A-Engrossed
Senate Bill 739

Ordered by the Senate April 18
Including Senate Amendments dated April 18

Sponsored by Senators GELSER BLOUIN, PATTERSON (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes oversight laws for certain types of long term care facilities. (Flesch Readability Score: 63.4).

Modifies the requirements for investigations of a residential care facility following a complaint of a licensing violation. Prohibits exceptions to statutory licensing requirements for residential care facilities. [*Requires an administrator of a new residential care facility to retain a consultant with experience in providing residential care. Requires the Department of Human Services to conduct regular inspections of new residential care facilities. Requires residential care facilities to notify the department of an administrator absence or change. Prohibits a person from serving as an interim residential care facility administrator without a license. Prohibits issuing a memory care endorsement unless an applicant has at least two years' experience operating a licensed residential care facility or long term care facility.*] **Requires a residential care facility to notify a resident's designated contact person of a substantiated licensing violation or abuse finding or of the facility's placement in the enhanced oversight and supervision program. Requires an applicant for a license to operate a residential care facility, if the applicant does not have experience in the operation or management of a residential care facility, to contract with an experienced consultant or management company.**

Adds new requirements for obtaining a license to operate a residential facility or an adult foster home. Requires the Department of Human Services and the Oregon Health Authority to inspect residential facilities and adult foster homes under certain conditions. Permits the department to extend the duration of an adult foster home license to two years if the department determines that the home has been in substantial compliance for three consecutive years.

A BILL FOR AN ACT

Relating to long term care oversight; creating new provisions; and amending ORS 443.415, 443.416, 443.420, 443.425, 443.436, 443.441, 443.443, 443.444, 443.735, 443.755, 443.875 and 443.886.

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

SECTION 1. ORS 443.441 is amended to read:

443.441. (1) As used in this section:

(a) "Consistently" means regularly and typically.

(b) "Direct care staff" means staff who provide services for residents that include assistance with daily living, medication administration, resident-focused activities, supervision and support.

(c) "Facility" includes a:

(A) Residential care facility as defined in ORS 443.400; and

(B) Facility with a memory care endorsement under ORS 443.886.

(d) "License condition" has the meaning given that term in ORS 441.736.

(e) "Substantial compliance" has the meaning given that term in ORS 443.436.

(2) In determining whether a facility has qualified awake direct care staff in sufficient numbers to meet the scheduled and unscheduled needs of each resident 24 hours a day as prescribed by rule,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

the Department of Human Services shall conduct an assessment, in accordance with rules for home and community-based settings adopted by the Centers for Medicare and Medicaid Services, and consider whether the facility consistently:

(a) Implements and maintains a current person-centered service plan for each resident as required by rule by the Centers for Medicare and Medicaid Services;

(b) Provides timely access, 24 hours a day, to all supports needed for activities of daily living including eating, hydration, toileting, hygiene, bathing, dressing, oral care and other supports included in the resident's person-centered service plan;

(c) Provides a timely response to issues impacting the dignity of the resident, including but not limited to wet or soiled briefs, clothing or linens; and

(d) Delivers care according to the schedule and procedures outlined in the resident's person-centered service plan, including but not limited to wound care, medication administration, pain control, behavior support, cueing and repositioning.

(3) For a complaint of a licensing violation, other than abuse, that alleges harm or potential harm to a resident or for a complaint that a facility does not have qualified awake direct care staff in sufficient numbers to meet the scheduled and unscheduled needs of each resident 24 hours a day:

(a) The department shall begin [*an investigation without undue delay*]**:**

(A) An on-site complaint investigation within 24 hours or before the end of the next business day for a complaint that alleges a licensing violation resulting in death, serious harm or serious physical injury; and

(B) A complaint investigation without undue delay for all other complaints; and

(b) The investigator shall:

(A) **If the complaint involves an allegation of insufficient staff or if the investigator determines that insufficient staff may have contributed to the alleged licensing violation,** assess whether the facility has qualified awake direct care staff in sufficient numbers to consistently meet the scheduled and unscheduled needs of each resident 24 hours a day pursuant to the criteria prescribed by rule under subsection (2) of this section[*; and*]**.**

(B) Interview all available witnesses who have been identified by any source as having personal knowledge relevant to the complaint, including applicable staff or volunteers of the Long Term Care Ombudsman. All interviews shall be conducted privately, unless the witness requests that the interview not be conducted privately.

