

# House Bill 3413

Sponsored by Representatives WILLIAMS, SMITH G, KENY-GUYER; Representatives DOHERTY, FINDLEY, LEIF, MITCHELL, NOBLE, POWER, PRUSAK, SMITH DB, WILDE, ZIKA

## 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**.

Changes name of office of Long Term Care Ombudsman to office of Long Term Care Ombudsmen. Adds three ombudsmen to office.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to long term care ombudsmen; creating new provisions; amending ORS 124.090, 125.060,  
3 125.075, 125.085, 125.678, 125.687, 410.550, 441.402, 441.403, 441.404, 441.406, 441.407, 441.408,  
4 441.409, 441.411, 441.412, 441.413, 441.416, 441.417, 441.418, 441.419, 441.650, 441.671, 443.380,  
5 443.382, 443.386, 443.447, 443.738, 443.767, 443.878 and 476.030 and section 15, chapter 608,  
6 Oregon Laws 2013, and section 2, chapter 36, Oregon Laws 2018; and declaring an emergency.

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

8 **SECTION 1.** ORS 441.402 is amended to read:

9 441.402. As used in ORS 441.402 to 441.419:

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

13 (2) "Designee" means an individual appointed by the **office of the** Long Term Care  
14 [*Ombudsman*] **Ombudsmen** under ORS 441.413 to serve as a representative in a local community in  
15 order to carry out the purpose of ORS 441.402 to 441.419.

16 (3) "Long term care facility" means:

17 (a) Any licensed skilled nursing facility or intermediate care facility, as defined in rules adopted  
18 under ORS 442.015;

19 (b) Adult foster homes, as defined in ORS 443.705, with residents over 60 years of age;

20 (c) Residential care facilities, as defined in ORS 443.400; and

21 (d) Continuing care retirement communities, as defined in ORS 101.020.

22 (4) "Long Term Care Ombudsman Program" means the services provided by [*the*] **a** Long Term  
23 Care Ombudsman.

24 **SECTION 2.** ORS 441.403 is amended to read:

25 441.403. (1) The office of the Long Term Care [*Ombudsman*] **Ombudsmen** is established. The  
26 [*Long Term Care Ombudsman*] **office** shall function separately and independently from any other  
27 state agency. The Governor shall appoint [*the*] **four** Long Term Care [*Ombudsman*] **Ombudsmen** for  
28 [*a*] four-year [*term*] **terms** from a list of [*three*] **12** nominees nominated by the Residential Ombuds-  
29 man and Public Guardianship Advisory Board established under ORS 441.416. The appointment of  
30 [*the*] **a** Long Term Care Ombudsman is subject to Senate confirmation under ORS 171.562 and

**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.

1 171.565. A vacancy shall be filled within 60 days in the same manner as an appointment is made.

2 (2) [The] A Long Term Care Ombudsman may be removed for just cause, upon recommendation  
3 to the Governor by the Residential Ombudsman and Public Guardianship Advisory Board.

4 (3) [The] A Long Term Care Ombudsman shall have background and experience in the following  
5 areas:

6 (a) The fields of aging, mental health or developmental disabilities;

7 (b) Physical or behavioral health care;

8 (c) Working with community programs;

9 (d) Strong understanding of long term care issues, both regulatory and policy;

10 (e) Working with health care providers;

11 (f) Working with and involvement in volunteer programs; and

12 (g) Administrative and managerial experience.

13 **SECTION 3.** ORS 441.404 is amended to read:

14 441.404. The funding for the office of the Long Term Care [Ombudsman] **Ombudsmen** shall in-  
15 clude at least one percent of Title III(B) of the Older Americans Act (Public Law 89-73) funding  
16 received by this state.

17 **SECTION 4.** ORS 441.406, as amended by section 17, chapter 61, Oregon Laws 2018, is amended  
18 to read:

19 441.406. (1) The **office of the** Long Term Care [Ombudsman] **Ombudsmen** shall carry out the  
20 following duties:

21 (a) Investigate and resolve complaints made by or for residents of long term care facilities about  
22 administrative actions that may adversely affect their health, safety, welfare or rights, including  
23 subpoenaing any person to appear, to give sworn testimony or to produce documentary or other  
24 evidence that is reasonably material to any matter under investigation.

25 (b) Undertake, participate in or cooperate with persons and agencies in such conferences, in-  
26 quiries, meetings or studies as may lead to improvements in the functioning of long term care fa-  
27 cilities.

28 (c) Monitor the development and implementation of federal, state and local laws, regulations and  
29 policies that relate to long term care facilities in this state.

30 (d) Provide information to public agencies about the problems of residents of long term care  
31 facilities.

32 (e) Work closely with cooperative associations and citizen groups in this state and the state  
33 protection and advocacy system under ORS 192.517.

34 (f) Widely publicize the [Long Term Care Ombudsman's] **office's** services, purpose and mode of  
35 operation.

36 (g) Collaborate with the Oregon Health Authority, the Department of Human Services, the Long  
37 Term Care Administrators Board and any other appropriate agencies and organizations to establish  
38 a statewide system to collect and analyze information on complaints and conditions in long term  
39 care facilities for the purpose of publicizing improvements and resolving significant problems.

40 (h) Contract with the state protection and advocacy system described in ORS 192.517 (1) to  
41 provide services and assistance to persons who are prospective or current residents of a mental  
42 health treatment facility or of a residential facility for individuals with developmental disabilities  
43 when the system has received a notice regarding the person pursuant to ORS 125.060 (7)(c) or (8)(c).

44 (i) Appoint designees to serve as local representatives of the office of the Long Term Care  
45 [Ombudsman] **Ombudsmen** in various districts of the state and regularly monitor their functions.

1 (j) Specify qualifications and duties of designees.

2 (k) Adopt rules necessary for carrying out ORS 441.402 to 441.414, after consultation with the  
3 Residential Ombudsman and Public Guardianship Advisory Board.

4 (L) Provide periodically, or at least annually, a report to the Governor, authority, department  
5 and Legislative Assembly.

6 (m) Prepare necessary reports with the assistance of the authority and the department.

7 (n) Advise and support the Oregon Public Guardian and Conservator appointed under ORS  
8 125.678.

9 (o) Supervise, monitor, advise and support the Residential Facilities Ombudsman appointed un-  
10 der ORS 443.382.

11 (2) At least quarterly, the Department of Human Services shall provide the **office of the Long**  
12 Term Care [*Ombudsman*] **Ombudsmen** with a list of the number of licensed or certified beds in each  
13 long term care facility for which the [*ombudsman*] **office** has responsibilities under this section.

14 **SECTION 5.** ORS 441.407 is amended to read:

15 441.407. The **office of the Long Term Care [*Ombudsman*] Ombudsmen** shall establish proce-  
16 dures to maintain the confidentiality of the records and files of residents of long term care facilities.  
17 These procedures must meet the following requirements:

18 (1) [*The*] **An** ombudsman or a designee may not disclose the identity of any resident unless the  
19 complainant or the resident, or the legal representative of either, consents in writing to the disclo-  
20 sure and specifies to whom the disclosure may be made.

21 (2) The identity of any complainant or resident on whose behalf a complaint is made, or indi-  
22 vidual providing information on behalf of the complainant or the resident, shall be confidential. If  
23 the complaint becomes the subject of judicial proceedings, the investigative information held by the  
24 ombudsman or the designee shall be disclosed for the purpose of the proceedings if requested by the  
25 court.

