

Requested by Senator PATTERSON

**PROPOSED AMENDMENTS TO
SENATE BILL 703**

1 On page 1 of the printed bill, line 2, after “443.446” insert “and 443.447”.

2 Delete lines 5 through 28.

3 Delete pages 2 through 6 and insert:

4 **“SECTION 1. (1) As used in this section, ‘residential care facility’**
5 **has the meaning given that term in ORS 443.400 (7)(a).**

6 **“(2) No later than January 31 of each year, a residential care facility**
7 **shall report to the Department of Human Services, in the form and**
8 **manner prescribed by the department, for the prior calendar year, the**
9 **quality metrics described in subsection (4) of this section and the fol-**
10 **lowing financial information:**

11 **“(a) Revenue;**

12 **“(b) Expenses;**

13 **“(c) Net income or profit;**

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

15 **“(e) For each position at the facility, the average wage or salary for**
16 **the 12-month period;**

17 **“(f) The average number of employees, by job title, over the**
18 **12-month period;**

19 **“(g) The total number of hours of direct care provided by each po-**
20 **sition; and**

21 **“(h) Other information prescribed by the department that will ena-**

1 ble the public to make informed choices in selecting a residential care
2 facility and to make comparisons to information that is publicly
3 available through the Residential Care Quality Measurement Program.

4 “(3) The department shall compile and aggregate the financial in-
5 formation reported under subsection (2) of this section and make
6 publicly available the following information regarding residential care
7 facilities:

8 “(a) The overall cost of care;

9 “(b) The primary sources of income; and

10 “(c) The average wage by job title.

11 “(4) The department shall adopt quality metrics for residential care
12 facilities to promote quality care without unnecessarily burdening
13 residential care facilities. Quality metrics may be based on the quality
14 metrics developed by the Quality Measurement Council.

15 “(5) The department shall make the information collected under
16 this section publicly available along with data published under ORS
17 443.446 (4) in a manner that allows the public to compare residential
18 care facilities.

19 “SECTION 2. ORS 443.446 is amended to read:

20 “443.446. (1) The Residential Care Quality Measurement Program is es-
21 tablished in the Department of Human Services. Under the program, the de-
22 partment shall, no later than July 1 of each year, publish an annual report,
23 based on data reported by each residential care facility under subsection (2)
24 of this section. Excluding data that identifies a resident, the report must
25 include data compilation, illustration and narratives to:

26 “(a) Describe statewide patterns and trends that emerge from the data
27 reported to the department under subsection (2) of this section and compli-
28 ance data maintained by the department;

29 “(b) Identify residential care facilities that substantially failed to report
30 data as required by this section;

1 “(c) Allow residential care facilities and the public to compare a resi-
2 dential care facility’s performance on each quality metric, by demographics,
3 geographic region, facility type and other categories the department believes
4 may be useful to consumers and facilities;

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

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

8 “(f) Identify the number, severity and scope of regulatory violations by
9 each geographic region; and

10 “(g) Show average timelines for surveys and for investigations of abuse
11 or regulatory noncompliance.

12 “(2) Each residential care facility shall report, no later than January 31
13 of each year and in the form and manner prescribed by the Quality Meas-
14 urement Council established under ORS 443.447, the following quality met-
15 rics for the prior calendar year, consistent with accepted professional
16 standards and excluding information that identifies a resident of the resi-
17 dential care facility:

18 “(a) The residential care facility’s retention of direct care staff;

19 “(b) The number of resident falls in the residential care facility that re-
20 sult in physical injury;

21 “(c) The incidence in the residential care facility of the use of antipsy-
22 chotic medications for nonstandard purposes;

23 “(d) The residential care facility’s compliance with staff training re-
24 quirements;

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

28 “(f) A quality metric recommended by the Quality Measurement Council
29 that measures the quality of the resident experience.

30 “(3) The department shall make available an annual report to each resi-

1 residential care facility that reports quality metrics under subsection (2) of this
2 section using data compilation, illustration and narratives to allow the res-
3 idential care facility to measure and compare its quality metrics over time.

4 “(4) The department shall make available to the public in a standard
5 format and in plain language the data reported by each residential care fa-
6 cility **under this section and section 1 of this 2021 Act**, excluding infor-
7 mation that identifies a resident **or individual receiving services**.

8 “(5) The department shall, using moneys from the Quality Care Fund es-
9 tablished under ORS 443.001:

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

13 “(b) Post and regularly update the data used to prepare the report de-
14 scribed in subsection (1) of this section.

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

19 “(a) Allow for electronic reporting of data, to the greatest extent practi-
20 cable; and

21 “(b) Take into account and utilize existing data reporting systems used
22 by residential care facilities.

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

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

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

1 “(A) Civil or administrative subpoena; or

2 “(B) Discovery in connection with a civil action, including but not limited
3 to judicial, administrative, arbitration or mediation proceedings.

