

Requested by Representative FAHEY

**PROPOSED AMENDMENTS TO
HOUSE BILL 3838**

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

3 Delete lines 5 through 21 and delete pages 2 through 7 and insert:
4

5 **“DEFINITIONS**

6
7 **“SECTION 1. Definitions. As used in sections 1 to 12 of this 2025
8 Act:**

9 **“(1) ‘Adult foster home’ has the meaning given that term in ORS
10 443.705.**

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

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

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

17 **“(5)(a) ‘Direct care staff’ means:**

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

19 **“(B) The employees of an adult foster home whose primary re-
20 sponsibilities are to provide personal care services to residents, in-
21 cluding 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 nine members appointed as follows:

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

13 “(b) Three 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) One member appointed by the Commissioner of the Bureau of
17 Labor and Industries who represents the bureau;

18 “(d) One member appointed by the Governor who represents the
19 Department of Human Services; and

20 “(e) One member appointed by the Governor who represents the
21 executive department of state government.

22 “(3) The appointments of the Governor under subsection (2)(a) and
23 (b) of this section:

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

26 “(b) Must be individuals who, collectively, have knowledge and ex-
27 perience in the following home and community-based services or care
28 settings:

29 “(A) In-home care services;

30 “(B) Attendant care services;

- 1 “(C) Supported living services;
- 2 “(D) Adult foster homes;
- 3 “(E) Residential care facilities, including facilities with a memory
- 4 care endorsement under ORS 443.886 and assisted living facilities;
- 5 “(F) Residential training facilities or residential training homes;
- 6 “(G) Developmental disability child foster homes;
- 7 “(H) Domiciliary care facilities; and
- 8 “(I) Community-based structured housing.

9 “(4) Members of the board are subject to and must comply with the

10 provisions of ORS 244.120 relating to potential and actual conflicts of

11 interest as those terms are defined in ORS 244.020.

12 “(5) The term of a member of the board is three years and the

13 member may be reappointed. An appointed member serves at the

14 pleasure of the appointing authority.

15 “(6) Each successor board member shall be appointed by the ap-

16 pointing authority, before the expiration of the term of a member, but

17 not later than January 1 of each even-numbered year. If a vacancy

18 occurs for any cause before the expiration of the term of a member,

19 the appointing authority shall make an appointment to fill the va-

20 cancy, in the same manner as an appointment to a full term, to be-

21 come immediately effective for the unexpired term.

22 “(7) The Governor shall appoint two members, one from each of the

23 appointments made under subsection (2)(a) and (b) of this section, to

24 serve as cochairs who shall preside over meetings on a quarterly ro-

25 tating basis, unless agreed upon otherwise by the cochairs.

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

27 who is responsible for the performance of duties assigned by the board.

28 The executive director may employ not more than three staff to carry

29 out the duties assigned by the board.

30 “SECTION 3. Initial terms. (1) All appointments to the board made

1 under section 2 of this 2025 Act must be completed on or before De-
2 cember 31, 2026.

3 “(2) Notwithstanding the term of office specified by section 2 of this
4 2025 Act, of the members first appointed to the board:

5 “(a) Three shall serve for a term ending January 1, 2028.

6 “(b) Three shall serve for a term ending January 1, 2029.

7 “(c) Three shall serve for a term ending January 1, 2030.

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

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

13 “(3) A majority of members of the board constitutes a quorum for
14 the transaction of business.

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

17 “(5) The board shall meet once per calendar quarter at times and
18 places specified by the call of the cochaIRS.

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

21

22 **“DUTIES OF THE BOARD**

23

24 **“SECTION 5. Minimum workforce standards.** (1) Subject to sub-
25 section (4) of this section, the Home and Community-Based Services
26 Workforce Standards Board shall adopt rules establishing minimum
27 standards for the home and community-based services workforce that
28 are designed to ensure the health and welfare of such workers and that
29 may be tailored to specific categories of worker types and across dif-
30 ferent care settings. The board may not adopt any standards that:

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

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

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

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

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

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

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

19 “(e) Establish requirements for itemized statements regarding de-
20 ductions from wages that meet or exceed the requirements under ORS
21 652.610, including a requirement that such statements are timely pro-
22 vided to a labor organization.

