

**PROPOSED AMENDMENTS TO  
SENATE BILL 1542**

1 On page 1 of the printed bill, line 2, after “410.600,” delete the rest of the  
2 line and line 3 and insert “410.604, 410.606, 410.612, 410.614, 410.619, 410.625  
3 and 656.039; and declaring an emergency.”.

4 Delete lines 5 through 27 and delete pages 2 through 4 and insert:

5 **“SECTION 1. Section 2 of this 2014 Act is added to and made a part  
6 of ORS 410.595 to 410.625.**

7 **“SECTION 2. (1) This section establishes a program, administered  
8 by the Home Care Commission, to enable private individuals to pur-  
9 chase home care services from the commission through the home care  
10 registry. The commission shall administer the program in a manner  
11 that:**

12 **“(a) Builds and strengthens the home care workforce that provides  
13 home care services to medical assistance recipients by offering home  
14 care workers the opportunity to obtain additional work from private  
15 payers and by attracting additional home care workers to the home  
16 care registry;**

17 **“(b) Provides an opportunity for the rapidly growing population of  
18 elderly individuals and individuals with disabilities in this state, who  
19 are not eligible for medical assistance, to obtain high quality and af-  
20 fordable home care services from qualified, committed, experienced  
21 and well-trained home care workers; and**

22 **“(c) Protects medical assistance recipients’ access to and receipt of**

1 **home care services.**

2 **“(2) The commission shall establish by rule the types and scope of**  
3 **home care services or other services that may be offered through the**  
4 **program. The commission shall make available to consumers and po-**  
5 **tential consumers of home care services, information about the scope**  
6 **of the services offered through the program, about the long term care**  
7 **services and support that are not available through the program and**  
8 **about other community resources that are available to individuals**  
9 **seeking long term care services and support.**

10 **“(3) The commission shall adopt standards for home care services**  
11 **offered through the program. The standards, to the greatest extent**  
12 **practicable, shall be compatible with the standards for home care**  
13 **services reimbursed as medical assistance and by in-home care agen-**  
14 **cies licensed under ORS 443.315.**

15 **“(4) Private payers purchasing home care services through the**  
16 **program must complete a standard assessment instrument prescribed**  
17 **by the commission that evaluates the capacity and willingness of the**  
18 **individual receiving services, or a person selected by the individual to**  
19 **act on the individual’s behalf, to effectively manage and direct the**  
20 **home care services. A private payer and a private pay home care**  
21 **worker must enter into a written service plan based on the assessment**  
22 **instrument that is consistent with the private pay home care worker’s**  
23 **capabilities, training and experience. The standard assessment instru-**  
24 **ment must be completed prior to the commencement of services.**

25 **“(5) The commission shall establish payment rates for home care**  
26 **services purchased by private payers through the home care registry**  
27 **and shall publish the rates online, showing the projected cost of each**  
28 **component included in calculating the payment rates. The commis-**  
29 **sion shall establish the rates at levels expected to generate total rev-**  
30 **enue sufficient to reimburse up to 107 percent of the costs associated**

1 with the program including, but not limited to, the costs for:

2 “(a) Screening, registering and training private pay home care  
3 workers and maintaining and expanding the home care registry;

4 “(b) Hiring additional staff;

5 “(c) Providing referrals of private pay home care workers to private  
6 payers;

7 “(d) Paying the private pay home care workers’ wages;

8 “(e) Paying payroll taxes;

9 “(f) Paying for health insurance and employee benefits, either di-  
10 rectly or through a trust account;

11 “(g) Processing payments from private payers and payments to  
12 private pay home care workers;

13 “(h) Paying workers’ compensation and unemployment insurance;

14 “(i) Publicizing the availability of the home care registry; and

15 “(j) Other activities undertaken to ensure the quality of private pay  
16 home care workers, the adequate provision of home care services and  
17 other administrative expenses associated with the program.

18 “(6) A private payer who purchases home care services through the  
19 program shall pay the commission in advance for the services.

