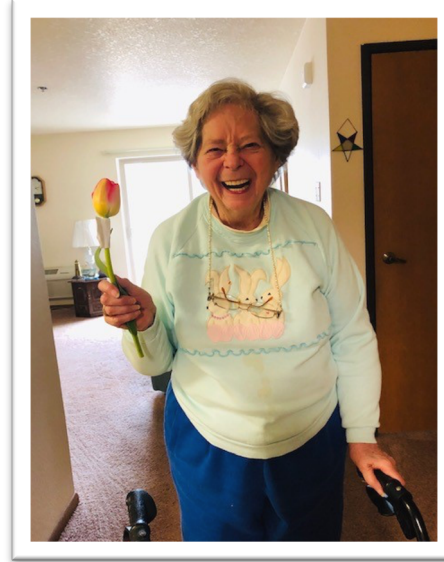


SB 714



March 18, 2021

Senate Committee on Human Services, Mental Health and Recovery

Current Staffing Requirements

Community-based care providers are held to strong staffing standards under Oregon Regulations

- Facilities must have qualified awake direct care staff, sufficient in number to meet the 24-hour scheduled and unscheduled needs of each resident. ODHS has authority to enforce this standard.
- A minimum number of licensed nursing hours based on resident census and acuity.
- Requirements for adequate caregivers and staff to meet fire safety evacuation standards. The State Fire Marshal may also deem additional staffing to be necessary based on the building layout.
- The facility must have a written, defined system to determine appropriate staffing levels.
- The facility must assure that staffing is increased to compensate for the evaluated care and service needs of residents and for their changing physical or behavioral needs.
- Ancillary staff such as the administrator, RN, housekeepers, maintenance, clerical and food preparation personnel are required, but cannot be included in the caregiver status.
- In facilities with two or more detached buildings, a designated caregiver must be awake and available in each area at all times.

Current Accountability for Staffing Levels

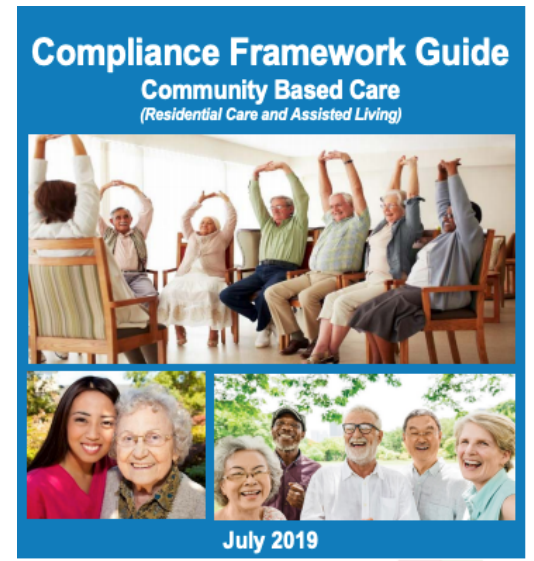
ODHS has enforcement mechanisms to correct staffing in long term care communities.

- OHDS can review the provider's staffing plan during licensing surveys, complaint surveys and during abuse investigations.
- ODHS may require increased staffing following a complaint investigation or survey inspection under a corrective action plan or condition on license.

12 facilities received correction action by ODHS in the last 90 days

Six required mandated staff training

Six required changes to the provider's staffing plan



Safety, Oversight and Quality Unit
Aging and People with Disabilities



Recent Reforms to Improve Staffing

HB 3359 (2017) and HB 4129 (2018) implemented reforms

- Increased licensing fees and civil monetary penalties
- Added a \$1,000 fine for failure to report potential abuse
- Increased caregiver training on dementia and Alzheimer's
- Changes to regulatory enforcement and training requirements and a Compliance Framework
- Established the **Enhanced Oversight and Supervision Program** for underperforming providers
- Established the **Residential Care Quality Metrics Program** to compare performance (staff retention and consumer satisfaction).
- Directed ODHS to provide a technology, based acuity tool to providers and to use the tool in evaluating staffing levels
- Administrator licensure requirement for CBC

