17 applicant had an interest of 10 percent or more in the facility or of a lease for the facility and has
18 divested that interest after receiving from the authority or the department written notice that the
19 authority or the department intends to suspend or revoke the license or to decertify the facility from
20 eligibility to receive payments for services provided under this section.

21 (9) The Department of Human Services may not issue or renew a license for a long term care
22 facility, unless the applicant has included in the application the identity of any person who has in-
23 cident of ownership in the long term care facility who also has a financial interest in any pharmacy,
24 as defined in ORS 689.005.

25 (10) The authority shall adopt rules for each type of health care facility, except long term care
26 facilities, to carry out the purposes of ORS 441.015 to 441.087 including, but not limited to:

27 (a) Establishing classifications and descriptions for the different types of health care facilities
28 that are licensed under ORS 441.015 to 441.087; and

29 (b) Standards for patient care and safety, adequate professional staff organizations, training of
30 staff for whom no other state regulation exists, suitable delineation of professional privileges and
31 adequate staff analyses of clinical records.

32 (11) The department shall adopt rules for each type of long term care facility to carry out the
33 purposes of ORS 441.015 to 441.087 including, but not limited to:

34 (a) Establishing classifications and descriptions for the different types of long term care facili-
35 ties that are licensed under ORS 441.015 to 441.087; and

36 (b) Standards for patient care and safety, adequate professional staff organizations, training of
37 staff for whom no other state regulation exists, suitable delineation of professional privileges and
38 adequate staff analyses of clinical records.

39 (12) The authority or department may not adopt a rule requiring a health care facility to serve
40 a specific food as long as the necessary nutritional food elements are present in the food that is
41 served.

42 (13) A health care facility licensed by the authority or department may not:

43 (a) Offer or provide services beyond the scope of the license classification assigned by the au-
44 thority or department; or

45 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-

1 fication assigned by the authority or department.

2 (14) A health care facility must reapply for licensure to change the classification assigned or the
3 type of license issued by the authority or department.

4 **SECTION 2.** ORS 441.060 is amended to read:

5 441.060. (1) The Oregon Health Authority and the Department of Human Services shall make
6 or cause to be made on-site inspections of licensed health care facilities [*at least once every three*
7 *years*] **annually**.

8 (2) The authority and the department may prescribe by rule that any licensee or prospective
9 applicant desiring to make specified types of alteration or addition to its facilities or to construct
10 new facilities shall, before commencing such alteration, addition or new construction, either prior
11 to or after receiving a certificate of need pursuant to ORS 442.315, if required, submit plans and
12 specifications therefor to the authority or the department for preliminary inspection and approval
13 or recommendations with respect to compliance with the rules authorized by ORS 441.025 and
14 443.420 and for compliance with National Fire Protection Association standards when the facility
15 is also to be Medicare or Medicaid certified.

16 (3) The authority or the department may require by rule payment of a fee for project review
17 services at a variable rate, dependent on total project cost.

18 (4) For health care facilities, the authority shall develop a review fee schedule as minimally
19 necessary to support the staffing level and expenses required to administer the program.

20 (5) For long term care facilities and residential care facilities, the department shall develop a
21 review fee schedule as minimally necessary to support the staffing level and expenses required to
22 administer the program. The fee for project review of residential care facilities shall equal two-
23 thirds that required of health care facilities.

24 (6) The authority or the department may also conduct an on-site review of projects as a pre-
25 requisite to licensure of new facilities, major renovations and expansions. The authority and the
26 department shall, at least annually, with the advice of the facilities covered by the review, present
27 proposed rule changes regarding facility design and construction to such agencies for their consid-
28 eration.

29 (7) The authority shall publish a state submissions guide for health care facility projects and
30 advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

31 (8) The department shall publish a state submissions guide for long term care facility and resi-
32 dential care facility projects and advise project sponsors of applicable requirements of federal, state
33 and local regulatory agencies.

34 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**
35 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
36 **on its passage.**

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