

**A-Engrossed**  
**House Bill 2054**

Ordered by the House March 16  
Including House Amendments dated March 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Human Services)

**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.

Authorizes Department of Human Services [*and Oregon Health Authority*] to delay annual renewal of [*health*] **long term** care facility license until compliance is certified following on-site inspection. Requires annual on-site inspections of **long term care facility**.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to health care facility licensing; amending ORS 441.025 and 441.060; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 441.025 is amended to read:

6 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility  
7 other than a long term care facility, the Oregon Health Authority shall review the application and  
8 conduct an on-site inspection of the health care facility. The authority shall issue a license if it finds  
9 that the applicant and health care facility comply with ORS 441.015 to 441.063 and the rules of the  
10 authority provided that the authority does not receive within the time specified a certificate of  
11 noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS  
12 479.215.

13 **(b) The authority shall, following payment of the fee, annually renew each license issued**  
14 **under this subsection unless:**

15 **(A) The health care facility's license has been suspended or revoked; or**

16 **(B) The State Fire Marshal, a deputy or an approved authority has issued a certificate**  
17 **of noncompliance pursuant to ORS 479.215.**

18 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the  
19 Department of Human Services shall review the application and conduct an on-site inspection of the  
20 long term care facility. The department shall issue a license if the department finds that the appli-  
21 cant and long term care facility comply with ORS 441.015 to 441.063 and 441.087 and the rules of  
22 the department provided that it does not receive within the time specified a certificate of noncom-  
23 pliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

24 **(b) The department shall, following an on-site inspection and payment of the fee, annually**  
25 **renew each license issued under this subsection unless:**

26 **(A) The long term care facility's license has been suspended or revoked;**

**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       **(B) The long term care facility is found not to be in substantial compliance following the**  
2 **on-site inspection; or**

3       **(C) The State Fire Marshal, a deputy or an approved authority has issued a certificate**  
4 **of noncompliance pursuant to ORS 479.215.**

5       *[(3) Each license, unless sooner suspended or revoked, shall be renewable annually for the calendar*  
6 *year upon payment of the fee, provided that a certificate of noncompliance has not been issued by the*  
7 *State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.]*

8       *[(4) (3) Each license shall be issued only for the premises and persons or governmental units*  
9 *named in the application and shall not be transferable or assignable.*

10       *[(5) (4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed*  
11 *by rule of the authority or the department.*

12       *[(6) (5) No license shall be issued or renewed for any health care facility or health maintenance*  
13 *organization that is required to obtain a certificate of need under ORS 442.315 until a certificate*  
14 *of need has been granted. An ambulatory surgical center is not subject to the certificate of need*  
15 *requirements in ORS 442.315.*

16       *[(7) (6) No license shall be issued or renewed for any skilled nursing facility or intermediate*  
17 *care facility, unless the applicant has included in the application the name and such other informa-*  
18 *tion as may be necessary to establish the identity and financial interests of any person who has*  
19 *incidents of ownership in the facility representing an interest of 10 percent or more thereof. If the*  
20 *person having such interest is a corporation, the name of any stockholder holding stock representing*  
21 *an interest in the facility of 10 percent or more shall also be included in the application. If the*  
22 *person having such interest is any other entity, the name of any member thereof having incidents*  
23 *of ownership representing an interest of 10 percent or more in the facility shall also be included in*  
24 *the application.*

25       *[(8) (7) A license may be denied to any applicant for a license or renewal thereof or any*  
26 *stockholder of any such applicant who has incidents of ownership in the health care facility repre-*  
27 *senting an interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease*  
28 *agreement for the facility, if during the five years prior to the application the applicant or any*  
29 *stockholder of the applicant had an interest of 10 percent or more in the facility or of a lease for*  
30 *the facility and has divested that interest after receiving from the authority or the department*  
31 *written notice that the authority or the department intends to suspend or revoke the license or to*  
32 *decertify the facility from eligibility to receive payments for services provided under this section.*

