

HB 2600-5
(LC 2166)
4/1/19 (LHF/ps)

Requested by Representative SALINAS (at the request of Phil Bentley)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2600**

1 On page 1 of the printed bill, line 3, after “441.406,” delete the rest of the
2 line and insert “441.413, 443.382, 443.386, 443.415 and 443.735.”

3 Delete lines 5 through 25 and delete pages 2 through 10 and insert:

4 **“SECTION 1. (1) As used in this section and section 2 of this 2019
5 Act:**

6 **“(a) ‘Disease outbreak’ has the meaning given that term in ORS
7 431A.005.**

8 **“(b) ‘Facility’ means:**

9 **“(A) A long term care facility, as defined in ORS 442.015;**

10 **“(B) A conversion facility, as defined in ORS 443.400; and**

11 **“(C) A residential care facility, as defined in ORS 443.400, including
12 a residential care facility with a memory care endorsement.**

13 **“(c) ‘Medical resource’ means a physician, nurse practitioner or
14 other health professional that has prescribing privileges.**

15 **“(2) An administrator of a facility and the employees of the facility,
16 as specified by the Department of Human Services by rule, must re-
17 ceive training in recognizing disease outbreaks and infection control
18 at the time of hiring, unless the administrator or the employees have
19 received the training at another facility no later than 18 months before
20 the time of hiring, and annually as part of the administrator or
21 employee’s continuing education requirements. The department, in**

1 **consultation with the Oregon Health Authority, shall prescribe by rule**
2 **the requirements for the training, which must include at least the**
3 **following:**

4 **“(a) How to properly prevent and contain disease outbreaks based**
5 **on the current best evidence in the field of infection and disease out-**
6 **break identification, prevention and control; and**

7 **“(b) The responsibility of staff members to report disease outbreaks**
8 **under ORS 433.004.**

9 **“(3) The training may be provided in person, in writing, by webinar**
10 **or by other electronic means. The department shall make the training**
11 **available online.**

12 **“(4)(a) A facility must establish and maintain infection prevention**
13 **and control protocols designed to provide a safe, sanitary and com-**
14 **fortable environment and to prevent the development and trans-**
15 **mission of communicable diseases.**

16 **“(b) A facility must designate an individual to be responsible for**
17 **carrying out the infection prevention and control protocols and to**
18 **serve as the primary point of contact for the department regarding**
19 **disease outbreaks. The individual must:**

20 **“(A) Be qualified by education, training and experience or certi-**
21 **fication; and**

22 **“(B) Complete specialized training in infection prevention and con-**
23 **trol within three months of being designated under this paragraph.**

24 **“(5) Upon hiring a new staff member, a facility shall provide to the**
25 **staff member information about the rights and responsibility of facil-**
26 **ity staff members to report disease outbreaks under ORS 433.004 and**
27 **the safeguards for staff members who report disease outbreaks.**

28 **“(6) The department, in coordination with the authority, shall:**

29 **“(a) Communicate regularly with facility administrators to recom-**
30 **mend best practices and protocols for preventing and responding to**

1 **disease outbreaks and provide contacts for local public health author-**
2 **ities; and**

3 **“(b) Provide notification of a reportable disease outbreak to the fa-**
4 **cilities in a community where residents and staff may be at risk of**
5 **exposure to the disease outbreak.**

6 **“SECTION 2. (1) The Department of Human Services shall annually**
7 **inspect the kitchen of a facility and other areas where food is prepared**
8 **for residents. The inspection is in addition to other surveys or in-**
9 **spections required by law, except that the inspection is not required**
10 **in a year in which a facility is scheduled for a survey required by the**
11 **Centers for Medicare and Medicaid Services under 42 C.F.R. part 488.**
12 **The inspection must be conducted by an individual who has training**
13 **and expertise in food sanitation. The department may charge the fa-**
14 **cility a fee for the inspection of up to \$200.**

15 **“(2) Any fees collected by the department under this section shall**
16 **be deposited in the Quality Care Fund established in ORS 443.001.**

