

HB 3838-1
(LC 4619)
3/31/25 (JAS/ps)

Requested by Representative FAHEY

**PROPOSED AMENDMENTS TO
HOUSE BILL 3838**

On page 1 of the printed bill, line 2, delete the period and insert “; creating new provisions; and amending ORS 192.670 and 443.517.”.

Delete lines 5 through 21 and delete pages 2 through 7 and insert:

“DEFINITIONS

“SECTION 1. Definitions. As used in sections 1 to 12 of this 2025 Act:

“(1) ‘Adult foster home’ has the meaning given that term in ORS 443.705.

“(2) ‘Attendant care services’ has the meaning given that term in ORS 427.191.

“(3) ‘Community-based structured housing’ has the meaning given that term in ORS 443.480.

“(4) ‘Developmental disability child foster home’ has the meaning given that term in ORS 443.830.

“(5)(a) ‘Direct care staff’ means:

“(A) Direct care staff, as defined in ORS 443.400.

“(B) The employees of an adult foster home whose primary responsibilities are to provide personal care services to residents, including but not limited to:

1 “(i) Administering medications;

2 “(ii) Coordinating resident-focused activities;

3 “(iii) Supervising and supporting residents;

4 “(iv) Supporting activities of daily living, including but not limited
5 to bathing, dressing, eating and transferring; and

6 “(v) Serving but not preparing meals.

7 “(b) ‘Direct care staff’ does not include management-level staff,
8 including nurses, physicians and administrative staff.

9 “(6) ‘Domiciliary care facilities’ has the meaning given that term
10 in ORS 443.205.

11 “(7) ‘Employer organization’ means a nonprofit trade association
12 whose membership is primarily composed of a majority of not-for-
13 profit, proprietary and individually owned entities that employ work-
14 ers of the home and community-based services workforce in this state.

15 “(8)(a) ‘Home and community-based services workforce’ includes
16 the following workers who provide long-term care services and sup-
17 ports:

18 “(A) A home care worker and a personal support worker, as those
19 terms are defined in ORS 410.600;

20 “(B) An individual providing in-home care services as an employee
21 of or under an arrangement or contract with an in-home care agency,
22 as defined in ORS 443.305;

23 “(C) Direct care staff at a residential care facility or an adult foster
24 home;

25 “(D) A direct support professional, as defined in ORS 427.191; and

26 “(E) A personal care attendant.

27 “(b) ‘Home and community-based services workforce’ does not in-
28 clude:

29 “(A) A private pay home care worker, as defined in ORS 410.600.

30 “(B) Management-level staff, including nurses, physicians and ad-

1 **ministrative staff.**

2 **“(9) ‘In-home care services’ has the meaning given that term in**
3 **ORS 443.305.**

4 **“(10) ‘Labor organization’ has the meaning given that term in ORS**
5 **663.005.**

6 **“(11) ‘Public hearing’ means an open hearing conducted in accord-**
7 **ance with the requirements for a public meeting under ORS 192.610 to**
8 **192.705.**

9 **“(12) ‘Personal care attendant’ means an individual who:**

10 **“(a) Provides in-home care services to a person with a behavioral**
11 **health condition or disability; and**

12 **“(b) Meets the eligibility requirements established by rule by the**
13 **Oregon Health Authority in order to receive Medicaid reimbursement**
14 **for such services.**

15 **“(13) ‘Residential care facility’ has the meaning given that term in**
16 **ORS 443.400.**

17 **“(14) ‘Residential training home’ and ‘residential training facility’**
18 **have the meanings given those terms in ORS 443.400.**

19 **“(15) ‘Supported living services’ means services that provide an in-**
20 **dividual with an intellectual or developmental disability the ability to**
21 **live in the community where the individual wants, with whom the in-**
22 **dividuals wants, for as long as the individual desires.**

23
24 **“HOME AND COMMUNITY-BASED SERVICES**
25 **WORKFORCE STANDARDS BOARD**
26

27 **“SECTION 2. Establishment; members; term; vacancies. (1) There**
28 **is established the Home and Community-Based Services Workforce**
29 **Standards Board within the Department of Consumer and Business**
30 **Services. The purposes of the board are to:**

