

# Senate Bill 626

Sponsored by Senator MONNES ANDERSON; Senators DINGFELDER, KRUSE, ROBLAN, Representatives GELSER, GORSEK

## 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**.

Renames Long Term Care Ombudsman as Ombudsman for Vulnerable Adults and renames office of Long Term Care Ombudsman as office of Ombudsman for Vulnerable Adults. Expands duties of office to address needs of residents of care facilities who have mental illness or developmental disabilities. Expands scope of ombudsman duties to include adult foster homes. Requires ombudsman to appoint three chief deputy ombudsmen to serve each constituency.

Renames Long Term Care Advisory Committee as Residential Facilities for Vulnerable Adults Advisory Committee and increases committee membership.

Renames Long Term Care Ombudsman Account as Ombudsman for Vulnerable Adults Account.

## A BILL FOR AN ACT

Relating to ombudsman to serve vulnerable adults in residential care; creating new provisions; amending ORS 124.090, 125.060, 125.320, 410.550, 441.100, 441.103, 441.107, 441.109, 441.113, 441.117, 441.121, 441.124, 441.127, 441.131, 441.133, 441.137, 441.142, 441.146, 441.153, 441.650, 441.671, 443.455, 443.738, 443.767, 443.825 and 476.030; and repealing ORS 441.147.

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

## ESTABLISHMENT OF THE OFFICE OF OMBUDSMAN FOR VULNERABLE ADULTS

**SECTION 1.** ORS 441.100 is amended to read:

**441.100. As used in ORS 441.100 to 441.153:**

*[(1) "Administrative action" means any action or decision made by an owner, employee or agent of a long term care facility or by a public agency that affects the services to residents.]*

*[(2) "Committee" means the Long Term Care Advisory Committee.]*

**[(3)] (1) "Designee" means an individual appointed by the [Long Term Care] Ombudsman for Vulnerable Adults to serve as a representative in order to carry out the purpose of ORS 441.100 to 441.153.**

*[(4) "Long term care facility" means any licensed skilled nursing facility intermediate care facility, as defined in rules adopted under ORS 442.015, adult foster homes with residents over 60 years of age and residential care facility as defined in ORS 443.400.]*

**(2) "Residential facility for vulnerable adults" includes a:**

**(a) Long term care facility;**

**(b) Residential facility as defined in ORS 443.400, excluding secure residential treatment homes and facilities described in ORS 443.465; and**

**(c) Licensed adult foster home as defined in ORS 443.705.**

**SECTION 2.** ORS 441.103 is amended to read:

**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.

1 441.103. (1) The office of the [Long Term Care] Ombudsman **for Vulnerable Adults** is estab-  
 2 lished. The [Long Term Care] Ombudsman **for Vulnerable Adults** shall function separately and in-  
 3 dependently from any other state agency. The Governor shall appoint the [Long Term Care]  
 4 Ombudsman **for Vulnerable Adults** for a four-year term from a list of three nominees nominated  
 5 by the [Long Term Care] **Residential Facilities for Vulnerable Adults** Advisory Committee estab-  
 6 lished under ORS 441.137. **The appointment of the Ombudsman for Vulnerable Adults is subject**  
 7 **to Senate confirmation under ORS 171.562 and 171.565.** [Vacancies] A vacancy shall be filled  
 8 within 60 days in the same manner as **an appointment is made.** [appointments are made, subject  
 9 to Senate confirmation under ORS 171.562 and 171.565.]

10 (2) The [Long Term Care] Ombudsman **for Vulnerable Adults** may be removed for just cause,  
 11 upon recommendation to the Governor by the [Long Term Care] **Residential Facilities for Vul-**  
 12 **nerable Adults** Advisory Committee.

13 (3) The [Long Term Care] Ombudsman **for Vulnerable Adults** shall have background and expe-  
 14 rience in the following areas:

- 15 (a) The [field] **fields** of aging, **mental health or developmental disabilities**;
- 16 (b) **Physical or behavioral** health care;
- 17 (c) Working with community programs;
- 18 (d) Strong understanding of long term care issues, both regulatory and policy;
- 19 (e) Working with health care providers;
- 20 (f) Working with and involvement in volunteer programs; and
- 21 (g) Administrative and managerial experience.

22 (4) **The Ombudsman for Vulnerable Adults shall appoint three chief deputy ombudsmen**  
 23 **with relevant background and experience as follows:**

- 24 (a) **One chief deputy ombudsman for residents who are seniors or have physical disabili-**  
 25 **ties;**
- 26 (b) **One chief deputy ombudsman for residents who have mental illness; and**
- 27 (c) **One chief deputy ombudsman for residents who have developmental disabilities.**

28 **SECTION 3.** ORS 441.107 is amended to read:

29 441.107. The funding for the office of the [Long Term Care] Ombudsman **for Vulnerable Adults**  
 30 shall include at least one percent of Title III(B) of the Older Americans Act (Public Law 89-73)  
 31 funding received by this state.

32 **SECTION 4.** ORS 441.109 is amended to read:

33 441.109. (1) The office of the [Long Term Care] Ombudsman **for Vulnerable Adults** shall carry  
 34 out the following duties:

35 [(1)] (a) Investigate and resolve complaints made by or for residents of [long term care] **resi-**  
 36 **dential facilities for vulnerable adults** about administrative actions that may adversely affect their  
 37 health, safety, welfare or rights, including subpoenaing any person to appear, give sworn testimony  
 38 or to produce documentary or other evidence that is reasonably material to any matter under in-  
 39 vestigation.

40 [(2)] (b) Undertake, participate in or cooperate with persons and agencies in such conferences,  
 41 inquiries, meetings or studies as may lead to improvements in the functioning of [long term care]  
 42 **residential facilities for vulnerable adults.**

43 [(3)] (c) Monitor the development and implementation of federal, state and local laws, regu-  
 44 lations and policies that relate to [long term care] **residential facilities for vulnerable adults** in this  
 45 state.

1 [(4)] **(d)** Provide information to public agencies about the problems of residents of [*long term*  
2 *care*] **residential facilities for vulnerable adults.**

3 [(5)] **(e)** Work closely with cooperative associations and citizen groups in this state **and the**  
4 **state protection and advocacy system under ORS 192.517.**

5 [(6)] **(f)** Widely publicize the [*Long Term Care Ombudsman's*] service, purpose and mode of op-  
6 eration **of the office of the Ombudsman for Vulnerable Adults.**

7 [(7)] **(g)** Collaborate with the **Oregon Health Authority, the** Department of Human Services,  
8 [*and*] the Nursing Home Administrators Board **and any other appropriate licensing boards** to es-  
9 tablish a statewide system to collect and analyze information on complaints and conditions in [*long*  
10 *term care*] **residential facilities for vulnerable adults** for the purpose of publicizing improvements  
11 and resolving significant problems.

12 [(8)] **(h)** Appoint designees to serve as local representatives of the office in various districts of  
13 the state and regularly monitor their functions.

14 [(9)] **(i)** Specify qualifications and duties of designees.

15 [(10)] **(j)** Adopt rules necessary for carrying out ORS 441.100 to 441.133, after consultation with  
16 the **Residential Facilities for Vulnerable Adults Advisory** Committee.

17 [(11)] **(k)** Provide periodically, or at least twice annually, a report to the Governor, **authority,**  
18 department and the Legislative Assembly.