17 **“SECTION 3. ORS 433.004 is amended to read:**

18 **“433.004. (1) The Oregon Health Authority shall by rule:**

19 **“(a) Specify reportable diseases and when the diseases must be re-**
20 **ported under this section;**

21 **“(b) Identify those categories of persons who must report reportable dis-**
22 **eases and the circumstances under which the reports must be made;**

23 **“(c) Prescribe the procedures and forms for making such reports and**
24 **transmitting the reports to the authority; and**

25 **“(d) Prescribe measures and methods for investigating the source and**
26 **controlling reportable diseases.**

27 **“(2) Persons required under the rules to report reportable diseases shall**
28 **do so by reporting to the local public health administrator. The local public**
29 **health administrator shall transmit such reports to the authority.**

30 **“(3) The authority or local public health administrator may investigate**

1 a case of a reportable disease, disease outbreak or epidemic. The investi-
2 gation may include, but is not limited to:

3 “(a) Interviews of:

4 “(A) The subject of a reportable disease report;

5 “(B) Controls;

6 “(C) Health care providers; or

7 “(D) Employees of a health care facility.

8 “(b) Requiring a health care provider, any public or private entity, or an
9 individual who has information necessary for the investigation to:

10 “(A) Permit inspection of the information by the authority or local public
11 health administrator; and

12 “(B) Release the information to the authority or local public health ad-
13 ministrator.

14 “(c) Inspection, sampling and testing of real or personal property with
15 consent of the owner or custodian of the property or with an administrative
16 warrant.

17 “(4)(a) The authority shall establish by rule the manner in which infor-
18 mation may be requested and obtained under subsection (3) of this section.

19 “(b) Information requested may include, but is not limited to, individually
20 identifiable health information related to:

21 “(A) The case;

22 “(B) An individual who may be the potential source of exposure or in-
23 fection;

24 “(C) An individual who has been or may have been exposed to or affected
25 by the disease;

26 “(D) Policies, practices, systems or structures that may have affected the
27 likelihood of disease transmission; and

28 “(E) Factors that may influence an individual’s susceptibility to the dis-
29 ease or likelihood of being diagnosed with the disease.

30 “(5) In addition to other grounds for which a state agency may exercise

1 disciplinary action against its licensees or certificate holders, the substantial
2 or repeated failure of a licensee or certificate holder to report when required
3 to do so under subsection (2) or (3) of this section shall be cause for the
4 exercise of any of the agency's disciplinary powers.

5 “(6) Any person making a report or providing information under this
6 section is immune from any civil or criminal liability that might otherwise
7 be incurred or imposed with respect to the making of a report or providing
8 information under this section.

9 **“SECTION 4.** ORS 441.025, as amended by section 12, chapter 50, Oregon
10 Laws 2018, is amended to read:

11 “441.025. (1)(a) Upon receipt of a license fee and an application to operate
12 a health care facility other than a long term care facility, the Oregon Health
13 Authority shall review the application and conduct an on-site inspection of
14 the health care facility. The authority shall issue a license if it finds that
15 the applicant and health care facility comply with ORS 441.015 to 441.087 and
16 441.196 and the rules of the authority provided that the authority does not
17 receive within the time specified a certificate of noncompliance issued by the
18 State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

19 “(b) The authority shall, following payment of the fee, annually renew
20 each license issued under this subsection unless:

21 “(A) The health care facility's license has been suspended or revoked; or

22 “(B) The State Fire Marshal, a deputy or an approved authority has is-
23 sued a certificate of noncompliance pursuant to ORS 479.215.

