

A-Engrossed
House Bill 2394

Ordered by the House April 16
Including House Amendments dated April 16

Sponsored by Representative PRUSAK, Senator GELSER, Representative NOBLE; Representatives CAMPOS, GRAYBER, LEIF, NERON, SCHOUTEN, SMITH DB (Presession filed.)

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.

Requires long term care facilities, residential facilities, adult foster homes and facilities with memory care endorsements to have isolation prevention plans to enable residents to communicate with other residents, family members, friends or other external support systems during public emergency. Authorizes Department of Human Services to provide financial assistance to long term care facilities, residential facilities, adult foster homes and facilities with memory care endorsements to enable purchase of necessary equipment and technology.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to preventing the social isolation of individuals in community-based care settings during
3 public emergencies; creating new provisions; amending ORS 443.886; and declaring an emer-
4 gency.

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

6
7 **ISOLATION PREVENTION PLANS**
8 **FOR LONG TERM CARE FACILITIES**
9

10 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 441.015 to**
11 **441.087.**

12 **SECTION 2. (1) As used in this section:**

13 (a) **“Disease outbreak” has the meaning given that term in ORS 431A.005.**

14 (b) **“Epidemic” has the meaning given that term in ORS 431A.005.**

15 (c) **“Outbreak response plan” means a protocol established by a long term care facility**
16 **for isolating infected and at-risk residents at the facility in the event of a disease outbreak.**

17 (d) **“Public emergency” includes:**

18 (A) **A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak**
19 **or epidemic; and**

20 (B) **A public health emergency declared pursuant to ORS 433.441.**

21 (2) **A long term care facility shall have an isolation prevention plan, as part of the**
22 **facility’s emergency response plan, that must be provided to any resident or member of the**
23 **public upon request. The plan must ensure, to the greatest extent practicable, that:**

24 (a) **Residents of the facility continue to engage in in-person contact and communication**
25 **with other facility residents and with family members, friends and other external support**

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 systems during a public emergency, if a resident desires the contact and communication, to
2 the extent that the in-person contact and communication is consistent with the circum-
3 stances of the public emergency, orders that have been issued to address the public emer-
4 gency and the facility's outbreak response plan.

5 (b) If in-person contact and communication is physically impossible due to guidelines,
6 requirements or other official limitations imposed on in-person contact and communication,
7 residents of the facility, including residents who are physically isolated due to the facility's
8 outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal
9 or auditory contact and communication with other facility residents and with family mem-
10 bers, friends and other external support systems through the use of electronic or virtual
11 means or methods, including but not limited to computer technology, the Internet, social
12 media, videoconferencing or other technological means or methods.

13 (c) Residents who experience cognitive impairments that limit their ability to express
14 their desires for virtual contact or communication with family members, friends or external
15 support systems have the opportunity for such contact or communication, including by re-
16 quiring staff to reach out to individuals listed on a resident's care plan to inform the indi-
17 viduals that contact or communication is available.

18 (d) Residents who have disabilities that impede their ability to communicate, including
19 but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations,
20 including Alzheimer's disease or other form of dementia, have access to assistive and sup-
21 portive technology as necessary to facilitate their face-to-face, verbal or auditory contact
22 with other facility residents and with family members, friends and other external support
23 systems.

24 (e) The facility staff assists residents, if necessary, in successfully accessing and using
25 the equipment and technology acquired in accordance with subsection (4) of this section.

26 (3) Notwithstanding subsection (2)(c) of this section, a resident may not be required to
27 engage in virtual contact or communication.

28 (4) A long term care facility must acquire and maintain computers, videoconferencing
29 equipment, distance-based communications technology, assistive and supportive technology
30 and devices and other technological equipment as may be necessary to ensure that in the
31 event of a public emergency, the facility can comply with the requirements of subsection (2)
32 of this section.

33 (5) The Department of Human Services may provide financial assistance to a long term
34 care facility out of funds from the Quality Care Fund, established in ORS 443.001, to enable
35 the facility to purchase equipment and technology described in subsection (4) of this section.

36
37 **ISOLATION PREVENTION PLANS**
38 **FOR RESIDENTIAL FACILITIES**
39

40 **SECTION 3.** Section 4 of this 2021 Act is added to and made a part of ORS 443.400 to
41 443.455.

42 **SECTION 4.** (1) As used in this section:

43 (a) "Disease outbreak" has the meaning given that term in ORS 431A.005.

44 (b) "Epidemic" has the meaning given that term in ORS 431A.005.