79th OREGON LEGISLATIVE ASSEMBLY—2017 Regular Session

Enrolled House Bill 3359

Sponsored by Representatives MCKEOWN, KENY-GUYER, Senators KRUSE, GELSE, KNOPP, Representatives ALONSO, LEON, BYNUM, ESQUIVEL, EVANS, FAHEY, GOMBERG, LININGER, MALSTROM, MCLAIN, MEEK, NOBLE, OLSON, RAYFIELD, SMITH, G, SOLLMAN, WILLIAMSON, Senators DEMBROW, MONNES ANDERSON, ROBLAN

CHAPTER _____

AN ACT

Relating to long term care; creating new provisions; amending ORS 409.720, 430.216, 441.020, 441.303, 441.367, 441.408, 441.630, 441.637, 441.680, 441.710, 441.715, 441.745, 443.400, 443.415, 443.420, 443.425, 443.440, 443.452, 443.455, 443.760, 443.775 and 443.886 and section 1, chapter 441, Oregon Laws 2017 (Enrolled Senate Bill 58); and repealing ORS 441.966 and 443.885.

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

LEGISLATIVE FINDINGS

SECTION 1. (1) The Legislative Assembly finds that:
(a) Residents of Oregon's community-based care facilities are valued citizens of this state and deserve to live lives of autonomy and dignity; and
(b) Support and training for those who serve these valued citizens are important to ensuring that these valued citizens are able to live the lives they deserve.
(2) The Legislative Assembly finds and declares that it is the policy of this state to:
(a) Promote the autonomy of residents of Oregon's community-based care facilities and accord them honor, dignity and the ability to choose freely how they live their lives so as to encourage maximum independence and fulfillment; and
(b) Ensure that administrators of residential care facilities, which include assisted living and memory care facilities, are licensed by an independent board no later than July 1, 2019.

CIVIL PENALTIES

SECTION 2. Sections 3 to 5 of this 2017 Act are added to and made a part of ORS 441.705 to 441.765.

SECTION 3. In regulating residential care facilities and long term care facilities, the Department of Human Services shall, whenever possible, use a progressive enforcement process that employs a series of actions to encourage and compel compliance with licensing regulations through the application of preventive, positive and progressively more restrictive strategies. Preventive and positive strategies are strategies that include but are not limited to technical assistance, corrective action plans, training and consultation.

Fiscal Climate and Impacts of SB 714

- There is an acute workforce shortage in long term care made worse by COVID and school closures. One provider with communities in Oregon and Washington shared with me that they currently have 100 vacancies.
- Wages have risen over the past 5 years by roughly 40% and will continue to do so as the minimum wage pushes the base wage up in Oregon.
- **COVID has led to resident census declines of 10-20%, and significant increased costs of care for PPE, labor and other COVID-related expenses.**
- The cost of SB 714 staffing levels would be significant and increase private pay rates for fixed income seniors
- SB 714 staffing levels are simply not possible under current Medicaid reimbursement rates and would need to be increased substantially.

Fiscal Impact of SB 714

Provider Cost Impact:

Two real life estimates of how the minimum staffing ratios in SB 714 would impact the cost of care.

	Annual New Cost*	Total New FTEs Required
Organization A - smaller	\$1,380,000	22
Organization B - larger	\$4,976,400	117

*Assumes staff ratios in SB 714 for Memory Care Communities only.

Consumer Cost Impact:

An estimate of the increase in private pay rates is \$400 to \$1,000 per month. Medicaid rate increases would need increase significantly.

Potential Options to Improve Staffing

- Increase **Medicaid reimbursement rates**, currently matched 8 to 1 by the Federal government under the American Rescue Plan Act of 2021.
- **Value-based payment** program under Medicaid that **ties higher reimbursement to outcomes around staffing metrics**.
- During licensing surveys, **OHDS surveyors should be required to review staffing plans and acuity-based staffing calculations** to ensure accountability for compliance.
- Review the corrective action data to look for trends and identify the scope of the problem and ensure that ODHS has the resources it needs to perform its oversight and enforcement role.
- Invest in **Long term workforce programs**, including tax credits and financial aid that incentivizes caregivers, RNs, and CNAs to work in long term care.
- Establish a **statutory deadline** for full completion of the state's acuity tool.

Thank You & Questions