

SENATE AMENDMENTS TO SENATE BILL 86

By COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH AND RECOVERY

April 1

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; and amending ORS 443.420, 443.421 and”.

3 Delete lines 5 through 30 and delete pages 2 and 3.

4 On page 4, delete lines 1 through 35 and insert:

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**
8 **may revoke, suspend or impose conditions on the license of any residential training facility**
9 **or residential training home based on criteria adopted by the licensing agency by rule, in-**
10 **cluding 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**
14 **the rules of the licensing agency.**

15 **“(2) In cases where an imminent danger to the health or safety of the residents exists,**
16 **a 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**
19 **director of the licensing agency, be a person:**

20 **“(a) Who demonstrates an understanding and acceptance of the rules governing residential fa-**
21 **cilities;**

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**
26 **home or hospital unless:**

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

29 **“(b) The residential facility is licensed as a conversion facility under ORS 443.431.**

30 **“(3) All physical residential facilities used for residents must meet applicable requirements of**
31 **the State Fire Marshal.**

32 **“(4) As of the date of licensure, a residential facility must be in substantial compliance with**
33 **applicable state and local laws, rules, codes, ordinances and permit requirements.**

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

1 “(a) Comply with ORS 336.575; and
2 “(b) Ensure that the children who reside at the residential facility receive appropriate educa-
3 tional services that are:
4 “(A) Comprehensive and age-appropriate;
5 “(B) In compliance with requirements of state and federal law; and
6 “(C) If applicable, in compliance with the individual education program of the child.
7 “(6) Prior to an initial licensure of a residential care facility, the licensing agency shall con-
8 sider:
9 “(a) The license applicant’s history of regulatory compliance and operational experience;
10 “(b) The willingness of the license applicant to serve underserved populations; and
11 “(c) The willingness of the license applicant to contract with the licensing agency to provide
12 services through the state medical assistance program.
13 “(7)(a) The licensing agency may not issue an initial license to a residential care facility if the
14 facility has not conducted a market study that assesses the need for the services offered by the fa-
15 cility in the geographic area served by the facility.
16 “(b) This subsection does not apply to a conversion facility licensed under ORS 443.431.
17 **“(8) Prior to the issuance of an initial license to a residential training facility or a resi-
18 dential training home, and upon an application for a renewal of a license of a residential
19 training facility or a residential training home, the licensing agency shall consider the license
20 applicant’s history of regulatory and safety compliance and operational experience in this
21 state or any other jurisdiction as prescribed by rule by the licensing agency.**
22 **“SECTION 4.** ORS 443.421 is amended to read:
23 “443.421. (1) Except as provided in subsection (2) of this section [*for residential care facilities*],
24 the Department of Human Services or the Oregon Health Authority may revoke or suspend the li-
25 cense of any residential **care** facility that is not operated in accordance with ORS 443.002 or 443.400
26 to 443.455 or the rules of the licensing agency. Such revocation or suspension must be taken in ac-
27 cordance with rules of the licensing agency and ORS chapter 183. However, in cases where an im-
28 minent danger to the health or safety of the residents exists, a license may be suspended
29 immediately pending a fair hearing not later than the 10th day after such suspension.
30 “(2)(a) In a case where an imminent danger to the health or safety of the residents exists, a
31 residential care facility license may be suspended immediately.
32 “(b) The residential care facility is entitled to a contested case hearing to appeal an order of
33 immediate suspension in accordance with procedures adopted by the Department of Justice by rule
34 concerning emergency license suspensions.
35 “(c) When the Department of Human Services issues an immediate suspension order under this
36 subsection, the department may:
37 “(A) Transition all residents of the residential care facility to other residential facilities; or
38 “(B) Appoint a management company with demonstrated skill and experience in operating resi-
39 dential facilities to manage the residential care facility and care for the residents of the facility. If
40 the facility is unable to pay for the appointed management company, the department shall use funds
41 from the facility trustee account fund to cover the cost.”.
42 In line 41, after “and” insert “, for a residential training facility or a residential training
43 home,”.
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