

Senate Bill 703

Sponsored by Senator PATTERSON

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**.

Requires Department of Human Services and Oregon Health Authority to adopt quality metrics for caregiver registries, home health agencies, in-home care agencies and certain residential care facilities. Requires registries, agencies and facilities to annually report quality metrics and specified financial information to department and authority. Requires department and authority to post information reported by registries, agencies and facilities along with data published by Residential Care Quality Measurement Program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to community-based care providers; creating new provisions; amending ORS 443.446; and
3 declaring an emergency.

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

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

6 (a) **"Caregiver registry" means a private caregiver registry licensed under ORS 443.035.**

7 (b) **"Home health agency" means a private home health agency licensed under ORS**
8 **443.035.**

9 (c) **"In-home care agency" means a private in-home care agency licensed under ORS**
10 **443.315.**

11 (2) **No later than January 31 of each year, a caregiver registry, home health agency and**
12 **in-home care agency shall report to the Department of Human Services, in the form and**
13 **manner prescribed by the department, for the prior calendar year, the quality metrics de-**
14 **scribed in subsection (4) of this section and the following financial information:**

15 (a) **Revenue;**

16 (b) **Expenses;**

17 (c) **Net income or profit;**

18 (d) **Sources of income and percentage of income by payer source;**

19 (e) **For each position at the registry or agency, the average wage or salary for the**
20 **12-month period;**

21 (f) **The average number of employees, by job title, over the 12-month period;**

22 (g) **The total number of hours of direct care provided by each position; and**

23 (h) **Other information prescribed by the department that will enable the public to make**
24 **informed choices in selecting a caregiver registry, home health agency or in-home care**
25 **agency and to make comparisons to information that is publicly available through the Resi-**
26 **dential Care Quality Measurement Program.**

27 (3) **The department shall compile and aggregate the financial information reported under**
28 **subsection (2) of this section and make publicly available the following information regarding**

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 caregiver registries, home health agencies and in-home care agencies:

- 2 (a) The overall cost of care;
- 3 (b) The primary sources of income; and
- 4 (c) The average wage by job title.

5 (4) The department shall adopt quality metrics for caregiver registries, home health
6 agencies and in-home care agencies to promote quality care without unnecessarily burdening
7 caregiver registries, home health agencies and in-home care agencies. Quality metrics may
8 be based on the quality metrics developed by the Quality Measurement Council.

9 (5) The department shall make the information collected under this section publicly
10 available along with data published under ORS 443.446 (4) in a manner that allows the public
11 to compare caregiver registries, home health agencies and in-home care agencies and to
12 compare the data posted by the Oregon Health Authority under section 2 of this 2021 Act.

13 **SECTION 2.** (1) As used in this section, “residential care facility” has the meaning given
14 that term in ORS 443.400 (7)(a).

15 (2) No later than January 31 of each year, a residential care facility shall report to the
16 Oregon Health Authority, in the form and manner prescribed by the authority, for the prior
17 calendar year, the quality metrics described in subsection (4) of this section and the following
18 financial information:

- 19 (a) Revenue;
- 20 (b) Expenses;
- 21 (c) Net income or profit;
- 22 (d) Sources of income and percentage of income by payer source;
- 23 (e) For each position at the facility, the average wage or salary for the 12-month period;
- 24 (f) The average number of employees, by job title, over the 12-month period;
- 25 (g) The total number of hours of direct care provided by each position; and
- 26 (h) Other information prescribed by the authority that will enable the public to make

27 informed choices in selecting a residential care facility and to make comparisons to infor-
28 mation that is publicly available through the Residential Care Quality Measurement Pro-
29 gram.

30 (3) The authority shall compile and aggregate the financial information reported under
31 subsection (2) of this section and make publicly available the following information regarding
32 residential care facilities:

- 33 (a) The overall cost of care;
- 34 (b) The primary sources of income; and
- 35 (c) The average wage by job title.

36 (4) The authority shall adopt quality metrics for residential care facilities to promote
37 quality care without unnecessarily burdening residential care facilities. Quality metrics may
38 be based on the quality metrics developed by the Quality Measurement Council.

39 (5) The authority shall make the information collected under this section publicly avail-
40 able along with data published under ORS 443.446 (4) in a manner that allows the public to
41 compare residential care facilities and to compare the data posted by the Department of
42 Human Services under section 1 of this 2021 Act.