19 [(12)] **(L)** Prepare necessary reports with the assistance of the **authority and the** department.

20 **(2) The Oregon Health Authority and the Department of Human Services shall provide**  
21 **the office of the Ombudsman for Vulnerable Adults with a list of the number of beds in each**  
22 **residential facility for vulnerable adults for which the office has responsibilities under this**  
23 **section.**

24 **(3) As used in this section, "administrative action" means any action or decision made**  
25 **by an owner, employee or agent of a residential facility for vulnerable adults or by a public**  
26 **agency that affects the services to residents of the facility.**

27 **SECTION 5.** ORS 441.113 is amended to read:

28 441.113. The [*Long Term Care*] Ombudsman **for Vulnerable Adults** shall establish procedures  
29 to maintain the confidentiality of the records and files of residents of [*long term care*] **residential**  
30 **facilities for vulnerable adults.** These procedures must meet the following requirements:

31 (1) The [*ombudsman or*] **office of the Ombudsman for Vulnerable Adults or a** designee  
32 [*shall*] **may** not disclose, except to state agencies, the identity of any resident unless the  
33 complainant or the resident, or the legal representative of either, consents in writing to the disclo-  
34 sure and specifies to whom the disclosure may be made.

35 (2) The identity of any complainant or resident on whose behalf a complaint is made, or indi-  
36 vidual providing information on behalf of the **complainant or the** resident [*or complainant*], shall  
37 be confidential. If the complaint becomes the subject of judicial proceedings, the investigative in-  
38 formation held by the [*ombudsman*] **office** or designee shall be disclosed for the purpose of the pro-  
39 ceedings if requested by the court.

40 **SECTION 6.** ORS 441.117 is amended to read:

41 441.117. (1) The [*Long Term Care*] Ombudsman **for Vulnerable Adults, the chief deputy**  
42 **ombudsmen** and each designee shall have the right of entry into [*long term care*] **residential** facil-  
43 ities **for vulnerable adults** at any time considered necessary and reasonable by the [*ombudsman*]  
44 **ombudsman, chief deputy ombudsmen** or the designee for the purpose of:

45 (a) Investigating and resolving complaints **made** by residents or **made** on their behalf;

1 (b) Interviewing residents, with their consent, in private;

2 (c) Offering the services of the ombudsman, **chief deputy ombudsmen** or designee to any resi-  
3 dent, in private;

4 (d) Interviewing employees or agents of the *[long term care]* facility;

5 (e) Consulting regularly with the facility administration; and

6 (f) Providing services authorized by law or by rule.

7 (2) The *[Long Term Care]* ombudsman **and the chief deputy ombudsmen** shall have access to  
8 any resident's records, and to records of any public agency necessary to the duties of the *[office]*  
9 **ombudsman or chief deputy ombudsmen**, including records on patient abuse complaints made  
10 pursuant to ORS 441.630 to 441.680, *[and]* 441.995 **and 430.735 to 430.765**. *[Nothing contained in]* **The**  
11 **provisions of** ORS 192.553 to 192.581 *[is]* **are not** intended to limit the access of the *[Long Term*  
12 *Care]* ombudsman **or chief deputy ombudsmen** to medical records of residents of *[long term care]*  
13 **residential facilities for vulnerable adults**. Designees may have access to individual resident's re-  
14 cords, including medical records as authorized by the resident or resident's legal representative, if  
15 needed to investigate a complaint.

16 (3) Entry and investigation authorized by this section shall be done in a manner that does not  
17 disrupt significantly the providing of nursing, **residential** or other personal care **or treatment** to  
18 residents.

19 (4) The ombudsman **or chief deputy ombudsman** or the designee must show identification to  
20 the person in charge of the facility. The resident shall have the right to refuse to communicate with  
21 the ombudsman, **the chief deputy ombudsman or the** designee. The refusal shall be made directly  
22 to the *[ombudsman]* **office or the** designee and not through an intermediary.

23 (5) The resident shall have the right to participate in planning any course of action to be taken  
24 on behalf of the resident by the *[ombudsman]* **office or the** designee.

25 **SECTION 7.** ORS 441.121 is amended to read:

26 441.121. (1) Following an investigation, the Ombudsman **for Vulnerable Adults, a chief deputy**  
27 **ombudsman** or the designee shall report opinions or recommendations to the party or parties af-  
28 fected *[thereby]* and, **if appropriate**, shall attempt to resolve the complaint*[, using, whenever possi-*  
29 *ble,]* **using** informal techniques of mediation, conciliation and persuasion. Complaints of conditions  
30 adversely affecting residents of *[long term care]* **residential facilities for vulnerable adults**, or  
31 *[those]* **complaints of conditions** threatening the safety or well-being of residents that cannot be  
32 resolved in the manner described in this section, shall be referred to an appropriate state agency.

33 (2) Programs that promote the safety or emotional or physical well-being of *[long term care]*  
34 residents **of residential facilities for vulnerable adults** shall be promoted and publicized by the  
35 ombudsman, **the chief deputy ombudsmen** and the designees.

36 **SECTION 8.** ORS 441.124 is amended to read:

37 441.124. (1) The *[Long Term Care Ombudsman]* **office of the Ombudsman for Vulnerable**  
38 **Adults** shall prepare and distribute to each *[long term care]* **residential facility for vulnerable**  
39 **adults** in this state a written notice describing the procedures to follow in making a complaint, in-  
40 cluding the address and telephone number of the *[ombudsman]* **office** and local designee, if any, **and**  
41 **a poster describing the office of the Ombudsman for Vulnerable Adults and providing contact**  
42 **information.**

43 (2) The administrator of each *[long term care]* **residential facility for vulnerable adults** shall  
44 post the written notice **and poster** required by this section in conspicuous places in the facility in  
45 accordance with procedures provided by the *[ombudsman]* **office** and shall give *[such]* **the written**

1 notice to *[any]* **each** resident and legally appointed guardian, if any.

2 **SECTION 9.** ORS 441.127 is amended to read:

3 441.127. (1) Any employee or agent of *[the long term care]* **a residential facility for vulnerable**  
4 **adults** acting in good faith in discussing *[patient]* **resident** care pursuant to ORS 441.117 shall have  
5 immunity from any civil liability[,] that might otherwise be incurred or imposed with respect to the  
6 making of such report.

7 (2) Any employee or agent who makes a report pursuant to ORS 441.117 *[shall]* **may** not be  
8 subjected to any retaliation by any official or other employee of a *[long term care]* **residential fa-**  
9 **ility for vulnerable adults** solely for making a report, including but not limited to restriction of  
10 otherwise lawful access to the facility or to any resident *[thereof]* **of the facility**, or, if an employee,  
11 to dismissal or harassment.

12 (3) The Ombudsman **for Vulnerable Adults, the chief deputy ombudsmen** or the designee  
13 acting in good faith in discussing *[patient]* **resident** care pursuant to ORS 441.117 shall have immu-  
14 nity from any civil liability, that might otherwise be incurred or imposed with respect to the dis-  
15 cussion.

