

A-Engrossed
Senate Bill 287

Ordered by the Senate May 1
Including Senate Amendments dated May 1

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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.

[Imposes requirements for licensure of person to operate multiple residential facilities in state.]
Authorizes Department of Human Services to deny, suspend, revoke or refuse to renew license of person who operates or who applies to operate facility if department finds that person operates separate facility and has not complied with certain department rules.

A BILL FOR AN ACT

1
2 Relating to licensing of residential facility; creating new provisions; and amending ORS 443.415,
3 443.440 and 443.735.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Facility" means:**

7 (A) **A residential training facility as defined in ORS 443.400;**

8 (B) **A residential training home as defined in ORS 443.400;**

9 (C) **A residential treatment facility as defined in ORS 443.400;**

10 (D) **A residential treatment home as defined in ORS 443.400; or**

11 (E) **An adult foster home as defined in ORS 443.705.**

12 (b) **"Provider" means a person licensed or a person applying for a license to operate a**
13 **facility.**

14 (2) **The Department of Human Services may deny, suspend, revoke or refuse to renew a**
15 **license of a provider if the department finds that the provider operates a separate facility**
16 **that is not or has not been in substantial compliance with rules adopted under ORS 443.400**
17 **to 443.455 or 443.705 to 443.825.**

18 **SECTION 2. ORS 443.415 is amended to read:**

19 443.415. (1) Applications for licensure to maintain and operate a residential facility shall be
20 made to the Department of Human Services on forms provided for that purpose by the department.
21 Each application shall be accompanied by a fee of \$60 for facilities defined in ORS 443.400 (5), (7)
22 and (9) and a fee of \$30 for homes defined in ORS 443.400 (8) and (10). No fee is required of any
23 governmentally operated residential facility.

24 (2) Upon receipt of an application and fee, the department shall conduct an investigation. The
25 department shall issue a license to any applicant for operation of a residential facility in compliance
26 with ORS 443.400 to 443.455 and the rules of the director. Licensure may be denied when a resi-

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.

1 dental facility is not in compliance with ORS 443.400 to 443.455 **or section 1 of this 2009 Act** or
 2 the rules of the [*Director of Human Services*] **department**. Licensure shall be denied if the State Fire
 3 Marshal or other authority has given notice of noncompliance of facilities defined in ORS 443.400
 4 (5), (7) and (9) pursuant to ORS 479.220.

5 **SECTION 3.** ORS 443.440 is amended to read:

6 443.440. The Department of Human Services may revoke or suspend the license of any residen-
 7 tial facility that is not operated in accordance with ORS 443.400 to 443.455 **or section 1 of this 2009**
 8 **Act** or the rules [*adopted thereunder*] **of the department**. Such revocation or suspension shall be
 9 taken in accordance with rules of the department and ORS chapter 183. However, in cases where
 10 an imminent danger to the health or safety of the residents exists, a license may be suspended im-
 11 mediately pending a fair hearing not later than the 10th day after such suspension.

12 **SECTION 4.** ORS 443.735 is amended to read:

13 443.735. (1) Applications for a license to maintain and operate an adult foster home shall be
 14 made on forms provided by the Department of Human Services. Each application shall be accompa-
 15 nied by a fee of \$20 per bed requested for licensing.

16 (2) Upon receipt of an application and fee, the department shall conduct an investigation.

17 (3) The department shall not issue an initial license unless:

18 (a) The applicant and adult foster home are in compliance with ORS 443.705 to 443.825 **and**
 19 **section 1 of this 2009 Act** and the rules of the department;

20 (b) The department has completed an inspection of the adult foster home;

21 (c) The department has completed a criminal records check under ORS 181.534 on the applicant
 22 and any person, other than a resident, 16 years of age or older who will be residing in the adult
 23 foster home. The criminal records check shall be conducted in accordance with rules adopted under
 24 ORS 181.534;

25 (d) The department has checked the record of sanctions available, including the list of nursing
 26 assistants who have been found responsible for abuse and whose names have been added to the
 27 registry under ORS 441.678; and

28 (e) The applicant has demonstrated to the department the financial ability and resources nec-
 29 cessary to operate the adult foster home. The department shall adopt rules as the department deems
 30 appropriate that establish the financial standards an applicant must meet to qualify for issuance of
 31 a license and that protect financial information from public disclosure. The demonstration of finan-
 32 cial ability under this paragraph shall include, but need not be limited to, providing the department
 33 with a list of any unsatisfied judgments, pending litigation and unpaid taxes and notifying the de-
 34 partment regarding whether the applicant is in bankruptcy. If the applicant is unable to demonstrate
 35 the financial ability and resources required by this paragraph, the department may require the ap-
 36 plicant to furnish a financial guarantee as a condition of initial licensure.

37 (4) The department may not renew a license under this section unless:

38 (a) The applicant and the adult foster home are in compliance with ORS 443.705 to 443.825 **and**
 39 **section 1 of this 2009 Act** and the rules of the department;

40 (b) The department has completed an inspection of the adult foster home;

41 (c) The department has completed a criminal records check under ORS 181.534 on the applicant
 42 and any person, other than a resident, 16 years of age or older who will be residing in the adult
 43 foster home. The criminal records check under this paragraph shall be conducted in accordance with
 44 rules adopted under ORS 181.534; and

45 (d) The department has checked the record of sanctions available, including the list of nursing

1 assistants who have been found responsible for abuse and whose names have been added to the
2 registry under ORS 441.678.

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

6 (b) In proceedings for renewal of a license when an adult foster home has been licensed for at
7 least 24 continuous months, the burden of proof shall be upon the department to establish noncom-
8 pliance with ORS 443.705 to 443.825 and the rules of the department.

9 (6)(a) Persons who have been convicted of one or more crimes that, as determined by rules of
10 the department, are substantially related to the qualifications, functions or duties of a provider,
11 resident manager, substitute caregiver or other household member of an adult foster home shall be
12 prohibited from operating, working in or residing in an adult foster home.

13 (b) The department shall adopt rules that distinguish the criminal convictions and types of abuse
14 that permanently prohibit a person from operating, working in or living in an adult foster home from
15 the convictions and types of abuse that do not permanently prohibit the person from operating,
16 working in or living in an adult foster home.

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

20 (7) A license under ORS 443.725 is effective for one year from the date of issue unless sooner
21 revoked. Each license shall state the name of the resident manager of the adult foster home, the
22 names of all providers who own the adult foster home, the address of the premises to which the li-
23 cense applies, the maximum number of residents and the classification of the home. If, during the
24 period covered by the license, a resident manager changes, the provider must within 15 days request
25 modification of the license. The request must be accompanied by a fee of \$10.

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

29 (9) The department shall not issue a license to operate an additional adult foster home to a
30 provider unless the provider has demonstrated the qualifications and capacity to operate the pro-
31 vider's existing licensed home or homes and has demonstrated the ability to provide care to the
32 residents of those homes that is adequate and substantially free from abuse and neglect.

33 (10) All moneys collected under ORS 443.725 to 443.780 shall be deposited in a special account
34 in the General Fund, and are appropriated continuously for payment of expenses incurred by the
35 Department of Human Services.

36 (11) Notwithstanding any other provision of this section or ORS 443.725 or 443.738, the depart-
37 ment may issue a 60-day provisional license to a qualified person if the department determines that
38 an emergency situation exists after being notified that the licensed provider of an adult foster home
39 is no longer overseeing operation of the adult foster home.

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