24 “(2)(a) Upon receipt of a license fee and an application to operate a long
25 term care facility, the Department of Human Services shall review the ap-
26 plication and conduct an on-site inspection of the long term care facility.
27 The department shall issue a license if:

28 “(A) The department finds that the applicant and long term care facility
29 [*comply*] **are in substantial compliance** with ORS 441.015 to 441.087 and
30 441.196 **and section 1 of this 2019 Act** and the rules of the department

1 [provided that it does not receive];

2 “(B)(i) The long term care facility has passed an inspection con-
3 ducted by the department of the long term care facility’s kitchen or
4 other area where food is prepared for residents in accordance with
5 section 2 of this 2019 Act; or

6 “(ii) The department has conducted a survey in accordance with 42
7 C.F.R. part 488 and, on the basis of the survey, certified the facility;
8 and

9 “(C) The department has not received within the time specified a cer-
10 tificate of noncompliance issued by the State Fire Marshal, deputy, or ap-
11 proved authority pursuant to ORS 479.215.

12 “(b) The department shall, following an on-site inspection and payment
13 of the fee, annually renew each license issued under this subsection unless:

14 “(A) The long term care facility’s license has been suspended or revoked;

15 “(B) The long term care facility is found not to be in substantial compli-
16 ance, following the on-site inspection, **with ORS 441.015 to 441.087 and**
17 **441.196 and section 1 of this 2019 Act and the rules of the department;**

18 or

19 “(C) The State Fire Marshal, a deputy or an approved authority has is-
20 sued a certificate of noncompliance pursuant to ORS 479.215.

21 “(3) Each license shall be issued only for the premises and persons or
22 governmental units named in the application and shall not be transferable
23 or assignable.

24 “(4) Licenses shall be posted in a conspicuous place on the licensed
25 premises as prescribed by rule of the authority or the department.

26 “(5) No license shall be issued or renewed for any health care facility or
27 health maintenance organization that is required to obtain a certificate of
28 need under ORS 442.315 until a certificate of need has been granted. An
29 ambulatory surgical center is not subject to the certificate of need require-
30 ments in ORS 442.315.

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

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

23 “(8) The Department of Human Services may not issue or renew a license
24 for a long term care facility, unless the applicant has included in the appli-
25 cation the identity of any person who has incident of ownership in the long
26 term care facility who also has a financial interest in any pharmacy, as de-
27 fined in ORS 689.005.

28 “(9) The authority shall adopt rules for each type of health care facility,
29 except long term care facilities, to carry out the purposes of ORS 441.015 to
30 441.087 including, but not limited to:

1 “(a) Establishing classifications and descriptions for the different types
2 of health care facilities that are licensed under ORS 441.015 to 441.087;
3 [and]

4 “(b) Standards for patient care and safety, adequate professional staff or-
5 ganizations, training of staff for whom no other state regulation exists,
6 suitable delineation of professional privileges and adequate staff analyses of
7 clinical records[.]; **and**

8 “(c) **Rules to ensure that a health care facility complies with section**
9 **1 of this 2019 Act.**

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

13 “(a) Establishing classifications and descriptions for the different types
14 of long term care facilities that are licensed under ORS 441.015 to 441.087;
15 [and]

16 “(b) Standards for patient care and safety, adequate professional staff or-
17 ganizations, training of staff for whom no other state regulation exists,
18 suitable delineation of professional privileges and adequate staff analyses of
19 clinical records[.]; **and**

20 “(c) **Rules to ensure that a long term care facility complies with**
21 **section 1 of this 2019 Act.**

22 “(11) The authority or department may not adopt a rule requiring a health
23 care facility to serve a specific food as long as the necessary nutritional food
24 elements are present in the food that is served.

25 “(12) A health care facility licensed by the authority or department may
26 not:

27 “(a) Offer or provide services beyond the scope of the license classifica-
28 tion assigned by the authority or department; or

29 “(b) Assume a descriptive title or represent itself under a descriptive title
30 other than the classification assigned by the authority or department.

1 “(13) A health care facility must reapply for licensure to change the
2 classification assigned or the type of license issued by the authority or de-
3 partment.

4 **“SECTION 5.** ORS 443.415 is amended to read:

5 “443.415. (1) Applications for licensure to maintain and operate a resi-
6 dential facility shall be made to the Department of Human Services or the
7 Oregon Health Authority on forms provided for that purpose by the appro-
8 priate licensing agency. Each application shall be accompanied by a fee. No
9 fee is required of any governmentally operated residential facility.