20 “(7) The commission shall establish the wage rates, pay the wages  
21 and provide for employee benefits for private pay home care workers.  
22 A private pay home care worker may not accept any additional com-  
23 pensation for hours of work that were compensated by the program.

24 “(8) Private pay home care workers are subject to the same re-  
25 quirements as home care workers providing services reimbursed as  
26 medical assistance with respect to:

27 “(a) Home care worker qualifications;

28 “(b) Application and enrollment in the home care registry; and

29 “(c) Suspension or termination of enrollment in the registry.

30 “(9) The commission may specify requirements and procedures, in

1 addition to those described in subsection (8) of this section, for private  
2 pay home care workers.

3 “(10) The commission, with the assistance of the Department of  
4 Human Services, may conduct periodic evaluations of private pay  
5 home care workers, or take other measures to determine whether the  
6 private pay home care workers continue to meet provider enrollment  
7 requirements or for other appropriate purposes.

8 “SECTION 3. The delegation of authority to the Home Care Com-  
9 mission or other provisions of section 2 of this 2014 Act and the  
10 amendments to ORS 410.600, 410.604, 410.606, 410.612, 410.614, 410.619,  
11 410.625 and 656.039 by sections 5 to 12 of this 2014 Act do not alter the  
12 definition of employment relations in ORS 243.650 or other applicable  
13 laws.

14 “SECTION 4. (1) The Home Care Commission shall create a sub-  
15 committee of the commission to define and establish new classifica-  
16 tions of home care workers. The classifications shall be based on the  
17 home care worker’s level of skill and the scope of the services provided  
18 by the worker.

19 “(2) The commission shall establish payment rates for each classi-  
20 fication of home care worker participating in the program described  
21 in section 2 of this 2014 Act.

22 “SECTION 5. ORS 410.600 is amended to read:

23 “410.600. As used in ORS 410.595 to 410.625:

24 “(1) ‘Activities of community inclusion’ includes but is not limited to  
25 volunteer activities, employment, development of community life skills and  
26 participation in social and recreational community events.

27 “(2) ‘Activities of daily living’ includes but is not limited to the following:

28 “(a) Bathing and personal hygiene;

29 “(b) Dressing and grooming;

30 “(c) Eating;

1 “(d) Mobility;

2 “(e) Bowel and bladder management; and

3 “(f) Cognition.

4 “(3) ‘Adult support services’ means individually determined services, ac-  
5 tivities and purchases, whether those services, activities and purchases are  
6 necessary for an individual to live in the individual’s own home or the  
7 individual’s family’s home or to fully participate in community life or work,  
8 that:

9 “(a) Complement existing services, activities or purchases available to the  
10 individual;

11 “(b) Are designed, selected and managed by the individual or the  
12 individual’s legal representative;

13 “(c) Are provided in accordance with an individualized plan; and

14 “(d) Allow individuals to choose and have control over services and life  
15 goals.

16 “(4) ‘Area agency’ has the meaning given that term in ORS 410.040.

17 “(5) ‘Commission’ means the Home Care Commission established and op-  
18 erated pursuant to section 11, Article XV of the Oregon Constitution, and  
19 ORS 410.595 to 410.625.

20 “(6) ‘Elderly person’ has the meaning given that term in ORS 410.040.

21 “(7) **‘Home care registry’ means the registry described in ORS**  
22 **410.604 (1)(c).**

23 “[7] (8) ‘Home care services’ means assistance with activities of daily  
24 living, activities of community inclusion and self-management provided by a  
25 home care worker for an elderly person or a person with a disability.

26 “[8] (9) ‘Home care worker’ means:

27 “(a) A person:

28 “(A) Who is hired [*directly*] **or selected** by an elderly person or a person  
29 with a physical disability or by a parent or guardian of an elderly person  
30 or a person with a physical disability;

1 “(B) Who receives moneys from the Department of Human Services for the  
2 purpose of providing care to the elderly person or the person with a physical  
3 disability;

4 “(C) Whose compensation is funded in whole or in part by the department,  
5 an area agency or other public agency; and

6 “(D) Who provides either hourly or live-in home care services; [or]

7 “(b) A personal support worker; **or**

8 **“(c) A person who provides home care services to private payers**  
9 **through the program described in section 2 of this 2014 Act.**

10 **“(10) ‘Payment rates’ means the cost to a private payer to purchase**  
11 **home care services through the program described in section 2 of this**  
12 **2014 Act.**

13 “[~~(9)~~] **(11) ‘Person with a disability’** means a person with a physical dis-  
14 ability, developmental disability or mental illness.