[*(B)*] **(C)** Write an investigation report that includes:

(i) The investigator's personal observations;

(ii) A review of documents and records;

(iii) A summary of all witness statements; and

(iv) A statement of the factual basis for the findings for each incident or problem alleged in the complaint, including the investigator's assessment of staffing levels and whether the facility has qualified awake direct care staff in sufficient numbers to consistently meet the scheduled and unscheduled needs of each resident 24 hours a day.

(c) If, during the course of a complaint investigation, the investigator identifies any previously unreported licensing violation or allegation of abuse, the investigator shall determine whether the licensing violation or abuse allegation:

(A) Is related to the original complaint and may be added to the existing investigation; or

(B) Warrants the initiation of a new, separate investigation.

(4) A complaint investigation under subsection (3) of this section is separate from, and not a replacement for, an adult protective services investigation. The department may initiate a complaint investigation before or at the same time as an adult protective services investigation.

(5) No later than 90 days after a complaint investigation under subsection (3) of this section is initiated, the department shall provide the department's findings to the facility, the complainant and the Long Term Care Ombudsman.

(6) If a complaint investigation under subsection (3) of this section results in a substantiated finding of a violation, the department shall:

(a) Immediately notify the facility and the Long Term Care Ombudsman in writing of the department's findings and any license condition or other sanction imposed by the department as a result of the violation; and

(b) Provide the facility and the Long Term Care Ombudsman with a summary report of the department's findings. The summary may not include any identifiable information about the resident, except that the report may not be redacted in a way that fails to disclose that death or injury occurred. The summary report must, at a minimum:

(A) Be written in clear, concise language that is readily comprehensible by the average person; and

(B) Include the nature of the complaint, the type of violation found by the investigator in the course of the investigation, the nature of the harm experienced by any resident as a result of the violation, whether the violation led to death or physical injury of a resident or staff member and any license condition or other sanction imposed on the facility as a result of the violation.

(7) Within 72 hours of receiving a summary report described in subsection (6) of this section, the facility shall provide notice of the substantiated finding of a violation and shall make the summary report available to all residents and to any contact persons designated by residents under ORS 443.444 if:

(A) The department made a substantiated finding of a violation that is pervasive or that represents a systemic failure at the facility; and

(B) The department:

(i) Found that the violation caused the death of a resident or serious harm or serious physical injury to a resident; or

(ii) Imposed a licensing condition on the facility that includes a restriction on admissions.

(8) If, as a result of a complaint investigation under subsection (3) of this section, the department imposes a licensing condition on a facility that includes a restriction on admissions:

(a) The facility may submit to the department a written assertion of substantial compliance once the facility has remediated the violation.

(b) Within five calendar days after receipt of the facility's written assertion of substantial compliance, the department shall determine whether the facility has achieved substantial compliance.

(c) The department shall lift the restriction within 24 hours if the department determines that the facility has achieved substantial compliance.

(d) The facility may notify residents once the restriction on admissions has been lifted.

SECTION 2. Sections 3 and 4 of this 2025 Act are added to and made a part of ORS 443.400

to 443.455.

SECTION 3. (1) The Department of Human Services may not grant a residential care facility's request for an exception to the requirements of ORS 443.400 to 443.455 or any other statutory licensing requirements, unless expressly authorized by statute to grant an exception or to temporarily modify a licensing requirement due to a declaration of a state of emergency.

(2) If the department, under authority granted by statute or established by rule, approves a request for an exception to a licensing requirement, other than a requirement described in subsection (1) of this section, the department shall:

(a) Notify the Long Term Care Ombudsman of the exception request and the department's intent to approve the request no fewer than seven days before the exception takes effect; and

(b) No later than February 1 and August 1 of each year, provide a report to the relevant committees of the Legislative Assembly that includes the name of each residential care facility that was granted an exception, the nature of the exception and the dates during which the exception was in effect.

SECTION 4. (1) As used in this section, "administrator" means a residential care facility administrator as defined in ORS 678.710.

(2) The Department of Human Services shall adopt rules to establish procedures for increased communication with and technical assistance to a residential care facility that changes the facility's administrator more than three times in any 24-month period.

SECTION 5. ORS 443.444 is amended to read:

443.444. Upon the admission of a resident to a residential care facility[,]**:**

(1) The facility shall provide the resident with information developed by the Long Term Care Ombudsman describing the availability and services of the ombudsman.

