

Updated Sponsors

House Bill 3618

Sponsored by Representative DEMBROW, Senator MORRISETTE; Representatives BARKER, BARNHART, BOONE, BUCKLEY, CLEM, DOHERTY, FREDERICK, GREENLICK, HOLVEY, KAHL, MATTHEWS, ROBLAN, STIEGLER, VANORMAN, WITT, Senators DEVLIN, MONROE, ROSENBAUM, SHIELDS (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 **as introduced**.

Modifies definition of "home care worker" for purpose of providing workers' compensation to certain individuals who receive compensation from Department of Human Services, area agencies or other public agencies. Requires department, area agencies and other public agencies to collect names of, and other information pertaining to, those individuals before October 1, 2010. Requires department to keep and maintain information until July 1, 2013.

Provides workers' compensation to certain individuals who receive compensation from department, area agencies or other public agencies beginning January 1, 2011. Requires inclusion of names of, and other information pertaining to, those individuals in registry maintained by Home Care Commission on or after July 1, 2013.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to home care workers; creating new provisions; amending ORS 410.600, 410.606 and 656.039;
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 410.606 is amended to read:

6 410.606. (1) **Notwithstanding ORS 410.600, for purposes of this section:**

7 (a) **"Activities of community inclusion" includes but is not limited to volunteer activities,**
8 **employment, development of community life skills and participation in social and recre-**
9 **ational community events.**

10 (b) **"Home care services" means assistance with activities of daily living, activities of**
11 **community inclusion and self-management provided by a home care worker for an elderly**
12 **person or person with a disability.**

13 (c) **"Home care worker" means a person:**

14 (A) **Who is hired directly by an elderly person or person with a disability or by a parent**
15 **or guardian of an elderly person or person with a disability;**

16 (B) **Who receives moneys from the Department of Human Services for the purpose of**
17 **providing care to the elderly person or person with a disability;**

18 (C) **Whose compensation is funded in whole or in part by the department, an area agency**
19 **or other public agency; and**

20 (D) **Who provides either hourly or live-in home care services.**

21 (d) **"Person with a disability" means a person with a physical disability, developmental**
22 **disability or mental illness.**

23 (2) The department [*of Human Services*], an area agency or other public agency shall provide
24 to an individual seeking a home care worker the names of qualified individuals, in the appropriate

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 geographic area, who have been placed on the registry maintained by the Home Care Commission.

2 **(3) The department, area agencies and other public agencies shall collect:**

3 **(a) The name and address of any home care worker:**

4 **(A) Who provides home care services;**

5 **(B) Whose compensation is funded in whole or in part with state funds; and**

6 **(C) Who is not listed on the registry maintained by the commission; and**

7 **(b) The name of the program under which the home care worker provides the home care**
8 **services.**

9 **(4) Area agencies and other public agencies shall report to the department the informa-**
10 **tion collected by those agencies under subsection (3) of this section.**

11 **(5) If necessary to collect the information required by subsection (3) of this section:**

12 **(a) The department, an area agency or other public agency shall request the required**
13 **information from any for-profit, not-for-profit or public brokerage or agency that provides**
14 **payroll services for home care workers; and**

15 **(b) The brokerage or agency shall provide the department, area agency or other public**
16 **agency with the requested information.**

17 **(6) The department shall keep and maintain until July 1, 2013, the information that the**
18 **department collects and receives under this section for the purpose of updating the registry**
19 **maintained by the commission.**

20 **(7) The department:**

21 **(a) Is not required to publish, electronically or otherwise, the names and addresses of**
22 **home care workers that the department collects and receives under this section; and**

23 **(b) Shall provide the name and address of a home care worker to any individual who re-**
24 **quests the information.**

25 **SECTION 2. (1) The amendments to ORS 410.606 by section 1 of this 2010 Act become**
26 **operative on October 1, 2010.**

27 **(2) Notwithstanding subsection (1) of this section, the Department of Human Services,**
28 **area agencies and other public agencies may take any action necessary before the operative**
29 **date specified in subsection (1) of this section to enable the department, area agencies and**
30 **other public agencies to exercise, on and after the operative date specified in subsection (1)**
31 **of this section, all the duties, functions and powers conferred on the department, area**
32 **agencies and other public agencies by the amendments to ORS 410.606 by section 1 of this**
33 **2010 Act.**

34 **SECTION 3. ORS 410.600 is amended to read:**

35 **410.600. As used in ORS 410.600 to 410.625:**

36 **(1) "Activities of community inclusion" includes but is not limited to volunteer activities,**
37 **employment, development of community life skills and participation in social and recre-**
38 **ational community events.**

39 **[(1)] (2) "Activities of daily living" includes but is not limited to the following:**

40 **(a) Bathing and personal hygiene;**

41 **(b) Dressing and grooming;**

42 **(c) Eating;**

43 **(d) Mobility;**

44 **(e) Bowel and bladder management; and**

45 **(f) Cognition.**

1 [(2)] (3) “Area agency” has the meaning given that term in ORS 410.040.

