

# DRAFT

## SUMMARY

Transfers authority over health care facility structure plan review and inspections for fire and life safety from State Fire Marshal to Department of Consumer and Business Services or to municipalities having building inspection programs.

Transfers authority to determine special construction standards for health care facilities from joint control of State Fire Marshal and Department of Human Services to Department of Consumer and Business Services. Transfers authority to impose civil penalties for health care facility post-construction violations of building code and fire and life safety code from Department of Human Services to Department of Consumer and Business Services.

Provides that determination of Department of Consumer and Business Services or municipal building official regarding fire access and water supply sufficiency is binding on local officials reviewing siting of health care facility.

Makes transfer and determination provisions operative January 1, 2016.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to structures; creating new provisions; amending ORS 441.025,  
3 441.030, 441.060, 441.061, 441.710, 443.415, 443.420, 443.425, 443.435, 443.452,  
4 455.210, 479.155, 479.180, 479.215, 479.217 and 479.220; and declaring an  
5 emergency.

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

7 **SECTION 1. (1) As used in this section, “health care facility” has**  
8 **the meaning given that term in section 4 of this 2015 Act.**

9 **(2) The duties, functions and powers of the State Fire Marshal re-**  
10 **lating to plan review and inspections for health care facility structures**

1 are transferred to and vested in the Department of Consumer and  
2 Business Services.

3 (3) Any State Fire Marshal authorization for a governmental sub-  
4 division or approved authority exempted under ORS 476.030 (3) or an  
5 approved authority under ORS 476.030 (3) or 479.215 to perform duties,  
6 powers or functions relating to plan review and inspections for health  
7 care facility structures ceases on the operative date of this section.  
8 Any governmental subdivision exempted under ORS 476.030 (3) and any  
9 approved authority under ORS 476.030 (3) or 479.215 shall deliver to the  
10 State Fire Marshal copies of all records for health care facility struc-  
11 tures within the jurisdiction of the governmental subdivision or ap-  
12 proved authority for which plan review or inspection are pending. The  
13 State Fire Marshal shall include any such records with the records and  
14 property delivered by the State Fire Marshal under subsection (4) of  
15 this section.

16 (4) The State Fire Marshal shall deliver to the Director of the De-  
17 partment of Consumer and Business Services all records and property  
18 within the jurisdiction of the State Fire Marshal that relate to the  
19 duties, functions and powers transferred by this section. The State  
20 Fire Marshal, in cooperation with the director, shall take all actions  
21 necessary and proper to allow the director to assume any contractual  
22 obligation of the State Fire Marshal for the performance of duties,  
23 powers and functions transferred under this section, including but not  
24 limited to any contract with the Centers for Medicare and Medicaid  
25 Services for the certification of health care facility structures.

26 (5) The transfer of duties, functions and powers by this section does  
27 not affect any action, proceeding or prosecution involving or with re-  
28 spect to such duties, functions and powers begun before and pending  
29 at the time of the transfer, except that the department is substituted  
30 for the State Fire Marshal, governmental subdivision or approved au-  
31 thority in the action, proceeding or prosecution.

1 (6) Nothing in this section relieves a person of a liability, duty or  
2 obligation accruing under or with respect to the duties, functions and  
3 powers transferred by this section. The department may undertake the  
4 collection or enforcement of any such liability, duty or obligation that  
5 could have been collected or enforced by the State Fire Marshal. This  
6 section does not prevent a governmental subdivision or approved au-  
7 thority from collecting or enforcing any liability, duty or obligation  
8 owed to the governmental subdivision or approved authority.

9 **SECTION 2.** Any moneys appropriated to the State Fire Marshal for  
10 carrying out the duties transferred under section 1 of this 2015 Act  
11 during the biennium ending June 30, 2017, and remaining unexpended  
12 on the operative date of section 1 of this 2015 Act shall be transferred  
13 to the Consumer and Business Services Fund for use by the Depart-  
14 ment of Consumer and Business Services in carrying out the duties  
15 transferred under section 1 of this 2015 Act.

16 **SECTION 3.** Section 4 of this 2015 Act is added to and made a part  
17 of ORS chapter 455.

18 **SECTION 4.** (1) As used in this section:

19 (a) "Health care facility" means:

20 (A) An inpatient care facility required to be licensed under ORS  
21 441.015 to 441.087 or 441.525 to 441.595; or

22 (B) A residential facility licensed by the Department of Human  
23 Services or the Oregon Health Authority under ORS 443.400 to 443.455.

