

SB 739 A STAFF MEASURE SUMMARY

Senate Committee On Human Services

Action Date: 04/09/25

Action: Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

Vote: 3-2-0-0

Yeas: 3 - Gelser Blouin, Prozanski, Reynolds

Nays: 2 - Linthicum, Nash

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/18, 4/1, 4/3, 4/9

WHAT THE MEASURE DOES:

The measure modifies the requirements and procedures for the Department of Human Services (ODHS) to enforce regulations and investigate reported licensing violations and other deficiencies in residential care facilities and memory care facilities. The measure modifies the processes for ODHS and the Oregon Health Authority (OHA) to inspect and issue licenses for residential facilities and adult foster homes. The measure requires facilities to notify certain persons and entities about regulatory actions and abuse findings. The measure specifies additional requirements for memory care endorsements.

Detailed Summary:

Complaint Investigations (Section 1)

- Modifies requirements for ODHS to respond to a complaint of a licensing violation in a residential care facility or memory care facility.
- Requires ODHS to begin an on-site investigation within 24 hours or the end of the next business for a complaint that alleges a licensing violation resulting in death, serious harm, or serious physical injury.
- Requires the ODHS investigator to
 - assess whether a facility has sufficient staff only if the complaint is related to insufficient staffing,
 - privately interview all available witnesses related to the complaint, and
 - determine whether any observed licensing violations warrant the initiation of a new, separate investigation.
- Clarifies that a complaint investigation may occur alongside a separate adult protective services investigation.
- Requires ODHS to inform the Long Term Care Ombudsman (LTCO), the facility, and the complainant within 90 days of initiating an investigation into a licensing violation.
- Requires ODHS, upon finding a substantiated violation, to
 - notify LTCO and the facility about the investigation's findings and any enforcement action taken and
 - provide LTCO and the facility with a redacted summary report of the investigation's findings, specifies required report content
- Requires a facility to provide notice of a substantiated finding within 72 hours of receiving the summary report to all residents and any designated contact persons if certain conditions are met.
- Specifies additional requirements for a facility if ODHS has imposed a licensing condition that includes a restriction on admissions.
- Applies to complaints submitted on or after the measure's effective date.

Exceptions to Licensing Requirements (Section 3)

- Prohibits ODHS from granting a request for an exception to statutory licensing requirements without explicit statutory authorization to exempt or temporarily modify a licensing requirement due to a state of emergency.

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- Requires ODHS to notify LTCO of any exception requests that ODHS intends to approve seven days before the exception takes effect and to notify relevant legislative committees twice per year.
- Applies to requests for exceptions made on or after the measure's effective date.

Technical Assistance for Facilities (Section 4)

- Directs ODHS to adopt rules that establish procedures for increased communication and technical assistance between the department and a residential care facility whose administrator changes more than three times in two years.

Information Provided Upon Admission and Application for Admission (Sections 5 & 13)

- Requires a residential care facility, upon admitting a resident to a facility, to obtain information about residents' designated contact persons who will be notified about licensing violations, abuse findings, and the facility's placement in enhanced oversight, unless the resident or their guardian or legal representatives waives this provision.
- Requires a residential care facility, upon receiving an application from a prospective resident or their representative, to provide a summary explanation of the licensing and survey process provided by ODHS.
- Applies to applications for admission to a residential care facility made on or after the measure's effective date.

Notice of Substantiated Abuse (Section 6)

- Modifies requirements for ODHS and OHA to notify residents and other individuals about a substantiated finding of abuse in a facility to include residents' designated contact persons.

Residential Facility License Applications, Inspections, and Renewal (Sections 7 to 9 and 14)

- Modifies requirements and procedures for ODHS and OHA to issue residential facility licenses to applicants in accordance with inspection and licensing requirements.
- Requires that applicants for a residential facility license include information on the application regarding the facility's proposed policies and procedures for the following:
 - staff and administrator training,
 - service planning,
 - medication administration,
 - food preparation and distribution,
 - safety,
 - emergency response, and
 - facility closure.
- Specifies that ODHS and OHA may only grant an initial license if a facility is in compliance with current laws and regulations, an inspection has been completed, and the license application has been reviewed and approved.
- Clarifies that ODHS and OHA have authority to deny, suspend, revoke, or refuse to renew a license if a provider operates another facility that is not in substantial compliance with current laws and regulations.
- Requires that ODHS and OHA conduct inspections
 - when a license application is received,
 - between 90 and 120 days of when a facility is issued an initial license or changes ownership, and
 - at other times according to the agency's discretion.
- Requires that an inspection be completed by ODHS or OHA before a residential facility license is renewed.
- Requires an applicant for a license to operate a residential care facility to maintain a consultant or management company for at least six months of operation if the applicant does not have experience with residential care facilities in Oregon.
- Directs ODHS to adopt rules establishing minimum qualifications and required tasks for consultants or management companies and specifies requirements.
- Authorizes ODHS to extend the required period of consultation beyond six months upon determining that the facility is not in substantial compliance with applicable laws, rules, or regulations.