15 “[~~(10)~~] **(12) ‘Personal support worker’** means a person:

16 “(a) Who is hired **or selected** by a person with a developmental disability  
17 or mental illness or a parent or guardian of a person with a developmental  
18 disability or mental illness;

19 “(b) Who receives moneys from the department for the purpose of pro-  
20 viding care to the person with a developmental disability or mental illness;

21 “(c) Whose compensation is provided in whole or in part through the de-  
22 partment, a support services brokerage or other public agency; and

23 “(d) Who provides home care services in the home or community.

24 **“(13) ‘Private pay home care worker’ means a home care worker**  
25 **who provides home care services purchased from the commission by**  
26 **a private payer through the program described in section 2 of this 2014**  
27 **Act.**

28 **“(14)(a) ‘Private payer’ means an individual who purchases from the**  
29 **commission home care services that are not otherwise covered by the**  
30 **medical assistance program.**

1       **“(b) ‘Private payer’ does not include the Home Care Commission,**  
2 **the Department of Human Services, the Oregon Health Authority, an**  
3 **area agency or a support services brokerage.**

4       “[(11)] (15) ‘Self-management’ includes but is not limited to the following  
5 activities, other than activities of daily living, required by an individual to  
6 continue living independently in the individual’s own home:

7       “(a) Medication and oxygen management;

8       “(b) Transportation;

9       “(c) Meal preparation;

10       “(d) Shopping; and

11       “(e) Client-focused general household work.

12       “[(12)] (16) ‘Support services brokerage’ means an entity that performs the  
13 functions associated with the planning and implementation of adult support  
14 services, including the provision of services and the arrangement of activities  
15 and purchases, for the purpose of maximizing individual choice and self-  
16 determination for persons with developmental disabilities or mental illnesses.

17       **“SECTION 6.** ORS 410.604 is amended to read:

18       “410.604. (1) The Home Care Commission shall ensure the quality of home  
19 care services by:

20       “(a) Establishing qualifications for home care workers, with the advice  
21 and consent of the Department of Human Services, **to ensure the effective**  
22 **delivery of home care services by a qualified, committed, experienced**  
23 **and well-trained home care workforce;**

24       “(b) **Establishing training requirements for home care workers, in-**  
25 **cluding personal support workers, as the commission deems appropri-**  
26 **ate, and** providing training opportunities for home care workers and elderly  
27 persons and persons with disabilities who employ home care workers **or**  
28 **personal support workers;**

29       “(c) Establishing **the home care registry** and maintaining [*a registry*  
30 *of*] **the registry with** qualified home care workers;

1 “(d) Providing routine, emergency and respite referrals of home care  
2 workers;

3 “(e) Entering into contracts with public and private organizations and  
4 individuals for the purpose of obtaining or developing training materials and  
5 curriculum or other services as may be needed by the commission; *[and]*

6 **“(f) Establishing occupational health and safety standards for home  
7 care workers, informing home care workers of the standards and pro-  
8 viding occupational health and safety products to home care workers;  
9 and**

10 ~~“(f) (g)~~ Working cooperatively with area agencies and state and local  
11 agencies to accomplish the duties listed in paragraphs (a) to ~~[(e)] (f)~~ of this  
12 subsection.

