

D R A F T

SUMMARY

Modifies requirements relating to evacuation of residents of adult foster homes.

Directs Department of Human Services to issue license as conversion facility to long term care facility converting to residential care facility.

Modifies definition of residential care facility.

Directs department to adopt rules regarding installation of electronic monitoring devices by residents of certain facilities.

A BILL FOR AN ACT

Relating to care facilities; creating new provisions; and amending ORS 409.720, 443.400, 443.420 and 443.760.

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

EVACUATION REQUIREMENTS

SECTION 1. ORS 443.760 is amended to read:

443.760. (1) Adult foster homes that are certified as residential homes as defined in ORS 197.660 [*shall*] **must** meet all state and local building, sanitation, utility and fire code requirements applicable to single family dwellings. However, by rule, the licensing agency may adopt more stringent standards upon a finding that there is a significant health or safety threat to residents that necessitates a standard not imposed on other single family dwellings.

(2) In adopting more stringent standards, the licensing agency shall consult with the [*Department of Consumer and Business Services and the office of the State Fire Marshal to insure adequate evacuation of residents.*] **appro-**

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 **priate regulatory authorities to develop standards that ensure that the**
2 **provider has the ability to evacuate all residents from the dwelling**
3 **within:**

4 (a) **Three minutes; or**

5 (b) **A period that meets applicable life safety requirements if the**
6 **adult foster home has an interior sprinkler system approved by the**
7 **appropriate regulatory authorities.**

8 [(3) *As used in this section, “adequate evacuation” means the ability of a*
9 *provider to evacuate all residents from the dwelling within three minutes.*]

10 [(4)] (3) **If a licensed provider rents or leases the premises where the adult**
11 **foster home is located, the lessor shall charge a flat rate for the lease or**
12 **rental.**

13

14 **RESIDENTIAL CARE FACILITIES**

15

16 **SECTION 2.** ORS 443.400 is amended to read:

17 443.400. As used in ORS 443.400 to 443.455 and 443.991, unless the context
18 requires otherwise:

19 (1) **“Conversion facility” means a facility that has applied for, or**
20 **been issued, a conversion facility license as described in section 4 of**
21 **this 2017 Act.**

22 [(1)] (2) **“Director” means the director of the licensing agency for the**
23 **residential facility.**

24 [(2)] (3) **“Licensing agency” means:**

25 (a) **The Department of Human Services, if the residential facility that is**
26 **licensed, or that the Director of Human Services determines should be li-**
27 **censed, is a residential care facility, residential training facility or residen-**
28 **tial training home; or**

29 (b) **The Oregon Health Authority, if the residential facility that is li-**
30 **censed, or that the Director of the Oregon Health Authority determines**
31 **should be licensed, is a residential treatment facility or residential treatment**

1 home.

2 [(3)] (4) "Resident" means any individual residing in a facility who re-
3 ceives residential care, treatment or training. For purposes of ORS 443.400
4 to 443.455, an individual is not considered to be a resident if the individual
5 is related by blood or marriage within the fourth degree as determined by
6 civil law to the person licensed to operate or maintain the facility.

7 [(4)] (5) "Residential care" means services such as supervision; protection;
8 assistance while bathing, dressing, grooming or eating; management of
9 money; transportation; recreation; and the providing of room and board.

10 [(5)] (6) "Residential care facility" means a facility that provides[, *for six*
11 *or more socially dependent individuals or individuals with physical disabili-*
12 *ties,*] residential care in one or more buildings on contiguous properties:

13 (a) **For six or more socially dependent individuals or individuals**
14 **with physical disabilities; or**

15 (b) **For fewer than six socially dependent individuals or individuals**
16 **with physical disabilities if the purpose of the facility is to serve indi-**
17 **viduals with mental, emotional or behavioral disturbances that are**
18 **more appropriately served in smaller settings.**

19 [(6)] (7) "Residential facility" means a residential care facility, residential
20 training facility, residential treatment facility, residential training home
21 [or], residential treatment home **or conversion facility.**

22 [(7)] (8) "Residential training facility" means a facility that provides, for
23 six or more individuals with mental retardation or other developmental dis-
24 abilities, residential care and training in one or more buildings on contig-
25 uous properties.

26 [(8)] (9) "Residential training home" means a facility that provides, for
27 five or fewer individuals with mental retardation or other developmental
28 disabilities, residential care and training in one or more buildings on con-
29 tiguous properties, when so certified and funded by the Department of Hu-
30 man Services.

31 [(9)] (10) "Residential treatment facility" means a facility that provides,

1 for six or more individuals with mental, emotional or behavioral disturb-
2 ances or alcohol or drug dependence, residential care and treatment in one
3 or more buildings on contiguous properties.

4 [(10)] (11) “Residential treatment home” means a facility that provides for
5 five or fewer individuals with mental, emotional or behavioral disturbances
6 or alcohol or drug dependence, residential care and treatment in one or more
7 buildings on contiguous properties.

8 [(11)] (12) “Training” means the systematic, planned maintenance, devel-
9 opment or enhancement of self-care skills, social skills or independent living
10 skills, or the planned sequence of systematic interactions, activities or
11 structured learning situations designed to meet each resident’s specified
12 needs in the areas of physical, social, emotional and intellectual growth.