26 **SECTION 6.** ORS 441.408 is amended to read:

27 441.408. (1) [*The*] **A** Long Term Care Ombudsman and each designee shall have the right of entry  
28 into long term care facilities at any time considered necessary and reasonable by the ombudsman  
29 or the designee for the purpose of:

- 30 (a) Investigating and resolving complaints made by residents or made on their behalf;
- 31 (b) Interviewing residents, with their consent, in private;
- 32 (c) Offering the services of the ombudsman or the designee to any resident, in private;
- 33 (d) Interviewing employees or agents of the facility;
- 34 (e) Consulting regularly with the facility administration; and
- 35 (f) Providing services authorized by law or by rule.

36 (2)(a) [*The*] **An** ombudsman shall have access to any resident's records, and to records of any  
37 public agency necessary to the duties of the ombudsman, including records on reports of resident  
38 abuse made pursuant to ORS 124.050 to 124.095 and 441.630 to 441.680. The provisions of ORS  
39 192.553 to 192.581 are not intended to limit the access of the ombudsman to medical records of res-  
40 idents of long term care facilities. If necessary to investigate a complaint, designees shall have ac-  
41 cess to individual resident's records, including medical records as authorized by the resident or the  
42 resident's legal representative.

43 (b) If a resident's legal representative denies access to the resident's records by [*the*] **an** om-  
44 budsman or a designee, [*the*] **an** ombudsman shall have access to the records if the ombudsman has  
45 reasonable cause to believe that the legal representative is not acting in the best interests of the

1 resident.

2 (3) The [ombudsman] **office of the Long Term Care Ombudsmen** shall enter into  
 3 confidentiality agreements with the Department of Human Services and with the Oregon Health  
 4 Authority permitting the [ombudsman] **ombudsmen** to have access to electronic records of the de-  
 5 partment and the authority that are necessary to carry out the duties of the [ombudsman]  
 6 **ombudsmen**. The agreement must ensure that records obtained by [the] **an** ombudsman from the  
 7 department or the authority that are confidential, privileged or otherwise protected from disclosure  
 8 are not further disclosed, except as permitted by state and federal law.

9 (4) Entry and investigation authorized by this section shall be done in a manner that does not  
 10 disrupt significantly the providing of nursing, residential or other personal care or treatment to  
 11 residents.

12 (5) [The] **An** ombudsman or [the] **a** designee must show identification to the person in charge  
 13 of the facility. The resident shall have the right to refuse to communicate with the ombudsman or  
 14 the designee. The refusal shall be made directly to the ombudsman or the designee and not through  
 15 an intermediary.

16 (6) The resident shall have the right to participate in planning any course of action to be taken  
 17 on behalf of the resident by the ombudsman or the designee.

18 **SECTION 7.** ORS 441.409 is amended to read:

19 441.409. (1) Following an investigation, [the] **a** Long Term Care Ombudsman or [the] **a** designee  
 20 shall report opinions or recommendations to the party or parties affected and, if appropriate, shall  
 21 attempt to resolve the complaint using informal techniques of mediation, conciliation and persuasion.  
 22 Complaints of conditions adversely affecting residents of long term care facilities, or complaints of  
 23 conditions threatening the safety or well-being of residents that cannot be resolved in the manner  
 24 described in this section, shall be referred to an appropriate state agency.

25 (2) Programs that promote the safety or emotional or physical well-being of residents of long  
 26 term care facilities shall be promoted and publicized by the [ombudsman] **ombudsmen** and the  
 27 designees.

28 **SECTION 8.** ORS 441.411 is amended to read:

29 441.411. (1) The **office of the Long Term Care [Ombudsman] Ombudsmen** shall prepare and  
 30 distribute to each long term care facility in this state a written notice describing the procedures to  
 31 follow in making a complaint, including the address and telephone number of the [ombudsman] **office**  
 32 and local designee, if any, and a poster describing the Long Term Care Ombudsman Program and  
 33 providing contact information.

34 (2) The administrator of each long term care facility shall post the written notice and poster  
 35 required by this section in conspicuous places in the facility in accordance with procedures provided  
 36 by the [ombudsman] **office** and shall give the written notice to each resident and legally appointed  
 37 guardian, if any.

38 **SECTION 9.** ORS 441.412 is amended to read:

39 441.412. (1) Any employee or agent of a long term care facility acting in good faith in discussing  
 40 resident care pursuant to ORS 441.408 shall have immunity from any civil liability that might oth-  
 41 erwise be incurred or imposed with respect to the making of such report.

42 (2) Any employee or agent who makes a report pursuant to ORS 441.408 may not be subjected  
 43 to any retaliation by any official or other employee of a long term care facility solely for making  
 44 a report, including but not limited to restriction of otherwise lawful access to the facility or to any  
 45 resident of the facility, or, if an employee, to dismissal or harassment.

1 (3) ~~[The]~~ **A** Long Term Care Ombudsman or ~~[the]~~ **a** designee acting in good faith in discussing  
 2 resident care pursuant to ORS 441.408 shall have immunity from any civil liability, that might oth-  
 3 erwise be incurred or imposed with respect to the discussion.

4 **SECTION 10.** ORS 441.413 is amended to read:

5 441.413. (1) The **office of the** Long Term Care ~~[Ombudsman]~~ **Ombudsmen** shall appoint  
 6 designees in consultation with local screening committees that may consist of but not be limited to  
 7 persons representing:

- 8 (a) The area agency, as defined in ORS 410.040.
- 9 (b) The local office of the Department of Human Services.
- 10 (c) The local health department.
- 11 (d) Senior citizens groups in the area.
- 12 (e) Local elected officials.

13 (2) To be appointed as a designee, a person must complete an initial training, as prescribed by  
 14 the **office of the** Long Term Care ~~[Ombudsman]~~ **Ombudsmen** by rule, and attend quarterly training  
 15 sessions that are approved by the ~~[ombudsman]~~ **office** and that shall be coordinated and funded by  
 16 the Department of Human Services and the Oregon Health Authority, subject to the availability of  
 17 funds. Local screening committees shall be appointed by and serve at the pleasure of the ~~[ombuds-~~  
 18 ~~man]~~ **ombudsmen**.

19 (3) Designees must sign a contract with the state that outlines the scope of their duties. In  
 20 districts where a designee is an employee or agent of a local entity, a three-party contract shall be  
 21 executed. Violation of the contract is cause for the termination of the appointment. A directory of  
 22 all designees shall be maintained in the office of the Long Term Care ~~[Ombudsman]~~ **Ombudsmen**.

23 (4) The qualifications of designees shall include experience with long term care facilities or  
 24 residents or potential residents of long term care facilities, and the ability to communicate well, to  
 25 understand laws, rules and regulations, and to be assertive, yet objective.

26 (5) Applicants who have experience in either social service, mental health, developmental disa-  
 27 bility services, gerontology, nursing or paralegal work shall be given preference in the appointment  
 28 of designees.

29 (6) The contract shall include statements that the purpose of the Long Term Care Ombudsman  
 30 Program is to:

- 31 (a) Promote rapport and trust between the residents and staff of the long term care facilities  
 32 and Long Term Care ~~[Ombudsman]~~ **Ombudsmen**;
- 33 (b) Assist residents with participating more actively in determining the delivery of services at  
 34 the facilities;
- 35 (c) Serve as an educational resource;
- 36 (d) Receive, resolve or relay concerns to the **office of the** Long Term Care ~~[Ombudsman]~~  
 37 **Ombudsmen** or the appropriate agency; and
- 38 (e) Ensure equitable resolution of problems.

