

Senate Bill 778

Sponsored by Senator DINGFELDER, Representative KENY-GUYER

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**.

Requires long term care facilities and residential care facilities to provide 90 days' notice to residents and others of change in admission or residence policies with respect to medical assistance recipients. Requires Department of Human Services to impose civil penalty for violation. Authorizes Oregon Health Authority to impose civil penalty for violation.

A BILL FOR AN ACT

1
2 Relating to residents of facilities providing care; creating new provisions; and amending ORS 441.367
3 and 441.710.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 443.400 to**
6 **443.455.**

7 **SECTION 2. A residential facility shall give 90 days' notice in writing of changes to the**
8 **facility's admitting or residence policies with respect to recipients of medical assistance. The**
9 **notice must be provided to each resident of the facility, all authorized representatives or**
10 **guardians of residents and any person with a power of attorney for a resident.**

11 **SECTION 3. ORS 441.367 is amended to read:**

12 441.367. (1) The Department of Human Services by rule shall require long term care facilities
13 licensed under ORS 441.020 to provide written and oral notice before or at the time of admission to
14 any resident who does not receive medical assistance under ORS chapter 414, specifying:

15 (a) The base daily rate and any additional expenses reasonably to be expected including medical
16 supplies, pharmacy and doctor visits and the charges for incontinency care, feeding and laundry; and

17 (b) The long term care facility's policy regarding residents who become unable to pay facility
18 charges by reason of exhaustion of all income and resources to or below the level of eligibility for
19 medical assistance.

20 (2) A long term care facility shall give 30 days' notice in writing to all residents of changes in
21 additional expenses or charges.

22 **(3) A long term care facility shall give 90 days' notice in writing of changes to the**
23 **facility's policy described in subsection (1)(b) of this section or other changes to its admitting**
24 **or residence policies with respect to recipients of medical assistance. The notice must be**
25 **provided to each resident of the facility, all authorized representatives or guardians of resi-**
26 **dents and any person with a power of attorney for a resident.**

27 [(3)] (4) The Director of Human Services:

28 (a) May impose a civil penalty for violation of subsection (1) of this section under ORS 441.710

29 [(1)(b)] (1).

30 (b) Shall impose a civil penalty for violation of subsection (3) of this section under ORS

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 **441.710 (1).**

2 **SECTION 4.** ORS 441.710 is amended to read:

3 441.710. (1) In addition to any other liability or penalty provided by law, the Director of Human
 4 Services **or the Director of the Oregon Health Authority** may impose a civil penalty on a person
 5 for any of the following:

6 (a) Violation of any of the terms or conditions of a license issued under ORS 441.015 to 441.087,
 7 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 for a long term
 8 care facility, as defined in ORS 442.015.

9 (b) Violation of any rule or general order of the Department of Human Services **or the Oregon**
 10 **Health Authority** that pertains to a long term care facility.

11 (c) Violation of any final order of the [*director*] **department or authority** that pertains specif-
 12 ically to the long term care facility owned or operated by the person incurring the penalty.

13 (d) Violation of ORS 441.605 or of rules required to be adopted under ORS 441.610.

14 (e) Violation of ORS 443.880 or 443.881 if the facility is a residential care facility, residential
 15 training facility or residential training home.

16 (2) In addition to any other liability or penalty provided by law, the Director of the Oregon
 17 Health Authority may impose a civil penalty on a person for a violation of ORS 443.880 or 443.881
 18 if the facility is a residential treatment facility or a residential treatment home.

19 (3) The Director of Human Services may not impose a penalty under subsection (1) of this sec-
 20 tion for violations other than those involving direct patient care or feeding, an adequate staff to
 21 patient ratio, sanitation involving direct patient care or a violation of ORS **441.367 (3)**, 441.605,
 22 [*or*] 443.880 or 443.881 **or section 2 of this 2013 Act** or of the rules required to be adopted by ORS
 23 441.610 unless a violation is found on two consecutive surveys of a long term care facility. The Di-
 24 rector of Human Services in every case shall prescribe a reasonable time for elimination of a vio-
 25 lation:

26 (a) Not to exceed 30 days after first notice of a violation; or

27 (b) In cases where the violation requires more than 30 days to correct, such time as is specified
 28 in a plan of correction found acceptable by the director.

29 (4) The Director of the Oregon Health Authority may not impose a penalty under subsection
 30 [(2)] **(1)** of this section for violations other than those involving direct patient care or feeding, an
 31 adequate staff to patient ratio, sanitation involving direct patient care or a violation of ORS **441.367**
 32 **(3)**, 443.880 or 443.881 **or section 2 of this 2013 Act**. The Director of the Oregon Health Authority
 33 in every case shall prescribe a reasonable time for elimination of a violation:

34 (a) Not to exceed 30 days after first notice of a violation; or

35 (b) In cases where the violation requires more than 30 days to correct, such time as is specified
 36 in a plan of correction found acceptable by the director.