13 [(12)] (13) “Treatment” means a planned, individualized program of med-
14 ical, psychological or rehabilitative procedures, experiences and activities
15 designed to relieve or minimize mental, emotional, physical or other symp-
16 toms or social, educational or vocational disabilities resulting from or re-
17 lated to the mental or emotional disturbance, physical disability or alcohol
18 or drug problem.

19 **SECTION 3. Section 4 of this 2017 Act is added to and made a part**
20 **of ORS 443.400 to 443.455.**

21 **SECTION 4. (1) A facility that is licensed as a long term care fa-**
22 **cility under ORS 441.025 may apply to the Department of Human Ser-**
23 **vices for licensure as a conversion facility. The department shall issue**
24 **a conversion facility license upon receipt of an application and fee that**
25 **meet requirements established by the department by rule.**

26 **(2)(a) The department shall adopt rules governing the conversion**
27 **of a facility’s license from a long term care facility license to a resi-**
28 **dential care facility license and the regulation of the facility during**
29 **the conversion period.**

30 **(b) As of the date of licensure as a conversion facility, the conver-**
31 **sion facility must be in substantial compliance with applicable state**

1 **and local laws, rules, codes, ordinances and permit requirements.**

2 **SECTION 5.** ORS 443.420 is amended to read:

3 443.420. (1) A person applying for a license under ORS 443.415 must, in
4 the judgment of the director of the licensing agency, be a person:

5 (a) Who demonstrates an understanding and acceptance of the rules gov-
6 erning residential facilities;

7 (b) Mentally and physically capable of caring for such residents; and

8 (c) Who employs or utilizes only individuals whose presence does not
9 jeopardize the health, safety or welfare of residents.

10 (2) A residential facility [*shall*] **may** not be operated or maintained in
11 combination with a nursing home or hospital unless:

12 (a) **The residential facility is** licensed, maintained and operated as a
13 separate and distinct part; **or**

14 (b) **The residential facility is licensed as a conversion facility under**
15 **section 4 of this 2017 Act.**

16 (3) All physical residential facilities used for residents [*shall*] **must** meet
17 applicable requirements of the State Fire Marshal.

18 (4) [*Prior to*] **As of the date of** licensure, a residential facility must be
19 in substantial compliance with applicable state and local laws, rules, codes,
20 ordinances and permit requirements.

21 (5) Prior to licensure, a residential facility that proposes to house persons
22 under the age of 21 years shall submit written proof to the licensing agency
23 demonstrating that the facility will:

24 (a) Comply with ORS 336.575; and

25 (b) Ensure that the children who reside at the residential facility receive
26 appropriate educational services that are:

27 (A) Comprehensive and age-appropriate;

28 (B) In compliance with requirements of state and federal law; and

29 (C) If applicable, in compliance with the individual education program of
30 the child.

31 (6) Prior to an initial licensure of a residential care facility, the licensing

1 agency shall consider:

2 (a) The license applicant's history of regulatory compliance and opera-
3 tional experience;

4 (b) The willingness of the license applicant to serve underserved popu-
5 lations; and

6 (c) The willingness of the license applicant to contract with the licensing
7 agency to provide services through the state medical assistance program.

8 (7)(a) The licensing agency may not issue an initial license to a residen-
9 tial care facility if the facility has not conducted a market study that as-
10 sesses the need for the services offered by the facility in the geographic area
11 served by the facility.

12 (b) **This subsection does not apply to a conversion facility licensed**
13 **under section 4 of this 2017 Act.**

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15

ELECTRONIC MONITORING

16

17 **SECTION 6. (1) As used in this section:**

18 (a) **“Electronic monitoring device” means a surveillance instrument**
19 **with a video camera or audio recording device that is installed in a**
20 **resident's room and broadcasts, transmits or records activity occur-**
21 **ring in the room.**

22 (b) **“Facility” means:**

23 (A) **A long term care facility as defined in ORS 442.015;**

24 (B) **A residential care facility as defined in ORS 443.400, including**
25 **but not limited to an assisted living facility; or**

26 (C) **An adult foster home as defined in ORS 443.705.**

27 (2) **A facility may not discriminate or retaliate against a resident**
28 **who installs or requests to install an electronic monitoring device.**

29 (3) **The Department of Human Services shall adopt rules governing**
30 **the use of electronic monitoring devices by residents of facilities.**

31

CONFORMING AMENDMENTS

SECTION 7. ORS 409.720 is amended to read:

409.720. (1) As used in this section:

(a) “Adult foster home” has the meaning given that term in ORS 443.705 (1).

(b) “Health care facility” has the meaning given that term in ORS 442.015.

(c) “Residential facility” has the meaning given that term in ORS 443.400 [(6)].

(2) Every adult foster home, health care facility and residential facility licensed or registered by the Department of Human Services shall:

(a) Adopt a plan to provide for the safety of persons who are receiving care at or are residents of the home or facility in the event of an emergency that requires immediate action by the staff of the home or facility due to conditions of imminent danger that pose a threat to the life, health or safety of persons who are receiving care at or are residents of the home or facility; and

(b) Provide training to all employees of the home or facility about the responsibilities of the employees to implement the plan required by this section.

(3) The department shall adopt by rule the requirements for the plan and training required by this section. The rules adopted shall include, but are not limited to, procedures for the evacuation of the persons who are receiving care at or are residents of the adult foster home, health care facility or residential facility to a place of safety when the conditions of imminent danger require relocation of those persons.

UNIT CAPTIONS

SECTION 8. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the

1 **statutory law of this state or express any legislative intent in the**
2 **enactment of this 2017 Act.**

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