16 **SECTION 10.** ORS 441.131 is amended to read:

17 441.131. (1) The appointments of designees shall be made in consultation with a local screening  
18 committee *[which]* **that** may consist of but not be limited to persons representing:

- 19 (a) The area agency on aging.
- 20 (b) The local office of the Department of Human Services.
- 21 (c) The local health department.
- 22 (d) Senior citizens groups in the area.
- 23 (e) *[Long term care]* **Residential facilities for vulnerable adults** in the area.
- 24 (f) Local elected officials.
- 25 **(g) The community mental health program director or local mental health authority.**
- 26 **(h) The community developmental disabilities program director.**
- 27 **(i) Representatives from the Oregon Health Authority.**

28 (2) To be appointed as a designee, a person must complete six days of initial training and attend  
29 quarterly training sessions *[which]* **that** are approved by the *[Long Term Care]* Ombudsman **for**  
30 **Vulnerable Adults** and *[which]* **that** shall be coordinated and funded by the Department of Human  
31 Services **and the Oregon Health Authority**, subject to the availability of funds *[therefor]*. Local  
32 screening committees shall be appointed by and serve at the pleasure of the Ombudsman **for Vul-**  
33 **nerable Adults.**

34 (3) Designees must sign a contract with the state *[which]* **that** outlines the scope of their duties.  
35 In districts where a designee is an employee or agent of a local entity, a three-party contract shall  
36 be executed. Violation of the contract is cause for the termination of the appointment. A directory  
37 of all designees shall be maintained in the office of the *[Long Term Care]* Ombudsman **for Vulner-**  
38 **able Adults.**

39 (4) The qualifications of designees shall include experience with *[long term care]* **residential fa-**  
40 **ilities for vulnerable adults** or residents *[thereof]* or potential residents **of these facilities, and**  
41 *[including]* the ability to communicate well, to understand laws, rules and regulations, and to be  
42 assertive, yet objective.

43 (5) **Applicants who have** experience in either social service, **mental health, developmental**  
44 **disability services**, gerontology, nursing or paralegal work *[shall be preferred]* **shall be given**  
45 **preference in the appointment of designees.**

1 (6) The contract shall include statements that the purpose of the [*Long Term Care Ombudsman*  
2 *Program*] **office of the Ombudsman for Vulnerable Adults** is to:

3 (a) Promote rapport and trust between the residents[,] **and** staff of the [*nursing home and nurs-*  
4 *ing home ombudsman program*] **residential facilities for vulnerable adults and the office**;

5 (b) Assist [*nursing home*] residents with participating more actively in determining the delivery  
6 of services [*in long term care*] **at the facilities**;

7 (c) Serve as an educational resource;

8 (d) Receive, resolve or relay concerns to the [*Long Term Care*] ombudsman **or chief deputy**  
9 **ombudsmen** or the appropriate agency; and

10 (e) [*Assure*] **Ensure** equitable resolution of problems.

11 (7) The duties of the designees are to:

12 (a) Visit each assigned [*long term care*] **residential facility for vulnerable adults** on a regular  
13 basis:

14 (A) Upon arrival and departure, inform a specified staff member.

15 (B) Review, with a specified staff member, any problems or concerns [*which*] **that** need to be  
16 considered.

17 (C) Visit individual residents and resident councils.

18 (b) Maintain liaison with appropriate agencies and the [*Long Term Care Ombudsman*] **office**.

19 (c) Report, in writing, monthly to the [*Long Term Care Ombudsman*] **office**.

20 (d) Keep residents and [*long term care*] staff informed of the [*Long Term Care Ombudsman Pro-*  
21 *gram*] **services provided by the office**.

22 (e) Periodically review the patients' bill of rights **prescribed in ORS 441.605, 441.610 and**  
23 **441.612** with residents, families, guardians, administrators and staff **of residential facilities for**  
24 **vulnerable adults**.

25 (f) Perform other related duties as specified.

26 **SECTION 11.** ORS 441.133 is amended to read:

27 441.133. Nothing in ORS 441.100 to 441.153 shall affect the right of residents of a [*long term*  
28 *care*] **residential facility for vulnerable adults** to see visitors of their choice.

29 **SECTION 12.** ORS 441.137 is amended to read:

30 441.137. (1) There is established a [*Long Term Care*] **Residential Facilities for Vulnerable**  
31 **Adults** Advisory Committee of [*seven*] **nine** members to be appointed in the following manner:

32 (a) One person appointed by the Speaker of the House of Representatives;

33 (b) One person appointed by the President of the Senate;

34 (c) One person appointed by the House Minority Leader;

35 (d) One person appointed by the Senate Minority Leader;

36 (e) [*Two persons, from a*] **One person appointed by the Governor from each** list of four names  
37 submitted by [*the organizations of*] **organizations for seniors, organizations for persons with**  
38 **mental illness and the Oregon Council on Developmental Disabilities** [*appointed by the*  
39 *Governor*]; and

40 (f) [*One person*] **Two persons** appointed by the Governor.

41 (2) Members described in subsection (1)(e) and (f) of this section are subject to confirmation by  
42 the Senate under ORS 171.562 and 171.565.

43 (3) The term of office of each member is four years. Before the expiration of the term of a  
44 member, the appointing authority shall appoint a successor whose term begins on July 1 next fol-  
45 lowing. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing

1 authority shall make an appointment to become immediately effective for the unexpired term.

2 (4) The members of the committee must be [*citizens*] **residents** of this state who are broadly  
3 representative to the extent possible of persons [*over 55 years of age*] **residing in residential fa-**  
4 **ilities for vulnerable adults**, including [*persons with disabilities and*] members of racial and ethnic  
5 minorities, who have knowledge and interest in the problems of [*the elderly*] **persons residing in**  
6 **residential facilities for vulnerable adults**, and **who** are representative of all areas of [*the*] **this**  
7 state. At least five members shall be at least 60 years of age.

8 (5) A member of the committee may not have a financial or fiduciary interest in [*long term*  
9 *care*] **residential facilities for vulnerable adults** or service providers, or involvement in the li-  
10 censing or certification of [*long term care*] **residential facilities for vulnerable adults** or service  
11 providers.

12 (6) **The committee shall select one of its members as chairperson and another as vice**  
13 **chairperson, for such terms and with duties and powers necessary for the performance of**  
14 **the functions of such offices as the committee determines.**

15 (7) **A majority of the members of the committee constitutes a quorum for the transaction**  
16 **of business. Decisions may be made by a majority of the quorum.**

17 (8) **The committee shall meet at least once each month at a place, day and hour deter-**  
18 **mined by the committee. The committee also shall meet at other times and places specified**  
19 **by the call of the chairperson or of a majority of the members of the committee. The com-**  
20 **mittee shall confer each month with the Ombudsman for Vulnerable Adults.**

21 (9) **A member of the committee is entitled to compensation and expenses as provided in**  
22 **ORS 292.495.**

23 **SECTION 13.** ORS 441.142 is amended to read:

24 441.142. The [*Long Term Care*] **Residential Facilities for Vulnerable Adults** Advisory Com-  
25 mittee shall:

26 (1) Monitor the [*Long Term Care Ombudsman Program*] **services provided by the office of the**  
27 **Ombudsman for Vulnerable Adults.**

28 (2) Advise the Governor and the Legislative Assembly on the [*Long Term Care Ombudsman*  
29 *Program*] **services provided by the office of the Ombudsman for Vulnerable Adults.**

30 (3) Nominate, after interviews and according to prescribed criteria, three persons to fill the  
31 [*office of Long Term Care*] **Ombudsman for Vulnerable Adults position or to fill a vacancy in the**  
32 **position.**

33 **SECTION 14.** ORS 441.146 is amended to read:

34 441.146. (1) A [*long term care*] **residential facility for vulnerable adults** that files a complaint  
35 against a designee appointed under ORS 441.131 and objects to the action of the [*Long Term Care*]  
36 **office of the Ombudsman for Vulnerable Adults** in resolving the complaint may appeal the  
37 [*ombudsman's*] **office's** action to a panel of the [*Long Term Care*] **Residential Facilities for Vul-**  
38 **nerable Adults** Advisory Committee.