2 [(3)] (4) “Commission” means the Home Care Commission established and operated pursuant to

3 section 11, Article XV of the Oregon Constitution, and ORS 410.600 to 410.625.

4 [(4)] (5) “Elderly person” has the meaning given that term in ORS 410.040.

5 [(5)] (6) “Home care services” means assistance with activities of daily living, **activities of**

6 **community inclusion** and self-management provided by a home care worker [*in the home of*] **for**

7 an elderly person or person with a disability.

8 [(6)] (7) “Home care worker” means a person:

9 (a) Who is hired directly by an elderly person or person with a disability [*who*] **or by a parent**

10 **or guardian of an elderly person or person with a disability;**

11 (b) **Who** receives moneys from the Department of Human Services for [*that purpose*] **the pur-**

12 **pose of providing care to the elderly person or person with a disability;**

13 [(b)] (c) Whose compensation is [*paid*] **funded** in whole or in part by the department, an area

14 agency or other public agency [*that receives moneys from the department for that purpose*]; and

15 [(c)] (d) Who provides either hourly or live-in home care services.

16 [(7)] (8) “Person with a disability” [*has the meaning given that term in ORS 410.040*] **means a**

17 **person with a physical disability, developmental disability or mental illness.**

18 [(8)] (9) “Self-management” includes but is not limited to the following activities, other than

19 activities of daily living, required by an individual to continue living independently in the

20 individual’s own home:

21 (a) Medication and oxygen management;

22 (b) Transportation;

23 (c) Meal preparation;

24 (d) Shopping; and

25 (e) [*Client focused*] **Client-focused** general household work.

26 **SECTION 4.** ORS 410.606, as amended by section 1 of this 2010 Act, is amended to read:

27 410.606. [(1) *Notwithstanding ORS 410.600, for purposes of this section:*]

28 [(a) *“Activities of community inclusion” includes but is not limited to volunteer activities, employ-*

29 *ment, development of community life skills and participation in social and recreational community*

30 *events.*]

31 [(b) *“Home care services” means assistance with activities of daily living, activities of community*

32 *inclusion and self-management provided by a home care worker for an elderly person or person with*

33 *a disability.*]

34 [(c) *“Home care worker” means a person:*]

35 [(A) *Who is hired directly by an elderly person or person with a disability or by a parent or*

36 *guardian of an elderly person or person with a disability;*]

37 [(B) *Who receives moneys from the Department of Human Services for the purpose of providing*

38 *care to the elderly person or person with a disability;*]

39 [(C) *Whose compensation is funded in whole or in part by the department, an area agency or other*

40 *public agency; and*]

41 [(D) *Who provides either hourly or live-in home care services.*]

42 [(d) *“Person with a disability” means a person with a physical disability, developmental disability*

43 *or mental illness.*]

44 [(2)] (1) The Department **of Human Services**, an area agency or other public agency shall

45 provide to an individual seeking a home care worker the names of qualified individuals, in the ap-

1 appropriate geographic area, who have been placed on the registry maintained by the Home Care
 2 Commission.

3 [(3)] (2) The department, area agencies and other public agencies shall collect:

4 (a) The name and address of any home care worker:

5 (A) Who provides home care services;

6 (B) Whose compensation is funded in whole or in part with state funds; and

7 (C) Who is not listed on the registry maintained by the commission; and

8 (b) The name of the program under which the home care worker provides the home care ser-
 9 vices.

10 [(4)] (3) Area agencies and other public agencies shall report to the department the information
 11 collected by those agencies under subsection [(3)] (2) of this section.

12 [(5)] (4) If necessary to collect the information required by subsection [(3)] (2) of this section:

13 (a) The department, an area agency or other public agency shall request the required informa-
 14 tion from any for-profit, not-for-profit or public brokerage or agency that provides payroll services
 15 for home care workers; and

16 (b) The brokerage or agency shall provide the department, area agency or other public agency
 17 with the requested information.

18 [(6)] (5) The department shall keep and maintain until July 1, 2013, the information that the
 19 department collects and receives under this section for the purpose of updating the registry main-
 20 tained by the commission.

21 [(7)] (6) The department:

22 (a) Is not required to publish, electronically or otherwise, the names and addresses of home care
 23 workers that the department collects and receives under this section; and

24 (b) Shall provide the name and address of a home care worker to any individual who requests
 25 the information.

26 **SECTION 5.** ORS 656.039 is amended to read:

27 656.039. (1) An employer of one or more persons defined as nonsubject workers or not defined
 28 as subject workers may elect to make them subject workers. If the employer is or becomes a
 29 carrier-insured employer, the election shall be made by filing written notice thereof with the insurer
 30 with a copy to the Director of the Department of Consumer and Business Services. The effective
 31 date of coverage is governed by ORS 656.419 (3). If the employer is or becomes a self-insured em-
 32 ployer, the election shall be made by filing written notice thereof with the director, the effective
 33 date of coverage to be the date specified in the notice.

