

**A-Engrossed**  
**Senate Bill 86**

Ordered by the Senate April 1  
Including Senate Amendments dated April 1

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Department of Human Services)

**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.

Authorizes licensing agency to **revoke, suspend, impose conditions on or refuse to renew license to operate residential training facility or residential training home under specified conditions** and to consider performance and experience of applicant or licensee in other states or jurisdictions. Requires agency to adopt rules for imposition of conditions.

**A BILL FOR AN ACT**

1  
2 Relating to licensing of residential facilities; creating new provisions; and amending ORS 443.420,  
3 443.421 and 443.425.

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

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 443.400 to**  
6 **443.455.**

7 **SECTION 2. (1) The Department of Human Services or the Oregon Health Authority may**  
8 **revoke, suspend or impose conditions on the license of any residential training facility or**  
9 **residential training home based on criteria adopted by the licensing agency by rule, including**  
10 **but not limited to when:**

11 (a) **There exists a threat to the health, safety or welfare of a resident;**

12 (b) **There is reliable evidence of abuse, neglect or exploitation of a resident; or**

13 (c) **The facility or home is out of compliance with ORS 443.002 or 443.400 to 443.455 or the**  
14 **rules of the licensing agency.**

15 (2) **In cases where an imminent danger to the health or safety of the residents exists, a**  
16 **license may be suspended immediately.**

17 **SECTION 3. ORS 443.420 is amended to read:**

18 443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the di-  
19 rector of the licensing agency, be a person:

20 (a) Who demonstrates an understanding and acceptance of the rules governing residential facil-  
21 ities;

22 (b) Mentally and physically capable of caring for such residents; and

23 (c) Who employs or utilizes only individuals whose presence does not jeopardize the health,  
24 safety or welfare of residents.

25 (2) A residential facility may not be operated or maintained in combination with a nursing home  
26 or hospital unless:

**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 (a) The residential facility is licensed, maintained and operated as a separate and distinct part;  
2 or

3 (b) The residential facility is licensed as a conversion facility under ORS 443.431.

4 (3) All physical residential facilities used for residents must meet applicable requirements of the  
5 State Fire Marshal.

6 (4) As of the date of licensure, a residential facility must be in substantial compliance with ap-  
7 plicable state and local laws, rules, codes, ordinances and permit requirements.

8 (5) Prior to licensure, a residential facility that proposes to house persons under the age of 21  
9 years shall submit written proof to the licensing agency demonstrating that the facility will:

10 (a) Comply with ORS 336.575; and

11 (b) Ensure that the children who reside at the residential facility receive appropriate educa-  
12 tional services that are:

13 (A) Comprehensive and age-appropriate;

14 (B) In compliance with requirements of state and federal law; and

15 (C) If applicable, in compliance with the individual education program of the child.

16 (6) Prior to an initial licensure of a residential care facility, the licensing agency shall consider:

17 (a) The license applicant's history of regulatory compliance and operational experience;

18 (b) The willingness of the license applicant to serve underserved populations; and

19 (c) The willingness of the license applicant to contract with the licensing agency to provide  
20 services through the state medical assistance program.

21 (7)(a) The licensing agency may not issue an initial license to a residential care facility if the  
22 facility has not conducted a market study that assesses the need for the services offered by the fa-  
23 cility in the geographic area served by the facility.

24 (b) This subsection does not apply to a conversion facility licensed under ORS 443.431.

25 **(8) Prior to the issuance of an initial license to a residential training facility or a resi-**  
26 **dential training home, and upon an application for a renewal of a license of a residential**  
27 **training facility or a residential training home, the licensing agency shall consider the license**  
28 **applicant's history of regulatory and safety compliance and operational experience in this**  
29 **state or any other jurisdiction as prescribed by rule by the licensing agency.**

30 **SECTION 4.** ORS 443.421 is amended to read:

31 443.421. (1) Except as provided in subsection (2) of this section [*for residential care facilities*], the  
32 Department of Human Services or the Oregon Health Authority may revoke or suspend the license  
33 of any residential **care** facility that is not operated in accordance with ORS 443.002 or 443.400 to  
34 443.455 or the rules of the licensing agency. Such revocation or suspension must be taken in ac-  
35 cordance with rules of the licensing agency and ORS chapter 183. However, in cases where an im-  
36 mminent danger to the health or safety of the residents exists, a license may be suspended  
37 immediately pending a fair hearing not later than the 10th day after such suspension.

38 (2)(a) In a case where an imminent danger to the health or safety of the residents exists, a res-  
39 idential care facility license may be suspended immediately.

40 (b) The residential care facility is entitled to a contested case hearing to appeal an order of  
41 immediate suspension in accordance with procedures adopted by the Department of Justice by rule  
42 concerning emergency license suspensions.

43 (c) When the Department of Human Services issues an immediate suspension order under this  
44 subsection, the department may:

45 (A) Transition all residents of the residential care facility to other residential facilities; or

1 (B) Appoint a management company with demonstrated skill and experience in operating resi-  
2 dential facilities to manage the residential care facility and care for the residents of the facility. If  
3 the facility is unable to pay for the appointed management company, the department shall use funds  
4 from the facility trustee account fund to cover the cost.

5 **SECTION 5.** ORS 443.425, as amended by section 6, chapter 592, Oregon Laws 2019, is amended  
6 to read:

7 443.425. (1) Licensure under ORS 443.415 is effective for two years from the date of issue unless  
8 sooner revoked. Each license shall state:

9 (a) The name of the person operating the residential facility;

10 (b) The name of the person who owns the residential facility **and, for a residential training**  
11 **facility or a residential training home, all persons with an ownership interest of five percent**  
12 **or more;**

13 (c) The address of the premises to which the license applies and the maximum number of resi-  
14 dents to be maintained in the residential facility at any time whether the residential facility is li-  
15 censed as a residential training facility, a residential treatment facility, a residential care facility,  
16 a residential training home or residential treatment home; and

17 (d) Other information that the Department of Human Services or the Oregon Health Authority  
18 considers necessary.

19 (2) A license is renewable upon submission of an application to the department or the authority  
20 and payment of a renewal fee. No fee is required of a governmentally operated residential facility.  
21 Filing of an application for renewal before the date of expiration of a license extends the effective  
22 date of expiration of the license until the licensing agency has acted upon the application. The li-  
23 censing agency shall refuse to renew a license if:

24 (a) The facility is not substantially in compliance with all applicable laws and rules;

25 (b) For a residential care facility, the facility has failed an inspection of the kitchen or other  
26 areas where food is prepared for residents that was conducted by the department in accordance with  
27 ORS 443.417, except as provided in ORS 443.417 (2); or

28 (c) The State Fire Marshal, deputy or approved authority has given notice of noncompliance of  
29 a residential care facility, residential training facility or residential treatment facility pursuant to  
30 ORS 479.220.

31 (3)(a) The biennial renewal fee for a residential training facility or a residential treatment fa-  
32 cility is \$60.

33 (b) The biennial renewal fee for a residential training home is \$50.

34 (c) The biennial renewal fee for a residential treatment home is \$30.

35 (d) The biennial renewal fee for a residential care facility is:

36 (A) For a facility with one to 15 beds, \$1,000.

37 (B) For a facility with 16 to 49 beds, \$1,500.

38 (C) For a facility with 50 to 99 beds, \$2,000.

39 (D) For a facility with 100 to 150 beds, \$2,500.

40 (E) For a facility with more than 150 beds, \$3,000.

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