24 (b) "Federal health program construction standard" means a con-  
25 struction standard for health care facility structures adopted by the  
26 Centers for Medicare and Medicaid Services.

27 (2) Notwithstanding ORS 476.030, 476.150 or 476.155 or any other  
28 provision conferring a duty or power on the State Fire Marshal re-  
29 garding fire and life safety standards, the Department of Consumer  
30 and Business Services or a municipality that has a building inspection  
31 program under ORS 455.148 or 455.150 shall:

1       **(a) Determine whether a health care facility structure, as set forth**  
2 **in the plans and sketches or as constructed, complies with:**

3       **(A) Subject to subparagraph (B) of this paragraph, any applicable**  
4 **federal health program construction standard and the state building**  
5 **code;**

6       **(B) Any rules adopted by the Department of Consumer and Business**  
7 **Services establishing special construction standards for health care**  
8 **facilities that are more stringent than the requirement imposed under**  
9 **a corresponding applicable federal health program construction**  
10 **standard or under the state building code; and**

11       **(C) Any local laws or ordinances regarding fire equipment access**  
12 **or water supply adequacy applicable to the site of the health care fa-**  
13 **cility.**

14       **(b) Conduct any required fire and life safety inspections during**  
15 **construction of a health care facility structure to ensure compliance**  
16 **with applicable standards, codes and rules as described in paragraph**  
17 **(a) of this subsection.**

18       **(3) A municipality may carry out an inspection program under**  
19 **subsection (2) of this section only within an area that is subject to a**  
20 **building inspection program administered by the municipality under**  
21 **ORS 455.148 or 455.150. This section does not require a municipality**  
22 **that administers a building inspection program under ORS 455.150 to**  
23 **perform plan review or construction inspection of a health care facility**  
24 **structure that exceeds the scope of the municipal building inspection**  
25 **program.**

26       **(4) The State Fire Marshal may not conduct or authorize any plan**  
27 **review or inspection for fire and life safety code compliance on a**  
28 **health care facility structure or any determination of compliance or**  
29 **noncompliance of a health care facility structure with federal health**  
30 **program construction standards, the state building code or special**  
31 **construction standards for health facilities established by the Depart-**

1 ment of Consumer and Business Services by rule.

2 (5) The State Fire Marshal, or a local fire official for a govern-  
3 mental subdivision exempted under ORS 476.030 (3) or an approved  
4 authority under ORS 476.030 (3), may provide advice to building offi-  
5 cials and inspectors of a municipality and to Department of Consumer  
6 and Business Services employees concerning federal health program  
7 construction standards and concerning health care facility con-  
8 struction standards proposed or adopted by the department. A local  
9 building official or inspector or department employee shall give con-  
10 sideration to advice of the State Fire Marshal or a local fire official,  
11 but shall retain the authority to make final decisions under subsection  
12 (2) of this section.

13 (6) A decision during plan review or an inspection under this section  
14 regarding compliance with the special construction standards for  
15 health care facilities under subsection (2)(a)(B) of this section is a de-  
16 cision made under ORS 479.155. A decision during plan review or in-  
17 spection regarding any standards under subsection (2)(a)(A) or (C) of  
18 this section is a decision subject to the provisions of this chapter.

19 (7) This section does not affect the authority of the State Fire  
20 Marshal, a governmental subdivision exempted under ORS 476.030 (3)  
21 or an approved authority under ORS 476.030 (3) to have access to and  
22 conduct an inspection of a health care facility for the purpose of in-  
23 vestigating and determining cause, origin, circumstances, damage or  
24 other information regarding a fire that has occurred at the facility.

25 SECTION 5. Notwithstanding ORS 197.763, 197.768, 215.402 to 215.438,  
26 222.840 to 222.915 and 227.160 to 227.186, a determination made by the  
27 Department of Consumer and Business Services or a municipality un-  
28 der section 4 of this 2015 Act regarding whether a proposed health care  
29 facility complies with local laws or ordinances regarding fire equip-  
30 ment access or water supply adequacy is binding on the local juris-  
31 diction in any hearing regarding siting of the facility. This section and

1 section 4 (6) of this 2015 Act do not apply to limit or prevent the appeal  
2 of a land use order containing findings that incorporate the determi-  
3 nation.

