

Senate Bill 556

Sponsored by Senator GELSER (Pre-session 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 **as introduced**.

Specifies that on-site inspections must be in person for child-caring agencies, proctor foster homes, private residential boarding schools, foster homes, youth offender foster homes, health care facilities, home health agencies, residential facilities, adult foster homes, developmental disability child foster homes, hospice programs and qualified residential treatment programs.

Authorizes Governor by executive order to allow online inspections during period of statewide emergency. Allows licenses, certificates or other authorizations to be extended for up to six months during period of statewide emergency. After six months, prohibits renewal of licenses, certificates or other authorizations without in-person site inspection.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to in-person inspections; amending ORS 410.295, 418.240, 418.248, 418.255, 418.262, 418.280,
3 418.327, 418.635, 418.640, 419B.443, 420.821, 420.890, 420.892, 441.025, 441.060, 441.062, 441.157,
4 441.171, 443.015, 443.019, 443.415, 443.436, 443.705, 443.735, 443.835, 443.860 and section 12b,
5 chapter 19, Oregon Laws 2020 (first special session); and declaring an emergency.

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

7 **SECTION 1.** ORS 410.295 is amended to read:

8 410.295. (1) The Director of Human Services may delegate the following functions pertaining to
9 regulation of adult foster homes for elderly persons and persons with disabilities to a type B area
10 agency:

- 11 (a) Conducting **in-person site** inspections and issuing and renewing licenses under ORS 443.735;
12 (b) Investigating complaints under ORS 443.765; and
13 (c) Other regulatory functions designated by the director by rule.

14 (2) This section does not apply to adult foster homes in counties that have been granted an ex-
15 emption under ORS 443.780.

16 (3) As used in this section, "adult foster home" has the meaning given that term in ORS 443.705.

17 **SECTION 2.** ORS 418.240, as amended by section 2, chapter 138, Oregon Laws 2017, is amended
18 to read:

19 418.240. (1) All child-caring agencies shall obtain from the Department of Human Services a li-
20 cense, certificate or other authorization to provide care or services to children under ORS 418.205
21 to 418.327, 418.470, 418.475 or 418.950 to 418.970. The criteria for issuance, renewal, suspension or
22 revocation of, or for placing conditions on, a license, certificate or authorization under this section
23 must:

- 24 (a) Be set forth in rules adopted by the department;
25 (b) Include the full compliance requirements set forth in subsection (2) of this section; and
26 (c) Include, but are not limited to, the following:

27 (A) The fitness of the child-caring agency.

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 (B) The employment of capable, trained or experienced staff that meet minimum staffing re-
2 quirements.

3 (C) Sufficient financial backing to ensure effective operations.

4 (D) The probability of permanence in the child-caring agency.

5 (E) The care and services provided to the children served will be in their best interests and that
6 of society.

7 (F) That the child-caring agency is or will be in compliance with the standards of care and
8 treatment established in rules adopted by the department.

9 (2)(a) The department may not issue or renew a license, certificate or other authorization to a
10 child-caring agency unless the department finds the agency is or will be in full compliance with all
11 of the following:

12 (A) The agency ensures child and family rights.

13 (B) The agency complies with abuse reporting and investigation requirements.

14 (C) The agency engages in and applies appropriate behavior management techniques.

15 (D) The agency provides adequate furnishings and personal items for children.

16 (E) The agency provides appropriate food services.

17 (F) The agency ensures the safety of children.

18 (G) The agency utilizes approved procedures and protocols for use of medications for children
19 receiving care or services from the agency.

20 (H) The agency or the agency's employees or agents have not engaged in financial mismanage-
21 ment.

22 (I) The agency fully and timely corrects violations and maintains standards in accordance with
23 any plan of correction imposed by the department.

24 (J) The agency provides access as required under ORS 418.305 to a child or the agency's prem-
25 ises to the department or the department's employees, investigators, court appointed special advo-
26 cates, attorneys for a child or other authorized persons or entities.

27 (b) The department may suspend, revoke or place conditions on a license, certificate or author-
28 ization of a child-caring agency if the department finds the agency is not in full compliance with any
29 one or more of the full compliance requirements listed in paragraph (a) of this subsection.

30 (c) The department must take immediate steps to suspend or revoke the license, certificate or
31 other authorization of a child-caring agency, if any of the following are found to exist:

32 (A) There has been the death of a child as a result of abuse or neglect on the part of the agency
33 or any of the agency's employees or agents.

34 (B) There has been sexual or physical abuse or neglect of a child in the agency's care or custody
35 that was known to the agency and the agency did not take immediate steps to report the abuse or
36 neglect and to ensure the child's safety.

37 (C) The agency failed to cooperate fully with any local, state or federal regulatory entity's in-
38 vestigation of the agency or the agency's operations or employees.

39 (D) The agency failed to provide financial statements as required under ORS 418.255.

40 (d) If any of the circumstances described in paragraph (c) of this subsection exists, the depart-
41 ment may immediately place conditions on the license, certificate or authorization of the child-caring
42 agency prior to a hearing if, consistent with ORS 183.430, the department finds there is a serious
43 danger to the public health or safety and sets forth specific reasons for such findings.

44 (e) It is grounds to deny issuance or renewal, suspend, revoke or place conditions on a license,
45 certificate or other authorization if the department becomes aware that a child-caring agency, or the

1 owner or operator of the agency, has been found by other state or federal entities to have engaged
2 in financial, civil or criminal misconduct.

3 (3)(a) If the Director of Human Services has taken action under subsection (2)(c) of this section
4 to suspend or revoke a license, certificate or other authorization, the notice of intent to suspend or
5 revoke may be rescinded if the director determines that the concerns regarding the health and
6 safety of the children in the child-caring agency's care or custody have been ameliorated and any
7 conditions placed on the license, certificate or other authorization of the child-caring agency have
8 been resolved.

9 (b) Fourteen days before rescinding a notice of intent to suspend or revoke, the Director of
10 Human Services must provide written notice regarding the intent to rescind to the Governor. The
11 notice of intent to rescind is a public record and open for inspection by any person without order
12 of a court. The notice of intent to rescind must include the following information:

13 (A) The circumstances that led to the notice of intent to suspend or revoke;

14 (B) The actions taken by the child-caring agency, the Department of Human Services, the At-
15 torney General, the Oregon Youth Authority and the Oregon Health Authority in response to the
16 circumstances leading to the notice of intent to suspend or revoke;

17 (C) Any penalties, fees or charges made or levied against the child-caring agency; and

18 (D) A complete description of changes that were made at the child-caring agency and the rea-
19 sons for the determination that the concerns regarding the health and safety of children in the
20 child-caring agency's care or custody have been ameliorated or that any conditions placed on the
21 license, certificate or other authorization of the child-caring agency have been resolved.

22 (c) In making a decision to rescind a notice of intent to suspend or revoke under this subsection,
23 the decision must be based solely on the health and safety of the children served by the child-caring
24 agency. Systemwide capacity of the child welfare system may not be considered as an element of the
25 decision.

26 (d) For three years after a notice of intent to suspend or revoke is rescinded under this sub-
27 section, the child-caring agency must apply for a renewal of the child-caring agency's license, cer-
28 tificate or other authorization on an annual basis.

29 (e) The department must provide the following with copies of a notice of intent to rescind within
30 five business days of issuing the notice:

31 (A) The Governor; and

32 (B) The committees of the Legislative Assembly relating to child welfare.

33 (4) The department may immediately place conditions on any license, certificate or authorization
34 issued under this section, including but not limited to placing full or partial restrictions on admis-
35 sion of children, temporary suspension, limitation of operations subject to an intent to revoke and
36 limitation of operations subject to correction of violations as specified in a plan of correction im-
37 posed by the department. The department shall immediately notify any state or governmental agency
38 or unit that has a contract with the child-caring agency to provide care or services to a child, and
39 the governing board, trustees, owners, managers, operators or other appropriate authorities respon-
40 sible for the child-caring agency, of conditions placed by the department on the child-caring agency's
41 license, certificate or authorization under this section.