4 “(8) Subsection (7) of this section does not:

5 “(a) Exempt a residential care facility from complying with state law
6 [or];

7 “(b) Prohibit the department’s use of quality metric data obtained from
8 another source in the normal course of business or compliance activity; or

9 “(c) **Prohibit the department from imposing a civil penalty or fine**
10 **for failing to report quality metric data, for underreporting quality**
11 **metric data or for intentionally misrepresenting quality metric data.**

12 “**SECTION 3.** ORS 443.446, as amended by section 17, chapter 679, Oregon
13 Laws 2017, is amended to read:

14 “443.446. (1) The Residential Care Quality Measurement Program is es-
15 tablished in the Department of Human Services. Under the program, the de-
16 partment shall, no later than July 1 of each year, publish an annual report,
17 based on data reported by each residential care facility under subsection (2)
18 of this section. Excluding data that identifies a resident, the report must
19 include data compilation, illustration and narratives to:

20 “(a) Describe statewide patterns and trends that emerge from the data
21 reported to the department under subsection (2) of this section and compli-
22 ance data maintained by the department;

23 “(b) Identify residential care facilities that substantially failed to report
24 data as required by this section;

25 “(c) Allow residential care facilities and the public to compare a resi-
26 dential care facility’s performance on each quality metric, by demographics,
27 geographic region, facility type and other categories the department believes
28 may be useful to consumers and facilities;

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

30 “(e) Identify patterns of performance by geographic regions and other

1 categories the department believes will be useful to consumers;

2 “(f) Identify the number, severity and scope of regulatory violations by
3 each geographic region; and

4 “(g) Show average timelines for surveys and for investigations of abuse
5 or regulatory noncompliance.

6 “(2) Each residential care facility shall report, no later than January 31
7 of each year and in the form and manner prescribed by the Quality Meas-
8 urement Council established under ORS 443.447, the quality metrics devel-
9 oped by the council under ORS 443.447.

10 “(3) The department shall make available an annual report to each resi-
11 dential care facility that reports quality metrics under subsection (2) of this
12 section using data compilation, illustration and narratives to allow the res-
13 idential care facility to measure and compare its quality metrics over time.

14 “(4) The department shall make available to the public in a standard
15 format and in plain language the data reported by each residential care fa-
16 cility **under this section and under section 1 of this 2021 Act**, excluding
17 information that identifies a resident **or individual receiving services**.

18 “(5) The department shall, using moneys from the Quality Care Fund es-
19 tablished under ORS 443.001:

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

23 “(b) Post and regularly update the data used to prepare the report de-
24 scribed in subsection (1) of this section.

25 “(6) The Quality Measurement Council, in consultation with the depart-
26 ment, shall establish a uniform system for residential care facilities to report
27 quality metrics as required by subsection (2) of this section. The system
28 must:

29 “(a) Allow for electronic reporting of data, to the greatest extent practi-
30 cable; and

1 “(b) Take into account and utilize existing data reporting systems used
2 by residential care facilities.

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

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

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

11 “(A) Civil or administrative subpoena; or

12 “(B) Discovery in connection with a civil action, including but not limited
13 to judicial, administrative, arbitration or mediation proceedings.

14 “(8) Subsection (7) of this section does not:

15 “(a) Exempt a residential care facility from complying with state law
16 [or];

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

19 “(c) **Prohibit the department from imposing a civil penalty or fine**
20 **for failing to report quality metric data, for underreporting quality**
21 **metric data or for intentionally misrepresenting quality metric data.**

22 “**SECTION 4.** ORS 443.447 is amended to read:

23 “443.447. (1) The Quality Measurement Council is established in the De-
24 partment of Human Services to prescribe how the department shall imple-
25 ment the Residential Care Quality Measurement Program established under
26 ORS 443.446.

27 “(2) The council consists of [*eight*] **10** members, appointed by the Gover-
28 nor, as follows:

29 “(a) One individual representing the Oregon Patient Safety Commission;

30 “(b) One individual representing residential care facilities;

1 “(c) One consumer representative from an Alzheimer’s advocacy organ-
2 ization;

3 “(d) One licensed health care practitioner with experience in geriatrics;

4 “(e) Two individuals associated with an academic institution who have
5 expertise in research using data and analytics and in community-based care
6 and quality reporting;

7 “(f) The Long Term Care Ombudsman or a designee of the Long Term
8 Care Ombudsman; *[and]*

9 “(g) One individual representing the department; **and**

10 **“(h) Two representatives from labor unions that represent direct**
11 **care workers.**

12 “(3)(a) On and after January 1, 2022, the council may update by rule the
13 quality metrics to be reported by residential care facilities under ORS
14 443.446.

15 “(b) In developing quality metrics the council shall consider whether the
16 data that must be reported reflect and promote quality care and whether
17 reporting the data is unnecessarily burdensome on residential care facilities.

18 **“SECTION 5. The Department of Human Services shall adopt qual-**
19 **ity metrics and reporting requirements under section 1 of this 2021 Act**
20 **for reporting information for calendar year 2022 no later than January**
21 **2, 2022.**

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

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

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