10 “(2)(a) The application fee for a residential training facility or a residen-
11 tial treatment facility is \$60.

12 “(b) The application fee for a residential training home is \$50.

13 “(c) The application fee for a residential treatment home is \$30.

14 “(d) The application fee for a residential care facility is:

15 “(A) For a facility with one to 15 beds, \$2,000.

16 “(B) For a facility with 16 to 49 beds, \$3,000.

17 “(C) For a facility with 50 to 99 beds, \$4,000.

18 “(D) For a facility with 100 to 150 beds, \$5,000.

19 “(E) For a facility with more than 150 beds, \$6,000.

20 “(3) Upon receipt of an application and fee, the licensing agency shall
21 conduct an investigation. The licensing agency shall:

22 **“(a) Issue a license to any applicant for operation of a residential facility**
23 **if:**

24 **“(A) The residential facility is in substantial compliance with ORS**
25 **443.002 and 443.400 to 443.455 and section 1 of this 2019 Act** and the rules
26 of the licensing agency [*Licensure may be denied when a residential facility*
27 *is not in compliance with ORS 443.002 or 443.400 to 443.455 or the rules of the*
28 *licensing agency. Licensure shall be denied if*]; **and**

29 **“(B) For a residential care facility, the facility has passed an in-**
30 **spection conducted by the department of the kitchen and other areas**

1 **where food is prepared for residents in accordance with section 2 of**
2 **this 2019 Act.**

3 **“(b) Deny a license to an applicant for operation of a residential**
4 **facility if:**

5 **“(A) The residential facility is not in substantial compliance with**
6 **ORS 443.002 and 443.400 to 443.455 and section 1 of this 2019 Act and the**
7 **rules of the licensing agency;**

8 **“(B) The State Fire Marshal, deputy or approved authority has given**
9 **notice of noncompliance of a residential care facility, residential training**
10 **facility or residential treatment facility pursuant to ORS 479.220[.]; or**

11 **“(C) For a residential care facility, the facility has failed an in-**
12 **spection of the kitchen or other areas where food is prepared for res-**
13 **idents that was conducted by the department in accordance with**
14 **section 2 of this 2019 Act.**

15 **“(4) This section does not require the licensing agency to deny or**
16 **delay the issuance or renewal of a license if the department has failed**
17 **to conduct a timely inspection required by section 2 of this 2019 Act.**

18 **“SECTION 6.** ORS 443.735 is amended to read:

19 **“443.735. (1)(a) Applications for a license to maintain and operate an adult**
20 **foster home shall be made on forms provided by the licensing agency.**

21 **“(b) Each application submitted to the Department of Human Services for**
22 **an adult foster home serving individuals with intellectual or developmental**
23 **disabilities shall be accompanied by a fee of \$50 per bed requested for li-**
24 **censing.**

25 **“(c) Each application submitted to the Oregon Health Authority, or to the**
26 **Department of Human Services for an adult foster home not serving indi-**
27 **viduals with intellectual or developmental disabilities, shall be accompanied**
28 **by a fee of \$20 per bed requested for licensing.**

29 **“(2) Upon receipt of an application and fee, the licensing agency shall**
30 **conduct an investigation.**

1 “(3) The licensing agency shall not issue an initial license unless:

2 “(a) The applicant and adult foster home are in compliance with ORS
3 443.002 and 443.705 to 443.825 and the rules of the licensing agency;

4 “(b) The licensing agency has completed an inspection of the adult foster
5 home;

6 “(c) The licensing agency has completed a criminal records check under
7 ORS 181A.195 on the applicant and any person, other than a resident, 16
8 years of age or older who will be residing in the adult foster home. The
9 criminal records check shall be conducted in accordance with rules adopted
10 under ORS 181A.195;

11 “(d) The licensing agency has determined that the registry maintained
12 under ORS 441.678 contains no finding that the applicant or any nursing
13 assistant employed by the applicant has been responsible for abuse; *[and]*