4 **SECTION 6.** (1) The Department of Consumer and Business Services  
5 or any municipality that has authority under section 4 of this 2015 Act  
6 to conduct inspections of a health care facility structure during con-  
7 struction shall, except as provided in ORS 441.062, also conduct any  
8 required post-construction inspections of the operating health care  
9 facility as provided under ORS 479.215 for compliance with applicable  
10 construction standards, codes and rules related to facility con-  
11 struction. The department or municipality may take any actions rea-  
12 sonable or necessary to carry out inspections under this section,  
13 including but not limited to conducting investigations, taking sworn  
14 testimony and inspecting records.

15 (2) The Department of Human Services shall enter into agreements  
16 with the Department of Consumer and Business Services or munici-  
17 palities for the purpose of carrying out post-construction inspections  
18 under this section. The Department of Consumer and Business Ser-  
19 vices or a municipality may establish reasonable fees for carrying out  
20 post-construction inspections of health care facilities in accordance  
21 with an agreement described in this subsection.

22 (3) Notwithstanding ORS chapter 455, if the department or munici-  
23 pality has reason to believe that a health care facility is in violation  
24 of applicable standards, codes or rules related to facility construction,  
25 the department or municipality shall issue a certificate of noncompli-  
26 ance under ORS 479.215 for the facility and give notice of the non-  
27 compliance to the Department of Human Services. In addition to any  
28 sanctions imposed by the Department of Human Services, the Depart-  
29 ment of Consumer and Business Services or a municipality may im-  
30 pose a civil penalty for the violation, not to exceed \$5,000 or, for a  
31 continuing violation, not to exceed \$1,000 for each day the violation

1 **continues.**

2 (4) **If the department or a municipality has reason to believe that**  
3 **a health care facility has been engaged in, is engaging in or is about**  
4 **to engage in any violation of standards, codes and rules related to fa-**  
5 **cility construction, the department or municipality may issue an order**  
6 **directing the facility to cease and desist from the violation or threat-**  
7 **ened violation or may bring suit in the circuit court for the county**  
8 **where the facility is located to enjoin the violation and to enforce**  
9 **compliance with the standards, codes and rules related to facility**  
10 **construction.**

11 **SECTION 7.** ORS 441.025 is amended to read:

12 441.025. (1)(a) Upon receipt of a license fee and an application to operate  
13 a health care facility other than a long term care facility, the Oregon Health  
14 Authority shall review the application and conduct an on-site inspection of  
15 the health care facility. The authority shall issue a license if it finds that  
16 the applicant and health care facility comply with ORS 441.015 to 441.063 and  
17 the rules of the authority provided that the authority does not receive within  
18 the time specified a certificate of noncompliance issued by the [*State Fire*  
19 *Marshal, deputy, or approved authority pursuant to ORS 479.215*] **Depart-**  
20 **ment of Consumer and Business Services or a municipality under ORS**  
21 **479.215.**

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

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

25 (B) The [*State Fire Marshal, a deputy or an approved authority*] **Depart-**  
26 **ment of Consumer and Business Services or a municipality** has issued  
27 a certificate of noncompliance [*pursuant to*] **under** ORS 479.215.

28 (2)(a) Upon receipt of a license fee and an application to operate a long  
29 term care facility, the Department of Human Services shall review the ap-  
30 plication and conduct an on-site inspection of the long term care facility.  
31 The department shall issue a license if the department finds that the appli-

1 cant and long term care facility comply with ORS 441.015 to 441.063 and  
2 441.087 and the rules of the department provided that *[it]* **the department**  
3 does not receive within the time specified a certificate of noncompliance is-  
4 sued by the *[State Fire Marshal, deputy, or approved authority pursuant to*  
5 *ORS 479.215]* **Department of Consumer and Business Services or a**  
6 **municipality under ORS 479.215.**

7 (b) The Department **of Human Services** shall, following an on-site in-  
8 spection and payment of the fee, annually renew each license issued under  
9 this subsection unless:

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

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

13 (C) The *[State Fire Marshal, a deputy or an approved authority]* **Depart-**  
14 **ment of Consumer and Business Services or a municipality** has issued  
15 a certificate of noncompliance *[pursuant to]* **under** ORS 479.215.

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

19 (4) Licenses shall be posted in a conspicuous place on the licensed prem-  
20 ises as prescribed by rule of the authority or the Department **of Human**  
21 **Services.**

22 (5) No license shall be issued or renewed for any health care facility or  
23 health maintenance organization that is required to obtain a certificate of  
24 need under ORS 442.315 until a certificate of need has been granted. An  
25 ambulatory surgical center is not subject to the certificate of need require-  
26 ments in ORS 442.315.