43 **SECTION 3.** ORS 443.446 is amended to read:

44 443.446. (1) The Residential Care Quality Measurement Program is established in the Depart-
45 ment of Human Services. Under the program, the department shall, no later than July 1 of each

1 year, publish an annual report, based on data reported by each residential care facility under sub-
2 section (2) of this section. Excluding data that identifies a resident, the report must include data
3 compilation, illustration and narratives to:

4 (a) Describe statewide patterns and trends that emerge from the data reported to the department
5 under subsection (2) of this section and compliance data maintained by the department;

6 (b) Identify residential care facilities that substantially failed to report data as required by this
7 section;

8 (c) Allow residential care facilities and the public to compare a residential care facility's per-
9 formance on each quality metric, by demographics, geographic region, facility type and other cate-
10 gories the department believes may be useful to consumers and facilities;

11 (d) Show trends in performance on each of the quality metrics;

12 (e) Identify patterns of performance by geographic regions and other categories the department
13 believes will be useful to consumers;

14 (f) Identify the number, severity and scope of regulatory violations by each geographic region;
15 and

16 (g) Show average timelines for surveys and for investigations of abuse or regulatory noncom-
17 pliance.

18 (2) Each residential care facility shall report, no later than January 31 of each year and in the
19 form and manner prescribed by the Quality Measurement Council established under ORS 443.447,
20 the following quality metrics for the prior calendar year, consistent with accepted professional
21 standards and excluding information that identifies a resident of the residential care facility:

22 (a) The residential care facility's retention of direct care staff;

23 (b) The number of resident falls in the residential care facility that result in physical injury;

24 (c) The incidence in the residential care facility of the use of antipsychotic medications for
25 nonstandard purposes;

26 (d) The residential care facility's compliance with staff training requirements;

27 (e) The results of an annual resident satisfaction survey conducted by an independent entity that
28 meets the requirements established by the Quality Measurement Council; and

29 (f) A quality metric recommended by the Quality Measurement Council that measures the qual-
30 ity of the resident experience.

31 (3) The department shall make available an annual report to each residential care facility that
32 reports quality metrics under subsection (2) of this section using data compilation, illustration and
33 narratives to allow the residential care facility to measure and compare its quality metrics over
34 time.

35 (4) The department shall make available to the public in a standard format and in plain language
36 the data reported by each residential care facility **under this section and section 2 of this 2021**
37 **Act and by caregiver registries, home health agencies and in-home care agencies under sec-**
38 **tion 1 of this 2021 Act**, excluding information that identifies a resident **or individual receiving**
39 **services**.

40 (5) The department shall, using moneys from the Quality Care Fund established under ORS
41 443.001:

42 (a) Develop online training modules to address the top two statewide issues identified by surveys
43 or reviews of residential care facilities during the previous year; and

44 (b) Post and regularly update the data used to prepare the report described in subsection (1) of
45 this section.

1 (6) The Quality Measurement Council, in consultation with the department, shall establish a
 2 uniform system for residential care facilities to report quality metrics as required by subsection (2)
 3 of this section. The system must:

4 (a) Allow for electronic reporting of data, to the greatest extent practicable; and

5 (b) Take into account and utilize existing data reporting systems used by residential care facil-
 6 ities.

7 (7)(a) Quality metric data reported to the department under this section may not be used as the
 8 basis for an enforcement action by the department nor may the data be disclosed to another agency
 9 for use in an enforcement or regulatory action.

10 (b) Quality metric data are not admissible as evidence in any civil action, including but not
 11 limited to judicial, administrative, arbitration or mediation proceedings.

12 (c) Quality metric data reported to the department are not subject to:

13 (A) Civil or administrative subpoena; or

14 (B) Discovery in connection with a civil action, including but not limited to judicial, adminis-
 15 trative, arbitration or mediation proceedings.