(2) Unless the resident, the resident's guardian or the resident's legal representative chooses not to identify a designated contact person, the facility shall obtain from the resident, the resident's guardian or the resident's legal representative the full name, preferred contact information and preferred language of an individual to be contacted when the facility:

(a) Is required under ORS 443.441 (7) to provide notice of a substantiated finding of a violation;

(b) Is required under ORS 443.875 to provide notice of a substantiated finding of abuse; or

(c) Is required under ORS 443.436 to provide notice that the facility has been placed in the enhanced oversight and supervision program.

(3) The facility shall immediately update the information provided under subsection (2) of this section upon written notification from the resident, the resident's guardian or the resident's legal representative.

SECTION 6. ORS 443.875 is amended to read:

443.875. (1) If the Department of Human Services or the Oregon Health Authority substantiates an allegation of abuse that occurred in a facility, the department or authority shall immediately notify the facility of its findings.

(2) Upon receipt of the notice described in subsection (1) of this section, a facility shall provide written notice of the findings to the individual found to have committed abuse, **the** residents of the

facility, the residents' case managers [*and*]**,** the residents' guardians **and any contact persons designated by residents under ORS 443.444**.

(3) An application for employment at a facility must inquire whether the applicant has been found to have committed abuse.

(4) As used in this section:

(a) "Abuse" has the meaning given that term in ORS 430.735.

(b) "Facility" means:

(A) A residential facility as defined in ORS 443.400; or

(B) An adult foster home as defined in ORS 443.705.

SECTION 7. ORS 443.415 is amended to read:

443.415. (1) Applications for licensure to maintain and operate a residential facility shall be made to the Department of Human Services or the Oregon Health Authority on forms provided for that purpose by the appropriate licensing agency **and shall include the facility's proposed policies and procedures regarding staff and administrator training, service planning, medication administration, food preparation and distribution, safety, emergency response and facility closure**.

(2) Each application shall be accompanied by a fee. No fee is required of any governmentally operated residential facility. **The application fee for:**

[*(2)*](a) [*The application fee for*] A residential treatment facility is $60.

(b) [*The application fee for*] A residential training home or residential training facility shall be prescribed by the department pursuant to ORS 427.021.

(c) [*The application fee for*] A residential treatment home is $30.

(d) [*The application fee for*] A residential care facility is:

(A) For a facility with one to 15 beds, $2,000.

(B) For a facility with 16 to 49 beds, $3,000.

(C) For a facility with 50 to 99 beds, $4,000.

(D) For a facility with 100 to 150 beds, $5,000.

(E) For a facility with more than 150 beds, $6,000.

(3) Upon receipt of an application and fee, the licensing agency shall conduct an in-person site inspection, including, for residential care facilities, an inspection of the kitchen and other areas where food is prepared for residents. [*The licensing agency shall issue a license to any applicant for operation of a residential facility in compliance with ORS 443.002 and 443.400 to 443.455 and the rules of the licensing agency. Licensure may be denied when a residential facility is not in compliance with ORS 443.002 or 443.400 to 443.455 or the rules of the licensing agency.*]

(4) The licensing agency shall issue an initial license to a residential facility only if:

(a) The facility is in compliance with ORS 443.002 and 443.400 to 443.455 and the rules of the licensing agency;

(b) The licensing agency has completed an inspection of the facility under this section; and

(c) The licensing agency has reviewed and approved the facility's proposed policies and procedures submitted under subsection (1) of this section.

(5) Licensure shall be denied if the State Fire Marshal, deputy or approved authority has given notice of noncompliance of a residential care facility, residential training facility or residential treatment facility pursuant to ORS 479.220.

SECTION 8. ORS 443.416 is amended to read:

443.416. (1)**(a)** The Director of Human Services or authorized representative shall [*periodically*] visit and inspect every residential care facility, residential training facility or residential training home to determine whether it is maintained and operated in accordance with ORS **443.002 and** 443.400 to 443.455 and the rules of the director, and to consult with and advise management concerning methods of care, treatment, training, records, housing and equipment. Employees of the Department of Human Services and the State Fire Marshal or authorized representative on request shall be permitted access to the premises and records of individuals in the facility or home that are pertinent to fire safety.

(b) An inspection under this subsection shall be conducted at a minimum:

(A) No less than 90 days and no more than 120 days after an initial license is issued under ORS 443.415;

(B) No less than 90 days and no more than 120 days after a change in ownership of a residential care facility, residential training facility or residential training home; and

(C) Upon receipt of a license renewal application and fee under ORS 443.425.

(c) Inspections under this subsection may be conducted at other times as determined by the licensing agency.