45 (c) "Outbreak response plan" means a protocol established by a residential facility for

1 isolating infected and at-risk residents at the facility in the event of a disease outbreak.

2 (d) "Public emergency" includes:

3 (A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak
4 or epidemic; and

5 (B) A public health emergency declared pursuant to ORS 433.441.

6 (2) A residential facility shall have an isolation prevention plan, as part of the facility's
7 emergency response plan, that must be provided to any resident or member of the public
8 upon request. The plan must ensure, to the greatest extent practicable, that:

9 (a) Residents of the facility continue to engage in in-person contact and communication
10 with other facility residents and with family members, friends and other external support
11 systems during a public emergency, if a resident desires the contact and communication, to
12 the extent that the in-person contact and communication is consistent with the circum-
13 stances of the public emergency, orders that have been issued to address the public emer-
14 gency and the facility's outbreak response plan.

15 (b) If in-person contact and communication is physically impossible due to guidelines,
16 requirements or other official limitations imposed on in-person contact and communication,
17 residents of the facility, including residents who are physically isolated due to the facility's
18 outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal
19 or auditory contact and communication with other facility residents and with family mem-
20 bers, friends and other external support systems through the use of electronic or virtual
21 means or methods, including but not limited to computer technology, the Internet, social
22 media, videoconferencing or other technological means or methods.

23 (c) Residents who experience cognitive impairments that limit their ability to express
24 their desires for virtual contact or communication with family members, friends or external
25 support systems have the opportunity for such contact or communication, including by re-
26 quiring staff to reach out to individuals listed on a resident's care plan to inform the indi-
27 viduals that contact or communication is available.

28 (d) Residents who have disabilities that impede their ability to communicate, including
29 but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations,
30 including Alzheimer's disease or other form of dementia, have access to assistive and sup-
31 portive technology as necessary to facilitate their face-to-face, verbal or auditory contact
32 with other facility residents and with family members, friends and other external support
33 systems.

34 (e) The facility staff assists residents, if necessary, in successfully accessing and using
35 the equipment and technology acquired in accordance with subsection (4) of this section.

36 (3) Notwithstanding subsection (2)(c) of this section, a resident may not be required to
37 engage in virtual contact or communication.

38 (4) A residential facility must acquire and maintain computers, videoconferencing equip-
39 ment, distance-based communications technology, assistive and supportive technology and
40 devices and other technological equipment as may be necessary to ensure that in the event
41 of a public emergency, the facility can comply with the requirements of subsection (2) of this
42 section.

43 (5) The Department of Human Services may provide financial assistance to a residential
44 facility out of funds from the Quality Care Fund, established in ORS 443.001, to enable the
45 facility to purchase equipment and technology described in subsection (4) of this section.

ISOLATION PREVENTION PLANS
FOR ADULT FOSTER HOMES

SECTION 5. Section 6 of this 2021 Act is added to and made a part of ORS 443.705 to 443.825.

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

(a) “Disease outbreak” has the meaning given that term in ORS 431A.005.

(b) “Epidemic” has the meaning given that term in ORS 431A.005.

(c) “Outbreak response plan” means a protocol established by an adult foster home for isolating infected and at-risk residents at the home in the event of a disease outbreak.

(d) “Public emergency” includes:

(A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak or epidemic; and

(B) A public health emergency declared pursuant to ORS 433.441.

(2) An adult foster home shall have an isolation prevention plan, as part of the home’s emergency response plan, that must be provided to any resident or member of the public upon request. The plan must ensure, to the greatest extent practicable, that:

(a) Residents of the adult foster home continue to engage in in-person contact and communication with other residents in the home and with family members, friends and other external support systems during a public emergency, if a resident desires the contact and communication, to the extent that the in-person contact and communication is consistent with the circumstances of the public emergency, orders that have been issued to address the public emergency and the home’s outbreak response plan.

(b) If in-person contact and communication is physically impossible due to guidelines, requirements or other official limitations imposed on in-person contact and communication, residents in the home, including residents who are physically isolated due to the home’s outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal or auditory contact and communication with other residents in the home and with family members, friends and other external support systems through the use of electronic or virtual means or methods, including but not limited to computer technology, the Internet, social media, videoconferencing or other technological means or methods.

(c) Residents who experience cognitive impairments that limit their ability to express their desires for virtual contact or communication with family members, friends or external support systems have the opportunity for such contact or communication, including by requiring staff to reach out to individuals listed on a resident’s care plan to inform the individuals that contact or communication is available.