14 “(e) The applicant has demonstrated to the licensing agency the financial
15 ability and resources necessary to operate the adult foster home. The li-
16 censing agency shall adopt rules as the agency deems appropriate that es-
17 tablish the financial standards an applicant must meet to qualify for issuance
18 of a license and that protect financial information from public disclosure.
19 The demonstration of financial ability under this paragraph shall include,
20 but need not be limited to, providing the licensing agency with a list of any
21 unsatisfied judgments, pending litigation and unpaid taxes and notifying the
22 agency regarding whether the applicant is in bankruptcy. If the applicant is
23 unable to demonstrate the financial ability and resources required by this
24 paragraph, the licensing agency may require the applicant to furnish a fi-
25 nancial guarantee as a condition of initial licensure; **and**

26 **“(f) The applicant and any staff of the applicant have received the**
27 **training described in section 1 (2) of this 2019 Act.**

28 “(4) The licensing agency may not renew a license under this section un-
29 less:

30 “(a) The applicant and the adult foster home are in compliance with ORS

1 443.002 and 443.705 to 443.825 and the rules of the licensing agency;

2 “(b) The licensing agency has completed an inspection of the adult foster
3 home;

4 “(c) The licensing agency has completed a criminal records check under
5 ORS 181A.195 on the applicant and any person, other than a resident, 16
6 years of age or older who will be residing in the adult foster home. The
7 criminal records check under this paragraph shall be conducted in accord-
8 ance with rules adopted under ORS 181A.195; and

9 “(d) The licensing agency has determined that the registry maintained
10 under ORS 441.678 contains no finding that the applicant or any nursing
11 assistant employed by the applicant has been responsible for abuse.

12 “(5)(a) In seeking an initial license and renewal of a license when an
13 adult foster home has been licensed for less than 24 months, the burden of
14 proof shall be upon the provider and the adult foster home to establish
15 compliance with ORS 443.705 to 443.825 and the rules of the licensing agency.

16 “(b) In proceedings for renewal of a license when an adult foster home
17 has been licensed for at least 24 continuous months, the burden of proof shall
18 be upon the licensing agency to establish noncompliance with ORS 443.705
19 to 443.825 and the rules of the agency.

20 “(6)(a) Persons who have been convicted of one or more crimes that, as
21 determined by rules of the licensing agency, are substantially related to the
22 qualifications, functions or duties of a provider, substitute caregiver or other
23 household member of an adult foster home shall be prohibited from operat-
24 ing, working in or residing in an adult foster home.

25 “(b) The licensing agency shall adopt rules that distinguish the criminal
26 convictions and types of abuse that permanently prohibit a person from op-
27 erating, working in or living in an adult foster home from the convictions
28 and types of abuse that do not permanently prohibit the person from oper-
29 ating, working in or living in an adult foster home.

30 “(c) A provider may not hire, retain in employment or allow to live in

1 an adult foster home, other than as a resident, any person who the provider
2 knows has been convicted of a disqualifying crime or has been found re-
3 sponsible for a disqualifying type of abuse.

4 “(7) A license under ORS 443.725 is effective for one year from the date
5 of issue unless sooner revoked. Each license shall state the name of the
6 resident manager of the adult foster home, the names of all providers who
7 own the adult foster home, the address of the premises to which the license
8 applies, the maximum number of residents and the classification of the adult
9 foster home. If, during the period covered by the license, a resident manager
10 changes, the provider must within 15 days request modification of the li-
11 cense. The request must be accompanied by a fee of \$10.

12 “(8) No license under ORS 443.725 is transferable or applicable to any
13 location, persons operating the adult foster home or the person owning the
14 adult foster home other than that indicated on the application for licensing.

15 “(9) The licensing agency shall not issue a license to operate an addi-
16 tional adult foster home to a provider unless the provider has demonstrated
17 the qualifications and capacity to operate the provider’s existing licensed
18 adult foster homes and has demonstrated the ability to provide to the resi-
19 dents of those adult foster homes care that is adequate and substantially free
20 from abuse and neglect.