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

- 40 (a) Visit each assigned long term care facility on a regular basis:
- 41 (A) Upon arrival and departure, inform a specified staff member.
- 42 (B) Review, with a specified staff member, any problems or concerns that need to be considered.
- 43 (C) Visit individual residents and resident councils.

44 (b) Maintain liaison with appropriate agencies and the Long Term Care ~~[Ombudsman]~~  
 45 **Ombudsmen**.

1 (c) Report, in writing, monthly to the **office of the** Long Term Care [*Ombudsman*]  
2 **Ombudsmen.**

3 (d) Keep residents and staff informed of the Long Term Care Ombudsman Program.

4 (e) Periodically review the rights prescribed in ORS 441.605, 441.610 and 441.612, and any other  
5 applicable rights to services, with residents, families, guardians, administrators and staff of long  
6 term care facilities.

7 (f) Perform other related duties as specified.

8 **SECTION 11.** ORS 441.416 is amended to read:

9 441.416. (1) There is established a Residential Ombudsman and Public Guardianship Advisory  
10 Board of 11 members to be appointed in the following manner:

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

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

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

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

15 (e) One person appointed by the Governor from each list of four names submitted by organiza-  
16 tions for seniors, organizations for persons with mental illness and the Oregon Council on Develop-  
17 mental Disabilities; and

18 (f) Four persons appointed by the Governor, two of whom must have expertise in the provision  
19 of guardianship, conservatorship and other fiduciary services for persons with inadequate resources.

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

22 (3) The term of office of each member is four years. Before the expiration of the term of a  
23 member, the appointing authority shall appoint a successor whose term begins on July 1 next fol-  
24 lowing. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing  
25 authority shall make an appointment to become immediately effective for the unexpired term.

26 (4) The members of the board must be residents of this state who are broadly representative, to  
27 the extent possible, of persons residing in residential facilities as defined in ORS 443.380 or long  
28 term care facilities, including members of racial and ethnic minorities, who have knowledge and  
29 interest in the problems of persons residing in residential facilities, and who are representative of  
30 all areas of this state and the demographics of groups served by the **office of the** Long Term Care  
31 [*Ombudsman*] **Ombudsmen.**

32 (5) A member of the board may not have a financial or fiduciary interest in residential facilities  
33 as defined in ORS 443.380, long term care facilities or service providers, or involvement in the li-  
34 censing or certification of residential facilities, long term care facilities or service providers.

35 (6) The board shall select one of its members as chairperson and another as vice chairperson,  
36 for such terms and with duties and powers necessary for the performance of the functions of such  
37 offices as the board determines.

38 (7) A majority of the members of the board constitutes a quorum for the transaction of business.  
39 Decisions may be made by a majority of the quorum.

40 (8) The board shall meet at least once each month at a place, day and hour determined by the  
41 board. The board also shall meet at other times and places specified by the call of the chairperson  
42 or of a majority of the members of the board. The board shall confer each month with the Long  
43 Term Care [*Ombudsman*] **Ombudsmen.** All meetings are subject to ORS 192.610 to 192.690.

44 (9) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

45 **SECTION 12.** ORS 441.417 is amended to read:

1 441.417. The Residential Ombudsman and Public Guardianship Advisory Board shall:

2 (1) Monitor the Long Term Care Ombudsman Program.

3 (2) Advise the Governor and the Legislative Assembly on the Long Term Care Ombudsman  
4 Program.

5 (3) Nominate, after interviews and according to prescribed criteria, [*three*] **12** persons to fill the  
6 Long Term Care Ombudsman [*position*] **positions** or to fill a vacancy in [*the*] **a** position.

7 **SECTION 13.** ORS 441.418 is amended to read:

8 441.418. (1) A residential facility as defined in ORS 443.380 or a long term care facility that files  
9 a complaint against a designee appointed under ORS 441.413 and objects to the action of [*the*] **a**  
10 Long Term Care Ombudsman in resolving the complaint may appeal the ombudsman's action to a  
11 panel of the Residential Ombudsman and Public Guardianship Advisory Board.

12 (2) The board on its own motion may review any action by [*the*] **an** ombudsman appealable under  
13 this section. The review shall provide an opportunity for written and oral presentation by the resi-  
14 dential facility as defined in ORS 443.380 or a long term care facility and the ombudsman. The board  
15 shall issue its findings and any instructions to the ombudsman in written form consistent with the  
16 federal Older Americans Act or other applicable federal law.

17 (3) If the board disagrees with the action of the ombudsman, the board may refer the resolution  
18 back to the ombudsman with instructions consistent with the federal Older Americans Act or other  
19 applicable federal law to conform the ombudsman's action in the matter to the recommendations of  
20 the board.

21 **SECTION 14.** ORS 441.419 is amended to read:

22 441.419. The Long Term Care Ombudsman Account is established in the State Treasury, separate  
23 and distinct from the General Fund. All miscellaneous receipts, gifts and federal and other grants  
24 received by the Long Term Care [*Ombudsman*] **Ombudsmen** shall be deposited into the Long Term  
25 Care Ombudsman Account and are continuously appropriated to the **office of the** Long Term Care  
26 [*Ombudsman*] **Ombudsmen** for carrying out the responsibilities of the office [*of the Long Term Care*  
27 *Ombudsman*].

28 **SECTION 15.** ORS 124.090 is amended to read:

29 124.090. (1) Notwithstanding the provisions of ORS 192.311 to 192.478, the names of the public  
30 or private official or any other person who made the complaint, the witnesses and the elderly per-  
31 sons, and the reports and records compiled under the provisions of ORS 124.050 to 124.095, are  
32 confidential and are not accessible for public inspection.

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

36 (a) A law enforcement agency;

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

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

41 (d) The **office of the** Long Term Care [*Ombudsman*] **Ombudsmen**;

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

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

45 (g) An administrative law judge in an administrative proceeding when necessary to provide

1 protective services as defined in ORS 410.040 to an elderly person, when in the best interests of the  
 2 elderly person or when necessary to investigate, prevent or treat abuse of an elderly person.

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

5 **SECTION 16.** ORS 125.060 is amended to read:

6 125.060. (1) The notices required by this section must be given to all persons whose identities  
 7 and addresses can be ascertained in the exercise of reasonable diligence by the person required to  
 8 give the notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (c) Except for a fiduciary who is making a motion, any fiduciary who has been appointed for the



1 protected person.

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

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

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

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

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

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

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

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

25 (b) If the respondent is a resident of a nursing home or residential facility, or if the person  
 26 nominated to act as fiduciary intends to place the respondent in a nursing home or residential fa-  
 27 cility, the office of the Long Term Care [*Ombudsman*] **Ombudsmen**.

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

31 (8) In addition to the requirements of subsection (3) of this section, in a protective proceeding  
 32 in which a guardian has been appointed, notice of the motions specified in subsection (3) of this  
 33 section, and the address, telephone number and other contact information of the protected person,  
 34 must be given by the person making the motion to the following 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 motion  
 38 seeks authority to place the protected person in a nursing home or residential facility, the office of  
 39 the Long Term Care [*Ombudsman*] **Ombudsmen**.