(2)**(a)** The Director of the Oregon Health Authority or authorized representative shall [*periodically*] visit and inspect every residential treatment facility or residential treatment home to determine whether it is maintained and operated in accordance with ORS **443.002 and** 443.400 to 443.455 and the rules of the director, and to consult with and advise management concerning methods of care, treatment, training, records, housing and equipment. Employees of the Oregon Health Authority and the State Fire Marshal or authorized representative on request shall be permitted access to the premises and records of individuals in the facility or home that are pertinent to fire safety.

(b) An inspection under this subsection shall be conducted at a minimum:

(A) No less than 90 days and no more than 120 days after an initial license is issued under ORS 443.415;

(B) No less than 90 days and no more than 120 days after a change in ownership of a residential treatment facility or residential treatment home; and

(C) Upon receipt of a license renewal application and fee under ORS 443.425.

(c) Inspections under this subsection may be conducted at other times as determined by the licensing agency.

SECTION 9. ORS 443.425 is amended to read:

443.425. (1) Licensure under ORS 443.415 is effective for two years from the date of issue unless sooner revoked. Each license shall state:

(a) The name of the person operating the residential facility;

(b) The name of the person who owns the residential facility and, for a residential training facility or a residential training home, all persons with an ownership interest of five percent or more;

(c) The address of the premises to which the license applies and the maximum number of residents to be maintained in the residential facility at any time whether the residential facility is licensed as a residential training facility, a residential treatment facility, a residential care facility, a residential training home or residential treatment home; and

(d) Other information that the Department of Human Services or the Oregon Health Authority considers necessary.

(2) A license is renewable upon submission of an application to the department or the authority [*and*]**,** payment of a renewal fee **and completion of an inspection under ORS 443.416**. No fee is

required of a governmentally operated residential facility. Filing of an application for renewal before the date of expiration of a license extends the effective date of expiration of the license until the licensing agency has acted upon the application. The licensing agency shall refuse to renew a license if:

(a) The facility is not substantially in compliance with all applicable laws and rules;

(b) For a residential care facility, the facility has failed an inspection of the kitchen or other areas where food is prepared for residents that was conducted by the department in accordance with ORS 443.417, except as provided in ORS 443.417 (2); or

(c) The State Fire Marshal, deputy or approved authority has given notice of noncompliance of a residential care facility, residential training facility or residential treatment facility pursuant to ORS 479.220.

(3)[*(a)*] The biennial renewal fee for**:**

(a) A residential training facility or a residential treatment facility is $60.

(b) [*The biennial renewal fee for*] A residential training home is $50.

(c) [*The biennial renewal fee for*] A residential treatment home is $30.

(d) [*The biennial renewal fee for*] A residential care facility is:

(A) For a facility with one to 15 beds, $1,000.

(B) For a facility with 16 to 49 beds, $1,500.

(C) For a facility with 50 to 99 beds, $2,000.

(D) For a facility with 100 to 150 beds, $2,500.

(E) For a facility with more than 150 beds, $3,000.

SECTION 10. ORS 443.735 is amended to read:

443.735. **(1) As used in this section, "substantial compliance" means a level of compliance with state law and with rules of the licensing agency such that any identified deficiencies pose a risk of no more than negligible harm to the health or safety of residents.**

[*(1)(a)*] **(2)(a)** Applications for a license to maintain and operate an adult foster home shall be made on forms provided by the licensing agency **and shall include the home's proposed policies and procedures regarding staff and administrator training, service planning, medication administration, food preparation and distribution, safety, emergency response, succession planning and facility closure**.

(b) Each application submitted to the Department of Human Services for an adult foster home serving individuals with intellectual or developmental disabilities shall be accompanied by a fee prescribed by the department under ORS 427.021.

(c) Each application submitted to the department for an adult foster home serving older adults or individuals with physical disabilities shall be accompanied by a fee prescribed by the department by rule.

[*(c)*] **(d)** Each application submitted to the Oregon Health Authority[*, or to the Department of Human Services for an adult foster home not serving individuals with intellectual or developmental disabilities,*] shall be accompanied by a fee of $20 per bed requested for licensing.

[*(2)*] **(3)** Upon receipt of an application and fee, the licensing agency shall conduct an investigation**, including an in-person site inspection**.