1 “(a) Strengthen and maintain the supply of a skilled home and
2 community-based services workforce by examining factors that may
3 present challenges to recruiting and retaining workers, including but
4 not limited to compensation, work schedules and other working con-
5 ditions; and

6 “(b) Make recommendations to revise the minimum workforce
7 standards established by the board under section 5 of this 2025 Act and
8 adopt new standards, as needed, to protect the health and welfare of
9 the home and community-based services workforce.

10 “(2) The board shall consist of 17 members appointed as follows:

11 “(a) Six members appointed by the Governor who represent the
12 home and community-based services workforce or labor organizations;

13 “(b) Six members appointed by the Governor who represent em-
14 ployers of individuals of the home and community-based services
15 workforce or employer organizations;

16 “(c) Two members appointed by the Governor who represent the
17 interests of individuals who receive services provided by the home and
18 community-based services workforce, including representatives from
19 organizations that represent such interests;

20 “(d) One member appointed by the Commissioner of the Bureau of
21 Labor and Industries who represents the bureau;

22 “(e) One member appointed by the Governor who represents the
23 Department of Human Services; and

24 “(f) One member appointed by the Governor who represents the
25 executive department of state government.

26 “(3) The appointments of the Governor under subsection (2)(a) to
27 (c) of this section:

28 “(a) Shall be subject to confirmation by the Senate in the manner
29 provided by ORS 171.562 and 171.565.

30 “(b) Must be individuals who, collectively, have knowledge and ex-

1 perience in the following home and community-based services or care
2 settings:

3 “(A) In-home care services;

4 “(B) Attendant care services;

5 “(C) Supported living services;

6 “(D) Adult foster homes;

7 “(E) Residential care facilities, including facilities with a memory
8 care endorsement under ORS 443.886 and assisted living facilities;

9 “(F) Residential training facilities or residential training homes;

10 “(G) Developmental disability child foster homes;

11 “(H) Domiciliary care facilities; and

12 “(I) Community-based structured housing.

13 “(4) Members of the board are subject to and must comply with the
14 provisions of ORS 244.120 relating to potential and actual conflicts of
15 interest, as those terms are defined in ORS 244.020.

16 “(5) The term of a member of the board is three years and the
17 member may be reappointed. An appointed member serves at the
18 pleasure of the appointing authority.

19 “(6) Each successor board member shall be appointed by the ap-
20 pointing authority, before the expiration of the term of a member, but
21 not later than January 1 of each even-numbered year. If a vacancy
22 occurs for any cause before the expiration of the term of a member,
23 the appointing authority shall make an appointment to fill the va-
24 cancy, in the same manner as an appointment to a full term, to be-
25 come immediately effective for the unexpired term.

26 “(7) The Governor shall appoint two members, one from each of the
27 appointments made under subsection (2)(a) and (b) of this section, to
28 serve as cochairs who shall preside over meetings on a quarterly ro-
29 tating basis, unless agreed upon otherwise by the cochairs.

30 “(8) The Governor may appoint an executive director for the board

1 who is responsible for the performance of duties assigned by the board.
2 The executive director may employ not more than three staff to carry
3 out the duties assigned by the board.

4 **“SECTION 3. Initial terms.** (1) All appointments to the board made
5 under section 2 of this 2025 Act must be completed on or before De-
6 cember 31, 2026.

7 **“(2) Notwithstanding the term of office specified by section 2 of this**
8 **2025 Act, of the members first appointed to the board:**

9 **“(a) Six shall serve for a term ending January 1, 2028.**

10 **“(b) Six shall serve for a term ending January 1, 2029.**

11 **“(c) Five shall serve for a term ending January 1, 2030.**

12 **“SECTION 4. Compensation; meetings.** (1) Members of the Home
13 and Community-Based Services Workforce Standards Board shall re-
14 ceive such compensation as authorized under ORS 292.495.