39 (2) The committee on its own motion may review any action by the [*ombudsman*] **office**  
40 appealable under this section. The review shall provide an opportunity for written and oral presen-  
41 tation by the [*long term care*] **residential facility for vulnerable adults** and the [*ombudsman*]  
42 **office.** The committee shall issue its findings and any instructions to the ombudsman in written form  
43 consistent with the federal Older Americans Act **or other applicable federal law.**

44 (3) If the committee disagrees with the action of the [*ombudsman*] **office**, the committee may  
45 refer the resolution back to the ombudsman with instructions consistent with the federal Older

1 Americans Act **or other applicable federal law** to conform the [ombudsman's] **office's** action in the  
2 matter to the recommendations of the committee.

3 **SECTION 15.** ORS 441.153 is amended to read:

4 441.153. The [Long Term Care] Ombudsman **for Vulnerable Adults** Account is established in  
5 **the State Treasury**, separate and distinct from the General Fund. All miscellaneous receipts, gifts  
6 and federal and other grants received by the [Long Term Care] Ombudsman **for Vulnerable Adults**  
7 shall be deposited into the [Long Term Care Ombudsman] account and are continuously appropriated  
8 to the [Long Term Care Ombudsman] **office of the Ombudsman for Vulnerable Adults** for carry-  
9 ing out the responsibilities of the [Long Term Care Ombudsman] **office**.

10 **SECTION 16.** ORS 443.455 is amended to read:

11 443.455. (1) **Except as provided in subsection (5) of this section**, for purposes of imposing  
12 civil penalties, residential facilities approved under ORS 443.400 to 443.455 are subject to ORS  
13 441.705 to 441.745.

14 (2) The Director of Human Services shall by rule prescribe a schedule of penalties for residential  
15 care facilities, residential training facilities and residential training homes that are not in compli-  
16 ance with ORS 443.400 to 443.455.

17 (3) The Director of the Oregon Health Authority shall by rule prescribe a schedule of penalties  
18 for residential treatment facilities and residential treatment homes that are not in compliance with  
19 ORS 443.400 to 443.455.

20 (4) If the department or authority investigates and makes a finding of abuse arising from delib-  
21 erate or other than accidental action or inaction that is likely to cause a negative outcome by a  
22 person with a duty of care toward a resident of a residential facility and if the abuse resulted in the  
23 death, serious injury, rape or sexual abuse of a resident, the department or authority shall impose  
24 a civil penalty of not less than \$2,500 for each occurrence of substantiated abuse, not to exceed  
25 \$15,000 in any 90-day period. As used in this subsection:

26 (a) "Negative outcome" includes serious injury, rape, sexual abuse or death.

27 (b) "Rape" means rape in the first, second or third degree as described in ORS 163.355, 163.365  
28 and 163.375.

29 (c) "Serious injury" means physical injury that creates a substantial risk of death or that causes  
30 serious and protracted disfigurement, protracted impairment of health or protracted loss or impair-  
31 ment of the function of any bodily organ.

32 (d) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited  
33 to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing and  
34 sexual harassment.

35 **(5) Civil penalties recovered from a residential training facility, residential training home,**  
36 **residential treatment facility or residential treatment home shall be deposited in the Om-**  
37 **budsmen for Vulnerable Adults Account established in ORS 441.153.**

38 **SECTION 17.** ORS 443.825 is amended to read:

39 443.825. All penalties recovered under ORS 443.790 to 443.815 shall be deposited:

40 (1) In the Quality Care Fund established in ORS 443.001 **if paid by an adult foster home**  
41 **providing residential care to persons with physical disabilities.**

42 (2) **In the Ombudsman for Vulnerable Adults Account established in ORS 441.153 if paid**  
43 **by an adult foster home providing care to persons with mental illness or developmental dis-**  
44 **abilities.**

45



## CONFORMING AMENDMENTS

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2  
3 **SECTION 18.** ORS 124.090, as amended by section 12, chapter 70, Oregon Laws 2012, is  
4 amended to read:

5 124.090. (1) Notwithstanding the provisions of ORS 192.410 to 192.505, the names of the public  
6 or private official or any other person who made the complaint, the witnesses and the elderly per-  
7 sons, and the reports and records compiled under the provisions of ORS 124.050 to 124.095, are  
8 confidential and are not accessible for public inspection.

9 (2) Notwithstanding subsection (1) of this section, the Department of Human Services or the  
10 department's designee may, if appropriate, make the names of the witnesses and the elderly persons,  
11 and the reports and records compiled under ORS 124.050 to 124.095, available to:

12 (a) A law enforcement agency;

13 (b) A public agency that licenses or certifies residential facilities or licenses or certifies the  
14 persons practicing in the facilities;

15 (c) A public agency or private nonprofit agency or organization providing protective services for  
16 the elderly person;

17 (d) The *[Long Term Care]* Ombudsman **for Vulnerable Adults**;

18 (e) A public agency that licenses or certifies a person that has abused or is alleged to have  
19 abused an elderly person;

20 (f) A court pursuant to a court order or as provided in ORS 125.012; and

21 (g) An administrative law judge in an administrative proceeding when necessary to provide  
22 protective services as defined in ORS 410.040 to an elderly person, when in the best interests of the  
23 elderly person or when necessary to investigate, prevent or treat abuse of an elderly person.

24 (3) Information made available under subsection (2) of this section, and the recipient of the in-  
25 formation, are otherwise subject to the confidentiality provisions of ORS 124.050 to 124.095.

26 **SECTION 19.** ORS 125.060 is amended to read:

27 125.060. (1) The notices required by this section must be given to all persons whose identities  
28 and addresses can be ascertained in the exercise of reasonable diligence by the person required to  
29 give the notice.

30 (2) Notice of the filing of a petition for the appointment of a fiduciary or entry of other pro-  
31 tective order must be given by the petitioner to the following persons:

32 (a) The respondent, if the respondent has attained 14 years of age.

33 (b) The spouse, parents and adult children of the respondent.

34 (c) If the respondent does not have a spouse, parent or adult child, the person or persons most  
35 closely related to the respondent.

36 (d) Any person who is cohabiting with the respondent and who is interested in the affairs or  
37 welfare of the respondent.

38 (e) Any person who has been nominated as fiduciary or appointed to act as fiduciary for the  
39 respondent by a court of any state, any trustee for a trust established by or for the respondent, any  
40 person appointed as a health care representative under the provisions of ORS 127.505 to 127.660 and  
41 any person acting as attorney-in-fact for the respondent under a power of attorney.

42 (f) If the respondent is a minor, the person who has exercised principal responsibility for the  
43 care and custody of the respondent during the 60-day period before the filing of the petition.

44 (g) If the respondent is a minor and has no living parents, any person nominated to act as  
45 fiduciary for the minor in a will or other written instrument prepared by a parent of the minor.