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 motion seeks authority to place the  
 42 protected person in such a facility, the system described in ORS 192.517 (1).

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

44 (10) The requirement that notice be served on an attorney for a respondent or protected person  
 45 under subsection (7)(a) or (8)(a) of this section does not impose any responsibility on the attorney

1 receiving the notice to represent the respondent or protected person in the protective proceeding.

2 **SECTION 17.** ORS 125.075 is amended to read:

3 125.075. (1) Any person who is interested in the affairs or welfare of a respondent or protected  
4 person may present objections to a petition or to a motion in a protective proceeding, including but  
5 not limited to:

- 6 (a) Any person entitled to receive notice under ORS 125.060.
- 7 (b) Any stepparent or stepchild of the respondent or protected person.
- 8 (c) Any other person the court may allow.

9 (2) Objections to a petition may be either written or oral. Objections to a motion must be in  
10 writing, except that a protected person may object orally in person or by other means that are in-  
11 tended to convey the protected person’s objections to the court. Objections to a petition or to a  
12 motion must be made or filed with the court within 15 days after notice of the petition or motion  
13 is served or mailed in the manner prescribed by ORS 125.065. The court shall designate the manner  
14 in which oral objections may be made that ensures that a protected person will have the protected  
15 person’s objection presented to the court. The clerk of the court shall provide a means of reducing  
16 the oral objections to a signed writing for the purpose of filing the objection.

17 (3) If objections are presented by any of the persons listed in subsection (1) of this section, the  
18 court shall schedule a hearing on the objections. The petitioner or person making the motion shall  
19 give notice to all persons entitled to notice under ORS 125.060 (3) of the date, time and place of the  
20 scheduled hearing at least 15 days before the date set for hearing. Notice shall be given in the  
21 manner prescribed by ORS 125.065.

22 (4) Notwithstanding ORS 21.170, the court may not charge or collect any fee for the filing of  
23 objections under the provisions of this section or for the filing of any motion from any of the fol-  
24 lowing:

- 25 (a) The respondent or the protected person;
- 26 (b) The office of the Long Term Care [*Ombudsman*] **Ombudsmen**; or
- 27 (c) The system described in ORS 192.517 (1).
- 28 (5) The court for good cause shown may provide for a different method or time of giving notice  
29 under subsection (3) of this section.

30 **SECTION 18.** ORS 125.085 is amended to read:

31 125.085. (1) The court may remove a fiduciary on the motion of any person who is entitled to file  
32 an objection to a petition under the provisions of ORS 125.075, on a motion of [*the*] **a** Long Term  
33 Care Ombudsman or upon the court’s own motion.

34 (2) On motion of the fiduciary, the court may accept the resignation of the fiduciary and make  
35 any other order that may be appropriate, including appointment of a successor fiduciary.

36 (3) Upon motion by any person who is entitled to file an objection to a petition under the pro-  
37 visions of ORS 125.075, on a motion of [*the*] **a** Long Term Care Ombudsman or upon the court’s own  
38 motion, the court may order a modification of the powers or authority of the fiduciary or termi-  
39 nation of the protective proceedings.

40 (4)(a) When [*the*] **a** Long Term Care Ombudsman files a motion under this section, the ombuds-  
41 man shall disclose to the court only:

- 42 (A) Such information as is allowed under ORS 441.407; and
- 43 (B) The minimum amount of protected information about the resident who is the subject of the  
44 motion that the ombudsman believes in good faith is reasonably necessary to prevent or lessen a  
45 serious and imminent threat to the health or safety of a resident of a long term care facility, resi-

1 denial facility or adult foster home.

2 (b) Any protected information disclosed by the ombudsman under this subsection shall remain  
 3 confidential and must be identified and marked by the ombudsman as confidential and protected in-  
 4 formation that is subject to the requirements of this subsection.

5 (c) Protected information disclosed under this subsection is subject to inspection only by the  
 6 parties to the proceeding and their attorneys as provided in paragraph (d) of this subsection. Pro-  
 7 tected information disclosed under this subsection is not subject to inspection by members of the  
 8 public except pursuant to a court order entered after a showing of good cause.

9 (d) The court may enter an order allowing inspection of protected information subject to dis-  
 10 closure under this subsection upon the filing of a written request for inspection and the payment  
 11 of any fees or costs charged to copy the protected information.

12 (e) Notwithstanding ORS 125.155 (4), to the extent that the report of a visitor appointed by the  
 13 court under ORS 125.150 contains protected information that is subject to the requirements of this  
 14 subsection, the report in its entirety shall be considered subject to the requirements of this sub-  
 15 section and may be disclosed only as provided in paragraphs (c) and (d) of this subsection.

16 **SECTION 19.** ORS 125.678 is amended to read:

17 125.678. (1) The Long Term Care [*Ombudsman*] **Ombudsmen** appointed under ORS 441.403, in  
 18 consultation with the Residential Ombudsman and Public Guardianship Advisory Board, shall ap-  
 19 point the Oregon Public Guardian and Conservator in the office of the Long Term Care  
 20 [*Ombudsman*] **Ombudsmen** for a four-year term. The Oregon Public Guardian and Conservator  
 21 serves at the pleasure of the Long Term Care [*Ombudsman*] **Ombudsmen** and may be removed by  
 22 **a vote of at least three of** the Long Term Care [*Ombudsman*] **Ombudsmen** for good cause. If there  
 23 is a vacancy for any cause, the Long Term Care [*Ombudsman*] **Ombudsmen** shall make an ap-  
 24 pointment within 60 days. The Oregon Public Guardian and Conservator shall receive a salary as  
 25 fixed by the Long Term Care [*Ombudsman*] **Ombudsmen** and be reimbursed for all reasonable travel  
 26 and other expenses incurred in the performance of official duties.

27 (2) The Oregon Public Guardian and Conservator shall be responsible for carrying out the  
 28 powers, duties and functions of the Oregon Public Guardian and Conservator pursuant to ORS  
 29 125.675 to 125.691, within the office of the Long Term Care [*Ombudsman*] **Ombudsmen**.

30 (3) The Oregon Public Guardian and Conservator may:

31 (a) Hire or contract with volunteers, staff, deputy public guardians and conservators and other  
 32 qualified individuals, as necessary, to carry out the powers, duties and functions of the Oregon  
 33 Public Guardian and Conservator;

34 (b) Prescribe the duties and assignments of persons hired or under contract with the Oregon  
 35 Public Guardian and Conservator;

36 (c) Fix the compensation, including reasonable travel and other expenses incurred in the per-  
 37 formance of official duties, of persons hired by or under contract with the Oregon Public Guardian  
 38 and Conservator subject to the State Personnel Relations Law; and

39 (d) Adopt rules to carry out the provisions of ORS 125.675 to 125.691.

40 (4) The **office of the** Long Term Care [*Ombudsman*] **Ombudsmen** may hire or contract with  
 41 staff to serve in the office [*of the Long Term Care Ombudsman*] as necessary to advise and support  
 42 the Oregon Public Guardian and Conservator.

43 (5)(a) The Oregon Public Guardian and Conservator may delegate the exercise or discharge of  
 44 any power, duty or function that is vested in or imposed by law upon the Oregon Public Guardian  
 45 and Conservator to a deputy public guardian and conservator, staff person or volunteer hired by or

1 under contract with the Oregon Public Guardian and Conservator as appropriate for the purpose  
 2 of conducting an official act in the name of the Oregon Public Guardian and Conservator. The offi-  
 3 cial act of any person acting in the name of the Oregon Public Guardian and Conservator by the  
 4 authority of the Oregon Public Guardian and Conservator is an official act of the Oregon Public  
 5 Guardian and Conservator.