[*(3)*] **(4)** The licensing agency shall [*not*] issue an initial license [*unless*] **only if**:

(a) The applicant and adult foster home are in compliance with ORS 443.002 and 443.705 to 443.825 and the rules of the licensing agency;

(b) The licensing agency has completed an inspection **under this section** of the adult foster

home;

(c) The licensing agency has reviewed and approved the adult foster home's proposed policies and procedures submitted under subsection (2) of this section;

[*(c)*] **(d)** The licensing agency has completed a criminal records check under ORS 181A.195 on the applicant and any person, other than a resident, 16 years of age or older who will be residing in the adult foster home. The criminal records check shall be conducted in accordance with rules adopted under ORS 181A.195;

[*(d)*] **(e)** The licensing agency has determined that the registry maintained under ORS 441.678 contains no finding that the applicant or any nursing assistant employed by the applicant has been responsible for abuse; and

[*(e)*] **(f)** The applicant has demonstrated to the licensing agency the financial ability and resources necessary to operate the adult foster home. The licensing agency shall adopt rules as the agency deems appropriate that establish the financial standards an applicant must meet to qualify for issuance of a license and that protect financial information from public disclosure. The demonstration of financial ability under this paragraph shall include, but need not be limited to, providing the licensing agency with a list of any unsatisfied judgments, pending litigation and unpaid taxes and notifying the agency regarding whether the applicant is in bankruptcy. If the applicant is unable to demonstrate the financial ability and resources required by this paragraph, the licensing agency may require the applicant to furnish a financial guarantee as a condition of initial licensure.

[*(4)*] **(5)** The licensing agency [*may not*] **shall** renew a license under this section [*unless*] **only if**:

(a) The applicant and the adult foster home are in **substantial** compliance with ORS 443.002, 443.012 and 443.705 to 443.825 and the rules of the licensing agency;

(b) The licensing agency has completed an inspection **under ORS 443.755** of the adult foster home;

(c) The licensing agency has completed a criminal records check under ORS 181A.195 on the applicant and any person, other than a resident, 16 years of age or older who will be residing in the adult foster home. The criminal records check under this paragraph shall be conducted in accordance with rules adopted under ORS 181A.195; and

(d) The licensing agency has determined that the registry maintained under ORS 441.678 contains no finding that the applicant or any nursing assistant employed by the applicant has been responsible for abuse.

[*(5)(a)*] **(6)(a)** In seeking an initial license and renewal of a license when an adult foster home has been licensed for less than 24 months, the burden of proof shall be upon the provider and the adult foster home to establish compliance with ORS 443.705 to 443.825 and the rules of the licensing agency.

(b) In proceedings for renewal of a license when an adult foster home has been licensed for at least 24 continuous months, the burden of proof shall be upon the licensing agency to establish noncompliance with ORS 443.705 to 443.825 and the rules of the agency.

[*(6)(a)*] **(7)(a)** Persons who have been convicted of one or more crimes that, as determined by rules of the licensing agency, are substantially related to the qualifications, functions or duties of a provider, substitute caregiver or other household member of an adult foster home shall be prohibited from operating, working in or residing in an adult foster home.

(b) The licensing agency shall adopt rules that distinguish the criminal convictions and types of abuse that permanently prohibit a person from operating, working in or living in an adult foster

home from the convictions and types of abuse that do not permanently prohibit the person from operating, working in or living in an adult foster home.

(c) A provider may not hire, retain in employment or allow to live in an adult foster home, other than as a resident, any person who the provider knows has been convicted of a disqualifying crime or has been found responsible for a disqualifying type of abuse.

[*(7)*] **(8) Except as provided in subsection (9) of this section,** a license under ORS 443.725 is effective for one year from the date of issue **or renewal** unless sooner revoked.

(9)(a) For adult foster homes licensed by the Department of Human Services, the department may extend the duration of a license to two years if the department determines that the home has been in substantial compliance with ORS 443.002 and 443.705 to 443.825 and the rules of the licensing agency for three consecutive years.

(b) If the duration of an adult foster home's license has been extended to two years under this subsection, the home shall remain on a two-year renewal cycle, unless the department determines that the home is no longer in substantial compliance, at which time the department may return the home to a one-year renewal cycle.

(10) Each license shall state the name of the resident manager of the adult foster home, the names of all providers who own the adult foster home, the address of the premises to which the license applies, the maximum number of residents and the classification of the adult foster home. If, during the period covered by the license, a resident manager changes, the provider must within 15 days request modification of the license. The request must be accompanied by a fee of $10.