1 (h) If the respondent is receiving moneys paid or payable by the United States through the De-  
2 partment of Veterans Affairs, a representative of the United States Department of Veterans Affairs  
3 regional office that has responsibility for the payments to the protected person.

4 (i) If the respondent is receiving moneys paid or payable for public assistance provided under  
5 ORS chapter 411 by the State of Oregon through the Department of Human Services, a represen-  
6 tative of the department.

7 (j) If the respondent is receiving moneys paid or payable for medical assistance provided under  
8 ORS chapter 414 by the State of Oregon through the Oregon Health Authority, a representative of  
9 the authority.

10 (k) If the respondent is committed to the legal and physical custody of the Department of Cor-  
11 rections, the Attorney General and the superintendent or other officer in charge of the facility in  
12 which the respondent is confined.

13 (L) If the respondent is a foreign national, the consulate for the respondent's country.

14 (m) Any other person that the court requires.

15 (3) Notice of a motion for the termination of the protective proceedings, for removal of a  
16 fiduciary, for modification of the powers or authority of a fiduciary, for approval of a fiduciary's  
17 actions or for protective orders in addition to those sought in the petition must be given by the  
18 person making the motion to the following persons:

19 (a) The protected person, if the protected person has attained 14 years of age.

20 (b) Any person who has filed a request for notice in the proceedings.

21 (c) Except for a fiduciary who is making a motion, any fiduciary who has been appointed for the  
22 protected person.

23 (d) If the protected person is receiving moneys paid or payable by the United States through the  
24 Department of Veterans Affairs, a representative of the United States Department of Veterans Af-  
25 fairs regional office that has responsibility for the payments to the protected person.

26 (e) If the protected person is committed to the legal and physical custody of the Department of  
27 Corrections, the Attorney General and the superintendent or other officer in charge of the facility  
28 in which the protected person is confined.

29 (f) Any other person that the court requires.

30 (4) A request for notice under subsection (3)(b) of this section must be in writing and include  
31 the name, address and phone number of the person requesting notice. A copy of the request must  
32 be mailed by the person making the request to the petitioner or to the fiduciary if a fiduciary has  
33 been appointed. The original request must be filed with the court. The person filing the request must  
34 pay the fee specified by ORS 21.135.

35 (5) A person who files a request for notice in the proceedings in the manner provided by sub-  
36 section (4) of this section is entitled to receive notice from the fiduciary of any motion specified in  
37 subsection (3) of this section and of any other matter to which a person listed in subsection (2) of  
38 this section is entitled to receive notice under a specific provision of this chapter.

39 (6) If the Department of Human Services is nominated as guardian for the purpose of consenting  
40 to the adoption of a minor, the notice provided for in this section must also be given to the minor's  
41 brothers, sisters, aunts, uncles and grandparents.

42 (7) In addition to the requirements of subsection (2) of this section, notice of the filing of a pe-  
43 tition for the appointment of a guardian for a person who is alleged to be incapacitated must be  
44 given by the petitioner to the following persons:

45 (a) Any attorney who is representing the respondent in any capacity.

1 (b) If the respondent is a resident of a nursing home or residential facility, or if the person  
2 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-  
3 cility, the office of the [*Long Term Care*] Ombudsman **for Vulnerable Adults**.

4 (c) If the respondent is a resident of a mental health treatment facility or a residential facility  
5 for individuals with developmental disabilities, or if the person nominated to act as fiduciary intends  
6 to place the respondent in such a facility, the system described in ORS 192.517 (1).

7 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding  
8 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this  
9 section must be given by the person making the motion to the following persons:

10 (a) Any attorney who represented the protected person at any time during the protective pro-  
11 ceeding.

12 (b) If the protected person is a resident of a nursing home or residential facility, or if the motion  
13 seeks authority to place the protected person in a nursing home or residential facility, the office of  
14 the [*Long Term Care*] Ombudsman **for Vulnerable Adults**.

15 (c) If the protected person is a resident of a mental health treatment facility or a residential  
16 facility for individuals with developmental disabilities, or if the motion seeks authority to place the  
17 protected person in such a facility, the system described in ORS 192.517 (1).

18 (9) A respondent or protected person may not waive the notice required under this section.

19 (10) The requirement that notice be served on an attorney for a respondent or protected person  
20 under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney  
21 receiving the notice to represent the respondent or protected person in the protective proceeding.

22 **SECTION 20.** ORS 125.320 is amended to read:

23 125.320. (1) A guardian may not authorize the sterilization of the protected person.

24 (2) A guardian may not use funds from the protected person's estate for room and board that  
25 the guardian or guardian's spouse, parent or child have furnished the protected person unless the  
26 charge for the service is approved by order of the court before the payment is made.

27 (3)(a) Before a guardian may place an adult protected person in a mental health treatment fa-  
28 cility, a nursing home or other residential facility, the guardian must file a statement with the court  
29 informing the court that the guardian intends to make the placement.

30 (b) Notice of the statement of intent must be given in the manner provided by ORS 125.065 to  
31 the persons specified in ORS 125.060 (3).

32 (c) In addition to the requirements of paragraph (b) of this subsection, notice of the statement  
33 of intent must be given in the manner provided by ORS 125.065 by the guardian to the following  
34 persons:

35 (A) Any attorney who represented the protected person at any time during the protective pro-  
36 ceeding.

37 (B) If the protected person is a resident of a nursing home or residential facility, or if the notice  
38 states the intention to place the protected person in a nursing home or residential facility, the office  
39 of the [*Long Term Care*] Ombudsman **for Vulnerable Adults**.

40 (C) If the protected person is a resident of a mental health treatment facility or a residential  
41 facility for individuals with developmental disabilities, or if the notice states the intention to place  
42 the protected person in such a facility, the system described in ORS 192.517 (1).

43 (d) In addition to the requirements of ORS 125.070 (1), the notice given to the protected person  
44 must clearly indicate the manner in which the protected person may object to the proposed place-  
45 ment.

1 (e) The guardian may thereafter place the adult protected person in a mental health treatment  
 2 facility, a nursing home or other residential facility without further court order. If an objection is  
 3 made in the manner provided by ORS 125.075, the court shall schedule a hearing on the objection  
 4 as soon as practicable.

5 (f) The requirement that notice be served on an attorney for a protected person under paragraph  
 6 (c)(A) of this subsection does not impose any responsibility on the attorney receiving the notice to  
 7 represent the protected person in the protective proceeding.