27 (6) No license shall be issued or renewed for any skilled nursing facility  
28 or intermediate care facility, unless the applicant has included in the appli-  
29 cation the name and such other information as may be necessary to establish  
30 the identity and financial interests of any person who has incidents of own-  
31 ership in the facility representing an interest of 10 percent or more thereof.



1 If the person having such interest is a corporation, the name of any stock-  
2 holder holding stock representing an interest in the facility of 10 percent or  
3 more shall also be included in the application. If the person having such  
4 interest is any other entity, the name of any member thereof having incidents  
5 of ownership representing an interest of 10 percent or more in the facility  
6 shall also be included in the application.

7 (7) A license may be denied to any applicant for a license or renewal  
8 thereof or any stockholder of any such applicant who has incidents of own-  
9 ership in the health care facility representing an interest of 10 percent or  
10 more thereof, or an interest of 10 percent or more of a lease agreement for  
11 the facility, if during the five years prior to the application the applicant  
12 or any stockholder of the applicant had an interest of 10 percent or more in  
13 the facility or of a lease for the facility and has divested that interest after  
14 receiving from the authority or the Department **of Human Services** written  
15 notice that the authority or the department intends to suspend or revoke the  
16 license or to decertify the facility from eligibility to receive payments for  
17 services provided under this section.

18 (8) The Department of Human Services may not issue or renew a license  
19 for a long term care facility, unless the applicant has included in the appli-  
20 cation the identity of any person who has incident of ownership in the long  
21 term care facility who also has a financial interest in any pharmacy, as de-  
22 fined in ORS 689.005.

23 (9) The authority shall adopt rules for each type of health care facility,  
24 except long term care facilities, to carry out the purposes of ORS 441.015 to  
25 441.087 including, but not limited to:

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

28 (b) Standards for patient care and safety, adequate professional staff or-  
29 ganizations, training of staff for whom no other state regulation exists,  
30 suitable delineation of professional privileges and adequate staff analyses of  
31 clinical records.

1 (10) The Department **of Human Services** shall adopt rules for each type  
2 of long term care facility to carry out the purposes of ORS 441.015 to 441.087  
3 including, but not limited to:

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

6 (b) Standards for patient care and safety, adequate professional staff or-  
7 ganizations, training of staff for whom no other state regulation exists,  
8 suitable delineation of professional privileges and adequate staff analyses of  
9 clinical records.

10 (11) The authority or **the Department of Human Services** may not adopt  
11 a rule requiring a health care facility to serve a specific food as long as the  
12 necessary nutritional food elements are present in the food that is served.

13 (12) A health care facility licensed by the authority or **the Department**  
14 **of Human Services** may not:

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

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

19 (13) A health care facility must reapply for licensure to change the clas-  
20 sification assigned or the type of license issued by the authority or **the De-**  
21 **partment of Human Services.**

22 **SECTION 8.** ORS 441.030 is amended to read:

23 441.030. (1) The Oregon Health Authority or the Department of Human  
24 Services [*may assess a civil penalty and*], pursuant to ORS 479.215, shall deny,  
25 suspend or revoke a license, in any case where the [*State Fire Marshal, or*  
26 *the representative of the State Fire Marshal,*] **Department of Consumer and**  
27 **Business Services or a municipality** certifies that there is a failure to  
28 comply with [*all*] applicable laws, lawful ordinances and rules relating to  
29 safety from fire.

30 (2) The authority may:

31 (a) Assess a civil penalty or deny, suspend or revoke a license of a health

1 care facility other than a long term care facility in any case where it finds  
2 that there has been a substantial failure to comply with ORS 441.015 to  
3 441.063 or the rules or minimum standards adopted under ORS 441.015 to  
4 441.063.

5 (b) Assess a civil penalty or suspend or revoke a license issued under ORS  
6 441.025 for failure to comply with an authority order arising from a health  
7 care facility's substantial lack of compliance with the provisions of ORS  
8 441.015 to 441.063, 441.162 or 441.166 or the rules adopted under ORS 441.015  
9 to 441.063, 441.162 or 441.166.

10 (c) Suspend or revoke a license issued under ORS 441.025 for failure to  
11 pay a civil penalty imposed under ORS 441.170.