[*(8)*] **(11)** No license under ORS 443.725 is transferable or applicable to any location, persons operating the adult foster home or the person owning the adult foster home other than that indicated on the application for licensing.

[*(9)*] **(12)** The licensing agency shall not issue a license to operate an additional adult foster home to a provider unless the provider has demonstrated the qualifications and capacity to operate the provider's existing licensed adult foster homes and has demonstrated the ability to provide to the residents of those adult foster homes care that is adequate and substantially free from abuse and neglect.

[*(10)(a)*] **(13)(a)** All moneys collected under ORS 443.725 to 443.780 from adult foster homes that are licensed to serve persons with mental, emotional or behavioral disturbances or alcohol or drug dependence shall be deposited in a special account in the General Fund, and are appropriated continuously for payment of expenses incurred by the Oregon Health Authority.

(b) All moneys collected under ORS 443.725 to 443.780 from adult foster homes licensed to serve persons who are elderly or have physical disabilities shall be deposited in the Quality Care Fund established in ORS 443.001.

[*(11)*] **(14)** Notwithstanding any other provision of this section or ORS 443.725 or 443.738, the licensing agency may issue a 60-day provisional license to a qualified person if the agency determines that an emergency situation exists after being notified that the licensed provider of an adult foster home is no longer overseeing operation of the adult foster home.

SECTION 11. ORS 443.755 is amended to read:

443.755. (1)**(a)** The licensing agency staff shall be permitted access to enter and inspect all licensed adult foster homes. **The licensing agency shall visit and inspect every adult foster home to determine whether the home is maintained and operated in accordance with ORS 443.002 and 443.705 to 443.825 and the rules of the licensing agency, and to consult with and advise the provider concerning methods of care, treatment, training, records, housing and equip-**

ment.

(b) The licensing agency shall conduct an on-site inspection under this subsection at a minimum:

(A) No less than 90 days and no more than 120 days after an initial license is issued under ORS 443.735;

(B) Annually, regardless of whether the duration of the adult foster home's license has been extended to two years under ORS 443.735 (9); and

(C) Upon receipt of a license renewal application under ORS 443.735.

(c) Inspections under this subsection may be conducted at other times as determined by the licensing agency.

(2) The licensing agency shall be permitted access to enter and inspect any unlicensed adult foster home upon the receipt of an oral or written complaint, or in case the agency itself has cause to believe that an adult foster home is operating without a license or there exists a threat to the health, safety or welfare of any resident. The licensing agency staff shall be permitted access to the residents of adult foster homes in order to interview residents privately and to inspect residents' records.

[*(2)*] **(3)** The state or local fire inspectors shall be permitted access to enter and inspect adult foster homes regarding fire safety upon request of the licensing agency.

[*(3)(a)*] **(4)(a)** The licensing agency shall provide to each licensed adult foster home in the state in writing in clear concise language readily comprehensible by the average person a copy of the inspection report of the most recent inspection of that home conducted by the agency.

(b) The provider shall post the inspection report in the entry or equally prominent place and shall, upon request, provide a copy of the information to each resident of, or person applying for admission to, the home, or the legal representative, guardian or conservator of the resident or applicant.

SECTION 12. ORS 443.886 is amended to read:

443.886. (1) If a facility intends to provide care for residents with Alzheimer's disease or other forms of dementia by means of an endorsed memory care community, the facility must obtain a memory care endorsement on its license or registration.

(2) The Department of Human Services, with the input from representatives of advocate groups and the long term care industry, shall adopt by rule standards that ensure that the special needs of any resident with Alzheimer's disease or other form of dementia who is cared for in an endorsed memory care community are met and that quality care is provided. The standards must include but are not limited to provisions for:

(a) Care planning, [*including physical*] **facility** design, staffing, staff **and administrator** training, safety, egress control, **elopement notifications,** individual care planning, admission **and transfer** policy, family involvement, therapeutic activities and social services;

(b) Continuity of basic care requirements**, including procedures to be followed during emergency evacuations and facility closures**; and

(c) Marketing and advertising of the availability of and services from endorsed memory care communities.

(3) The department shall adopt a fee schedule for memory care endorsement, taking into account the type of facility and the number of residents.

(4) The department shall enforce rules adopted under subsection (2) of this section and ORS 443.889 and shall allow a licensee or registrant to retain the memory care endorsement required to

care for residents with Alzheimer's disease or other forms of dementia only as long as the licensee or registrant complies with the rules.

(5) The memory care endorsement may be suspended or revoked in the same manner as the license or registration is suspended or revoked.