21 “(10)(a) All moneys collected under ORS 443.725 to 443.780 from adult
22 foster homes that are licensed to serve persons with mental, emotional or
23 behavioral disturbances or alcohol or drug dependence shall be deposited in
24 a special account in the General Fund, and are appropriated continuously for
25 payment of expenses incurred by the Oregon Health Authority.

26 “(b) All moneys collected under ORS 443.725 to 443.780 from adult foster
27 homes licensed to serve persons who are elderly, have physical disabilities
28 or have developmental disabilities shall be deposited in the Quality Care
29 Fund established in ORS 443.001.

30 “(11) Notwithstanding any other provision of this section or ORS 443.725

1 or 443.738, the licensing agency may issue a 60-day provisional license to a
2 qualified person if the agency determines that an emergency situation exists
3 after being notified that the licensed provider of an adult foster home is no
4 longer overseeing operation of the adult foster home.

5 **“SECTION 7.** ORS 441.406, as amended by section 17, chapter 61, Oregon
6 Laws 2018, is amended to read:

7 “441.406. (1) The Long Term Care Ombudsman shall carry out the fol-
8 lowing duties:

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

14 **“(b) Notify the Department of Human Services or the Oregon**
15 **Health Authority about disease outbreaks reported by residents to the**
16 **ombudsman or identified by the ombudsman.**

17 “[b)] (c) Undertake, participate in or cooperate with persons and agen-
18 cies in such conferences, inquiries, meetings or studies as may lead to im-
19 provements in the functioning of long term care facilities.

20 “[c)] (d) Monitor the development and implementation of federal, state
21 and local laws, regulations and policies that relate to long term care facili-
22 ties in this state.

23 “[d)] (e) Provide information to public agencies about the problems of
24 residents of long term care facilities.

25 “[e)] (f) Work closely with cooperative associations and citizen groups
26 in this state and the state protection and advocacy system under ORS
27 192.517.

28 “[f)] (g) Widely publicize the Long Term Care Ombudsman’s services,
29 purpose and mode of operation.

30 “[g)] (h) Collaborate with the Oregon Health Authority, the Department

1 of Human Services, the Long Term Care Administrators Board and any other
2 appropriate agencies and organizations to establish a statewide system to
3 collect and analyze information on complaints and conditions in long term
4 care facilities for the purpose of publicizing improvements and resolving
5 significant problems.

6 “[*h*] (i) Contract with the state protection and advocacy system de-
7 scribed in ORS 192.517 (1) to provide services and assistance to persons who
8 are prospective or current residents of a mental health treatment facility or
9 of a residential facility for individuals with developmental disabilities when
10 the system has received a notice regarding the person pursuant to ORS
11 125.060 (7)(c) or (8)(c).

12 “[*i*] (j) Appoint designees to serve as local representatives of the office
13 of the Long Term Care Ombudsman in various districts of the state and
14 regularly monitor their functions.

15 “[*j*] (k) Specify qualifications and duties of designees.

16 “[*k*] (L) Adopt rules necessary for carrying out ORS 441.402 to 441.414,
17 after consultation with the Residential Ombudsman and Public Guardianship
18 Advisory Board.

19 “[*L*] (m) Provide periodically, or at least annually, a report to the
20 Governor, authority, department and Legislative Assembly.

21 “[*m*] (n) Prepare necessary reports with the assistance of the authority
22 and the department.

23 “[*n*] (o) Advise and support the Oregon Public Guardian and
24 Conservator appointed under ORS 125.678.

25 “[*o*] (p) Supervise, monitor, advise and support the Residential Facilities
26 Ombudsman appointed under ORS 443.382.

27 “(2) At least quarterly, the Department of Human Services shall provide
28 the Long Term Care Ombudsman with a list of the number of licensed or
29 certified beds in each long term care facility for which the ombudsman has
30 responsibilities under this section.

1 **“SECTION 8.** ORS 441.413 is amended to read:

2 “441.413. (1) The Long Term Care Ombudsman shall appoint designees, in
3 consultation with local screening committees **that are appointed by and**
4 **serve at the pleasure of the ombudsman,** that may consist of but not be
5 limited to persons representing:

6 “(a) The area agency, as defined in ORS 410.040.