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- Requires ODHS to be notified within two business days if a contract with a consultant or management company is terminated early.
- Applies to licenses issued or renewed on or after the measure's effective date.

Adult Foster Home Licensure and Inspections (Sections 10 and 11)

- Defines "substantial compliance" as a level of compliance with state law and administrative rules such that an identified deficiency poses no more than negligible harm to residents' health or safety.
- Modifies requirements and procedures for ODHS and OHA to issue adult foster home licenses to applicants in accordance with inspection and licensing requirements.
- Requires that applicants for an adult foster home license include information on the application regarding the home's proposed policies and procedures for the following:
 - staff and administrator training,
 - service planning,
 - medication administration,
 - food preparation and distribution,
 - safety,
 - emergency response,
 - succession planning, and
 - facility closure.
- Authorizes ODHS to adopt rules that prescribe an application fee for adult foster homes serving older adults and individuals with physical disabilities.
- Requires ODHS or OHA to conduct an in-person site inspection and to review and approve the policies described in the application before issuing an initial license.
- Authorizes ODHS to extend an adult foster home license by two years, while remaining on a two-year renewal cycle, if it determines that the home is in substantial compliance with current laws and regulations for three years.
- Specifies requirements for ODHS and OHA to conduct inspections of an adult foster home to verify compliance with current laws and regulations and provide the provider with methods of care, treatment, training, records, housing, and equipment.
- Requires that ODHS and OHA conduct on-site inspections
 - when a license application is received,
 - annually, regardless of whether the adult foster home is on a two-year license renewal cycle,
 - between 90 and 120 days of when a facility is issued an initial license, and
 - at other times according to the agency's discretion.
- Applies to licenses issued or renewed on or after the measure's effective date.

Memory Care Endorsements (Section 12)

- Requires that rules adopted by ODHS regarding standards for memory care facility endorsements include provisions for
 - facility design,
 - administrator training,
 - elopement notifications,
 - transfer policy, and
 - procedures for emergency evacuation and facility closures.
- Applies to memory care endorsements issued on or after the measure's effective date.

Enhanced Oversight and Supervision Program (Section 15)

- Requires a residential care facility that is in the enhanced oversight and supervision program to notify current and prospective residents and designated contact persons about the facility's participation in the program and termination from the program.

ISSUES DISCUSSED:

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- Background of recent incidents at memory care facilities
- Authority of a regulatory agency to waive a requirement under state or federal statute
- Current requirements for new providers without prior experience in Oregon
- Potential effect of additional information available to consumers

EFFECT OF AMENDMENT:

The amendment replaces the measure.

BACKGROUND:

On December 25, 2023, a resident of Mt. Hood Senior Living, a secure memory care facility in Sandy, was found dead outside after having left the facility unsupervised, and due to the person's dementia, did not return before succumbing to cold weather. A subsequent [investigative report](#) issued by the state's [Long Term Care Ombudsman](#) found that the facility was in violation of numerous licensing regulations that are required of residential care facilities with memory care endorsements. Additionally, the report criticized the Oregon Department of Human Services' (ODHS) response to previous complaints about the facility, as well as its decision to immediately close the facility and relocate the residents to other facilities with known safety issues. The report identified gaps in policy and issued several recommendations related to regulatory enforcement, unlicensed facility administrators, exceptions to licensing regulations, and other issues.

Residential care facilities, including assisted living facilities and facilities with a memory care endorsement, are regulated by the [Aging and People with Disabilities \(APD\)](#) division of ODHS, while residential treatment facilities for mental illness are regulated by the Oregon Health Authority (OHA). Oregon law empowers ODHS and OHA to conduct regular inspections and enforce health and safety requirements and licensing regulations through civil penalties and revoking, suspending, or imposing a condition on a license ([ORS chapter 443](#)). Oregon law also charges ODHS with investigation of suspected abuse or neglect of a vulnerable adult, including those in residential facilities ([ORS chapter 124](#)). ODHS maintains a [searchable website](#) with information about abuse findings and regulatory actions in residential facilities.