8 **SECTION 21.** ORS 410.550 is amended to read:

9 410.550. (1) The Medicaid Long Term Care Quality and Reimbursement Advisory Council is  
 10 created, to consist of 12 members. Appointed members shall be residents of the State of Oregon and  
 11 representative of the geographic locations of all long term care facilities and community-based care  
 12 facilities in this state. The members shall include:

13 (a) The [*Long Term Care*] Ombudsman **for Vulnerable Adults**, who shall serve as a standing  
 14 member of the council;

15 (b) A representative of the Governor's Commission on Senior Services, to be appointed by the  
 16 commission;

17 (c) A representative of the Oregon Disabilities Commission, to be appointed by the commission;

18 (d) A representative of the Oregon Association of Area Agencies on Aging and Disabilities, to  
 19 be appointed by the Governor;

20 (e) A representative of a senior or disabilities advocacy organization or an individual who ad-  
 21 vocates on behalf of seniors or persons with disabilities, to be appointed by the Governor;

22 (f) A nursing home administrator licensed under ORS 678.710 to 678.820 who has practiced  
 23 continuously in Oregon in long term care for three years immediately preceding appointment, to be  
 24 appointed by the Speaker of the House of Representatives;

25 (g) Two consumers of [*long term care*] **residential facilities for vulnerable adults, as defined**  
 26 **in ORS 441.100**, or community-based care facilities or family members of such residents, to be ap-  
 27 pointed by the Speaker of the House of Representatives;

28 (h) A director of nurses of an Oregon long term care facility who has practiced in this state in  
 29 long term care for three years preceding appointment, to be appointed by the Speaker of the House  
 30 of Representatives;

31 (i) A representative of an assisted living facility or a residential care facility, to be appointed  
 32 by the President of the Senate;

33 (j) A representative of an adult foster home, to be appointed by the President of the Senate; and

34 (k) An in-home care agency provider, to be appointed by the President of the Senate.

35 (2) The term of office for each member appointed under this section shall be three years or until  
 36 a successor has been appointed and qualified.

37 (3) Members of the council shall receive no compensation for their services but unpaid volun-  
 38 teers not otherwise compensated shall be allowed actual and necessary travel expenses incurred in  
 39 the performance of their duties.

40 (4) The council shall:

41 (a) Elect a chairperson from among its members and elect or appoint a secretary, each of whom  
 42 shall hold office for one year or until successors are elected;

43 (b) Hold an annual meeting and hold other meetings at such times and places as the Department  
 44 of Human Services or the chairperson of the council may direct;

45 (c) Keep a record of its proceedings that is open to inspection at all times; and

1 (d) Act in an advisory capacity to the department on matters pertaining to quality of long term  
2 care facilities and community-based care facilities and reimbursement for long term care services  
3 and community-based care services.

4 **SECTION 22.** ORS 441.650 is amended to read:

5 441.650. (1) Upon receipt of the oral or written report required under ORS 441.640, or of an  
6 abuse complaint, the area agency on aging, the Department of Human Services or the law enforce-  
7 ment agency shall cause an investigation to be commenced as follows:

8 (a) Within two hours, if the complaint alleges that a resident's health or safety is in imminent  
9 danger or that the resident has recently died, been hospitalized or been treated in an emergency  
10 room; or

11 (b) Prior to the end of the next working day, if the complaint alleges that circumstances exist  
12 that could result in abuse and that the circumstances could place a resident's health or safety in  
13 imminent danger.

14 (2) If the law enforcement agency conducting the investigation finds reasonable cause to believe  
15 that abuse has occurred, the law enforcement agency shall notify in writing the local office of the  
16 area agency or the department as appropriate. Except in cases where the investigation is part of  
17 nursing facility surveyor activity pursuant to federal law, the area agency or the department shall  
18 complete an initial status report within two working days of the start of the investigation that in-  
19 cludes:

20 (a) A summary of the complaint that identifies each alleged incident or problem;

21 (b) The status of the investigation;

22 (c) Whether an abuse complaint was initially filed at the direction of the administration of the  
23 facility;

24 (d) A determination of whether protection of the resident is needed and whether the facility  
25 must take action;

26 (e) The name and telephone number of the investigator; and

27 (f) The projected date that the investigation report will be completed and a statement that the  
28 report will be available upon request after the department issues a letter of determination.

29 (3) The initial status report described in subsection (2) of this section shall be provided either  
30 in person or by mail to the following individuals as soon as practicable, but no later than two  
31 working days after its completion:

32 (a) The complainant, unless the complainant waives the requirement;

33 (b) If the complaint involves a specific resident, the resident or a person designated to receive  
34 information concerning the resident;

35 (c) A representative of the [*Long Term Care*] Ombudsman **for Vulnerable Adults**, upon request;  
36 and

37 (d) The long term care facility.

38 (4) The initial status report described in subsection (2) of this section shall be available for  
39 public inspection.

40 (5) When copies of the initial status report described in subsection (2) of this section are made  
41 available to individuals listed in subsection (3) of this section, the names of the resident involved,  
42 the complainant and any individuals interviewed by the investigator shall be deleted from the copies.

43 (6) In investigating an abuse complaint, the investigator shall:

44 (a) Make an unannounced visit to the facility, except as provided by ORS 441.690, to determine  
45 the nature and cause of the abuse of the resident;

1 (b) Interview all available witnesses identified by any source as having personal knowledge rel-  
 2 evant to the abuse complaint, such interviews to be private unless the witness expressly requests  
 3 the interview not to be private;

4 (c) Make personal inspection of all physical circumstances that are relevant and material and  
 5 that are susceptible to objective observation; and

6 (d) Write an investigation report that includes:

7 (A) The investigator's personal observations;

8 (B) A review of documents and records;

9 (C) A summary of all witness statements; and

10 (D) A statement of the factual basis for the findings for each incident or problem alleged in the  
 11 complaint.

12 (7) Within five working days of completion of the investigation and not later than 60 days from  
 13 completion of the initial status report described in subsection (2) of this section, the investigator  
 14 shall provide the department with the written report required by subsection (6) of this section. The  
 15 department shall make the investigation report available upon request after the letter of determi-  
 16 nation is complete. When copies of the report are made available, the names of the resident in-  
 17 volved, the complainant and any individuals interviewed by the investigator shall be deleted from  
 18 the copies.

19 **SECTION 23.** ORS 441.671, as amended by section 13, chapter 70, Oregon Laws 2012, is  
 20 amended to read:

21 441.671. (1) Notwithstanding the provisions of ORS 192.410 to 192.505, the names of  
 22 complainants, witnesses and residents, and the reports and records compiled under the provisions  
 23 of ORS 441.630 to 441.680, are confidential and are not accessible for public inspection.

24 (2) Notwithstanding subsection (1) of this section, the Department of Human Services or the  
 25 department's designee may, if appropriate, make the names of witnesses and residents, and the re-  
 26 ports and records compiled under ORS 441.630 to 441.680, available to:

27 (a) A law enforcement agency;

28 (b) A public agency that licenses or certifies long term care facilities;

29 (c) A public agency that licenses or certifies the persons practicing the healing arts in long term  
 30 care facilities;

31 (d) The [*Long Term Care*] Ombudsman **for Vulnerable Adults**;

32 (e) A public agency that licenses or certifies a person that has abused or is alleged to have  
 33 abused a resident;

34 (f) A court pursuant to a court order or as provided in ORS 125.012; and

35 (g) An administrative law judge in an administrative proceeding when necessary to provide  
 36 protective services as defined in ORS 410.040 to a resident, when in the best interests of the resident  
 37 or when necessary to investigate, prevent or treat abuse of a resident.

38 (3) Information made available under subsection (2) of this section, and the recipient of the in-  
 39 formation, are otherwise subject to the confidentiality provisions of ORS 441.630 to 441.680.