(6) Unless a facility has obtained the memory care endorsement required by subsection (1) of this section, the facility may not:

(a) Advertise the facility as providing an Alzheimer's care unit or memory care community; or

(b) Market the facility as providing an Alzheimer's care unit or memory care community.

SECTION 13. ORS 443.443 is amended to read:

443.443. (1) A residential care facility, which includes an assisted living facility, shall provide, at a minimum, the following information to an individual or any person acting on behalf of the individual at the time the individual applies for admission to the residential care facility and upon request:

(a) A summary explanation of the services provided by the facility;

(b) A summary explanation of the types of care that the facility does not provide;

(c) A statement that if the facility is not capable of meeting the resident's needs for care and services, the facility may require the resident to pursue other options, including by moving to another facility or care setting;

(d) A statement that if a resident leaves the facility to receive acute medical, psychiatric, nursing facility or other care, before the resident may return to the facility, the facility will first evaluate whether the facility is capable of meeting the resident's care needs and, if not, the resident will not be permitted to return to the facility;

(e) A statement of a resident's right to appeal if the facility requires the resident to leave the facility or does not permit the resident to return to the facility, as described in paragraphs (c) and (d) of this subsection; [*and*]

(f) A statement of whether the facility will arrange for or otherwise coordinate hospice care for a resident upon request**; and**

(g) A summary explanation of the licensing and survey process for residential care facilities, as described in subsection (4) of this section.

(2) The information described in subsection (1) of this section must:

(a) Be in writing;

(b) Be written in plain English;

(c) Be explained to the individual or the person acting on behalf of the individual in a manner the individual or person understands;

(d) Be provided separately from all other disclosure and residency agreement documents; and

(e) Require the signature of the individual or the person acting on behalf of the individual acknowledging that the individual or person understands the content and the implications of the information.

(3) A residential care facility must update and submit to the Department of Human Services the information described in this section at any time there is a change in management or ownership of the facility. The department shall make the information available to the public on the department's facility search website.

(4) The department shall develop and make available to residential care facilities a summary explanation of the licensing and survey process for residential care facilities, including information about where to find licensing and survey results for a facility.

SECTION 14. ORS 443.420 is amended to read:

443.420. (1) **As used in this section, "substantial compliance" has the meaning given that term in ORS 443.436.**

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

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

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

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

[*(2)*] **(3)** A residential facility may not be operated or maintained in combination with a nursing home or hospital unless:

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

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

[*(3)*] **(4)** All physical residential facilities used for residents must meet applicable requirements of the State Fire Marshal.

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

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

(a) Comply with ORS 336.575; and

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

(A) Comprehensive and age-appropriate;

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

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

[*(6)*] **(7)** Prior to an initial licensure of a residential care facility, the licensing agency shall consider:

(a) The license applicant's history of regulatory compliance and operational experience;

(b) The willingness of the license applicant to serve underserved populations; and

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

[*(7)(a)*] **(8)(a)** The licensing agency may not issue an initial license to a residential care facility if the facility has not conducted a market study that assesses the need for the services offered by the facility in the geographic area served by the facility.

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

(9)(a) If an applicant for a license to operate a residential care facility does not have experience in the operation or management of a residential care facility in this state, the applicant shall, for a period of at least six months of operation, contract for the services of a consultant or management company with experience in the operation or management of a residential care facility in this state.

(b) The Department of Human Services shall establish by rule the minimum qualifications for a consultant or management company under this subsection, including requirements that the consultant or management company:

(A) Holds, or employs a person who holds, an active residential care facility administrator license issued under ORS 678.710 to 678.820 that is in good standing;

(B) Within the last five years, has at least three years of demonstrated experience operating or managing a residential care facility in this state in a satisfactory manner;

(C) Within the last five years, has at least three years of demonstrated experience operating or managing a residential care facility with a memory care endorsement under ORS 443.886, if the consultant or management company is consulting with a person applying for a license to operate a residential care facility with a memory care endorsement under ORS 443.886; and

(D) Is not listed as an excluded provider on the comprehensive listing maintained by the United States Department of Health and Human Services' Office of Inspector General of providers that are excluded from participation in federal health care programs.

(c) The Department of Human Services shall establish by rule the tasks that a contracted consultant or management company under this subsection must complete, including, at a minimum:

(A) Review of the residential care facility's policies and procedures;

(B) Review of the residential care facility's quality improvement process;

(C) Periodic on-site compliance audits; and

(D) Preparation of monthly reports that the consultant or management company shall submit to the department for review.