13 “(2)(a) The commission shall enter into an interagency agreement with  
14 the department to contract for a department employee to serve as executive  
15 director of the commission. The executive director shall be appointed by the  
16 Director of Human Services in consultation with the Governor and subject  
17 to approval by the commission, and shall serve at the pleasure of the Direc-  
18 tor of Human Services. The commission may delegate to the executive di-  
19 rector the authority to act on behalf of the commission to carry out its  
20 duties and responsibilities, including but not limited to:

21 “(A) Entering into contracts or agreements; and

22 “(B) Taking reasonable or necessary actions related to the commission’s  
23 role as employer of record for home care workers under ORS 410.612.

24 “(b) The commission shall enter into an interagency agreement with the  
25 department for carrying out any of the duties or functions of the commission,  
26 for department expenditures and for the provision of staff support by the  
27 department.

28 “(3) When conducting its activities, and in making decisions relating to  
29 those activities, the commission shall first consider the effect of its activities  
30 and decisions on:



1 “(a) Improving the quality of service delivered by home care workers;

2 “(b) Ensuring adequate hours of service are provided to elderly persons  
3 and persons with disabilities by home care workers; and

4 “(c) Ensuring that services, activities and purchases that are purchased  
5 by elderly persons and persons with disabilities other than home care ser-  
6 vices, including adult support services, are not compromised or diminished.

7 “(4) The commission shall work with culturally diverse community-based  
8 organizations to train and certify community health workers and personal  
9 health navigators. The workers and navigators shall work as part of a  
10 multidisciplinary team under the direction of a licensed or certified health  
11 care professional. The commission shall recruit qualified home care workers  
12 who desire to be trained and certified as community health workers or per-  
13 sonal health navigators.

14 “(5) The commission shall ensure that each coordinated care organization  
15 honors all of the terms and conditions of employment established by the  
16 commission with respect to the community health workers and personal  
17 health navigators referred by the commission. This subsection does not re-  
18 quire a coordinated care organization to employ or contract with community  
19 health workers and personal health navigators certified by the commission  
20 so long as the community health workers and personal health navigators  
21 employed or otherwise retained by the organization meet competency stan-  
22 dards established by the authority under ORS 414.665.

23 “(6) The commission has the authority to contract for services, lease, ac-  
24 quire, hold, own, encumber, insure, sell, replace, deal in and with and dispose  
25 of real and personal property in its own name.

26 “(7) As used in this section, ‘community health worker,’ ‘coordinated care  
27 organization’ and ‘personal health navigator’ have the meanings given those  
28 terms in ORS 414.025.

29 **“SECTION 7.** ORS 410.606 is amended to read:

30 “410.606. (1)(a) The Department of Human Services, an area agency, other

1 public agency or support services brokerage shall provide to an individual  
2 seeking a home care worker [*the*] names of qualified individuals, in the ap-  
3 propriate geographic area, who have been placed on the **home care** registry  
4 [*maintained by the Home Care Commission*].

5 **“(b) The Home Care Commission may adopt criteria for referrals in**  
6 **order to ensure the effective delivery of home care services from**  
7 **qualified, committed, experienced and well-trained home care workers**  
8 **and to ensure that, for private pay home care workers, the require-**  
9 **ments of section 2 of this 2014 are met.**

10 “(2) To facilitate the development and maintenance of the **home care**  
11 registry [*maintained by the commission*] and any training opportunity offered  
12 by the commission, and to meet the requirements of providing workers’  
13 compensation, the department, **the Oregon Health Authority**, area agen-  
14 cies, other public agencies and support services brokerages shall report to  
15 the commission:

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

17 “(A) Who provides home care services;

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

20 “(C) Who is not listed on the registry;

21 “(b) The name of the program under which the home care worker provides  
22 the home care services;

23 “(c) Any other data required by the commission for training and registry  
24 purposes; and

25 “(d) Any other data required for workers’ compensation purposes.

26 “(3) If necessary to collect the information required by subsection (2) of  
27 this section:

28 “(a) The commission shall request the required information from the de-  
29 partment, **the authority** or any agency or support services brokerage that  
30 provides or arranges payroll services for home care workers; and

1 “(b) The department, **authority**, agency or support services brokerage  
2 shall provide the commission with the requested information.