7 “(b) The local office of the Department of Human Services.

8 “(c) The local health department.

9 “(d) Senior citizens groups in the area.

10 “(e) Local elected officials.

11 “(2) To be appointed as a designee, a person must complete an initial
12 training, as prescribed by the Long Term Care Ombudsman by rule, and at-
13 tend quarterly training sessions that are approved by the ombudsman and
14 that shall be coordinated and funded by the Department of Human Services
15 and the Oregon Health Authority, subject to the availability of funds. **The**
16 **training must include instruction on how to identify and report disease**
17 **outbreaks.** [*Local screening committees shall be appointed by and serve at the*
18 *pleasure of the ombudsman.*]

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

25 “(4) The qualifications of designees shall include experience with long
26 term care facilities or residents or potential residents of long term care fa-
27 cilities, and the ability to communicate well, to understand laws, rules and
28 regulations, and to be assertive, yet objective.

29 “(5) Applicants who have experience in either social service, mental
30 health, developmental disability services, gerontology, nursing or paralegal

1 work shall be given preference in the appointment of designees.

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

4 “(a) Promote rapport and trust between the residents and staff of the long
5 term care facilities and Long Term Care Ombudsman;

6 “(b) Assist residents with participating more actively in determining the
7 delivery of services at the facilities;

8 “(c) Serve as an educational resource;

9 “(d) Receive, resolve or relay concerns to the Long Term Care Ombuds-
10 man or the appropriate agency; and

11 “(e) Ensure equitable resolution of problems.

12 “(7) The duties of the designees are to:

13 “(a) Visit each assigned long term care facility on a regular basis:

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

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

17 “(C) Visit individual residents and resident councils.

18 “(b) Maintain liaison with appropriate agencies and the Long Term Care
19 Ombudsman.

20 “(c) Report, in writing, monthly to the Long Term Care Ombudsman.

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

23 “(e) Periodically review the rights prescribed in ORS 441.605, 441.610 and
24 441.612, and any other applicable rights to services, with residents, families,
25 guardians, administrators and staff of long term care facilities.

26 “(f) Perform other related duties as specified.

27 **“SECTION 9.** ORS 443.382 is amended to read:

28 “443.382. (1) The Long Term Care Ombudsman, in consultation with the
29 Residential Ombudsman and Public Guardianship Advisory Board established
30 under ORS 441.416, shall appoint a Residential Facilities Ombudsman for a

1 four-year term. The Residential Facilities Ombudsman serves at the pleasure
2 of the Long Term Care Ombudsman and may be removed by the Long Term
3 Care Ombudsman for cause. The Long Term Care Ombudsman shall fill any
4 vacancy within 60 days. The salary of the Residential Facilities Ombudsman
5 shall be determined by the Long Term Care Ombudsman. The Residential
6 Facilities Ombudsman shall be reimbursed for all reasonable travel and other
7 expenses incurred in the performance of the ombudsman's official duties.

8 “(2) The Residential Facilities Ombudsman may, subject to the approval
9 of the Long Term Care Ombudsman, hire or contract with volunteers, staff,
10 deputy ombudsmen and other qualified individuals as necessary to perform
11 the duties of the ombudsman.

12 “(3) The Residential Facilities Ombudsman shall:

13 “(a) Identify, investigate and resolve complaints made by or on behalf of
14 residents about administrative actions.

15 “(b) Provide residents, families of residents, guardians, community mem-
16 bers and administrators and staff of residential facilities with information
17 regarding the rights of residents as set forth in ORS 427.107 and 430.210 and
18 any other applicable rights of residents.

19 “(c) **Notify the licensing agency about disease outbreaks reported**
20 **by residents to the ombudsman or identified by the ombudsman.**

21 “[c] (d) Widely publicize the Residential Facilities Ombudsman's ser-
22 vices, purpose and mode of operation.

