

SB 86-2  
(LC 369)  
2/23/21 (LHF/ps)

Requested by SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH AND RECOVERY

**PROPOSED AMENDMENTS TO  
SENATE BILL 86**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest  
2 of the line and insert “creating new provisions; and amending ORS 443.420,  
3 443.421 and”.

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

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

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

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

13 **“(a) There exists a threat to the health, safety or welfare of a resi-  
14 dent;**

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

17 **“(c) The facility or home is out of compliance with ORS 443.002 or  
18 443.400 to 443.455 or the rules of the licensing agency.**

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

21 **“SECTION 3. ORS 443.420 is amended to read:**

1 “443.420. (1) A person applying for a license under ORS 443.415 must, in  
2 the judgment of the director of the licensing agency, be a person:

3 “(a) Who demonstrates an understanding and acceptance of the rules  
4 governing residential facilities;

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

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

8 “(2) A residential facility may not be operated or maintained in combi-  
9 nation with a nursing home or hospital unless:

10 “(a) The residential facility is licensed, maintained and operated as a  
11 separate and distinct part; or

12 “(b) The residential facility is licensed as a conversion facility under ORS  
13 443.431.

14 “(3) All physical residential facilities used for residents must meet appli-  
15 cable requirements of the State Fire Marshal.

16 “(4) As of the date of licensure, a residential facility must be in substan-  
17 tial compliance with applicable state and local laws, rules, codes, ordinances  
18 and permit requirements.

19 “(5) Prior to licensure, a residential facility that proposes to house per-  
20 sons under the age of 21 years shall submit written proof to the licensing  
21 agency demonstrating that the facility will:

22 “(a) Comply with ORS 336.575; and

23 “(b) Ensure that the children who reside at the residential facility receive  
24 appropriate educational services that are:

25 “(A) Comprehensive and age-appropriate;

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

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

29 “(6) Prior to an initial licensure of a residential care facility, the licens-  
30 ing agency shall consider:

1 “(a) The license applicant’s history of regulatory compliance and opera-  
2 tional experience;

3 “(b) The willingness of the license applicant to serve underserved popu-  
4 lations; and

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

7 “(7)(a) The licensing agency may not issue an initial license to a resi-  
8 dential care facility if the facility has not conducted a market study that  
9 assesses the need for the services offered by the facility in the geographic  
10 area served by the facility.

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

13 **“(8) Prior to the issuance of an initial license to a residential**  
14 **training facility or a residential training home, and upon an applica-**  
15 **tion for a renewal of a license of a residential training facility or a**  
16 **residential training home, the licensing agency shall consider the li-**  
17 **cence applicant’s history of regulatory and safety compliance and op-**  
18 **erational experience in this state or any other jurisdiction as**  
19 **prescribed by rule by the licensing agency.**

20 **“SECTION 4.** ORS 443.421 is amended to read:

21 “443.421. (1) Except as provided in subsection (2) of this section [*for resi-*  
22 *dential care facilities*], the Department of Human Services or the Oregon  
23 Health Authority may revoke or suspend the license of any residential **care**  
24 facility that is not operated in accordance with ORS 443.002 or 443.400 to  
25 443.455 or the rules of the licensing agency. Such revocation or suspension  
26 must be taken in accordance with rules of the licensing agency and ORS  
27 chapter 183. However, in cases where an imminent danger to the health or  
28 safety of the residents exists, a license may be suspended immediately pend-  
29 ing 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

1 residents exists, a residential care facility license may be suspended imme-  
2 diately.

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

7 “(c) When the Department of Human Services issues an immediate sus-  
8 pension order under this subsection, the department may:

9 “(A) Transition all residents of the residential care facility to other resi-  
10 dential facilities; or

11 “(B) Appoint a management company with demonstrated skill and expe-  
12 rience in operating residential facilities to manage the residential care fa-  
13 cility and care for the residents of the facility. If the facility is unable to  
14 pay for the appointed management company, the department shall use funds  
15 from the facility trustee account fund to cover the cost.”.

16 In line 41, after “and” insert “, for a residential training facility or a  
17 residential training home,”.

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