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

25 “(a) Evaluate and consider the following information in relation to
26 the home and community-based services workforce to ensure that the
27 standards adopted by the board meet or exceed prevailing labor market
28 conditions:

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

30 “(i) Wage levels and benefit data from comparable occupations and

1 **industries within different geographic regions in this state;**

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

4 **“(iii) Collective bargaining agreements applicable to workers in**
5 **comparable occupations and industries within different geographic re-**
6 **gions in this state; and**

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

9 **“(B) Testimony from current and former workers from the home**
10 **and community-based services workforce, labor organizations, em-**
11 **ployers and other interested stakeholders;**

12 **“(C) Data submitted by or obtained from state and local govern-**
13 **ment entities; and**

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

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

21 **“(c) Consult with the Bureau of Labor and Industries, the Depart-**
22 **ment of Human Services and any other relevant state agencies, to**
23 **determine whether a proposed minimum standard will require any in-**
24 **crease to state funding levels or otherwise result in an increase in the**
25 **fiscal obligations of the state.**

26 **“(4)(a) If the board determines that a proposed minimum standard**
27 **will require any increase to state funding levels or otherwise result in**
28 **an increase in the fiscal obligations of the state, the board shall report**
29 **to the Legislative Assembly and to the Governor the increase in**
30 **funding needed to implement the standard.**

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

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

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

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

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

26 “(A) Supply and demand estimates and projections for such work-
27 ers;

28 “(B) Education, training and skill requirements;

29 “(C) Terms and conditions of employment;

30 “(D) Unionization rates;

1 **“(E) Compensation rates;**

2 **“(F) Industry profits; and**

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

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

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

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

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

20 **“(A) For statutory changes;**

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

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

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

27 **“(A) The Medicaid reimbursement rates for the home and**
28 **community-based services workforce; and**

29 **“(B) Statements showing aggregate data regarding compensation**
30 **paid and benefits provided to the home and community-based services**

1 workforce.

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

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

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

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

13

14

“BOARD AUTHORITY

15

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

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

26 “(2) The Director of the Department of Human Services may con-
27 duct investigations, issue subpoenas, administer oaths, obtain evidence
28 and take testimony to the same extent that the director may exercise
29 such authority under ORS chapters 441 and 443.

30

1 may recover actual damages and the court shall award reasonable at-
2 torney fees and costs to the prevailing plaintiff.

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

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

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

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

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

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

18 **“(c) Contact information for each state agency responsible with**
19 **enforcement authority over matters that relate to the same subjects**
20 **over which the board has authority.**

21 **“(2) The employer shall provide the notice required under this sec-**
22 **tion as follows:**

23 **“(a) At the time of hire;**

24 **“(b) In the same language that the employer typically communi-**
25 **cates with the worker;**

26 **“(c) By posting the notice in a conspicuous location in the**
27 **workplace; and**

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

30 **“(3) The board shall annually review and update the notice required**

1 **under this section insofar as necessary to reflect changes to any minimum standards that are adopted by the board.**

2
3
4 **“MISCELLANEOUS**

5
6 **“SECTION 13.** ORS 443.517 is amended to read:

7 “443.517. (1) The Department of Human Services shall maintain an online
8 [*home or community-based services caregiver*] registry **that is** accessible to
9 the public **and that lists home or community-based services caregivers**
10 **and workers.** The information to be displayed on the registry for each
11 caregiver **and worker, respectively,** shall be limited to the:

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

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

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

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

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

20 “(2) The registry shall contain links to:

21 “(a) Sites that explain the training requirements for the certification of
22 each type of home or community-based services caregiver described in ORS
23 443.515 (1)(b); and

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

26 “(3) The department shall create a process for a home or community-based
27 services caregiver **or worker** to request to be excluded from the registry.

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

30 “(a) Home or community-based services caregivers **and workers** may

1 choose not to be listed on the registry; and

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

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

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

11 “(7) **As used in this section, ‘worker’ means an individual from the**
12 **home and community-based services workforce, as defined in section**
13 **1 of this 2025 Act.**

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

15 “192.670. (1) Any meeting, including an executive session, of a governing
16 body of a public body which is held through the use of telephone or other
17 electronic communication shall be conducted in accordance with ORS 192.610
18 to 192.705.

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

25 “(3) All meetings held by a governing body of a public body, excluding
26 executive sessions, must provide to members of the general public, to the
27 extent reasonably possible, an opportunity to:

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

30 “(b) If in-person oral testimony is allowed, submit during the meeting oral

1 testimony by telephone, video or other electronic or virtual means; and

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

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

6 “(a) Apply to:

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

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

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

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

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

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

29 **“SECTION 16. The unit and section captions used in this 2025 Act**
30 **are provided only for the convenience of the reader and do not become**

1 **part of the statutory law of this state or express any legislative intent**
2 **in the enactment of this 2025 Act.”.**

3 _____