16 (8) Subsection (7) of this section does not:

17 (a) Exempt a residential care facility from complying with state law [*or*];

18 (b) Prohibit the department's use of quality metric data obtained from another source in the
 19 normal course of business or compliance activity; **or**

20 (c) **Prohibit the department from imposing a civil penalty or fine for failing to report**
 21 **quality metric data, for under-reporting quality metric data or from intentionally misrepre-**
 22 **senting quality metric data.**

23 **SECTION 4.** ORS 443.446, as amended by section 17, chapter 679, Oregon Laws 2017, is
 24 amended to read:

25 443.446. (1) The Residential Care Quality Measurement Program is established in the Depart-
 26 ment of Human Services. Under the program, the department shall, no later than July 1 of each
 27 year, publish an annual report, based on data reported by each residential care facility under sub-
 28 section (2) of this section. Excluding data that identifies a resident, the report must include data
 29 compilation, illustration and narratives to:

30 (a) Describe statewide patterns and trends that emerge from the data reported to the department
 31 under subsection (2) of this section and compliance data maintained by the department;

32 (b) Identify residential care facilities that substantially failed to report data as required by this
 33 section;

34 (c) Allow residential care facilities and the public to compare a residential care facility's per-
 35 formance on each quality metric, by demographics, geographic region, facility type and other cate-
 36 gories the department believes may be useful to consumers and facilities;

37 (d) Show trends in performance on each of the quality metrics;

38 (e) Identify patterns of performance by geographic regions and other categories the department
 39 believes will be useful to consumers;

40 (f) Identify the number, severity and scope of regulatory violations by each geographic region;
 41 and

42 (g) Show average timelines for surveys and for investigations of abuse or regulatory noncom-
 43 pliance.

44 (2) Each residential care facility shall report, no later than January 31 of each year and in the
 45 form and manner prescribed by the Quality Measurement Council established under ORS 443.447,

1 the quality metrics developed by the council under ORS 443.447.

2 (3) The department shall make available an annual report to each residential care facility that
3 reports quality metrics under subsection (2) of this section using data compilation, illustration and
4 narratives to allow the residential care facility to measure and compare its quality metrics over
5 time.

6 (4) The department shall make available to the public in a standard format and in plain language
7 the data reported by each residential care facility **under this section and under section 2 of this**
8 **2021 Act and by caregiver registries, home health agencies and in-home care agencies under**
9 **section 1 of this 2021 Act**, excluding information that identifies a resident **or individual receiving**
10 **services.**

11 (5) The department shall, using moneys from the Quality Care Fund established under ORS
12 443.001:

13 (a) Develop online training modules to address the top two statewide issues identified by surveys
14 or reviews of residential care facilities during the previous year; and

15 (b) Post and regularly update the data used to prepare the report described in subsection (1) of
16 this section.

17 (6) The Quality Measurement Council, in consultation with the department, shall establish a
18 uniform system for residential care facilities to report quality metrics as required by subsection (2)
19 of this section. The system must:

20 (a) Allow for electronic reporting of data, to the greatest extent practicable; and

21 (b) Take into account and utilize existing data reporting systems used by residential care facil-
22 ities.

23 (7)(a) Quality metric data reported to the department under this section may not be used as the
24 basis for an enforcement action by the department nor may the data be disclosed to another agency
25 for use in an enforcement or regulatory action.

26 (b) Quality metric data are not admissible as evidence in any civil action, including but not
27 limited to judicial, administrative, arbitration or mediation proceedings.

28 (c) Quality metric data reported to the department are not subject to:

29 (A) Civil or administrative subpoena; or

30 (B) Discovery in connection with a civil action, including but not limited to judicial, adminis-
31 trative, arbitration or mediation proceedings.

32 (8) Subsection (7) of this section does not:

33 (a) Exempt a residential care facility from complying with state law [*or*];

34 (b) Prohibit the department's use of quality metric data obtained from another source in the
35 normal course of business or compliance activity; **or**

36 (c) **Prohibit the department from imposing a civil penalty or fine for failing to report**
37 **quality metric data, for under-reporting quality metric data or from intentionally misrepres-**
38 **enting quality metric data.**

39 **SECTION 5. (1) The Department of Human Services and the Oregon Health Authority**
40 **shall adopt quality metrics and reporting requirements under sections 1 and 2 of this 2021**
41 **Act for reporting information for calendar year 2022 no later than January 2, 2022.**

42 **(2) The first report by a caregiver registry, home health agency and residential care fa-**
43 **cility under sections 1 and 2 of this 2021 Act is due by January 31, 2023.**

44 **SECTION 6. The amendments to ORS 443.446 by sections 3 and 4 of this 2021 Act become**
45 **operative on January 2, 2023.**

1 **SECTION 7. This 2021 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
3 **on its passage.**

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