12 (3) The Department **of Human Services** may:

13 (a) Assess a civil penalty or deny, suspend or revoke a long term care  
14 facility's license in any case where it finds that there has been a substantial  
15 failure to comply with ORS 441.015 to 441.063 or 441.087 or the rules or  
16 minimum standards adopted under ORS 441.015 to 441.063 or 441.087.

17 (b) Assess a civil penalty or suspend or revoke a long term care facility's  
18 license issued under ORS 441.025 for failure to comply with a department  
19 order arising from a long term care facility's substantial lack of compliance  
20 with the provisions of ORS 441.015 to 441.063, 441.084 or 441.087 or the rules  
21 adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

22 (c) Suspend or revoke a license issued under ORS 441.025 for failure to  
23 pay a civil penalty imposed under ORS 441.710.

24 (d) Order a long term care facility licensed under ORS 441.025 to restrict  
25 the admission of patients when the department finds an immediate threat to  
26 patient health and safety arising from failure of the long term care facility  
27 to be in compliance with ORS 441.015 to 441.063, 441.084 or 441.087 and the  
28 rules adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

29 (4) Any long term care facility that has been ordered to restrict the ad-  
30 mission of patients pursuant to subsection (3)(d) of this section shall post a  
31 notice of the restriction, provided by the Department **of Human Services**,

1 on all doors providing ingress to and egress from the facility, for the dura-  
2 tion of the restriction.

3 **SECTION 9.** ORS 441.060 is amended to read:

4 441.060. (1) The Oregon Health Authority shall make or cause to be made  
5 on-site inspections of health care facilities licensed under ORS 441.025 (1)  
6 at least once every three years.

7 (2) The authority and the Department of Human Services may prescribe  
8 by rule that any licensee or prospective applicant desiring to make specified  
9 types of alteration or addition to its facilities or to construct new facilities  
10 shall, before commencing such alteration, addition or new construction, ei-  
11 ther prior to or after receiving a certificate of need pursuant to ORS 442.315,  
12 if required, submit plans and specifications therefor to the [*authority or the*  
13 *department for preliminary inspection and approval or recommendations with*  
14 *respect to compliance with the rules authorized by ORS 441.025 and 443.420*  
15 *and for compliance with National Fire Protection Association standards*  
16 *when*] **Department of Consumer and Business Services or a municipi-**  
17 **ality conducting a program under section 4 of this 2015 Act, request-**  
18 **ing plan review to determine whether the facility as planned complies**  
19 **with applicable federal health care program construction standards as**  
20 **defined in section 4 of this 2015 Act, if the facility is also to be Medicare**  
21 **or Medicaid certified.**

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

24 [(4) *For health care facilities, the authority shall develop a review fee*  
25 *schedule as minimally necessary to support the staffing level and expenses re-*  
26 *quired to administer the program.*]

27 [(5) *For long term care facilities and residential care facilities, the depart-*  
28 *ment shall develop a review fee schedule as minimally necessary to support the*  
29 *staffing level and expenses required to administer the program. The fee for*  
30 *project review of residential care facilities shall equal two-thirds that required*  
31 *of health care facilities.*]

1 [(6)] (3) The authority or the Department of **Human Services** may also  
2 [*conduct an on-site review of projects*] **require a post-construction review**  
3 **by the Department of Consumer and Business Services or a municipi-**  
4 **pality under section 6 of this 2015 Act** as a prerequisite to licensure of  
5 new facilities, major renovations and expansions. The authority and the De-  
6 partment of **Human Services** shall, at least annually, with the advice of the  
7 facilities covered by the review, present proposed rule changes regarding fa-  
8 cility design and construction to [*such agencies for their*] **the Department**  
9 **of Consumer and Business Services for its** consideration.

10 [(7)] (4) The authority shall publish a state submissions guide for health  
11 care facility projects and advise project sponsors of applicable requirements  
12 of federal, state and local regulatory agencies.

13 [(8)] (5) The Department of **Human Services** shall publish a state sub-  
14 missions guide for long term care facility and residential care facility  
15 projects and advise project sponsors of applicable requirements of federal,  
16 state and local regulatory agencies.

17 **SECTION 10.** ORS 441.061 is amended to read:

18 441.061. (1) Upon agreement, the Director of Human Services may grant  
19 specific authorization to any county or district board of health to administer  
20 and enforce any law or rules of the Department of Human Services relating  
21 to [*inspections and*] issuance, revocation and suspension of licenses[, *or por-*  
22 *tion thereof,*] for long term care facilities.

