

Enrolled House Bill 2054

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)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 441.025 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Offer or provide services beyond the scope of the license classification assigned by the authority or department; or

(b) Assume a descriptive title or represent itself under a descriptive title other than the classification assigned by the authority or department.

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

SECTION 2. ORS 441.060 is amended to read:

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

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

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

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

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

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

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

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

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

Passed by House March 22, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 5, 2011

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State