15 **“(2) The board shall adopt rules for conducting meetings and any**
16 **other rules as necessary for carrying out the duties of the board.**

17 **“(3) A majority of members of the board constitutes a quorum for**
18 **the transaction of business.**

19 **“(4) An affirmative vote by a majority of members of the board is**
20 **necessary for the board to take any action.**

21 **“(5) The board shall meet once per calendar quarter at times and**
22 **places specified by the call of the cochairs.**

23 **“(6) All meetings of the board shall be held as public meetings in**
24 **accordance with ORS 192.610 to 192.705.**

25
26 **“DUTIES OF THE BOARD**
27

28 **“SECTION 5. Minimum workforce standards.** (1) Subject to sub-
29 section (4) of this section, the Home and Community-Based Services
30 Workforce Standards Board shall adopt rules establishing minimum

standards for the home and community-based services workforce that are designed to ensure the health and welfare of such workers and that may be tailored to specific categories of worker types and across different care settings. The board may not adopt any standards that:

“(a) Are less protective of or beneficial to the home and community-based services workforce than the standards provided under any other applicable statute or rule; or

“(b) Infringe on an individual’s right to self-determination, as defined in ORS 427.101.

“(2) At a minimum, the standards must:

“(a) Set compensation rates for paying individuals in the home and community-based services workforce, provided that the rates are not less than the minimum wage rate established under ORS 653.025.

“(b) Establish requirements for working conditions such as work schedules and working hours and staffing.

“(c) Establish curriculum and criteria for providing education and professional development opportunities and career pathways for the home and community-based services workforce.

“(d) Provide for the provision of health care benefits and other paid benefits for the home and community-based services workforce, including but not limited to paid family leave, sick leave and retirement benefits.

“(e) Establish requirements for itemized statements regarding deductions from wages that meet or exceed the requirements under ORS 652.610, including a requirement that such statements are timely provided to a labor organization.

“(3) Before establishing any minimum standards under this section, the board shall:

“(a) Evaluate and consider the following information in relation to the home and community-based services workforce to ensure that the

standards adopted by the board meet or exceed prevailing labor market conditions:

“(A) Labor market data, including but not limited to:

“(i) Wage levels and benefit data from comparable occupations and industries within different geographic regions in this state;

“(ii) Workplace policies concerning working conditions such as staffing levels and hours of work;

“(iii) Collective bargaining agreements applicable to workers in comparable occupations and industries within different geographic regions in this state; and

“(iv) Existing state and local minimum standards for the home and community-based services workforce;

“(B) Testimony from current and former workers from the home and community-based services workforce, labor organizations, employers and other interested stakeholders;

“(C) Data submitted by or obtained from state and local government entities; and

“(D) Any other information the board deems relevant and reflective of trends concerning the working conditions of the home and community-based services workforce.

“(b) Hold at least one public hearing at which members of the public, including workers in the home and community-based services workforce, shall have the opportunity to provide input on any matter relating to the minimum standards being considered by the board.

“(c) Consult with the Bureau of Labor and Industries, the Department of Human Services and any other relevant state agencies, to determine whether a proposed minimum standard will require any increase to state funding levels or otherwise result in an increase in the fiscal obligations of the state.

“(4)(a) If the board determines that a proposed minimum standard

1 will require any increase to state funding levels or otherwise result in
2 an increase in the fiscal obligations of the state, the board shall report
3 to the Legislative Assembly and to the Governor the increase in
4 funding needed to implement the standard.

5 “(b) The implementation and enforcement of a rule establishing a
6 standard described in paragraph (a) of this subsection shall be con-
7 tingent on a legislative appropriation being made for that purpose. If
8 the legislative appropriation is less than what is necessary for imple-
9 mentation and enforcement of the rule establishing the minimum
10 standard, the board shall amend the rule to align the minimum
11 standard with the level of funding appropriated by the Legislative As-
12 sembly.