23 “[d] (e) Undertake, participate in or cooperate with persons and agen-
24 cies in conferences, inquiries, meetings or studies that may lead to improve-
25 ments in the functioning of residential facilities.

26 “[e] (f) Work closely with associations and citizen groups in this state
27 and the state protection and advocacy system under ORS 192.517.

28 “[f] (g) Provide services to residents to assist them in protecting their
29 health, safety, welfare and rights.

30 “[g] (h) Ensure that residents have regular, timely, private and unim-

1 peded access to the Residential Facilities Ombudsman’s services and that a
2 resident or an individual acting on behalf of a resident who files a complaint
3 receives a timely response to the complaint from the ombudsman or a
4 designee.

5 “[*h*] (i) Represent the interests of residents before government agencies
6 and seek administrative, legal or other appropriate remedies to protect the
7 health, safety, welfare and rights of residents.

8 “[*i*] (j) Analyze, comment on and monitor the development and imple-
9 mentation of federal, state and local laws and other governmental policies
10 pertaining to the health, safety, welfare and rights of residents.

11 “[*j*] (k) Recommend any changes to state or local laws to improve the
12 health, safety, welfare and rights of residents.

13 “[*k*] (L) Facilitate public comment on laws and policies that affect the
14 health, safety, welfare and rights of residents.

15 “[*L*] (m) Train designees.

16 “[*m*] (n) Promote the development of organizations to advocate on behalf
17 of residents of residential facilities.

18 “[*n*] (o) To the extent practicable, assist residents who move from a
19 residential facility to a home care setting.

20 “[*o*] (p) Assist residents and individuals acting on their behalf in locat-
21 ing and accessing resources in the community and in connecting with local
22 service providers.

23 “[*p*] (q) Engage the participation of residents in general studies, con-
24 ferences, inquiries or meetings related to residential care in this state.

25 “[*q*] (r) Make recommendations for improvements in the functioning of
26 the residential facility system in this state.

27 “[*r*] (s) Collaborate with the Oregon Health Authority, the Department
28 of Human Services, and any other appropriate agencies and organizations to
29 establish a statewide system to collect and analyze information on com-
30 plaints about and conditions in residential facilities for the purpose of pub-

1 licizing improvements and resolving significant problems for residents.

2 “[s)] (t) Provide information to public agencies about the problems of
3 residents.

4 “[t)] (u) Collect and compile data necessary to prepare the report sub-
5 mitted to the Governor under ORS 182.500.

6 “[u)] (v) Adopt rules necessary for carrying out ORS 443.380 to 443.394,
7 in accordance with ORS chapter 183, in consultation with the Long Term
8 Care Ombudsman and the Residential Ombudsman and Public Guardianship
9 Advisory Board.

10 **“SECTION 10.** ORS 443.386 is amended to read:

11 “443.386. (1) The Residential Facilities Ombudsman shall, in consultation
12 with the Long Term Care Ombudsman, appoint designees to serve as repre-
13 sentatives of the ombudsman in local communities. The ombudsman shall
14 regularly monitor the functions of designees.

15 “(2) The Residential Facilities Ombudsman shall prescribe the qualifica-
16 tions of designees by rule.

17 “(3) To be appointed as a designee, a person must complete an initial
18 training prescribed by the Residential Facilities Ombudsman by rule and at-
19 tend required continuing educational training sessions that are approved by
20 the ombudsman. **The training must include instruction on how to iden-**
21 **tify and report disease outbreaks.**

22 “(4) Designees must sign a contract with the Residential Facilities Om-
23 budsman that outlines the scope of their duties. Violation of the contract
24 is cause for terminating the appointment of a designee.

25 **“SECTION 11. Sections 1 and 2 of this 2019 Act and the amendments**
26 **to ORS 433.004, 441.025, 441.406, 441.413, 443.382, 443.386, 443.415 and**
27 **443.735 by sections 3 to 10 of this 2019 Act apply to the issuance or re-**
28 **newal of a license for a long term care facility, conversion facility,**
29 **residential care facility or adult foster home on or after the effective**
30 **date of this 2019 Act.”**