42 (5) If applicable, an applicant shall submit written proof of compliance with the notification re-
43 quirements in ORS 336.575.

44 (6) The department may not charge a fee for inspections leading to decisions regarding, and is-
45 suance of, licenses, certifications or authorizations under this section, but may impose fees to cover

1 costs of related inspections done for the department by other governmental agencies.

2 (7) Except as provided in subsection (3) of this section, a license, certificate or authorization
3 issued by the department under this section shall be valid for a period of two years, unless sus-
4 pended or revoked sooner by the department. However, the department at any time may require
5 amendments to an existing license, certificate or authorization to accommodate changes in the fac-
6 tors upon which the issuance was based.

7 (8) When a condition exists that seriously endangers or places at risk the health, safety or
8 welfare of a child who is receiving care or services at a child-caring agency:

9 (a) The director shall issue an interim emergency order without notice, or with reasonable no-
10 tice under the circumstances, requiring the agency to correct the conditions and ensure the safety
11 of children in the care of the agency. The interim emergency order shall remain in force until a final
12 order, after a hearing, has been entered in accordance with ORS chapter 183.

13 (b) The director may commence an action to enjoin operation of a child-caring agency:

14 (A) If the agency is being operated without a valid license, certificate or other authorization
15 issued under this section; or

16 (B) If the agency fails to comply with a plan of correction imposed by the department or to
17 correct conditions not in conformity with standards as set out in an order issued under paragraph
18 (a) of this subsection, within the time specified in the order.

19 (9) If the director, the director's designee or the department becomes aware through any means
20 that a child-caring agency, or an owner, operator or employee of a child-caring agency, is the sub-
21 ject of an investigation by another state agency, law enforcement agency or federal agency, the di-
22 rector or director's designee shall take immediate steps to cause an investigation to take place into
23 the circumstances surrounding the investigation and whether there is a threat to a child, or whether
24 a child is at risk, at the child-caring agency. Upon determination of the level of threat or risk to
25 children at the agency, the director shall take appropriate steps to protect and ensure the health,
26 safety and welfare of children as necessary under the circumstances. Failure to comply with the
27 requirements of this subsection constitutes grounds for a charge of official misconduct in the second
28 degree under ORS 162.405.

29 (10) If the Department of Justice or Bureau of Labor and Industries commences an investigation
30 of a child-caring agency or an owner, operator or employee of a child-caring agency, the Department
31 of Justice or Bureau of Labor and Industries shall notify, inform and regularly update the director,
32 the director's designee or such other personnel in the Department of Human Services designated to
33 receive such information regarding the investigation. The director and the department shall imme-
34 diately undertake the responsive action required by subsection (9) of this section upon receiving
35 such notification. Interference with, discouragement of or impediment to the receipt of the notifica-
36 tion, information and updates required under this subsection constitutes official misconduct in the
37 second degree under ORS 162.405.

38 **(11)(a) If a license, certificate or other authorization issued under this section is sched-**
39 **uled to expire during a period of statewide emergency, the license, certificate or other au-**
40 **thorization may be extended for no more than six months. After six months the license,**
41 **certificate or other authorization may not be renewed until the department has conducted**
42 **an in-person site inspection of the child-caring agency.**

43 **(b) As used in this section, "period of statewide emergency" means the period of time**
44 **during which any declaration of a state of emergency under ORS 401.165, public health**
45 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**

1 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
2 **fect.**

3 [(11)] (12) The Department of Human Services shall adopt rules to implement the provisions of
4 this section.

5 **SECTION 3.** ORS 418.248 is amended to read:

6 418.248. (1) A child-caring agency may certify a proctor foster home as a provider of care or
7 services for children. The child-caring agency may not certify a proctor foster home under this
8 section unless the child-caring agency determines that the proctor foster home meets minimum
9 standards as established by rules adopted by the Department of Human Services or the Oregon
10 Youth Authority, as applicable. The determination that a proctor foster home meets minimum stan-
11 dards and the certification by the child-caring agency must take place before placement of a child
12 in the proctor foster home.

13 (2)(a) Prior to certification as a proctor foster home, an applicant shall provide the department
14 or the youth authority, as applicable, and the child-caring agency with a release of information or
15 other authorization sufficient to enable the department or the youth authority to release to the
16 child-caring agency information about whether there is an ongoing investigation involving the ap-
17 plicant, or a finding of substantiated allegations of abuse or neglect by the applicant, related to a
18 vulnerable person, including but not limited to a child, elderly person, person with a disability or
19 person residing in a long term care facility as defined in ORS 442.015, a residential facility as de-
20 fined in ORS 443.400, including but not limited to an assisted living facility, or an adult foster home
21 as defined in ORS 443.705. Within 30 days of receipt of a release or authorization under this para-
22 graph, the department or the youth authority shall provide the child-caring agency with information
23 regarding ongoing investigations involving, or substantiated allegations of abuse or neglect against,
24 the applicant.

25 (b) In addition to the requirements of paragraph (a) of this subsection, an applicant must disclose
26 in writing to the department or the youth authority, as applicable, and the child-caring agency any
27 criminal conviction, imposition of a restraining or protective order against the applicant or abuse
28 or neglect investigation of the applicant related to a vulnerable person as described in paragraph
29 (a) of this subsection.

30 (3) If a decision is made not to certify a proctor foster home under this section for reasons re-
31 lated to an ongoing investigation involving the applicant, or findings of substantiated allegations of
32 abuse or neglect by an applicant, the child-caring agency shall disclose to the applicant the reasons
33 for the denial of certification.

34 (4)(a) **If a certification issued under this section is scheduled to expire during a period**
35 **of statewide emergency, the certification may be extended for no more than six months.**
36 **After six months the certification may not be renewed until the child-caring agency has**
37 **conducted an in-person site inspection of the proctor foster home.**

38 (b) **As used in this section, “period of statewide emergency” means the period of time**
39 **during which any declaration of a state of emergency under ORS 401.165, public health**
40 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
41 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
42 **fect.**

43 [(4)] (5) The department and the youth authority shall adopt rules to implement the provisions
44 of this section.

45 **SECTION 4.** ORS 418.255 is amended to read:

1 418.255. (1) The Department of Human Services shall [*inspect*] **conduct in-person site in-**
2 **spections** and supervise all child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475
3 or 418.950 to 418.970 as provided in this section.

4 (2) Inspections of the premises of a child-caring agency shall occur no less frequently than once
5 per year and shall be made at unexpected times, with irregular intervals between inspections and
6 without previous notice to the agency. Inspections under this subsection shall be limited to premises
7 where children reside and receive care or services from employees or staff who do not reside on the
8 premises.

9 (3)(a) Except as provided in paragraph (c) of this subsection, a child-caring agency subject to
10 ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 that has annual revenues in excess
11 of \$1 million shall provide the Department of Human Services, at such times as the department
12 specifies by rule, with annual financial statements that have been audited by an independent certi-
13 fied public accountant and a tax compliance certificate issued by the Department of Revenue.

14 (b) Except as provided in paragraph (c) of this subsection, a child-caring agency subject to ORS
15 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 that has annual revenues of \$1 million or
16 less shall provide the Department of Human Services, upon request or at such times as the depart-
17 ment specifies by rule, with financial statements that have been reviewed by an independent certi-
18 fied public accountant and a tax compliance certificate issued by the Department of Revenue.

19 (c) A child-caring agency subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to
20 418.970 that provides adoption placement services but does not provide care to a child and does not
21 receive public funds shall provide the Department of Human Services, upon request or at such times
22 as the department specifies by rule, with a tax compliance certificate issued by the Department of
23 Revenue.

24 (d) Information in financial statements and tax compliance certificates submitted to the Depart-
25 ment of Human Services under this subsection is a public record and open for inspection by any
26 person without order of a court.

27 (e) The Department of Revenue shall adopt rules to implement the provisions of this subsection
28 pertaining to tax compliance certificates.