13 “(5) All agencies of state government, as defined in ORS 174.111, are
14 directed to furnish information to the board, upon request, that the
15 board considers necessary for the board to carry out the board’s duties
16 under subsection (3) of this section.

17 “(6) Rules establishing minimum standards under this section shall
18 be adopted by the board in accordance with applicable provisions of
19 ORS chapter 183.

20 “SECTION 6. Comprehensive review. (1) At least once every four
21 years, the Home and Community-Based Services Workforce Standards
22 Board shall conduct a comprehensive review of the minimum stan-
23 dards previously adopted by the board to determine whether the stan-
24 dards have continuing applicability or whether the board should adopt
25 new standards or revise the existing standards.

26 “(2)(a) As part of the review, the board shall conduct a labor market
27 analysis of the working conditions for the home and community-based
28 services workforce that examines factors that may include, but need
29 not be limited to:

30 “(A) Supply and demand estimates and projections for such work-

1 **ers;**

2 **“(B) Education, training and skill requirements;**

3 **“(C) Terms and conditions of employment;**

4 **“(D) Unionization rates;**

5 **“(E) Compensation rates;**

6 **“(F) Industry profits; and**

7 **“(G) Professional development and training opportunities.**

8 **“(b) In conducting the labor market analysis, the board shall con-**
9 **sider whether and to what extent the board’s minimum standards re-**
10 **garding compensation rates for paying workers in the home and**
11 **community-based services workforce should be adjusted relative to the**
12 **Medicaid reimbursement rates for such workers. Such a determi-**
13 **nation shall be made pursuant to a process specified by the board by**
14 **rule.**

15 **“SECTION 7. Reporting. (1) The Home and Community-Based Ser-**
16 **vices Workforce Standards Board shall prepare and submit a biennial**
17 **report to the Governor and to the Legislative Assembly by June 30 of**
18 **each even-numbered year on the board’s activities and recommen-**
19 **dations.**

20 **“(2) The report must include, at a minimum:**

21 **“(a) A statement of findings and conclusions of the most recently**
22 **completed comprehensive review required under section 6 of this 2025**
23 **Act, including recommendations:**

24 **“(A) For statutory changes;**

25 **“(B) For revisions to amounts appropriated to the board, if any; and**

26 **“(C) For proposed adjustments to Medicaid reimbursement rates to**
27 **ensure that such rates directly correspond to the board’s minimum**
28 **standards for compensation rates paid to the home and community-**
29 **based services workforce.**

30 **“(b) A copy of the budget documents of the board showing:**

1 “(A) The Medicaid reimbursement rates for the home and
2 community-based services workforce; and

3 “(B) Statements showing aggregate data regarding compensation
4 paid and benefits provided to the home and community-based services
5 workforce.

6 “(c) A description of the public hearing process used to inform the
7 minimum standards established by the board.

8 “(d) A description of the current minimum standards established
9 by the board and recommended changes to the standards, along with
10 any supporting documentation for the proposed changes.

11 “(e) The number and types of complaints or civil actions filed al-
12 leging a violation of any of the standards established by the board, if
13 any.

14 “(f) A summary of all other actions taken during the prior
15 biennium in the performance of the board’s statutory responsibilities
16 that is adequate to allow evaluation of the board’s performance.

17
18 **“BOARD AUTHORITY**
19

20 **“SECTION 8. Investigative authority. In order to determine any**
21 **facts relevant to matters concerning implementation of and compli-**
22 **ance with the minimum standards established by the Home and**
23 **Community-Based Services Workforce Board under section 5 of this**
24 **2025 Act:**

25 **“(1) The Commissioner of the Bureau of Labor and Industries may**
26 **conduct investigations, issue subpoenas and subpoenas duces tecum,**
27 **administer oaths, obtain evidence and take testimony to the same ex-**
28 **tent that the commissioner may exercise such authority with respect**
29 **to the bureau’s duties as described under ORS 651.060.**

30 **“(2) The Director of the Department of Human Services may con-**

duct investigations, issue subpoenas, administer oaths, obtain evidence and take testimony to the same extent that the director may exercise such authority under ORS chapters 441 and 443.