(d) Residents who have disabilities that impede their ability to communicate, including but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations, including Alzheimer’s disease or other form of dementia, have access to assistive and supportive technology as necessary to facilitate their face-to-face, verbal or auditory contact with other residents in the home and with family members, friends and other external support systems.

(e) The staff of the adult foster home assists residents, if necessary, in successfully accessing and using the equipment and technology acquired in accordance with subsection (4) of this section.

1 (a) Residents of the facility continue to engage in in-person contact and communication
2 with other facility residents and with family members, friends and other external support
3 systems during a public emergency, if a resident desires the contact and communication, to
4 the extent that the in-person contact and communication is consistent with the circum-
5 stances of the public emergency, orders that have been issued to address the public emer-
6 gency and the facility's outbreak response plan.

7 (b) If in-person contact and communication is physically impossible due to guidelines,
8 requirements or other official limitations imposed on in-person contact and communication,
9 residents of the facility, including residents who are physically isolated due to the facility's
10 outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal
11 or auditory contact and communication with other facility residents and with family mem-
12 bers, friends and other external support systems through the use of electronic or virtual
13 means or methods, including but not limited to computer technology, the Internet, social
14 media, videoconferencing or other technological means or methods.

15 (c) Residents who experience cognitive impairments that limit their ability to express
16 their desires for virtual contact or communication with family members, friends or external
17 support systems have the opportunity for such contact or communication, including by re-
18 quiring staff to reach out to individuals listed on a resident's care plan to inform the indi-
19 viduals that contact or communication is available.

20 (d) Residents who have disabilities that impede their ability to communicate, including
21 but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations,
22 including Alzheimer's disease or other form of dementia, have access to assistive and sup-
23 portive technology as necessary to facilitate their face-to-face, verbal or auditory contact
24 with other facility residents and with family members, friends and other external support
25 systems.

26 (e) The facility staff assists residents, if necessary, in successfully accessing and using
27 the equipment and technology acquired in accordance with subsection (9) of this section.

28 (8) Notwithstanding subsection (7)(c) of this section, a resident may not be required to
29 engage in virtual contact or communication.

30 (9) A facility with a memory care endorsement must acquire and maintain computers,
31 videoconferencing equipment, distance-based communications technology, assistive and sup-
32 portive technology and devices and other technological equipment as may be necessary to
33 ensure that in the event of a public emergency, the facility can comply with the require-
34 ments of subsection (7) of this section.

35 (10) The Department of Human Services may provide financial assistance to a facility
36 with a memory care endorsement out of funds from the Quality Care Fund, established in
37 ORS 443.001, to enable the facility to purchase equipment and technology described in sub-
38 section (9) of this section.

39 [(7)] (11) As used in this section:

40 (a) "Disease outbreak" has the meaning given that term in ORS 431A.005.

41 [(a)] (b) "Endorsed memory care community" means a special care unit in a designated, sepa-
42 rated area for residents with Alzheimer's disease or other forms of dementia that is locked or se-
43 cured to prevent or limit access by a resident outside the designated or separated area.

44 (c) "Epidemic" has the meaning given that term in ORS 431A.005.

45 [(b)] (d) "Facility" means a long term care facility, residential care facility, assisted living fa-

1 cility or any other like facility required to be licensed by the department.

2 (e) "Public emergency" includes:

3 (A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak
4 or epidemic; and

5 (B) A public health emergency declared pursuant to ORS 433.441.

6 [(c) "Registry" means a facility will provide the department with information relating to the en-
7 dorsed memory care community, including the number of residents in the community, the stage of
8 dementia for each resident, a description of how services are provided and the length of time the com-
9 munity has been operating.]

10
11 **IMPLEMENTATION**

12
13 **SECTION 8.** A long term care facility, a residential facility, an adult foster home and a
14 facility with a memory care endorsement shall submit an isolation prevention plan to the
15 Department of Human Services no later than the earlier of six months after the effective
16 date of this 2021 Act or the time when the facility or home updates its emergency response
17 plan, regardless of whether the department has adopted rules to carry out the provisions of
18 section 2, 4 or 6 of this 2021 Act or the amendments to ORS 443.886 by section 7 of this 2021
19 Act.

20
21 **CAPTIONS**

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23 **SECTION 9.** The unit captions used in this 2021 Act are provided only for the convenience
24 of the reader and do not become part of the statutory law of this state or express any leg-
25 islative intent in the enactment of this 2021 Act.

26
27 **EMERGENCY CLAUSE**

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29 **SECTION 10.** This 2021 Act being necessary for the immediate preservation of the public
30 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
31 on its passage.
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