29 (4) The Department of Human Services may conduct an audit, including a forensic audit, of any
30 child-caring agency subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 to de-
31 termine compliance with ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970. The depart-
32 ment may, upon request at any time, inspect and audit the books and records, including but not
33 limited to financial records, of the agency. An audit or inspection under this subsection shall be at
34 the expense of the department.

35 (5) Failure to permit an inspection, whether of the premises or of the books and records of the
36 child-caring agency, or failure to provide the financial statements, as required by this section is
37 grounds for the immediate suspension or revocation of a license, certificate or authorization under
38 ORS 418.240 and for the denial of issuance of a license, certificate or other authorization by the
39 Department of Human Services.

40 (6) The Department of Human Services may advise the operators, owners and employees of
41 child-caring agencies subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 in
42 regard to approved methods of child care, recommended housing and equipment and appropriate
43 methods to maintain adequate records of operations.

44 (7) In addition to advice provided under subsection (6) of this section, the Department of Human
45 Services shall provide training regarding appropriate ethnic hair and skin care for children of

1 African-American, Hispanic, Native American, Asian-American or multiracial descent to:

2 (a) Child-caring agencies;

3 (b) Persons providing treatment, care or services under the supervision of a child-caring agency;
4 and

5 (c) Prospective adoptive parents of a child in foster care.

6 **(8)(a) Notwithstanding subsection (1) of this section, the Governor by executive order**
7 **may permit online inspections of child-caring agencies during a period of statewide emer-**
8 **gency.**

9 **(b) As used in this subsection, “period of statewide emergency” has the meaning given**
10 **that term in ORS 418.240.**

11 [(8)] (9) The Department of Human Services shall adopt rules to implement the provisions of this
12 section.

13 **SECTION 5.** ORS 418.262 is amended to read:

14 418.262. (1) The Department of Human Services shall maintain a staff of a minimum of five full-
15 time equivalent employees who are responsible for the issuance, renewal, suspension or revocation
16 of, or for the placing of conditions on, licenses, certifications or other authorizations issued under
17 ORS 418.240 and 418.248, and for the **in-person site** inspection and investigation of child-caring
18 agencies licensed, certified or otherwise authorized by the department.

19 (2) The department shall adopt rules to develop workload models to measure the adequacy of
20 staff to workload under subsection (1) of this section.

21 **SECTION 6.** ORS 418.280 is amended to read:

22 418.280. (1) A child-caring agency may not place a child with a proctor foster home unless the
23 home has been determined by the child-caring agency to meet minimum standards as established by
24 rules adopted by the Department of Human Services or the Oregon Youth Authority, as applicable,
25 and has been certified by the child-caring agency pursuant to ORS 418.248.

26 (2) In placing a child with a proctor foster home that has been determined to meet minimum
27 standards and that has been certified by a child-caring agency under this section and ORS 418.248,
28 the child-caring agency shall:

29 (a) Safeguard the welfare of the child by the thorough investigation of each applicant and **in-**
30 **person site inspection of the** home and its environment;

31 (b) Carefully select the child to suit the new relationship and location;

32 (c) [*Personally and*] Adequately supervise the home and child **in person** until the child returns
33 to the direct care of the child-caring agency or, if permanently placed, receives legal adoption or
34 attains legal age; and

35 (d) So far as practicable, place the child in a family of the same religious faith as that held by
36 the child or the child’s parents.

37 (3) A child-caring agency maintains custody, control and responsibility for and, where applicable
38 under ORS 418.275, guardianship of a child placed with a proctor foster home by the child-caring
39 agency.

40 **SECTION 7.** ORS 418.327 is amended to read:

41 418.327. (1) Upon finding, **based on an in-person site inspection**, that the facilities and oper-
42 ation of a private residential boarding school meet the standards of the Department of **Human**
43 **Services** for the physical health, care and safety of the children, the department shall issue a li-
44 cense to operate the school. The license shall be valid for a period of two years, unless sooner
45 suspended or revoked by the department pursuant to the provisions of ORS 418.240. However, the

1 department at any time may require amendments to an existing license to accommodate changes in
2 the factors upon which the issuance was based.

3 (2) The department may not charge a fee for inspections leading to decisions regarding, and is-
4 suance of, licenses under this section, but may charge fees to cover costs of inspections done by
5 other governmental agencies for the department.

6 (3) The department may place conditions on any license issued under this section in accordance
7 with the provisions of ORS 418.240, including but not limited to placing full or partial restrictions
8 on admission of children, temporary suspension, limitation of operations subject to an intent to re-
9 voke and limitation of operations subject to correction of violations as specified in a plan of cor-
10 rection imposed by the department.

11 (4) No person or organization shall operate a private residential boarding school without having
12 a current, valid license issued by the department.

13 (5) Any person, including the Director of Human Services, may file a complaint with the de-
14 partment alleging that children attending a private residential boarding school, or that children
15 within the control of any other organization that provides boarding or residential programs, are not
16 receiving shelter, food, guidance, training or education necessary to the health, safety, welfare or
17 social growth of the children or necessary to serve the best interests of society.

18 (6) The department shall immediately investigate complaints made under subsection (5) of this
19 section in the manner provided under ORS 418.205 to 418.327.

20 (7) The Superintendent of Public Instruction shall cooperate with the department upon request
21 by advising the department as to whether or not the educational program conducted at the private
22 residential boarding school meets minimum standards required of public educational institutions.

23 **(8)(a) Notwithstanding subsection (1) of this section, the Governor by executive order**
24 **may permit online inspections of private residential boarding schools during a period of**
25 **statewide emergency.**

26 **(b) If a license issued under this section is scheduled to expire during a period of state-**
27 **wide emergency, the license may be extended for no more than six months. After six months**
28 **the license may not be renewed until the department has conducted an in-person site in-**
29 **spection of the private residential boarding school.**

30 **(c) As used in this subsection, "period of statewide emergency" has the meaning given**
31 **that term in ORS 418.240.**

32 [(8)] (9) Nothing in this section applies to public or private institutions of higher education,
33 community colleges, common or union high school districts that provide board and room in lieu of
34 transportation or any other child-caring program already subject to state licensing procedures by
35 any agency of this state.

36 **SECTION 8.** ORS 418.635 is amended to read:

37 418.635. (1) **As used in this section, "period of statewide emergency" means the period of**
38 **time during which any declaration of a state of emergency under ORS 401.165, public health**
39 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
40 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
41 **fect.**

42 (2) Application for a certificate to operate a foster home shall be made to the Department of
43 Human Services upon a form to be furnished by the department. Upon receipt of such application,
44 the department shall cause an investigation of the qualifications of the foster home to be made,
45 **including an in-person site inspection**, to determine which type of certificate should be issued in

1 accordance with the rules of the department pertinent to the certification of foster homes, and shall
 2 issue an appropriate certificate to any person maintaining a foster home which complies with ORS
 3 418.625 to 418.645. Such certificate may be revoked by the department following notice and oppor-
 4 tunity for hearing as provided in ORS chapter 183 because of violation of any of the provisions of
 5 ORS 418.625 to 418.645 or of the rules provided for in ORS 418.640. Such certificate shall apply only
 6 to the premises designated on the certificate at the time of issue and a change of residence shall
 7 automatically terminate the certificate.

8 **(3) Notwithstanding subsection (2) of this section, the Governor by executive order may**
 9 **permit online inspections of foster homes during a period of statewide emergency.**

10 **(4) If a certificate issued under this section is scheduled to expire during a period of**
 11 **statewide emergency, the certificate may be extended for no more than six months. After**
 12 **six months the certificate may not be renewed until the department has conducted an in-**
 13 **person site inspection of the child-caring agency.**

14 **SECTION 9.** ORS 418.640 is amended to read:

15 418.640. (1) The Department of Human Services shall adopt such rules, not inconsistent with
 16 ORS 418.625 to 418.645, as it deems necessary or advisable to protect the best interests of children
 17 in foster homes and to carry out the intent and purpose of ORS 418.625 to 418.645.