6 (b) Notwithstanding paragraph (a) of this subsection, a court may not appoint a deputy public  
 7 guardian and conservator as a fiduciary in a proceeding under ORS 125.675 to 125.691 but shall  
 8 appoint the Oregon Public Guardian and Conservator as the fiduciary in the proceeding.

9 (6) The Oregon Public Guardian and Conservator may solicit and accept gifts, grants and do-  
 10 nations from public and private sources for the purpose of carrying out the provisions of ORS  
 11 125.675 to 125.691, which moneys shall be deposited in the Oregon Public Guardian and Conservator  
 12 Fund established under ORS 125.689.

13 **SECTION 20.** ORS 125.687 is amended to read:

14 125.687. (1) A court may not appoint the Oregon Public Guardian and Conservator as a fiduciary  
 15 for a person unless the Oregon Public Guardian and Conservator has petitioned for or consented to  
 16 the appointment. If appointed as a fiduciary by the court, the Oregon Public Guardian and  
 17 Conservator, and any deputy public guardian and conservator designated to act on behalf of the  
 18 Oregon Public Guardian and Conservator, shall serve as provided in this chapter and ORS 127.005  
 19 and 127.015, except as expressly stated otherwise in ORS 125.675 to 125.691 or by order of the court.

20 (2) The Oregon Public Guardian and Conservator shall file an official bond in an amount deter-  
 21 mined in consultation with the Oregon Department of Administrative Services. The bond shall inure  
 22 to the joint benefit of the several public guardianship and conservatorship estates in which the  
 23 Oregon Public Guardian and Conservator is providing services, but a bond is not required to be filed  
 24 in individual estates.

25 (3) The court may not charge the Oregon Public Guardian and Conservator a fee for the filing  
 26 of a petition or any other pleading under this chapter when the filing is made in connection with  
 27 the provision of public guardian and conservator services under ORS 125.675 to 125.691.

28 (4)(a) The court shall order the client or the client's estate to pay for reasonable expenses in-  
 29 curred, including compensation for services rendered, in the provision of public guardian and  
 30 conservator services to the client, including but not limited to court costs and attorney fees.

31 (b) If a client is indigent, the Oregon Public Guardian and Conservator shall have a claim  
 32 against the client or the client's estate for the portion of any payment ordered under paragraph (a)  
 33 of this subsection that remains unpaid.

34 (5) The court may not order the Oregon Public Guardian and Conservator, a deputy public  
 35 guardian and conservator or the office of the Long Term Care [*Ombudsman*] **Ombudsmen** to pay  
 36 court costs or attorney fees in a proceeding brought on behalf of a client under ORS 125.675 to  
 37 125.691.

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

39 410.550. (1) The Medicaid Long Term Care Quality and Reimbursement Advisory Council is  
 40 created, to consist of 12 members. Appointed members shall be residents of the State of Oregon and  
 41 representative of the geographic locations of all long term care facilities and community-based care  
 42 facilities in this state. The members shall include:

43 (a) [*The*] **A Long Term Care Ombudsman, selected by the Governor,** who shall serve as a  
 44 standing member of the council;

45 (b) A representative of the Governor's Commission on Senior Services, to be appointed by the

1 commission;

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

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

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

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

10 (g) Two consumers of residential or long term care facilities, as defined in ORS 441.402 and  
11 442.015, or community-based care facilities or family members of such residents, to be appointed by  
12 the Speaker of the House of Representatives;

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

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

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

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

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

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

25 (4) The council shall:

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

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

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

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

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

35 441.650. (1) Upon receipt of the oral or written report required under ORS 441.640, or of an  
36 abuse complaint, the area agency on aging, the Department of Human Services or the law enforce-  
37 ment agency shall cause an investigation to be commenced as follows:

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

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

44 (2) If the law enforcement agency conducting the investigation finds reasonable cause to believe  
45 that abuse has occurred, the law enforcement agency shall notify in writing the local office of the

1 area agency or the department as appropriate. Except in cases where the investigation is part of  
2 nursing facility surveyor activity pursuant to federal law, the area agency or the department shall  
3 complete an initial status report within two working days of the start of the investigation that in-  
4 cludes:

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

6 (b) The status of the investigation;

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

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

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

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

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

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

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

20 (c) A representative of the **office of the Long Term Care [Ombudsman] Ombudsmen**, upon re-  
21 quest; and

22 (d) The long term care facility.

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

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

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

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

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

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

36 (d) Write an investigation report that includes:

37 (A) The investigator's personal observations;

38 (B) A review of documents and records;

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

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

42 (7) Within five working days of completion of the investigation and not later than 60 days from  
43 completion of the initial status report described in subsection (2) of this section, the investigator  
44 shall provide the department with the written report required by subsection (6) of this section. The  
45 department shall make the investigation report available upon request after the letter of determi-

1 nation is complete. When copies of the report are made available, the names of the resident in-  
 2 volved, the complainant and any individuals interviewed by the investigator shall be deleted from  
 3 the copies.

4 **SECTION 23.** ORS 441.671 is amended to read:

5 441.671. (1) Notwithstanding the provisions of ORS 192.311 to 192.478, the names of  
 6 complainants, witnesses and residents, and the reports and records compiled under the provisions  
 7 of ORS 441.630 to 441.680, are confidential and are not accessible for public inspection.

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

- 11 (a) A law enforcement agency;
- 12 (b) A public agency that licenses or certifies long term care facilities;
- 13 (c) A public agency that licenses or certifies the persons practicing the healing arts in long term  
 14 care facilities;
- 15 (d) The **office of the Long Term Care [Ombudsman] Ombudsmen;**
- 16 (e) A public agency that licenses or certifies a person that has abused or is alleged to have  
 17 abused a resident;
- 18 (f) A court pursuant to a court order or as provided in ORS 125.012; and
- 19 (g) An administrative law judge in an administrative proceeding when necessary to provide  
 20 protective services as defined in ORS 410.040 to a resident, when in the best interests of the resident  
 21 or when necessary to investigate, prevent or treat abuse of a resident.

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

24 **SECTION 24.** ORS 443.380 is amended to read:

25 443.380. As used in ORS 443.380 to 443.394:

26 (1) “Administrative action” means an action, inaction or decision by an owner, employee or  
 27 agent of a residential facility or by a state, local, social service or health agency that could affect  
 28 the health, safety, welfare or rights of residents of the facility.

29 (2) “Designee” means an individual appointed by the Residential Facilities Ombudsman in ac-  
 30 cordance with ORS 443.386.

31 (3) “Legal representative” means a person to whom a resident or a court has granted legal au-  
 32 thority to permit access to the resident’s personal information and medical records.

33 (4) “Long Term Care Ombudsman” means [*the*] **an** individual appointed by the Governor under  
 34 ORS 441.403.

35 (5) “Resident” means an individual who resides in a residential facility.

36 (6)(a) “Residential facility” means one of the following:

- 37 (A) A residential training facility, as defined in ORS 443.400.
- 38 (B) A residential training home, as defined in ORS 443.400.
- 39 (C) A licensed adult foster home as defined in ORS 443.705 that serves persons with mental ill-  
 40 ness or developmental disabilities.
- 41 (D) A developmental disability child foster home, as defined in ORS 443.830.
- 42 (E) A residential treatment facility, as defined in ORS 443.400.
- 43 (F) A residential treatment home, as defined in ORS 443.400.
- 44 (G) A conversion facility licensed under ORS 443.431.

