

Enrolled
House Bill 2282

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Education)

CHAPTER

AN ACT

Relating to education in residential facilities; creating new provisions; amending ORS 443.420; and declaring an emergency.

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

SECTION 1. ORS 443.420 is amended to read:

443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the director of the licensing agency, be a person:

- (a) Who demonstrates an understanding and acceptance of the rules governing residential facilities;
- (b) Mentally and physically capable of caring for such residents; and
- (c) Who employs or utilizes only individuals whose presence does not jeopardize the health, safety or welfare of residents.

(2) A residential facility shall not be operated or maintained in combination with a nursing home or hospital unless licensed, maintained and operated as a separate and distinct part.

(3) All physical residential facilities used for residents shall meet applicable requirements of the State Fire Marshal.

(4) Prior to licensure, a residential facility must be in substantial compliance with applicable state and local laws, rules, codes, ordinances and permit requirements.

(5) Prior to licensure, a residential facility that proposes to house persons under the age of 21 years shall submit written proof *[of compliance]* **to the licensing agency demonstrating that the facility will:**

- (a) **Comply** with ORS 336.575 *[to the licensing agency.]; and*
- (b) **Ensure that the children who reside at the residential facility receive appropriate educational services that are:**
 - (A) **Comprehensive and age-appropriate;**
 - (B) **In compliance with requirements of state and federal law; and**
 - (C) **If applicable, in compliance with the individual education program of the child.**

(6) Prior to an initial licensure of a residential care facility, the licensing agency shall consider:

- (a) The license applicant's history of regulatory compliance and operational experience;
- (b) The need in the local community for the services offered by the license applicant, as demonstrated by a market study produced by the license applicant;
- (c) The willingness of the license applicant to serve underserved populations; and
- (d) The willingness of the license applicant to contract with the licensing agency to provide services through the state medical assistance program.

SECTION 2. The amendments to ORS 443.420 by section 1 of this 2011 Act apply to persons who apply for:

- (1) Licensure as a residential facility on or after the effective date of this 2011 Act; or
- (2) Renewal of a license as a residential facility on or after the effective date of this 2011 Act.

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 July 1, 2011.

Passed by House February 28, 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 9, 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