18 (2)(a) The department shall:

19 (A) Provide training to assist the foster parent both in understanding the mental and emotional
 20 problems that occur in child victims of abuse and neglect, including sexual abuse and rape of a
 21 child, as defined in ORS 419B.005, and in managing the behavior that may result from such problems;
 22 and

23 (B) Provide training to foster parents and prospective adoptive parents of a child in foster care
 24 regarding appropriate ethnic hair and skin care for children of African-American, Hispanic, Native
 25 American, Asian-American or multiracial descent.

26 (b) The training under this subsection shall be provided in accordance with rules adopted by the
 27 department.

28 (3) The Board on Public Safety Standards and Training shall develop a training program for law
 29 enforcement officers investigating child abuse cases and interviewing child abuse victims. The cur-
 30 riculum shall address the area of training and education necessary to facilitate the skills necessary
 31 to investigate reports of child abuse. The curriculum shall include, but not be limited to:

32 (a) Assessment of risk to child;

33 (b) Dynamics of child abuse; and

34 (c) Legally sound and age appropriate interview and investigatory techniques.

35 (4) The department or duly authorized representative shall visit every certified foster home **in**
 36 **person** from time to time and as often as appears necessary to determine that such foster home
 37 consistently maintains the standards fixed by the department and that proper care is being given to
 38 the children therein.

39 **SECTION 10.** ORS 420.821 is amended to read:

40 420.821. The Director of Human Services or the authorized representative of the director shall
 41 designate members of the staff of the director as visiting agents. As required by the director or the
 42 authorized representative of the director, these visiting agents shall:

43 (1) Visit the foster homes and children placed *[therein]* **in the foster homes in person;**

44 (2) Ascertain whether the children are properly placed; and

45 (3) Make reports to the director or the designated representative of the director concerning the

1 investigations and visits.

2 **SECTION 11.** ORS 420.890 is amended to read:

3 420.890. (1) A person may not operate a youth offender foster home without a certificate of ap-
4 proval issued by the Oregon Youth Authority.

5 (2) A person may apply for a certificate of approval to operate a youth offender foster home by
6 submitting an application to the youth authority on a form furnished by the youth authority.

7 (3)(a) Upon receipt of an application under subsection (2) of this section, the youth authority
8 shall cause an investigation to be made of the applicant and **an in-person site inspection to be**
9 **made of** the applicant's home. The youth authority, in accordance with rules adopted under ORS
10 420.892, shall determine whether to issue a certificate of approval to the applicant. The certificate
11 must be in the form prescribed by the youth authority and must state the name of the foster parent,
12 the address of the premises to which the certificate applies and the maximum number of youth
13 offenders to be maintained in the youth offender foster home at any one time. The certificate applies
14 only to the premises designated in the certificate and a change of residence automatically termi-
15 nates the certificate. The certificate is effective for one year.

16 (b) After notice and opportunity for hearing as provided in ORS 183.310 to 183.482, the youth
17 authority may deny an application for a certificate of approval under paragraph (a) of this sub-
18 section. A person whose application for a certificate of approval has been denied may appeal the
19 decision to the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in
20 contested cases.

21 (4)(a) After notice and opportunity for hearing as provided in ORS 183.310 to 183.482, the youth
22 authority may revoke, deny an application to renew or attach conditions to a certificate of approval
23 issued under subsection (3)(a) of this section for a violation of any provision of this section or ORS
24 420.892 or of the rules adopted under ORS 420.892.

25 (b) A person whose certificate of approval is revoked, not renewed or is made subject to condi-
26 tions by a decision of the youth authority under paragraph (a) of this subsection may appeal the
27 decision to the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in
28 contested cases.

29 **(5) If a certificate of approval issued under this section is scheduled to expire during a**
30 **period of statewide emergency, the certificate of approval may be extended for no more than**
31 **six months. After six months the certificate of approval may not be renewed until the youth**
32 **authority has conducted an in-person site inspection of the youth offender foster home.**

33 **(6) As used in this section, "period of statewide emergency" means the period of time**
34 **during which any declaration of a state of emergency under ORS 401.165, public health**
35 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
36 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
37 **fect.**

38 **SECTION 12.** ORS 420.892 is amended to read:

39 420.892. (1) The Oregon Youth Authority shall adopt the rules it deems necessary or advisable
40 to carry out the intent and purposes of this section and ORS 420.890.

41 (2) The youth authority shall adopt rules establishing standards for certification of youth
42 offender foster homes. The youth authority shall include in the rules requirements that a foster
43 parent receive training designed to assist the foster parent in understanding juvenile delinquency
44 and managing the behavior that results from juvenile delinquency.

45 (3) The youth authority or its representative shall visit every certified youth offender foster

1 home **in person** from time to time **and** as often as appears necessary to determine whether:

2 (a) The youth offender foster home consistently maintains the standards established by the youth
3 authority; and

4 (b) Proper care is being provided to youth offenders at the youth offender foster home.

5 (4) A person operating a youth offender foster home may not, as a disciplinary measure against
6 a youth offender in the youth offender foster home, deny a parent or guardian of the youth offender
7 the right to visit the youth offender.

8 **(5)(a) Notwithstanding subsection (3) of this section, the Governor by executive order**
9 **may permit online inspections of youth offender foster homes during a period of statewide**
10 **emergency.**

11 **(b) As used in this subsection, “period of statewide emergency” has the meaning given**
12 **that term in ORS 420.890.**

13 **SECTION 13.** ORS 419B.443, as amended by sections 18a and 18b, chapter 19, Oregon Laws 2020
14 (first special session), is amended to read:

15 419B.443. (1) An agency described in ORS 419B.440 shall file the reports required by ORS
16 419B.440 (1)(b) at the end of the initial six-month period and no less frequently than each six months
17 thereafter. The agency shall file reports more frequently if the court so orders. The reports must
18 include, but not be limited to:

19 (a) A description of the problems or offenses that necessitated the placement of the child or
20 ward with the agency;

21 (b) A description of the type and an analysis of the effectiveness of the care, treatment and
22 supervision that the agency has provided for the child or ward;

23 (c) A list of all placements made since the child or ward has been in the guardianship or legal
24 custody of an agency and the length of time the child or ward has spent in each placement;

25 (d) For a child or ward in substitute care, a list of all schools the child or ward has attended
26 since the child or ward has been in the guardianship or legal custody of the agency, the length of
27 time the child or ward has spent in each school and, for a child or ward 14 years of age or older,
28 the number of high school credits the child or ward has earned;

29 (e) A list of dates of face-to-face contacts the assigned case worker has had with the child or
30 ward since the child or ward has been in the guardianship or legal custody of the agency and, for
31 a child or ward in substitute care, the place of each contact;

32 (f) For a child or ward in substitute care, a list of the visits the child or ward has had with the
33 child’s or ward’s parents or siblings since the child or ward has been in the guardianship or legal
34 custody of the agency and the place and date of each visit;

35 (g) For a child or ward in substitute care, the steps the Department of Human Services is taking
36 to ensure that:

37 (A) The child’s or ward’s substitute care provider is following the reasonable and prudent parent
38 standard; and

39 (B) The child or ward has regular, ongoing opportunities to engage in age-appropriate or de-
40 velopmentally appropriate activities, including consultation with the child or ward in an age-
41 appropriate manner about the opportunities the child or ward has to participate in the activities;

42 (h) A description of agency efforts to return the child or ward to the parental home or find
43 permanent placement for the child or ward, including, when applicable, efforts to assist the parents
44 in remedying factors which contributed to the removal of the child or ward from the home;

45 (i) A proposed treatment plan or proposed continuation or modification of an existing treatment

1 plan, including a proposed visitation plan or proposed continuation or modification of an existing
2 visitation plan and a description of efforts expected of the child or ward and the parents to remedy
3 factors that have prevented the child or ward from safely returning home within a reasonable time;

4 (j) If continued substitute care is recommended, a proposed timetable for the child's or ward's
5 return home or other permanent placement or a justification of why extended substitute care is
6 necessary;

7 (k) If the child or ward has been placed in foster care outside the state, whether the child or
8 ward has been visited **in person** not less frequently than every six months by a state or private
9 agency; and

10 (L) If the child or ward is placed in a qualified residential treatment program:

11 (A) A determination that the strengths and needs of the child or ward cannot be met through
12 placement in a foster home, that the placement in a qualified residential treatment program provides
13 the least restrictive setting to provide the most effective and appropriate level of care for the child
14 or ward, and that the placement is consistent with the short-term and long-term goals for the child
15 or ward, as specified in the permanency plan for the child or ward;

16 (B) Documentation of the specific treatment or service needs that will be met for the child or
17 ward in the placement and the length of time the child or ward is expected to need the treatment
18 or services; and

19 (C) Documentation of the efforts made by the agency to prepare the child or ward to return
20 home or be placed with a fit and willing relative, a legal guardian, an adoptive parent or in a less
21 restrictive foster home setting.