3 “(4) **If the commission, with the assistance of the department, de-**  
4 **termines that the supply of home care workers is inadequate to meet**  
5 **the needs of medical assistance recipients who qualify for home care**  
6 **services, the commission may suspend or reduce the number of refer-**  
7 **als of home care workers under the program described in section 2**  
8 **of this 2014 Act.**

9 “**SECTION 8.** ORS 410.612 is amended to read:

10 “410.612. (1) For purposes of collective bargaining under ORS 243.650 to  
11 243.782, the Home Care Commission is the employer of record for home care  
12 workers.

13 “(2) *[Notwithstanding subsection (1) of this section]* **Except as provided**  
14 **in ORS 410.614 and 410.619**, home care workers may not be considered *[for*  
15 *any purposes]* to be *[an employee]* **employees** of the State of Oregon, an area  
16 agency or other public agency.

17 “(3) The Oregon Department of Administrative Services shall represent  
18 the commission in collective bargaining negotiations with the certified or  
19 recognized exclusive representatives of all appropriate bargaining units of  
20 home care workers. The department is authorized to agree to terms and  
21 conditions of collective bargaining agreements on behalf of the commission  
22 and the Department of Human Services.

23 “**SECTION 9.** ORS 410.614 is amended to read:

24 “410.614. (1) Notwithstanding ORS 243.650 (19) and (20), the Home Care  
25 Commission shall be considered a public employer and home care workers  
26 shall be considered public employees governed by ORS 243.650 to 243.782.

27 “(2) Home care workers have the right to form, join and participate in  
28 the activities of labor organizations of their own choosing for the purpose  
29 of representation and collective bargaining with the commission on matters  
30 concerning employment relations. These rights shall be exercised in accord-

1 ance with the rights granted to public employees with mediation and interest  
2 arbitration under ORS 243.742 as the method of concluding the collective  
3 bargaining process.

4 **“(3) Home care workers are not public employees with respect to the  
5 Public Employees Retirement System, the Oregon Public Service Re-  
6 tirement Plan or the Public Employees’ Benefit Board.**

7 **“(4) Home care workers do not have the right to strike.**

8 **“SECTION 10.** ORS 410.619 is amended to read:

9 410.619. [*A person who is hired as a housekeeper or homemaker, or home  
10 care worker, and is not otherwise employed by the Department of Human Ser-  
11 vices, an area agency or other public agency, shall not for any purposes be  
12 deemed to be an employee of the State of Oregon or an area agency whether  
13 or not the department or agency selects the person for employment or exercises  
14 any direction or control over the person’s employment. However, nothing in  
15 this section precludes the state or an area agency from being considered the  
16 employer of the person for purposes of ORS chapter 657.]*

17 **“(1) A home care worker who is not otherwise employed by the  
18 Home Care Commission, the Department of Human Services, the  
19 Oregon Health Authority, an area agency or a support services bro-  
20 kerage shall not be deemed to be an employee of the state, whether  
21 or not the state selects the home care worker for employment or ex-  
22 ercises any direction or control over the home care worker, for the  
23 purpose of the state’s liability for the home care worker’s actions.**

24 **“(2) The state shall be deemed an employer of home care workers  
25 for the purposes of ORS 410.606, 410.612 and 410.614, ORS chapter 657  
26 and section 2 of this 2014 Act.**

27 **“SECTION 11.** ORS 410.625 is amended to read:

28 **“410.625. (1) In carrying out its duties under ORS 410.595 to 410.625, the  
29 Home Care Commission may:**

30 **“(a) Enter into an interagency agreement or a contract with any state**

1 agency for the performance of the commission's duties or the leasing of office  
2 space;

3 "(b) Provide nonemployee compensation to home care workers or pro-  
4 spective home care workers who attend training sessions approved or spon-  
5 sored by the commission;

6 "(c) On behalf of an elderly person or a person with a disability who hires  
7 a home care worker through the [*Home Care Commission*] **home care** regis-  
8 try, elect workers' compensation coverage or arrange for health insurance  
9 coverage, including group coverage, for the person's home care workers; and

10 "(d) As prescribed by rule, charge fees to and collect fees from persons  
11 who attend training sessions sponsored by the commission and who currently  
12 are not home care workers.