45 (b) “Residential facility” does not include a:

1 (A) Secured facility housing persons committed under ORS 161.327; or

2 (B) Facility licensed by the Oregon Health Authority to provide alcohol and drug treatment.

3 (7) "Residential Facilities Ombudsman Program" means the services provided by the Residential  
4 Facilities Ombudsman.

5 **SECTION 25.** ORS 443.382 is amended to read:

6 443.382. (1) The Long Term Care [*Ombudsman*] **Ombudsmen**, in consultation with the Residen-  
7 tial Ombudsman and Public Guardianship Advisory Board established under ORS 441.416, shall ap-  
8 point a Residential Facilities Ombudsman for a four-year term. The Residential Facilities  
9 Ombudsman serves at the pleasure of the Long Term Care [*Ombudsman*] **Ombudsmen** and may be  
10 removed by a **vote of at least three of** the Long Term Care [*Ombudsman*] **Ombudsmen** for cause.  
11 The Long Term Care [*Ombudsman*] **Ombudsmen** shall fill any vacancy within 60 days. The salary  
12 of the Residential Facilities Ombudsman shall be determined by the Long Term Care [*Ombudsman*]  
13 **Ombudsmen**. The Residential Facilities Ombudsman shall be reimbursed for all reasonable travel  
14 and other expenses incurred in the performance of the ombudsman's official duties.

15 (2) The Residential Facilities Ombudsman may, subject to the approval of the Long Term Care  
16 [*Ombudsman*] **Ombudsmen**, hire or contract with volunteers, staff, deputy ombudsmen and other  
17 qualified individuals as necessary to perform the duties of the ombudsman.

18 (3) The Residential Facilities Ombudsman shall:

19 (a) Identify, investigate and resolve complaints made by or on behalf of residents about admin-  
20 istrative actions.

21 (b) Provide residents, families of residents, guardians, community members and administrators  
22 and staff of residential facilities with information regarding the rights of residents as set forth in  
23 ORS 427.107 and 430.210 and any other applicable rights of residents.

24 (c) Widely publicize the Residential Facilities Ombudsman's services, purpose and mode of op-  
25 eration.

26 (d) Undertake, participate in or cooperate with persons and agencies in conferences, inquiries,  
27 meetings or studies that may lead to improvements in the functioning of residential facilities.

28 (e) Work closely with associations and citizen groups in this state and the state protection and  
29 advocacy system under ORS 192.517.

30 (f) Provide services to residents to assist them in protecting their health, safety, welfare and  
31 rights.

32 (g) Ensure that residents have regular, timely, private and unimpeded access to the Residential  
33 Facilities Ombudsman's services and that a resident or an individual acting on behalf of a resident  
34 who files a complaint receives a timely response to the complaint from the ombudsman or a  
35 designee.

36 (h) Represent the interests of residents before government agencies and seek administrative, le-  
37 gal or other appropriate remedies to protect the health, safety, welfare and rights of residents.

38 (i) Analyze, comment on and monitor the development and implementation of federal, state and  
39 local laws and other governmental policies pertaining to the health, safety, welfare and rights of  
40 residents.

41 (j) Recommend any changes to state or local laws to improve the health, safety, welfare and  
42 rights of residents.

43 (k) Facilitate public comment on laws and policies that affect the health, safety, welfare and  
44 rights of residents.

45 (L) Train designees.



1 (m) Promote the development of organizations to advocate on behalf of residents of residential  
2 facilities.

3 (n) To the extent practicable, assist residents who move from a residential facility to a home  
4 care setting.

5 (o) Assist residents and individuals acting on their behalf in locating and accessing resources  
6 in the community and in connecting with local service providers.

7 (p) Engage the participation of residents in general studies, conferences, inquiries or meetings  
8 related to residential care in this state.

9 (q) Make recommendations for improvements in the functioning of the residential facility system  
10 in this state.

11 (r) Collaborate with the Oregon Health Authority, the Department of Human Services, and any  
12 other appropriate agencies and organizations to establish a statewide system to collect and analyze  
13 information on complaints about and conditions in residential facilities for the purpose of publicizing  
14 improvements and resolving significant problems for residents.

15 (s) Provide information to public agencies about the problems of residents.

16 (t) Collect and compile data necessary to prepare the report submitted to the Governor under  
17 ORS 182.500.

18 (u) Adopt rules necessary for carrying out ORS 443.380 to 443.394, in accordance with ORS  
19 chapter 183, in consultation with the Long Term Care [*Ombudsman*] **Ombudsmen** and the Residen-  
20 tial Ombudsman and Public Guardianship Advisory Board.

21 **SECTION 26.** ORS 443.386 is amended to read:

22 443.386. (1) The Residential Facilities Ombudsman shall, in consultation with the Long Term  
23 Care [*Ombudsman*] **Ombudsmen**, appoint designees to serve as representatives of the ombudsman  
24 in local communities. The ombudsman shall regularly monitor the functions of designees.

25 (2) The Residential Facilities Ombudsman shall prescribe the qualifications of designees by rule.

26 (3) To be appointed as a designee, a person must complete an initial training prescribed by the  
27 Residential Facilities Ombudsman by rule and attend required continuing educational training ses-  
28 sions that are approved by the ombudsman.

29 (4) Designees must sign a contract with the Residential Facilities Ombudsman that outlines the  
30 scope of their duties. Violation of the contract is cause for terminating the appointment of a  
31 designee.

32 **SECTION 27.** ORS 443.447 is amended to read:

33 443.447. (1) The Quality Measurement Council is established in the Department of Human Ser-  
34 vices to prescribe how the department shall implement the Residential Care Quality Measurement  
35 Program established under ORS 443.446.

36 (2) The council consists of eight members, appointed by the Governor, as follows:

37 (a) One individual representing the Oregon Patient Safety Commission;

38 (b) One individual representing residential care facilities;

39 (c) One consumer representative from an Alzheimer's advocacy organization;

40 (d) One licensed health care practitioner with experience in geriatrics;

41 (e) Two individuals associated with an academic institution who have expertise in research us-  
42 ing data and analytics and in community-based care and quality reporting;

43 (f) [*The*] **A** Long Term Care Ombudsman or a designee of [*the*] **a** Long Term Care Ombudsman;  
44 and

45 (g) One individual representing the department.

1 (3)(a) On and after January 1, 2022, the council may update by rule the quality metrics to be  
2 reported by residential care facilities under ORS 443.446.

3 (b) In developing quality metrics the council shall consider whether the data that must be re-  
4 ported reflect and promote quality care and whether reporting the data is unnecessarily burdensome  
5 on residential care facilities.

6 **SECTION 28.** ORS 443.738 is amended to read:

7 443.738. (1) Except as provided in subsection (3) of this section, all providers, resident managers  
8 and substitute caregivers for adult foster homes shall satisfactorily meet all educational require-  
9 ments established by the licensing agency. After consultation with representatives of providers,  
10 educators, residents' advocates and the Long Term Care [*Ombudsman*] **Ombudsmen** or the Resi-  
11 dential Facilities Ombudsman, the licensing agency shall adopt by rule standards governing the ed-  
12 ucational requirements. The rules shall require that a person may not provide care to any resident  
13 prior to acquiring education or supervised training designed to impart the basic knowledge and  
14 skills necessary to maintain the health, safety and welfare of the resident. Each provider shall doc-  
15 ument compliance with the educational requirements for persons subject to the requirements.