22 (2) In addition to the information required in a report made under subsection (1) of this section,
23 for a ward who is in the legal custody of the department pursuant to ORS 419B.337 but who will
24 be or recently has been placed in the physical custody of a parent or a person who was appointed
25 the ward's legal guardian prior to placement of the ward in the legal custody of the department, a
26 report required under ORS 419B.440 (1)(a) shall include:

27 (a) A recommended timetable for dismissal of the department's legal custody of the ward and
28 termination of the wardship; and

29 (b) A description of the services that the department will provide to the ward and the ward's
30 physical custodian to eliminate the need for the department to continue legal custody.

31 (3) In addition to the information required in a report made under subsection (1) of this section,
32 if the report is made by the department under ORS 419B.440 (1)(b)(C), the report shall include:

33 (a) A recommended timetable for dismissal of the department's legal custody of the ward and
34 termination of the wardship; and

35 (b) A description of the services that the department has provided to the ward and the ward's
36 physical custodian to eliminate the need for the department to continue legal custody.

37 (4) Notwithstanding the requirements of subsection (1) of this section, reports need not contain
38 information contained in prior reports.

39 **SECTION 14.** ORS 441.025, as amended by section 4, chapter 592, Oregon Laws 2019, is
40 amended to read:

41 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
42 other than a long term care facility, the Oregon Health Authority shall review the application and
43 conduct an [*on-site*] **in-person site** inspection of the health care facility. The authority shall issue
44 a license if it finds that the applicant and health care facility comply with ORS 441.015 to 441.087
45 and the rules of the authority provided that the authority does not receive within the time specified

1 a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority
2 pursuant to ORS 479.215.

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

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

6 (B) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
7 compliance pursuant to ORS 479.215.

8 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the
9 Department of Human Services shall review the application and conduct an [*on-site*] **in-person site**
10 inspection of the long term care facility, including an inspection of the kitchen and other areas
11 where food is prepared for residents. The department shall issue a license if the department finds
12 that the applicant and long term care facility comply with ORS 441.015 to 441.087 and the rules of
13 the department provided that it does not receive within the time specified a certificate of noncom-
14 pliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

15 (b) The department shall, following an [*on-site*] **in-person site** inspection and payment of the fee,
16 annually renew each license issued under this subsection unless:

17 (A) The long term care facility's license has been suspended or revoked;

18 (B) The long term care facility is found not to be in substantial compliance, following the
19 [*on-site*] **in-person site** inspection, with ORS 441.015 to 441.087 and 443.012 and the rules of the
20 department;

21 (C) The long term care facility has failed an inspection of the kitchen or other areas where food
22 is prepared for residents that was conducted by the department in accordance with ORS 443.417,
23 except as provided in ORS 443.417 (2); or

24 (D) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
25 compliance pursuant to ORS 479.215.

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

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

30 (5) No license shall be issued or renewed for any health care facility or health maintenance
31 organization that is required to obtain a certificate of need under ORS 442.315 until a certificate
32 of need has been granted. An ambulatory surgical center is not subject to the certificate of need
33 requirements in ORS 442.315.

34 (6) No license shall be issued or renewed for any skilled nursing facility or intermediate care
35 facility, unless the applicant has included in the application the name and such other information
36 as may be necessary to establish the identity and financial interests of any person who has incidents
37 of ownership in the facility representing an interest of 10 percent or more thereof. If the person
38 having such interest is a corporation, the name of any stockholder holding stock representing an
39 interest in the facility of 10 percent or more shall also be included in the application. If the person
40 having such interest is any other entity, the name of any member thereof having incidents of own-
41 ership representing an interest of 10 percent or more in the facility shall also be included in the
42 application.

43 (7) A license may be denied to any applicant for a license or renewal thereof or any stockholder
44 of any such applicant who has incidents of ownership in the health care facility representing an
45 interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for

1 the facility, if during the five years prior to the application the applicant or any stockholder of the
2 applicant had an interest of 10 percent or more in the facility or of a lease for the facility and has
3 divested that interest after receiving from the authority or the department written notice that the
4 authority or the department intends to suspend or revoke the license or to decertify the facility from
5 eligibility to receive payments for services provided under this section.

6 (8) The Department of Human Services may not issue or renew a license for a long term care
7 facility, unless the applicant has included in the application the identity of any person who has in-
8 cident of ownership in the long term care facility who also has a financial interest in any pharmacy,
9 as defined in ORS 689.005.

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

12 (a) Establishing classifications and descriptions for the different types of health care facilities
13 that are licensed under ORS 441.015 to 441.087; and

14 (b) Standards for patient care and safety, adequate professional staff organizations, training of
15 staff for whom no other state regulation exists, suitable delineation of professional privileges and
16 adequate staff analyses of clinical records.

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

19 (a) Establishing classifications and descriptions for the different types of long term care facili-
20 ties that are licensed under ORS 441.015 to 441.087;

21 (b) Standards for patient care and safety, adequate professional staff organizations, training of
22 staff for whom no other state regulation exists, suitable delineation of professional privileges and
23 adequate staff analyses of clinical records; and

24 (c) Rules to ensure that a long term care facility complies with ORS 443.012.

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

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

29 (a) Offer or provide services beyond the scope of the license classification assigned by the au-
30 thority or department; or

31 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-
32 fication assigned by the authority or department.

33 (13) A health care facility must reapply for licensure to change the classification assigned or the
34 type of license issued by the authority or department.

35 **(14)(a) Notwithstanding subsection (2) of this section, the Governor by executive order**
36 **may permit online inspections of health care facilities during a period of statewide emer-**
37 **gency.**

38 **(b) If a license issued under this section is scheduled to expire during a period of state-**
39 **wide emergency, the license may be extended for no more than six months. After six months**
40 **the license may not be renewed until the authority or the department has conducted an in-**
41 **person site inspection of the health care facility.**

42 **(c) As used in this subsection, "period of statewide emergency" means the period of time**
43 **during which any declaration of a state of emergency under ORS 401.165, public health**
44 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
45 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**

1 **fect.**

2 **SECTION 15.** ORS 441.060 is amended to read:

3 441.060. (1) The Oregon Health Authority shall make or cause to be made [*on-site*] **in-person**
4 **site** inspections of health care facilities licensed under ORS 441.025 (1) at least once every three
5 years.

6 (2) The authority and the Department of Human Services may prescribe by rule that any
7 licensee or prospective applicant desiring to make specified types of alteration or addition to its
8 facilities or to construct new facilities shall, before commencing such alteration, addition or new
9 construction, either prior to or after receiving a certificate of need pursuant to ORS 442.315, if re-
10 quired, submit plans and specifications therefor to the authority or the department for preliminary
11 inspection and approval or recommendations with respect to compliance with the rules authorized
12 by ORS 441.025 and 443.420 and for compliance with National Fire Protection Association standards
13 when the facility is also to be Medicare or Medicaid certified.

14 (3) The authority or the department may require by rule payment of a fee for project review
15 services at a variable rate, dependent on total project cost.