40 **SECTION 24.** ORS 443.738 is amended to read:

41 443.738. (1) Except as provided in subsection (3) of this section, all providers, resident managers  
 42 and substitute caregivers for adult foster homes shall satisfactorily meet all educational require-  
 43 ments established by the licensing agency. After consultation with representatives of providers,  
 44 educators, residents' advocates and the [*Long Term Care*] Ombudsman **for Vulnerable Adults**, the  
 45 licensing agency shall adopt by rule standards governing the educational requirements. The rules

1 shall require that a person may not provide care to any resident prior to acquiring education or  
2 supervised training designed to impart the basic knowledge and skills necessary to maintain the  
3 health, safety and welfare of the resident. Each provider shall document compliance with the edu-  
4 cational requirements for persons subject to the requirements.

5 (2) The rules required under subsection (1) of this section shall include but need not be limited  
6 to the following:

7 (a) A requirement that, before being licensed, a provider successfully completes training that  
8 satisfies a defined curriculum, including demonstrations and practice in physical caregiving,  
9 screening for care and service needs, appropriate behavior toward residents with physical, cognitive  
10 and mental disabilities and issues related to architectural accessibility;

11 (b) A requirement that a provider pass a test before being licensed or becoming a resident  
12 manager. The test shall evaluate the ability to understand and respond appropriately to emergency  
13 situations, changes in medical conditions, physicians' orders and professional instructions, nutri-  
14 tional needs, residents' preferences and conflicts; and

15 (c) A requirement that, after being licensed, a provider or resident manager successfully com-  
16 pletes continuing education as described in ORS 443.742.

17 (3) After consultation with representatives of providers, educators, residents' advocates and the  
18 [*Long Term Care*] Ombudsman **for Vulnerable Adults**, the licensing agency may adopt by rule ex-  
19 ceptions to the training requirements of subsections (1) and (2) of this section for persons who are  
20 appropriately licensed medical care professionals in Oregon or who possess sufficient education,  
21 training or experience to warrant an exception. The licensing agency may not make any exceptions  
22 to the testing requirements.

23 (4) The licensing agency may permit a person who has not completed the training or passed the  
24 test required in subsection (2)(a) and (b) of this section to act as a resident manager until the  
25 training and testing are completed or for 60 days, whichever is shorter, if the licensing agency de-  
26 termines that an unexpected and urgent staffing need exists. The licensed provider must notify the  
27 licensing agency of the situation and demonstrate that the provider is unable to find a qualified  
28 resident manager, that the person has met the requirements for a substitute caregiver for the adult  
29 foster home and that the provider will provide adequate supervision.

30 (5) Providers shall serve three nutritionally balanced meals to residents each day. A menu for  
31 the meals for the coming week shall be prepared and posted weekly.

32 (6) Providers shall make available at least six hours of activities each week which are of inter-  
33 est to the residents, not including television or movies. The licensing agency shall make information  
34 about resources for activities available to providers upon request. Providers or substitute caregivers  
35 shall be directly involved with residents on a daily basis.

36 (7) Providers shall give at least 30 days' written notice to the residents, and to the legal repre-  
37 sentative, guardian or conservator of any resident, before selling, leasing or transferring the adult  
38 foster home business or the real property on which the adult foster home is located. Providers shall  
39 inform real estate licensees, prospective buyers, lessees and transferees in all written communi-  
40 cations that the license to operate an adult foster home is not transferable and shall refer them to  
41 the licensing agency for information about licensing.

42 (8) If a resident dies or leaves an adult foster home for medical reasons and indicates in writing  
43 the intent to not return, the provider may not charge the resident for more than 15 days or the time  
44 specified in the provider contract, whichever is less, after the resident has left the adult foster home.  
45 The provider has an affirmative duty to take reasonable actions to mitigate the damages by ac-

1 cepting a new resident. However, if a resident dies or leaves an adult foster home due to neglect  
2 or abuse by the provider or due to conditions of imminent danger to life, health or safety, the pro-  
3 vider may not charge the resident beyond the resident's last day in the home. The provider shall  
4 refund any advance payments within 30 days after the resident dies or leaves the adult foster home.

5 (9) Chemical and physical restraints may be used only after considering all other alternatives  
6 and only when required to treat a resident's medical symptoms or to maximize a resident's physical  
7 functioning. Restraints may not be used for discipline of a resident or for the convenience of the  
8 adult foster home. Restraints may be used only as follows:

9 (a) Psychoactive medications may be used only pursuant to a prescription that specifies the  
10 circumstances, dosage and duration of use.

11 (b) Physical restraints may be used only pursuant to a qualified practitioner's order that speci-  
12 fies the type, circumstances and duration of use in accordance with rules adopted by the licensing  
13 agency. The rules adopted by the licensing agency relating to physical restraints shall include  
14 standards for use and training.

15 (10) If the physical characteristics of the adult foster home do not encourage contact between  
16 caregivers and residents and among residents, the provider shall demonstrate how regular positive  
17 contact will occur. Providers may not place residents who are unable to walk without assistance in  
18 a basement, split-level, second story or other area that does not have an exit at ground level.  
19 Nonambulatory residents shall be given first floor rooms.

20 (11)(a) The provider may not transfer or discharge a resident from an adult foster home unless  
21 the transfer or discharge is necessary for medical reasons, for the welfare of the resident or for the  
22 welfare of other residents, or due to nonpayment. In such cases, the provider shall give the resident  
23 written notice as soon as possible under the circumstances.

24 (b) The provider shall give the resident and the resident's legal representative, guardian or  
25 conservator written notice at least 30 days prior to the proposed transfer or discharge, except in a  
26 medical emergency including but not limited to a resident's experiencing an increase in level of care  
27 needs or engaging in behavior that poses an imminent danger to self or others. In such cases, the  
28 provider shall give the resident written notice as soon as possible under the circumstances.

29 (c) The resident has the right to an administrative hearing prior to an involuntary transfer or  
30 discharge. If the resident is being transferred or discharged for a medical emergency, or to protect  
31 the welfare of the resident or other residents, as defined by rule, the hearing must be held within  
32 seven days of the transfer or discharge. The provider shall hold a space available for the resident  
33 pending receipt of an administrative order. ORS 441.605 (4) and the rules thereunder governing  
34 transfer notices and hearings for residents of long term care facilities shall apply to adult foster  
35 homes.

36 (12) The provider may not include any illegal or unenforceable provision in a contract with a  
37 resident and may not ask or require a resident to waive any of the resident's rights.

38 (13) Any lessor of a building in which an adult foster home is located may not interfere with the  
39 admission, discharge or transfer of any resident in the adult foster home unless the lessor is a pro-  
40 vider or coprovider on the license.

41 **SECTION 25.** ORS 443.767 is amended to read:

42 443.767. (1) When the licensing agency receives a complaint that alleges that a resident of a li-  
43 censed adult foster home has been injured, abused or neglected, and that the resident's health or  
44 safety is in imminent danger, or that the resident has died or been hospitalized, the investigation  
45 shall begin immediately after the complaint is received. If the investigator determines that the



1 complaint is substantiated, the licensing agency shall take appropriate corrective action imme-  
2 diately.

3 (2) When the licensing agency receives a complaint that alleges the existence of any circum-  
4 stance that could result in injury, abuse or neglect of a resident of a licensed adult foster home, and  
5 that the circumstance could place the resident's health or safety in imminent danger, the agency  
6 shall investigate the complaint promptly. If the investigator determines that the complaint is sub-  
7 stantiated, the agency shall take appropriate corrective action promptly.