“WORKER PROTECTIONS

“SECTION 9. Retaliation prohibited. It is an unlawful practice under ORS chapter 659A for an employer to terminate, discipline, penalize, retaliate or take any other adverse action against any worker from the home and community-based services workforce because the worker has:

“(1) Inquired about or exercised any right afforded to a worker under sections 1 to 12 of this 2025 Act or under any minimum standards established by the board under section 5 of this 2025 Act.

“(2) Participated in any process or proceeding under or related to sections 1 to 12 of this 2025 Act, or has testified or is about to testify in any such proceeding.

“SECTION 10. Remedies. (1) A worker from the home and community-based services workforce or a labor organization may seek relief for an alleged violation of a minimum standard established by the Home and Community-Based Services Workforce Standards Board under section 5 of this 2025 Act by:

“(a) Commencing a civil action in the circuit court of appropriate jurisdiction for injunctive relief, damages or other appropriate equitable relief against any person alleged to have violated a minimum standard; or

“(b) Filing a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820, not later than one year after the date of the alleged violation. In addition to any other penalty provided by law, the Commissioner of the Bureau

1 of Labor and Industries may assess a civil penalty under ORS 183.745
2 not to exceed \$1,000 for each violation of a minimum standard adopted
3 by the board under section 5 of this 2025 Act.

4 “(2) Upon prevailing in an action under this section, the plaintiff
5 may recover actual damages and the court shall award reasonable at-
6 torney fees and costs to the prevailing plaintiff.

7 **“SECTION 11. Limits.** Nothing in sections 1 to 12 of this 2025 Act
8 is intended to:

9 “(1) Limit, interfere with or reduce the rights of any parties to a
10 collective bargaining agreement.

11 “(2) Diminish the rights or remedies that are otherwise available
12 to a worker from the home and community-based services workforce
13 under federal or state law or regulation, including but not limited to
14 the right to file a wage claim under ORS 652.310 to 652.414.

15 **“SECTION 12. Employer notice requirements.** (1) Each employer of
16 workers of the home and community-based services workforce shall
17 provide notice to the workers of the following:

18 “(a) The rights of the workers with respect to the minimum stan-
19 dards established by the Home and Community-Based Services
20 Workforce Standards Board under section 5 of this 2025 Act.

21 “(b) The duties and functions of the board.

22 “(c) Contact information for each state agency responsible with
23 enforcement authority over matters that relate to the same subjects
24 over which the board has authority.

25 “(2) The employer shall provide the notice required under this sec-
26 tion as follows:

27 “(a) At the time of hire;

28 “(b) In the same language that the employer typically communi-
29 cates with the worker;

30 “(c) By posting the notice in a conspicuous location in the

1 **workplace; and**

2 **“(d) By sending the notice to the electronic mail address of each**
3 **worker of the employer.**

4 **“(3) The board shall annually review and update the notice required**
5 **under this section insofar as necessary to reflect changes to any min-**
6 **imum standards that are adopted by the board.**

7
8 **“MISCELLANEOUS**

9
10 **“SECTION 13.** ORS 443.517 is amended to read:

11 **“443.517. (1) The Department of Human Services shall maintain an online**
12 **[*home or community-based services caregiver*] registry **that is** accessible to**
13 **the public **and that lists home or community-based services caregivers****
14 ****and workers.** The information to be displayed on the registry for each**
15 **caregiver **and worker, respectively,** shall be limited to the:**

16 **“(a) Name of the caregiver **or worker;****

17 **“(b) County and, if applicable, city where the caregiver **or worker** re-**
18 **sides;**

19 **“(c)(A) Certification status of the caregiver under ORS 443.515 and any**
20 **endorsements earned by the caregiver; [*and*] **or****

21 **“(B) Certification status of the worker and any endorsements**
22 **earned by the worker, if applicable; and**

23 **“(d) Criminal records check status of the caregiver **or worker.****

24 **“(2) The registry shall contain links to:**

25 **“(a) Sites that explain the training requirements for the certification of**
26 **each type of home or community-based services caregiver described in ORS**
27 **443.515 (1)(b); and**

28 **“(b) The home care registry, as defined in ORS 410.600, for members of**
29 **the public to find home care workers.**

30 **“(3) The department shall create a process for a home or community-based**

1 services caregiver **or worker** to request to be excluded from the registry.