16 (4) For health care facilities, the authority shall develop a review fee schedule as minimally
17 necessary to support the staffing level and expenses required to administer the program.

18 (5) For long term care facilities and residential care facilities, the department shall develop a
19 review fee schedule as minimally necessary to support the staffing level and expenses required to
20 administer the program. The fee for project review of residential care facilities shall equal two-
21 thirds that required of health care facilities.

22 (6) The authority or the department may also conduct an on-site review of projects as a pre-
23 requisite to licensure of new facilities, major renovations and expansions. The authority and the
24 department shall, at least annually, with the advice of the facilities covered by the review, present
25 proposed rule changes regarding facility design and construction to such agencies for their consid-
26 eration.

27 (7) The authority shall publish a state submissions guide for health care facility projects and
28 advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

29 (8) The department shall publish a state submissions guide for long term care facility and resi-
30 dential care facility projects and advise project sponsors of applicable requirements of federal, state
31 and local regulatory agencies.

32 **SECTION 16.** ORS 441.062 is amended to read:

33 441.062. (1) In conducting **in-person site** inspections for the purpose of licensing health care
34 facilities under ORS 441.020, the Oregon Health Authority and the Department of Human Services
35 shall avoid unnecessary facility disruption by coordinating inspections performed by the authority
36 or the department with inspections performed by other federal, state and local agencies that have
37 responsibility for health care facility licensure.

38 (2) Whenever possible, the authority and the department shall avoid duplication of inspections
39 by accepting inspection reports or surveys prepared by other state agencies that have responsibility
40 for health care facility licensure for purposes of the inspection required for licensure.

41 (3) In lieu of an [*on-site*] **in-person site** inspection as required by ORS 441.025 and 441.060, the
42 authority or the department may accept a certification or accreditation from a federal agency or
43 an accrediting body approved by the authority or the department that the state licensing standards
44 have been met, if:

45 (a) The certification or accreditation is recognized by the authority or the department as ad-

1 dressing the standards and condition of participation requirements of the Centers for Medicare and
2 Medicaid Services and other standards set by the authority or the department;

3 (b) The health care facility notifies the authority or the department to participate in any exit
4 interview conducted by the federal agency or accrediting body; and

5 (c) The health care facility provides copies of all documentation concerning the certification or
6 accreditation requested by the authority or the department.

7 (4) The authority and the department shall adopt rules necessary to implement this section.

8 **SECTION 17.** ORS 441.157 is amended to read:

9 441.157. (1) For the sole purpose of verifying compliance with the requirements of ORS 441.152
10 to 441.177 and 441.192, the Oregon Health Authority shall audit each hospital in this state once
11 every three years, at the time of conducting an *[on-site]* **in-person site** inspection of the hospital
12 under ORS 441.025.

13 (2) When conducting an audit pursuant to this section, the authority shall:

14 (a) If the authority provides notice of the audit to the hospital, provide notice of the audit to
15 the cochair of the hospital nurse staffing committee established pursuant to ORS 441.154;

16 (b) Interview both cochair of the hospital nurse staffing committee;

17 (c) Review any other hospital record and conduct any other interview or site visit that is nec-
18 essary to verify that the hospital is in compliance with the requirements of ORS 441.152 to 441.177
19 and 441.192; and

20 (d) Within 60 days after issuing an order requiring a hospital to implement a plan to correct a
21 violation of ORS 441.152 to 441.177 or 441.192, conduct an investigation of the hospital to ensure
22 compliance with the order.

23 (3) Following an investigation conducted pursuant to subsection (2) of this section, the authority
24 shall provide in writing a report of the authority's findings to the hospital and the cochair of the
25 hospital nurse staffing committee.

26 (4) The authority shall compile and maintain for public inspection an annual report of audits and
27 investigations conducted pursuant to this section.

28 (5) The costs of audits required by this section may be paid out of funds from licensing fees paid
29 by hospitals under ORS 441.020.

30 **SECTION 18.** ORS 441.171 is amended to read:

31 441.171. (1) For purposes of ensuring compliance with ORS 441.152 to 441.177, the Oregon Health
32 Authority shall:

33 (a) Within 60 days after receiving a complaint against a hospital for violating a provision of ORS
34 441.152 to 441.177, conduct an *[on-site]* **in-person site inspection and an** investigation of the hos-
35 pital; and

36 (b) Within 60 days after issuing an order requiring a hospital to implement a plan to correct a
37 violation of ORS 441.152 to 441.177, conduct an **in-person site inspection and an** investigation of
38 the hospital to ensure compliance with the plan.

39 (2) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to
40 441.177, the authority shall, if the authority provides notice of the investigation to the hospital,
41 provide notice of the investigation to the cochair of the hospital nurse staffing committee estab-
42 lished pursuant to ORS 441.154.

43 (3) Following an investigation conducted pursuant to this section, the authority shall provide in
44 writing a report of the authority's findings to the hospital and the cochair of the hospital nurse
45 staffing committee.

1 (4) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to
2 441.177, the authority may:

3 (a) Take evidence;

4 (b) Take the depositions of witnesses in the manner provided by law in civil cases;

5 (c) Compel the appearance of witnesses in the manner provided by law in civil cases;

6 (d) Require answers to interrogatories; and

7 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
8 matter under investigation.

9 **SECTION 19.** ORS 443.015 is amended to read:

10 443.015. (1) A person may not establish a home health agency or organization providing home
11 health services for compensation, or purport to manage or operate a home health agency or organ-
12 ization, without first obtaining a license from the Oregon Health Authority. The license shall be
13 renewable annually and is not transferable.

14 (2) **If a license issued under this section is scheduled to expire during a period of state-
15 wide emergency, the license may be extended for no more than six months. After six months
16 the license may not be renewed until the authority has conducted an in-person site in-
17 spection of the home health agency.**

18 (3) **As used in this section, “period of statewide emergency” means the period of time
19 during which any declaration of a state of emergency under ORS 401.165, public health
20 emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the
21 Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-
22 fect.**

23 **SECTION 20.** ORS 443.019 is amended to read:

24 443.019. (1) The Oregon Health Authority shall conduct an [*on-site*] **in-person site** inspection
25 of a home health agency and a caregiver registry prior to licensure and at least once every three
26 years thereafter.

27 (2) In lieu of an [*on-site*] **in-person site** inspection, the authority may accept a certification or
28 accreditation from a federal agency or an accrediting body approved by the authority that the state
29 licensing standards have been met, if:

30 (a) The certification or accreditation is recognized by the authority as addressing the standards
31 and conditions of participation requirements of the Centers for Medicare and Medicaid Services and
32 any additional standards set by the authority;

33 (b) The agency or registry notifies the authority to participate in any exit interview conducted
34 by the federal agency or accrediting body; and

35 (c) The agency or registry provides copies of all documentation concerning the certification or
36 accreditation requested by the authority.

37 (3)(a) **Notwithstanding subsection (1) of this section, the Governor by executive order
38 may permit online inspections of home health agencies during a period of statewide emer-
39 gency.**

40 (b) **As used in this subsection, “period of statewide emergency” has the meaning given
41 that term in ORS 443.015.**

42 **SECTION 21.** ORS 443.415, as amended by section 5, chapter 592, Oregon Laws 2019, is
43 amended to read:

44 443.415. (1) Applications for licensure to maintain and operate a residential facility shall be
45 made to the Department of Human Services or the Oregon Health Authority on forms provided for

1 that purpose by the appropriate licensing agency. Each application shall be accompanied by a fee.
 2 No fee is required of any governmentally operated residential facility.

3 (2)(a) The application fee for a residential training facility or a residential treatment facility is
 4 \$60.