8 (3) After public hearing, the licensing agency shall by rule set standards for the procedure,  
9 content and time limits for the initiation and completion of investigations of complaints. The time  
10 limits shall be as short as possible and shall vary in accordance with the severity of the circum-  
11 stances alleged in the complaint. In no event shall the investigation exceed a duration of 60 days,  
12 unless there is an ongoing concurrent criminal investigation, in which case the licensing agency  
13 may take a reasonable amount of additional time in which to complete the investigation.

14 (4) The licensing agency shall take no longer than 60 days from the completion of the investi-  
15 gation report to take appropriate corrective action in the case of any complaint that the investi-  
16 gator determines to be substantiated.

17 (5)(a) The licensing agency shall mail a copy of the investigation report within seven days of the  
18 completion of the report to:

19 (A) The complainant, unless the complainant requests anonymity;

20 (B) The resident, and any person designated by the resident to receive information concerning  
21 the resident;

22 (C) The facility; and

23 (D) The [*Long Term Care*] Ombudsman **for Vulnerable Adults**.

24 (b) The copy of the report shall be accompanied by a notice that informs the recipient of the  
25 right to submit additional evidence.

26 (6) The complaint and the investigation report shall be available to the public at the local office  
27 of the licensing agency or the type B area agency on aging, **as defined in ORS 410.040**, if appro-  
28 priate. When the licensing agency or type B area agency on aging concludes the investigation of a  
29 complaint, the licensing agency or type B area agency on aging shall clearly designate the outcome  
30 of the complaint investigation and make the designation available to the public together with the  
31 complaint and the investigation report.

32 (7) A copy of the report shall be forwarded to the licensing agency whether or not the investi-  
33 gation report concludes that the complaint is substantiated.

34 **SECTION 26.** ORS 476.030 is amended to read:

35 476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

36 (a) The prevention of fires.

37 (b) The storage and use of combustibles and explosives.

38 (c) The maintenance and regulation of structural fire safety features in occupied structures and  
39 overseeing the safety of and directing the means and adequacy of exit in case of fire from factories,  
40 asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private  
41 residences, which are occupied for sleeping purposes, and all other places where large numbers of  
42 persons work, live or congregate from time to time for any purpose except that structural changes  
43 shall not be required in buildings built, occupied and maintained in conformity with state building  
44 code regulations applicable at the time of construction.

45 (d) Standards for equipment used for fire protection purposes within this state including stand-

1 and thread for fire hose couplings and hydrant fittings.

2 (2) The State Fire Marshal and deputies shall have such powers and perform such other duties  
3 as are prescribed by law.

4 (3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has en-  
5 acted adequate regulations generally conforming to state and national standards concerning fire  
6 prevention, fire safety measures and building construction requirements for safety, and if the gov-  
7 ernmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal  
8 may exempt the area subject to such regulation either partially or fully from the statutes, rules and  
9 regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the  
10 State Fire Marshal may request from the Department of Public Safety Standards and Training con-  
11 sideration of and recommendations regarding the exemption. The exemption may extend for a two-  
12 year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal  
13 following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's  
14 regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall  
15 furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire  
16 Marshal any amendment thereto within 30 days before the effective date of such amendment. The  
17 State Fire Marshal shall designate a person or division within such governmental subdivision as an  
18 approved authority for exercising functions relating to fire prevention, fire safety measures and  
19 building construction. Upon request of a local official having enforcement responsibility and a  
20 showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make  
21 investigation and appropriate recommendations.

22 (4) The State Fire Marshal may investigate or cause an investigation to be made to determine  
23 the probable cause, origin and circumstances of any fire and shall classify such findings as the State  
24 Fire Marshal may find appropriate to promote fire protection and prevention.

25 (5) The State Fire Marshal shall provide training in fire safety inspection to the Department of  
26 Human Services, area agencies, the Oregon Health Authority, community mental health programs,  
27 developmental disabilities programs and designees of the [*Long Term Care*] Ombudsman **for Vul-**  
28 **nerable Adults**. If an adult foster home has been inspected by the Department of Human Services,  
29 the Oregon Health Authority, an area agency, a community mental health program or a develop-  
30 mental disabilities program and the agency conducting the inspection reasonably believes that the  
31 adult foster home is not in compliance with applicable fire safety rules, the agency conducting the  
32 inspection may request the State Fire Marshal to inspect or cause an inspection to be made. If a  
33 designee of the [*Long Term Care*] Ombudsman **for Vulnerable Adults**, in the course of visiting an  
34 adult foster home, believes that the adult foster home is not in compliance with applicable fire safety  
35 rules, the designee shall report the problem to the appropriate agency to request a fire safety in-  
36 spection by the office of the State Fire Marshal or by a designated representative of the office of  
37 the State Fire Marshal.

38 (6) Upon the request of the Department of Human Services, the Oregon Health Authority, an  
39 area agency, a community mental health program or a developmental disabilities program, the State  
40 Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster home  
41 is in compliance with rules jointly adopted by the Department of Human Services and the State Fire  
42 Marshal establishing fire safety standards for adult foster homes.

43 (7) As used in subsections (5) and (6) of this section:

44 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

45 (b) "Area agency" has the meaning given that term in ORS 410.040.

1 (c) "Community mental health program" means a program established under ORS 430.620 (1)(b).

2 (d) "Developmental disabilities program" means a program established under ORS 430.620 (1)(a).

3 **SECTION 27. ORS 441.147 is repealed.**

4  
5 **NAME CHANGE PROVISIONS**

6  
7 **SECTION 28. (1)(a) The amendments to ORS 441.103 by section 2 of this 2013 Act are in-**  
8 **tended to change the name of the "Long Term Care Ombudsman" to the "Ombudsman for**  
9 **Vulnerable Adults" and to change the name of the "office of the Long Term Care Ombuds-**  
10 **man" to the "office of the Ombudsman for Vulnerable Adults."**

11 (b) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel  
12 may substitute for words designating the "Long Term Care Ombudsman," wherever they  
13 occur in statutory law, other words designating the "Ombudsman for Vulnerable Adults,"  
14 and the Legislative Counsel may substitute for words designating the "office of the Long  
15 Term Care Ombudsman," wherever they occur in statutory law, other words designating the  
16 "office of the Ombudsman for Vulnerable Adults."

17 (2)(a) The amendments to ORS 441.137 by section 12 of this 2013 Act are intended to  
18 change the name of the "Long Term Care Advisory Committee" to the "Residential Facilities  
19 for Vulnerable Adults Advisory Committee."

20 (b) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel  
21 may substitute for words designating the "Long Term Care Advisory Committee," wherever  
22 they occur in statutory law, other words designating the "Residential Facilities for Vulner-  
23 able Adults Advisory Committee."

24 (3)(a) The amendments to ORS 441.153 by section 15 of this 2013 Act are intended to  
25 change the name of the "Long Term Care Ombudsman Account" to the "Ombudsman for  
26 Vulnerable Adults Account."

27 (b) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel  
28 may substitute for words designating the "Long Term Care Ombudsman Account," wherever  
29 they occur in statutory law, other words designating the "Ombudsman for Vulnerable Adults  
30 Account."

31  
32 **CAPTIONS**

33  
34 **SECTION 29. The unit captions used in this 2013 Act are provided only for the conven-**  
35 **ience of the reader and do not become part of the statutory law of this state or express any**  
36 **legislative intent in the enactment of this 2013 Act.**

37 \_\_\_\_\_