34 (2) Any election under subsection (1) of this section may be canceled by written notice thereof
 35 to the insurer or, in the case of a self-insured employer, by notice thereof to the director. The can-
 36 cellation is effective at 12 midnight ending the day the notice is received by the insurer or the di-
 37 rector, unless a later date is specified in the notice. The insurer shall, within 10 days after receipt
 38 of a notice of cancellation under this section, send a copy of the notice to the director.

39 (3) When necessary the insurer or the director shall fix assumed minimum or maximum wages
 40 for persons made subject workers under this section.

41 (4) Notwithstanding any other provision of this section, a person or employer not subject to this
 42 chapter who elects to become covered may apply to an insurer for coverage. An insurer other than
 43 the State Accident Insurance Fund Corporation may provide such coverage. However, the State
 44 Accident Insurance Fund Corporation shall accept any written notice filed and provide coverage as
 45 provided in this section if all subject workers of the employers will be insured with the State Acci-

1 dent Insurance Fund Corporation and the coverage of those subject workers is not considered by
 2 the State Accident Insurance Fund Corporation to be a risk properly assignable to the assigned risk
 3 pool.

4 (5)(a) The Home Care Commission created by ORS 410.602 shall elect coverage on behalf of cli-
 5 ents of the Department of Human Services who employ home care workers to make home care
 6 workers subject workers if the home care worker is *[paid]* **funded** by the state on behalf of the
 7 client.

8 (b) As used in this subsection, “home care worker” has the meaning given that term in ORS
 9 410.600.

10 **SECTION 6. (1) The amendments to ORS 410.600, 410.606 and 656.039 by sections 3 to 5**
 11 **of this 2010 Act become operative on January 1, 2011.**

12 **(2) Notwithstanding subsection (1) of this section, the Home Care Commission, the De-**
 13 **partment of Human Services, area agencies and other public agencies may take any action**
 14 **necessary before the operative date specified in subsection (1) of this section to enable the**
 15 **commission, the department, area agencies and other public agencies to exercise, on and**
 16 **after the operative date specified in subsection (1) of this section, all the duties, functions**
 17 **and powers conferred on the commission, the department, area agencies and other public**
 18 **agencies by the amendments to ORS 410.600, 410.606 and 656.039 by sections 3 to 5 of this 2010**
 19 **Act.**

20 **SECTION 7.** ORS 410.606, as amended by sections 1 and 4 of this 2010 Act, is amended to read:

21 410.606. (1) The Department of Human Services, an area agency or other public agency shall
 22 provide to an individual seeking a home care worker the names of qualified individuals, in the ap-
 23 propriate geographic area, who have been placed on the registry maintained by the Home Care
 24 Commission.

25 *[(2) The department, area agencies and other public agencies shall collect:]*

26 **(2) To facilitate the development and maintenance of the registry maintained by the**
 27 **commission, the department, area agencies and other public agencies shall report to the**
 28 **commission:**

29 (a) The name and address of any home care worker:

30 (A) Who provides home care services;

31 (B) Whose compensation is funded in whole or in part with state funds; and

32 (C) Who is not listed on the registry *[maintained by the commission]*; and

33 (b) The name of the program under which the home care worker provides the home care ser-
 34 vices.

35 *[(3) Area agencies and other public agencies shall report to the department the information col-*
 36 *lected by those agencies under subsection (2) of this section.]*

37 *[(4) If necessary to collect the information required by subsection (2) of this section:]*

38 *[(a) The department, an area agency or other public agency shall request the required information*
 39 *from any for-profit, not-for-profit or public brokerage or agency that provides payroll services for home*
 40 *care workers; and]*

41 *[(b) The brokerage or agency shall provide the department, area agency or other public agency with*
 42 *the requested information.]*

43 *[(5) The department shall keep and maintain until July 1, 2013, the information that the department*
 44 *collects and receives under this section for the purpose of updating the registry maintained by the*
 45 *commission.]*

1 *[(6) The department:]*

2 *[(a) Is not required to publish, electronically or otherwise, the names and addresses of home care*
3 *workers that the department collects and receives under this section; and]*

4 *[(b) Shall provide the name and address of a home care worker to any individual who requests the*
5 *information.]*

6 **SECTION 8. (1) The amendments to ORS 410.606 by section 7 of this 2010 Act become**
7 **operative on July 1, 2013.**

8 **(2) Notwithstanding subsection (1) of this section, the Department of Human Services,**
9 **area agencies and other public agencies may take any action necessary before the operative**
10 **date specified in subsection (1) of this section to enable the department, area agencies and**
11 **other public agencies to exercise, on and after the operative date specified in subsection (1)**
12 **of this section, all the duties, functions and powers conferred on the department, area**
13 **agencies and other public agencies by the amendments to ORS 410.606 by section 7 of this**
14 **2010 Act.**

15 **SECTION 9. This 2010 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
17 **on its passage.**

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