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

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

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

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

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

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

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

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

13 (3) Upon receipt of an application and fee, the licensing agency shall conduct an *[on-site]* **in-**
 14 **person site** inspection, including, for residential care facilities, an inspection of the kitchen and
 15 other areas where food is prepared for residents. The licensing agency shall issue a license to any
 16 applicant for operation of a residential facility in compliance with ORS 443.002 and 443.400 to
 17 443.455 and the rules of the licensing agency. Licensure may be denied when a residential facility
 18 is not in compliance with ORS 443.002 or 443.400 to 443.455 or the rules of the licensing agency.
 19 Licensure shall be denied if the State Fire Marshal, deputy or approved authority has given notice
 20 of noncompliance of a residential care facility, residential training facility or residential treatment
 21 facility pursuant to ORS 479.220.

22 (4)(a) **Notwithstanding subsection (3) of this section, the Governor by executive order**
 23 **may permit online inspections of residential facilities during a period of statewide emergency.**

24 (b) **If a license issued under this section is scheduled to expire during a period of state-**
 25 **wide emergency, the license may be extended for no more than six months. After six months**
 26 **the license may not be renewed until the licensing agency has conducted an in-person site**
 27 **inspection of the residential facility.**

28 (c) **As used in this subsection, “period of statewide emergency” means the period of time**
 29 **during which any declaration of a state of emergency under ORS 401.165, public health**
 30 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
 31 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
 32 **fect.**

33 **SECTION 22.** ORS 443.436 is amended to read:

34 443.436. (1) As used in this section, “substantial compliance” means a level of compliance with
 35 state law and with rules of the Department of Human Services such that any identified deficiencies
 36 pose a risk of no more than negligible harm to the health or safety of residents.

37 (2)(a) The department shall develop a framework for assessing the compliance of residential care
 38 facilities with regulatory requirements and for requiring corrective action that accurately and
 39 equitably measures compliance and the extent of noncompliance.

40 (b) The framework must include but is not limited to measures of the severity and scope of a
 41 residential care facility’s noncompliance.

42 (c) The department shall publish the framework on the department’s website and shall distribute
 43 the framework to residential care facilities licensed in this state.

44 (3) The department shall administer a residential care facility enhanced oversight and super-
 45 vision program that focuses department resources on residential care facilities that consistently

1 demonstrate:

2 (a) A lack of substantial compliance with the requirements of ORS 443.400 to 443.455; or

3 (b) Performance substantially below statewide averages on quality metrics reported under the
4 Residential Care Quality Measurement Program established under ORS 443.446.

5 (4) The residential care facility enhanced oversight and supervision program shall take one or
6 more of the following actions that the department deems necessary to improve the performance of
7 a residential care facility:

8 (a) Increase the frequency of surveys of the residential care facility.

9 (b) Conduct surveys that focus on areas of consistent noncompliance identified by the depart-
10 ment.

11 (5) The department shall terminate the enhanced oversight and supervision of a residential care
12 facility:

13 (a) After three years if the residential care facility has shown through at least two consecutive
14 *[on-site]* **in-person site** surveys and reported quality metrics that the residential care facility no
15 longer meets the criteria set forth in subsection (3) of this section; or

16 (b) After one year if the residential care facility submits a written assertion of substantial
17 compliance and the department determines that the residential care facility no longer meets the
18 criteria set forth in subsection (3) of this section.

19 (6) Using moneys from the Quality Care Fund established under ORS 443.001, the department
20 shall develop, maintain and periodically update compliance guidelines for residential care facilities
21 serving seniors and persons with disabilities. The guidelines must be made available electronically.

22 (7) This section does not preclude the department from taking any action authorized by ORS
23 443.400 to 443.455.

24 **SECTION 23.** ORS 443.705 is amended to read:

25 443.705. As used in ORS 443.705 to 443.825:

26 (1) “Adult foster home” means any family home or facility in which residential care is provided
27 in a homelike environment for five or fewer adults who are not related to the provider by blood or
28 marriage.

29 (2) “Licensed adult foster home” means a home which has been investigated and approved by
30 the licensing agency. This includes an *[on-site]* **in-person site** inspection of the facility.

31 (3) “Licensing agency” means:

32 (a) The Department of Human Services for adult foster homes licensed by the department.

33 (b) The Oregon Health Authority for adult foster homes licensed by the authority.

34 (4) “Provider” means any person operating an adult foster home and includes a resident man-
35 ager. “Provider” does not include the owner or lessor of the building in which the adult foster home
36 is located or the owner or lessor of the land on which the adult foster home is situated unless the
37 owner or lessor is also the operator of the adult foster home.

38 (5) “Residential care” means the provision of room and board and services that assist the resi-
39 dent in activities of daily living, such as assistance with bathing, dressing, grooming, eating,
40 medication management, money management or recreation.

41 (6) “Substitute caregiver” means any person who provides care and services in an adult foster
42 home under the jurisdiction of the licensing agency in the absence of the provider or resident
43 manager.

44 **SECTION 24.** ORS 443.735, as amended by section 7, chapter 592, Oregon Laws 2019, is
45 amended to read:

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

3 (b) Each application submitted to the Department of Human Services for an adult foster home
4 serving individuals with intellectual or developmental disabilities shall be accompanied by a fee of
5 \$50 per bed requested for licensing.

6 (c) Each application submitted to the Oregon Health Authority, or to the Department of Human
7 Services for an adult foster home not serving individuals with intellectual or developmental disa-
8 bilities, shall be accompanied by a fee of \$20 per bed requested for licensing.

9 (2) Upon receipt of an application and fee, the licensing agency shall conduct an investigation.

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

11 (a) The applicant and adult foster home are in compliance with ORS 443.002 and 443.705 to
12 443.825 and the rules of the licensing agency;

13 (b) The licensing agency has completed an **in-person site** inspection of the adult foster home;

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

18 (d) The licensing agency has determined that the registry maintained under ORS 441.678 con-
19 tains no finding that the applicant or any nursing assistant employed by the applicant has been re-
20 sponsible for abuse; and

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

30 (4) The licensing agency may not renew a license under this section unless:

31 (a) The applicant and the adult foster home are in compliance with ORS 443.002, 443.012 and
32 443.705 to 443.825 and the rules of the licensing agency;

33 (b) The licensing agency has completed an **in-person site** inspection of the adult foster home;

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

38 (d) The licensing agency has determined that the registry maintained under ORS 441.678 con-
39 tains no finding that the applicant or any nursing assistant employed by the applicant has been re-
40 sponsible for abuse.

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

44 (b) In proceedings for renewal of a license when an adult foster home has been licensed for at
45 least 24 continuous months, the burden of proof shall be upon the licensing agency to establish

1 noncompliance with ORS 443.705 to 443.825 and the rules of the agency.

2 (6)(a) Persons who have been convicted of one or more crimes that, as determined by rules of
3 the licensing agency, are substantially related to the qualifications, functions or duties of a provider,
4 substitute caregiver or other household member of an adult foster home shall be prohibited from
5 operating, working in or residing in an adult foster home.

6 (b) The licensing agency shall adopt rules that distinguish the criminal convictions and types
7 of abuse that permanently prohibit a person from operating, working in or living in an adult foster
8 home from the convictions and types of abuse that do not permanently prohibit the person from
9 operating, working in or living in an adult foster home.

10 (c) A provider may not hire, retain in employment or allow to live in an adult foster home, other
11 than as a resident, any person who the provider knows has been convicted of a disqualifying crime
12 or has been found responsible for a disqualifying type of abuse.

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

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

22 (9) The licensing agency shall not issue a license to operate an additional adult foster home to
23 a provider unless the provider has demonstrated the qualifications and capacity to operate the
24 provider's existing licensed adult foster homes and has demonstrated the ability to provide to the
25 residents of those adult foster homes care that is adequate and substantially free from abuse and
26 neglect.

27 (10)(a) All moneys collected under ORS 443.725 to 443.780 from adult foster homes that are li-
28 censed to serve persons with mental, emotional or behavioral disturbances or alcohol or drug de-
29 pendence shall be deposited in a special account in the General Fund, and are appropriated
30 continuously for payment of expenses incurred by the Oregon Health Authority.