(d) The department may extend the duration of the period of consultation beyond six months if the department determines, from an on-site visit, a review of the required monthly reports or both, that the facility is not in substantial compliance with applicable state or federal laws, rules or regulations.

(e) If a contract for the services of a consultant or management company under this subsection is terminated early, the license applicant and the consultant or management company shall notify the department within two business days.

[*(8)*] **(10)** Prior to the issuance of an initial license to a residential training facility or a residential training home, and upon an application for a renewal of a license of a residential training facility or a residential training home, the licensing agency shall consider the license applicant's history of regulatory and safety compliance and operational experience in this state or any other jurisdiction as prescribed by rule by the licensing agency.

SECTION 15. ORS 443.436 is amended to read:

443.436. (1) As used in this section:

(a) "Consistently" means regularly and typically.

(b) "Substantial compliance" means a level of compliance with state law and with rules of the Department of Human Services such that any identified deficiencies pose a risk of no more than negligible harm to the health or safety of residents.

(2)(a) The department shall develop a framework for assessing the compliance of residential care facilities with regulatory requirements and for requiring corrective action that accurately and equitably measures compliance and the extent of noncompliance.

(b) The framework must include but is not limited to measures of the severity and scope of a residential care facility's noncompliance, including but not limited to:

(A) Whether the facility has qualified awake direct care staff in sufficient numbers to consistently meet the scheduled and unscheduled needs of each resident 24 hours a day; and

(B) The impact of any compliance deficiencies on the rights, health, welfare and safety of the residents.

(c) The department shall publish the framework on the department's website and shall distribute the framework to residential care facilities licensed in this state.

(3) The department shall administer a residential care facility enhanced oversight and supervision program that focuses department resources on residential care facilities that consistently demonstrate:

(a) A lack of substantial compliance with the requirements of ORS 443.400 to 443.455 or rules adopted to implement ORS 443.400 to 443.455; or

(b) Performance substantially below statewide averages on quality metrics reported under the Residential Care Quality Measurement Program established under ORS 443.446.

(4) The residential care facility enhanced oversight and supervision program shall take one or more of the following actions that the department deems necessary to improve the performance of a residential care facility:

(a) Increase the frequency of surveys of the residential care facility.

(b) Conduct surveys that focus on areas of consistent noncompliance identified by the department.

(c) Impose one or more conditions on the license of the facility under ORS 441.736.

(5) The department shall terminate the enhanced oversight and supervision of a residential care facility:

(a) After three years if the residential care facility has shown through at least two consecutive in-person site surveys and reported quality metrics that the residential care facility no longer meets the criteria set forth in subsection (3) of this section; or

(b) After one year if the residential care facility submits a written assertion of substantial compliance and the department determines that the residential care facility no longer meets the criteria set forth in subsection (3) of this section.

(6) The department shall publish notice on the department's website, including any website where the public can access a database of long term care facilities, of any residential care facility that is in the enhanced oversight and supervision program.

(7) A residential care facility that is in the enhanced oversight and supervision program shall provide written notice to current and prospective residents of the facility and any contact persons designated by residents under ORS 443.444 that the facility has been placed in the program. Once the department has terminated the enhanced oversight and supervision, the facility may notify residents that the facility is no longer in the program.

[*(7)*] **(8)** Using moneys from the Quality Care Fund established under ORS 443.001, the department shall develop, maintain and periodically update compliance guidelines for residential care facilities serving seniors and persons with disabilities. The guidelines must be made available electronically.

[*(8)*] **(9)** This section does not preclude the department from taking any action authorized by ORS 443.400 to 443.455.

SECTION 16. (1) The amendments to ORS 443.441 by section 1 of this 2025 Act apply to complaints submitted on or after the effective date of this 2025 Act.

(2) Section 3 of this 2025 Act applies to requests for exceptions made on or after the effective date of this 2025 Act.

(3) The amendments to ORS 443.415, 443.416, 443.420, 443.425, 443.735 and 443.755 by

sections 7 to 11 and 14 of this 2025 Act apply to licenses issued or renewed on or after the effective date of this 2025 Act.

(4) The amendments to ORS 443.886 by section 12 of this 2025 Act apply to memory care endorsements issued on or after the effective date of this 2025 Act.

(5) The amendments to ORS 443.443 by section 13 of this 2025 Act apply to applications for admission to a residential care facility made on or after the effective date of this 2025 Act.