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

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

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

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

28 (3) After consultation with representatives of providers, educators, residents' advocates and the  
29 Long Term Care [*Ombudsman*] **Ombudsmen** or the Residential Facilities Ombudsman, the licensing  
30 agency may adopt by rule exceptions to the training requirements of subsections (1) and (2) of this  
31 section for persons who are appropriately licensed medical care professionals in Oregon or who  
32 possess sufficient education, training or experience to warrant an exception. The licensing agency  
33 may not make any exceptions to the testing requirements.

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

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

43 (6) Providers shall make available at least six hours of activities each week which are of inter-  
44 est to the residents, not including television or movies. The licensing agency shall make information  
45 about resources for activities available to providers upon request. Providers or substitute caregivers

1 shall be directly involved with residents on a daily basis.

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

8 (8) If a resident dies or leaves an adult foster home for medical reasons and indicates in writing  
9 the intent to not return, the provider may not charge the resident for more than 15 days or the time  
10 specified in the provider contract, whichever is less, after the resident has left the adult foster home.  
11 The provider has an affirmative duty to take reasonable actions to mitigate the damages by ac-  
12 cepting a new resident. However, if a resident dies or leaves an adult foster home due to neglect  
13 or abuse by the provider or due to conditions of imminent danger to life, health or safety, the pro-  
14 vider may not charge the resident beyond the resident's last day in the home. The provider shall  
15 refund any advance payments within 30 days after the resident dies or leaves the adult foster home.

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

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

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

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

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

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

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

1 homes.

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

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

7 **SECTION 29.** ORS 443.767 is amended to read:

8 443.767. (1) When the licensing agency receives a complaint that alleges that a resident of a li-  
 9 censed adult foster home has been injured, abused or neglected, and that the resident's health or  
 10 safety is in imminent danger, or that the resident has died or been hospitalized, the investigation  
 11 shall begin immediately after the complaint is received. If the investigator determines that the  
 12 complaint is substantiated, the licensing agency shall take appropriate corrective action imme-  
 13 diately.

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

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

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

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

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

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

33 (C) The facility; and

34 (D) The Office of the Long Term Care [*Ombudsman*] **Ombudsmen.**

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

37 (6)(a) The complaint and the investigation report shall be available to the public at the local  
 38 office of the licensing agency or the type B area agency, if appropriate. When the licensing agency  
 39 or type B area agency concludes the investigation of a complaint, the licensing agency or type B  
 40 area agency shall clearly designate the outcome of the complaint investigation and make the desig-  
 41 nation available to the public together with the complaint and the investigation report.

42 (b) As used in this subsection, "area agency" has the meaning given that term in ORS 410.040.

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

45 **SECTION 30.** ORS 443.878 is amended to read:

1 443.878. (1) As used in this section:

2 (a) “Elderly person” means a person who is 65 years of age or older;

3 (b) “Person with a disability” has the meaning given that term in ORS 410.040; and

4 (c) “Psychotropic medication” has the meaning given that term in ORS 418.517.

5 (2) The Department of Human Services, in collaboration with the State Board of Pharmacy, the

6 Oregon Medical Board, the Oregon State Board of Nursing and the **office of the Long Term Care**

7 **[Ombudsman] Ombudsmen**, shall adopt rules related to the prescription of a psychotropic

8 medication to an elderly person or a person with a disability who resides in:

9 (a) An adult foster home, as defined in ORS 443.705;

10 (b) A residential care facility, as defined in ORS 443.400; or

11 (c) A long term care facility, as defined in ORS 442.015.

12 (3) The requirements of this section do not apply to an elderly person or person with a disability

13 in a hospice program, as defined in ORS 443.850.

14 (4) The rules adopted under subsection (2) of this section must include, but are not limited to,

15 requirements that:

16 (a) If a prescription of psychotropic medication is written by a licensed health care practitioner

17 other than the primary care provider or mental health care provider, or other licensed health care

18 practitioner designated by the department, of the elderly person or person with a disability, the

19 prescription must be reviewed by the primary care provider or mental health care provider, or other

20 licensed health care practitioner designated by the department, of the elderly person or person with

21 a disability to:

22 (A) Limit the adverse side effects of the psychotropic medication; and

23 (B) Ensure that the psychotropic medication is prescribed in the lowest possible effective

24 dosage;

25 (b) A licensed health care practitioner other than the primary care provider or mental health

26 care provider, or other licensed health care practitioner designated by the department, of the elderly

27 person or person with a disability who prescribes a psychotropic medication notify the primary care

28 provider or mental health care provider, or other licensed health care practitioner designated by the

29 department, of the elderly person or person with a disability of the prescription not later than 24

30 hours after issuing the prescription;

31 (c) Psychotropic medication prescribed by a licensed health care practitioner other than the

32 primary care provider or mental health care provider, or other licensed health care practitioner

33 designated by the department, of the elderly person or person with a disability may be in an amount

34 sufficient for a seven-day supply; and

35 (d) The facility or home in which the elderly person or person with a disability resides demon-

36 strates that:

37 (A) A person-centered assessment has been performed for the elderly person or person with a

38 disability; and

39 (B) Based on the findings of the assessment, the best course of treatment, including the use of

40 nonpharmacological interventions, psychotropic medication or a combination of nonpharmacological

41 interventions and psychotropic medication, is followed.

42 (5) The department may adopt other rules necessary to carry out the provisions of this section.

43 **SECTION 31.** ORS 476.030 is amended to read:

44 476.030. (1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

45 (a) The prevention of fires.

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

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

9 (d) Standards for equipment used for fire protection purposes within this state including stand-  
10 ard thread for fire hose couplings and hydrant fittings.

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

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

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

34 (5) The State Fire Marshal shall provide training in fire safety inspection to the Department of  
35 Human Services, area agencies, the Oregon Health Authority, community mental health programs,  
36 developmental disabilities programs and designees of the **office of the Long Term Care**  
37 **[Ombudsman] Ombudsmen** and the Residential Facilities Ombudsman. If an adult foster home has  
38 been inspected by the Department of Human Services, the Oregon Health Authority, an area agency,  
39 a community mental health program or a developmental disabilities program and the agency con-  
40 ducting the inspection reasonably believes that the adult foster home is not in compliance with ap-  
41 plicable fire safety rules, the agency conducting the inspection may request the State Fire Marshal  
42 to inspect or cause an inspection to be made. If a designee of the **office of the Long Term Care**  
43 **[Ombudsman] Ombudsmen** or the Residential Facilities Ombudsman, in the course of visiting an  
44 adult foster home, believes that the adult foster home is not in compliance with applicable fire safety  
45 rules, the designee shall report the problem to the appropriate agency to request a fire safety in-

1 spection by the office of the State Fire Marshal or by a designated representative of the office of  
 2 the State Fire Marshal.