33       *[(9) (8) The Department of Human Services may not issue or renew a license for a long term*  
34 *care facility, unless the applicant has included in the application the identity of any person who has*  
35 *incident of ownership in the long term care facility who also has a financial interest in any phar-*  
36 *macy, as defined in ORS 689.005.*

37       *[(10) (9) The authority shall adopt rules for each type of health care facility, except long term*  
38 *care facilities, to carry out the purposes of ORS 441.015 to 441.087 including, but not limited to:*

39       (a) Establishing classifications and descriptions for the different types of health care facilities  
40 that are licensed under ORS 441.015 to 441.087; and

41       (b) Standards for patient care and safety, adequate professional staff organizations, training of  
42 staff for whom no other state regulation exists, suitable delineation of professional privileges and  
43 adequate staff analyses of clinical records.

44       *[(11) (10) The department shall adopt rules for each type of long term care facility to carry out*  
45 *the purposes of ORS 441.015 to 441.087 including, but not limited to:*

1 (a) Establishing classifications and descriptions for the different types of long term care facili-  
2 ties that are licensed under ORS 441.015 to 441.087; and

3 (b) Standards for patient care and safety, adequate professional staff organizations, training of  
4 staff for whom no other state regulation exists, suitable delineation of professional privileges and  
5 adequate staff analyses of clinical records.

6 [(12)] (11) The authority or department may not adopt a rule requiring a health care facility to  
7 serve a specific food as long as the necessary nutritional food elements are present in the food that  
8 is served.

9 [(13)] (12) A health care facility licensed by the authority or department may not:

10 (a) Offer or provide services beyond the scope of the license classification assigned by the au-  
11 thority or department; or

12 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-  
13 fication assigned by the authority or department.

14 [(14)] (13) A health care facility must reapply for licensure to change the classification assigned  
15 or the type of license issued by the authority or department.

16 **SECTION 2.** ORS 441.060 is amended to read:

17 441.060. (1) The Oregon Health Authority [*and the Department of Human Services*] shall make  
18 or cause to be made on-site inspections of [*licensed*] health care facilities **licensed under ORS**  
19 **441.025 (1)** at least once every three years.

20 (2) The authority and the Department **of Human Services** may prescribe by rule that any  
21 licensee or prospective applicant desiring to make specified types of alteration or addition to its  
22 facilities or to construct new facilities shall, before commencing such alteration, addition or new  
23 construction, either prior to or after receiving a certificate of need pursuant to ORS 442.315, if re-  
24 quired, submit plans and specifications therefor to the authority or the department for preliminary  
25 inspection and approval or recommendations with respect to compliance with the rules authorized  
26 by ORS 441.025 and 443.420 and for compliance with National Fire Protection Association standards  
27 when the facility is also to be Medicare or Medicaid certified.

28 (3) The authority or the department may require by rule payment of a fee for project review  
29 services at a variable rate, dependent on total project cost.

30 (4) For health care facilities, the authority shall develop a review fee schedule as minimally  
31 necessary to support the staffing level and expenses required to administer the program.

32 (5) For long term care facilities and residential care facilities, the department shall develop a  
33 review fee schedule as minimally necessary to support the staffing level and expenses required to  
34 administer the program. The fee for project review of residential care facilities shall equal two-  
35 thirds that required of health care facilities.

36 (6) The authority or the department may also conduct an on-site review of projects as a pre-  
37 requisite to licensure of new facilities, major renovations and expansions. The authority and the  
38 department shall, at least annually, with the advice of the facilities covered by the review, present  
39 proposed rule changes regarding facility design and construction to such agencies for their consid-  
40 eration.

41 (7) The authority shall publish a state submissions guide for health care facility projects and  
42 advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

43 (8) The department shall publish a state submissions guide for long term care facility and resi-  
44 dential care facility projects and advise project sponsors of applicable requirements of federal, state  
45 and local regulatory agencies.

1        **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**  
2        **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
3        **on its passage.**

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