2 “(4) The department shall prominently display a notice on the registry
3 that states that:

4 “(a) Home or community-based services caregivers **and workers** may
5 choose not to be listed on the registry; and

6 “(b) The registry is not an exclusive list of all home and community-based
7 services caregivers **and workers** that are qualified and trained in this state.

8 “(5) The department may include on the registry disclaimers, user guid-
9 ance and other resources that the department deems appropriate to help us-
10 ers of the registry.

11 “(6) This section does not prohibit the department from requesting and
12 collecting from home or community-based services caregivers **and workers**
13 information in addition to the information that must be displayed on the
14 registry under subsection (1) of this section.

15 “(7) **As used in this section, ‘worker’ means an individual from the**
16 **home and community-based services workforce, as defined in section**
17 **1 of this 2025 Act.**

18 “**SECTION 14.** ORS 192.670 is amended to read:

19 “192.670. (1) Any meeting, including an executive session, of a governing
20 body of a public body which is held through the use of telephone or other
21 electronic communication shall be conducted in accordance with ORS 192.610
22 to 192.705.

23 “(2) When telephone or other electronic means of communication is used
24 and the meeting is not an executive session, the governing body of the public
25 body shall make available to the public at least one place where, or at least
26 one electronic means by which, the public can listen to the communication
27 at the time it occurs. A place provided may be a place where no member of
28 the governing body of the public body is present.

29 “(3) All meetings held by a governing body of a public body, excluding
30 executive sessions, must provide to members of the general public, to the

1 extent reasonably possible, an opportunity to:

2 “(a) Access and attend the meeting by telephone, video or other electronic
3 or virtual means;

4 “(b) If in-person oral testimony is allowed, submit during the meeting oral
5 testimony by telephone, video or other electronic or virtual means; and

6 “(c) If in-person written testimony is allowed, submit written testimony,
7 including by electronic mail or other electronic means, so that the governing
8 body is able to consider the submitted testimony in a timely manner.

9 “(4) The provisions of subsection (3) of this section:

10 “(a) Apply to:

11 “(A) Hearings under ORS 197.797, 215.402 to 215.438 and 215.700 to 215.780
12 regardless of whether a governing body or governing body’s designee, in-
13 cluding a hearings officer, conducts the hearing; and

14 “(B) **Public hearings under section 5 of this 2025 Act; and**

15 “(b) Do not apply to contested case hearings under ORS chapter 183.

16 **“SECTION 15. (1)(a) The Home and Community-Based Services**
17 **Workforce Standards Board shall consider the information related to**
18 **prevailing labor market conditions described under section 5 (3) of this**
19 **2025 Act no later than September 30, 2027.**

20 **“(b) The board shall adopt rules establishing the initial minimum**
21 **standards under section 5 of this 2025 Act following completion of the**
22 **initial market study described in paragraph (a) of this subsection, but**
23 **not sooner than March 1, 2028.**

24 **“(2) If the board determines that a proposed minimum standard will**
25 **require any increase to state funding levels or otherwise result in an**
26 **increase in the fiscal obligations of the state, the board shall report**
27 **to the Legislative Assembly and to the Governor the increase in**
28 **funding needed to implement the standard. The rule establishing the**
29 **standard may not take effect until the regular legislative session next**
30 **following provided that an appropriation has been made for purposes**

1 of implementing and enforcing the standard, in the regular legislative
2 session next following.

3 **“SECTION 16.** The unit and section captions used in this 2025 Act
4 are provided only for the convenience of the reader and do not become
5 part of the statutory law of this state or express any legislative intent
6 in the enactment of this 2025 Act.”.

7