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

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

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

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

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

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

13 **SECTION 32.** Section 15, chapter 608, Oregon Laws 2013, is amended to read:

14 **Sec. 15.** (1) The Legislative Assembly finds that:

15 (a) A significant amount of public and private funds are expended each year for long term care  
 16 services provided to Oregonians;

17 (b) Oregon has established itself as the national leader in providing a choice of noninstitutional  
 18 care to low income Oregonians in need of long term care services by developing an extensive system  
 19 of home health care and community-based care; and

20 (c) Long term care facilities continue to provide critical services to some of Oregon's most frail  
 21 and vulnerable residents with complex needs. Increasingly, long term care facilities are filling a  
 22 need for transitional care between hospitals and home settings in a cost-effective manner, reducing  
 23 the overall costs of long term care.

24 (2) The Legislative Assembly declares its support for collaboration among state agencies that  
 25 purchase health services and private health care providers in order to align financial incentives  
 26 with the goals of achieving better patient care and improved health status while restraining growth  
 27 in the per capita cost of health care.

28 (3) It is the goal of the Legislative Assembly that the long term care facility bed capacity in  
 29 Oregon be reduced by 1,500 beds by December 31, 2015, except for bed capacity in nursing facilities  
 30 operated by the Department of Veterans' Affairs and facilities that either applied to the Oregon  
 31 Health Authority for a certificate of need between August 1, 2011, and December 1, 2012, or sub-  
 32 mitted a letter of intent under ORS 442.315 (7) between January 15, 2013, and January 31, 2013.

33 (4) In order to reduce the long term care facility bed capacity statewide, the Department of  
 34 Human Services may permit an operator of a long term care facility to purchase another long term  
 35 care facility's entire bed capacity if:

36 (a) The long term care facility bed capacity being purchased is not in an essential long term  
 37 care facility; and

38 (b) The long term care facility's entire bed capacity is purchased and the seller agrees to sur-  
 39 render the long term care facility's license on the earlier of the date that:

40 (A) The last resident is transferred from the facility; or

41 (B) Is 180 days after the date of purchase.

42 (5) If a long term care facility's entire bed capacity is purchased, the facility may not admit new  
 43 residents to the facility except in accordance with criteria adopted by the Department of Human  
 44 Services by rule.

45 (6) Long term care bed capacity purchased under this section may not be transferred to another

1 long term care facility.

2 (7) The Department of Human Services may convene meetings with representatives of entities  
 3 that include, but are not limited to, long term care providers, nonprofit trade associations and state  
 4 and local governments to collaborate in strategies to reduce long term care facility bed capacity  
 5 statewide. Participation shall be on a voluntary basis. Meetings shall be held at a time and place  
 6 that is convenient for the participants.

7 (8) The Department of Human Services may conduct surveys of entities and individuals specified  
 8 in subsection (7) of this section concerning current long term care facility bed capacity and strate-  
 9 gies for increasing future capacity.

10 (9) Based on the findings in subsection (1) of this section and the declaration expressed in sub-  
 11 section (2) of this section, the Legislative Assembly declares its intent to exempt from state antitrust  
 12 laws and provide immunity from federal antitrust laws through the state action doctrine individuals  
 13 and entities that engage in transactions, meetings or surveys described in subsections (4), (7) and (8)  
 14 of this section that might otherwise be constrained by such laws.

15 (10) The Director of Human Services or the director’s designee shall engage in appropriate state  
 16 supervision necessary to promote state action immunity under state and federal antitrust laws, and  
 17 may inspect or request additional documentation to verify that the individuals and entities acting  
 18 pursuant to subsection (4), (7) or (8) of this section are acting in accordance with the legislative  
 19 intent expressed in this section.

20 (11) The Director of Human Services or the director’s designee, in consultation with the Long  
 21 Term Care [*Ombudsman*] **Ombudsmen**, shall engage in regional planning necessary to promote the  
 22 safety and dignity of residents living in a long term care facility that surrenders its license under  
 23 this section.

24 **SECTION 33.** Section 2, chapter 36, Oregon Laws 2018, is amended to read:

25 **Sec. 2.** (1) The Advance Directive Adoption Committee is established within the division of the  
 26 Oregon Health Authority that is charged with performing the public health functions of the state.

27 (2)(a) The committee consists of 13 members.

28 (b) One member shall be [*the*] **a Long Term Care Ombudsman** or the designee of the **office of**  
 29 **the Long Term Care [*Ombudsman*] Ombudsmen**.

30 (c) The other 12 members shall be appointed by the Governor as follows:

31 (A) One member who represents primary health care providers.

32 (B) One member who represents hospitals.

33 (C) One member who is a clinical ethicist affiliated with a health care facility located in this  
 34 state, or affiliated with a health care organization offering health care services in this state.

35 (D) Two members who are health care providers with expertise in palliative or hospice care, one  
 36 of whom is not employed by a hospital or other health care facility, a health care organization or  
 37 an insurer.

38 (E) One member who represents individuals with disabilities.

39 (F) One member who represents consumers of health care services.

40 (G) One member who represents the long term care community.

41 (H) One member with expertise advising or assisting consumers with end-of-life decisions.

42 (I) One member from among members proposed by the Oregon State Bar who has extensive ex-  
 43 perience in elder law and advising individuals on how to execute an advance directive.

44 (J) One member from among members proposed by the Oregon State Bar who has extensive ex-  
 45 perience in estate planning and advising individuals on how to make end-of-life decisions.



1 (K) One member from among members proposed by the Oregon State Bar who has extensive  
2 experience in health law.

3 (3) The term of office of each member of the committee is four years, but a member serves at  
4 the pleasure of the appointing authority. Before the expiration of the term of a member, the ap-  
5 pointing authority shall appoint a successor whose term begins on January 1 next following. A  
6 member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority  
7 shall make an appointment to become immediately effective for the unexpired term.

8 (4) A majority of the members of the committee constitutes a quorum for the transaction of  
9 business.

10 (5) Official action by the committee requires the approval of a majority of the members of the  
11 committee.

12 (6) The committee shall elect one of its members to serve as chairperson.

13 (7) The committee shall meet at times and places specified by the call of the chairperson or of  
14 a majority of the members of the committee, provided that the committee meets at least twice a  
15 year.

16 (8) The committee may adopt rules necessary for the operation of the committee.

17 (9) Members of the committee are not entitled to compensation, but may be reimbursed for ac-  
18 tual and necessary travel and other expenses incurred by them in the performance of their official  
19 duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid  
20 out of funds appropriated to the Oregon Health Authority for purposes of the committee.

21 **SECTION 34. (1) The amendments to ORS 124.090, 125.060, 125.075, 125.085, 125.678,**  
22 **125.687, 410.550, 441.402, 441.403, 441.404, 441.406, 441.407, 441.408, 441.409, 441.411, 441.412,**  
23 **441.413, 441.416, 441.417, 441.418, 441.419, 441.650, 441.671, 443.380, 443.382, 443.386, 443.447,**  
24 **443.738, 443.767, 443.878 and 476.030 and section 15, chapter 608, Oregon Laws 2013, and section**  
25 **2, chapter 36, Oregon Laws 2018, by sections 1 to 33 of this 2019 Act are intended to change**  
26 **the name of the “office of Long Term Care Ombudsman” to the “office of Long Term Care**  
27 **Ombudsmen.”**

28 **(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel**  
29 **may substitute for words designating the “office of the Long Term Care Ombudsman,”**  
30 **wherever they occur in statutory law, other words designating the “office of the Long Term**  
31 **Care Ombudsmen.”**

32 **SECTION 35. This 2019 Act being necessary for the immediate preservation of the public**  
33 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
34 **on its passage.**