13 "(2) The commission and the Department of Human Services shall confer  
14 as to the amount of funds necessary to carry out the duties and activities  
15 of the commission, and the department shall include the agreed upon amount  
16 in the Governor's budget request to the Legislative Assembly.

17 "(3) The commission may apply for and receive gifts and grants from any  
18 public or private source.

19 "(4) The commission may award grants from funds appropriated by the  
20 Legislative Assembly to the department for allocation to the commission or  
21 from funds otherwise available from any other source for the purpose of  
22 carrying out the duties of the commission under ORS 410.595 to 410.625.

23 "**SECTION 12.** ORS 656.039 is amended to read:

24 "656.039. (1) An employer of one or more persons defined as nonsubject  
25 workers or not defined as subject workers may elect to make them subject  
26 workers. If the employer is or becomes a carrier-insured employer, the  
27 election shall be made by filing written notice thereof with the insurer with  
28 a copy to the Director of the Department of Consumer and Business Services.  
29 The effective date of coverage is governed by ORS 656.419 (3). If the employer  
30 is or becomes a self-insured employer, the election shall be made by filing

1 written notice thereof with the director, the effective date of coverage to be  
2 the date specified in the notice.

3 “(2) Any election under subsection (1) of this section may be canceled by  
4 written notice thereof to the insurer or, in the case of a self-insured em-  
5 ployer, by notice thereof to the director. The cancellation is effective at 12  
6 midnight ending the day the notice is received by the insurer or the director,  
7 unless a later date is specified in the notice. The insurer shall, within 10  
8 days after receipt of a notice of cancellation under this section, send a copy  
9 of the notice to the director.

10 “(3) When necessary the insurer or the director shall fix assumed mini-  
11 mum or maximum wages for persons made subject workers under this sec-  
12 tion.

13 “(4) Notwithstanding any other provision of this section, a person or em-  
14 ployer not subject to this chapter who elects to become covered may apply  
15 to an insurer for coverage. An insurer other than the State Accident Insur-  
16 ance Fund Corporation may provide such coverage. However, the State Ac-  
17 cident Insurance Fund Corporation shall accept any written notice filed and  
18 provide coverage as provided in this section if all subject workers of the  
19 employers will be insured with the State Accident Insurance Fund Corpo-  
20 ration and the coverage of those subject workers is not considered by the  
21 State Accident Insurance Fund Corporation to be a risk properly assignable  
22 to the assigned risk pool.

23 “(5)(a) The Home Care Commission created by ORS 410.602 shall elect  
24 coverage on behalf of [*clients of the Department of Human Services or the*  
25 *Oregon Health Authority*] **persons** who employ home care workers to make  
26 home care workers subject workers [*if the home care worker is funded by the*  
27 *state on behalf of the client*].

28 “(b) As used in this subsection, ‘home care worker’ has the meaning given  
29 that term in ORS 410.600.

30 **“SECTION 13. Section 4 of this 2014 Act is repealed on January 1,**

1 2015.

2 **“SECTION 14. (1) Section 2 of this 2014 Act and the amendments to**  
3 **ORS 410.600, 410.604, 410.606, 410.612, 410.614, 410.619, 410.625 and 656.039**  
4 **by sections 5 to 12 of this 2014 Act become operative July 1, 2015.**

5 **“(2) The Home Care Commission may take any action before July**  
6 **1, 2015, that is necessary to implement section 2 of this 2014 Act and**  
7 **the amendments to ORS 410.600, 410.604, 410.606, 410.612, 410.614, 410.619,**  
8 **410.625 and 656.039 by sections 5 to 12 of this 2014 Act no later than**  
9 **January 1, 2016.**

10 **“SECTION 15. This 2014 Act being necessary for the immediate**  
11 **preservation of the public peace, health and safety, an emergency is**  
12 **declared to exist, and this 2014 Act takes effect on its passage.”.**

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