31 (b) All moneys collected under ORS 443.725 to 443.780 from adult foster homes licensed to serve
32 persons who are elderly, have physical disabilities or have developmental disabilities shall be de-
33 posited in the Quality Care Fund established in ORS 443.001.

34 (11) Notwithstanding any other provision of this section or ORS 443.725 or 443.738, the licensing
35 agency may issue a 60-day provisional license to a qualified person if the agency determines that
36 an emergency situation exists after being notified that the licensed provider of an adult foster home
37 is no longer overseeing operation of the adult foster home.

38 **(12)(a) Notwithstanding subsection (3) or (4) of this section, the Governor by executive**
39 **order may permit online inspections of adult foster homes during a period of statewide**
40 **emergency.**

41 **(b) If a license issued under this section is scheduled to expire during a period of state-**
42 **wide emergency, the license may be extended for no more than six months. After six months**
43 **the license may not be renewed until the licensing agency has conducted an in-person site**
44 **inspection of the adult foster home.**

45 **(c) As used in this subsection, "period of statewide emergency" means the period of time**

1 **during which any declaration of a state of emergency under ORS 401.165, public health**
 2 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
 3 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
 4 **fect.**

5 **SECTION 25.** ORS 443.835 is amended to read:

6 443.835. (1) A person may not operate a developmental disability child foster home without
 7 having a certificate issued by the Department of Human Services.

8 (2) A person may apply for a certificate to operate a developmental disability child foster home
 9 by submitting an application to the department on a form furnished by the department.

10 (3) Upon receipt of an application under subsection (2) of this section, the department shall
 11 cause an investigation to be made of the applicant and **an in-person site inspection to be made**
 12 **of the applicant's home.** The department shall determine whether to issue a certificate to the ap-
 13 plicant and, if a certificate is to be issued, whether to issue a conditional certificate or a regular
 14 certificate. The certificate shall be in the form prescribed by the department by rule.

15 (4) After notice and an opportunity for hearing as provided in ORS 183.310 to 183.482, the de-
 16 partment may deny, refuse to renew or revoke a certificate to operate a developmental disability
 17 child foster home. A person whose application for a certificate has been denied, not renewed or re-
 18 voked may appeal the decision to the Court of Appeals in the manner provided in ORS 183.480 for
 19 the review of orders in contested cases.

20 **(5)(a) Notwithstanding subsection (3) of this section, the Governor by executive order**
 21 **may permit online inspections of developmental disability child foster homes during a period**
 22 **of statewide emergency.**

23 **(b) If a certificate issued under this section is scheduled to expire during a period of**
 24 **statewide emergency, the certificate may be extended for no more than six months. After**
 25 **six months the certificate may not be renewed until the department has conducted an in-**
 26 **person site inspection of the developmental disability child foster home.**

27 **(c) As used in this subsection, "period of statewide emergency" means the period of time**
 28 **during which any declaration of a state of emergency under ORS 401.165, public health**
 29 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
 30 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
 31 **fect.**

32 [(5)] (6) The department may adopt rules to carry out the intent and purposes of this section
 33 and ORS 443.830.

34 **SECTION 26.** ORS 443.860 is amended to read:

35 443.860. (1) A person may not establish, conduct or maintain a hospice program providing
 36 hospice services, or hold itself out to the public as a hospice program, without obtaining a license
 37 from the Oregon Health Authority.

38 (2) The authority:

39 (a) Shall adopt rules to carry out the provisions of ORS 443.850 to 443.869, including but not
 40 limited to rules for licensure that require an [on-site] **in-person site** inspection of each licensed
 41 hospice program at least once every three years.

42 (b) May accept certification by a federal agency or accreditation by an accrediting organization
 43 approved by the authority as evidence of compliance with the requirements for licensure adopted
 44 under paragraph (a) of this subsection if:

45 (A) The certification or accreditation meets standards and conditions established for hospice

1 programs by the Centers for Medicare and Medicaid Services;

2 (B) The hospice program invites the authority to participate in any exit interview conducted by
3 the agency or organization; and

4 (C) The hospice program provides the authority with copies of all documentation requested by
5 the authority concerning the certification or accreditation.

6 (3) The fee to obtain or renew a hospice program license is \$1,140.

7 (4) The authority shall prescribe by rule the form and manner for application for or renewal of
8 a license. The authority shall issue a license to an applicant that has the necessary qualifications,
9 meets all requirements established by the authority by rule and has paid the fee.

10 (5) A license issued under this section is valid for one year and is not transferable. A license
11 may be renewed by payment of the fee and demonstration of compliance with requirements for re-
12 newal established by the authority by rule.

13 **(6)(a) Notwithstanding subsection (2) of this section, the Governor by executive order
14 may permit online inspections of hospice programs during a period of statewide emergency.**

15 **(b) If a license issued under this section is scheduled to expire during a period of state-
16 wide emergency, the license may be extended for no more than six months. After six months
17 the license may not be renewed until the authority has conducted an in-person site in-
18 spection of the hospice program.**

19 **(c) As used in this subsection, “period of statewide emergency” means the period of time
20 during which any declaration of a state of emergency under ORS 401.165, public health
21 emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the
22 Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-
23 fect.**

24 **SECTION 27.** Section 12b, chapter 19, Oregon Laws 2020 (first special session), is amended to
25 read:

26 **Sec. 12b.** A program is a qualified residential treatment program if it:

27 (1) Provides residential care and treatment to a child who, based on an independent assessment
28 described in section 13b, **chapter 19, Oregon Laws 2020 (first special session)**, [*of this 2020 spe-
29 cial session Act,*] requires specialized, evidence-based, as defined by the Department of Human Ser-
30 vices by rule, supports and services related to the effects of trauma or mental, emotional or
31 behavioral health needs.

32 (2) Uses a trauma-informed treatment model that is designed to address the needs, including
33 clinical needs as appropriate, of the child.

34 (3) Ensures that the staff at the facility includes licensed or registered nurses licensed under
35 ORS chapter 678 and other licensed clinical staff who:

36 (a) Provide care within their licensed scope of practice;

37 (b) Are [*on site*] **on-site** according to the treatment model identified in subsection (2) of this
38 section; and

39 (c) Are available 24 hours per day and seven days per week.

40 (4) Facilitates the involvement of the child’s family, as defined in ORS 418.575, in the child’s
41 treatment program, to the extent appropriate and in the child’s best interests.

42 (5) Facilitates outreach to the child’s family, as defined in ORS 418.575, documents how outreach
43 is made and maintains contact information for any known biological relatives or fictive kin, as de-
44 fined by the department by rule.

45 (6) Documents how the program integrates family into the child’s treatment process, including

1 after discharge, and how sibling connections are maintained.

2 (7) Provides discharge planning and family-based after-care support for at least six months fol-
 3 lowing the child’s discharge from the program.

4 (8) Is licensed and accredited in accordance with requirements adopted by the department by
 5 rule. The rules adopted by the department under this subsection must:

6 (a) Be consistent with federal licensure and accreditation requirements for qualified residential
 7 treatment programs *[and]*;

8 (b) Require that the qualified residential treatment program maintain site-specific accreditation
 9 from a nationally recognized organization; **and**

10 (c) **Require an in-person site inspection.**

11 (9)(a) **Notwithstanding subsection (1) of this section, the Governor by executive order**
 12 **may permit online inspections of qualified residential treatment programs during a period**
 13 **of statewide emergency.**

14 (b) **If a license issued under this section is scheduled to expire during a period of state-**
 15 **wide emergency, the license may be extended for no more than six months. After six months**
 16 **the license may not be renewed until the department has conducted an in-person site in-**
 17 **spection of the qualified residential treatment program.**

18 (c) **As used in this subsection, “period of statewide emergency” means the period of time**
 19 **during which any declaration of a state of emergency under ORS 401.165, public health**
 20 **emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the**
 21 **Oregon Constitution, issued by the Governor, and any extension of the declaration, is in ef-**
 22 **fect.**

23 **SECTION 28. This 2021 Act being necessary for the immediate preservation of the public**
 24 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
 25 **on its passage.**

26 _____