23 (2) Pursuant to an agreement as provided in subsection (1) of this section,  
24 the director may provide funds and other resources to the county or district  
25 board of health necessary to enable the county or district board of health to  
26 perform the agreed upon functions.

27 **SECTION 11.** ORS 441.710 is amended to read:

28 441.710. (1) In addition to any other liability or penalty provided by law,  
29 the Director of Human Services may impose a civil penalty on a person for  
30 any of the following:

31 (a) Violation of any of the terms or conditions of a license issued under

1 ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342,  
2 442.344 and 442.400 to 442.463 for a long term care facility, as defined in ORS  
3 442.015.

4 (b) Violation of any rule or general order of the Department of Human  
5 Services that pertains to a long term care facility.

6 (c) Violation of any final order of the director that pertains specifically  
7 to the long term care facility owned or operated by the person incurring the  
8 penalty.

9 (d) Violation of ORS 441.605 or of rules required to be adopted under ORS  
10 441.610.

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

13 (2) In addition to any other liability or penalty provided by law, the Di-  
14 rector of the Oregon Health Authority may impose a civil penalty on a per-  
15 son for a violation of ORS 443.880 or 443.881 if the facility is a residential  
16 treatment facility or a residential treatment home.

17 (3) The Director of Human Services may not impose a penalty under  
18 subsection (1) of this section for violations other than those involving direct  
19 patient care or feeding, an adequate staff to patient ratio, sanitation in-  
20 volving direct patient care or a violation of ORS 441.605 or 443.880 or 443.881  
21 or of the rules required to be adopted by ORS 441.610 unless a violation is  
22 found on two consecutive surveys of a long term care facility. The Director  
23 of Human Services in every case shall prescribe a reasonable time for elim-  
24 ination of a violation:

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

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

29 (4) The Director of the Oregon Health Authority may not impose a pen-  
30 alty under subsection (2) of this section for violations other than those in-  
31 volving direct patient care or feeding, an adequate staff to patient ratio,

1 sanitation involving direct patient care or a violation of ORS 443.880 or  
2 443.881. The Director of the Oregon Health Authority in every case shall  
3 prescribe a reasonable time for elimination of a violation:

- 4 (a) Not to exceed 30 days after first notice of a violation; or
- 5 (b) In cases where the violation requires more than 30 days to correct,  
6 such time as is specified in a plan of correction found acceptable by the di-  
7 rector.

8 **(5) The Director of Human Services or the Director of the Oregon**  
9 **Health Authority may not impose a civil penalty for a violation of**  
10 **standards, codes or rules for facility construction.**

11 **SECTION 12.** ORS 443.415 is amended to read:

12 443.415. (1) Applications for licensure to maintain and operate a residen-  
13 tial facility shall be made to the Department of Human Services or the  
14 Oregon Health Authority on forms provided for that purpose by the appro-  
15 priate licensing agency. Each application shall be accompanied by a fee. No  
16 fee is required of any governmentally operated residential facility.

17 (2) The fee required under subsection (1) of this section for facilities:

- 18 (a) Defined in ORS 443.400 (7) and (9), shall be \$60.
- 19 (b) Defined in ORS 443.400 (8) and (10), shall be \$30.
- 20 (c) Defined in ORS 443.400 (5) with:
  - 21 (A) One to 15 beds, shall be \$360.
  - 22 (B) Sixteen to 49 beds, shall be \$520.
  - 23 (C) Fifty to 99 beds, shall be \$1,040.
  - 24 (D) One hundred to 150 beds, shall be \$1,340.
  - 25 (E) More than 150 beds, shall be \$1,500.

26 (3) Upon receipt of an application and fee, the licensing agency shall  
27 conduct an investigation. The licensing agency shall issue a license to any  
28 applicant for operation of a residential facility in compliance with ORS  
29 443.002 and 443.400 to 443.455 and the rules of the licensing agency.  
30 Licensure may be denied when a residential facility is not in compliance  
31 with ORS 443.002 or 443.400 to 443.455 or the rules of the licensing agency.

1 Licensure shall be denied if the [*State Fire Marshal or other authority*] **De-**  
2 **partment of Consumer and Business Services or a municipality** has  
3 given notice of noncompliance of facilities defined in ORS 443.400 (5), (7) and  
4 (9) pursuant to ORS 479.220.

5 **SECTION 13.** ORS 443.420 is amended to read:

6 443.420. (1) A person applying for a license under ORS 443.415 must, in  
7 the judgment of the director of the licensing agency, be a person:

8 (a) Who demonstrates an understanding and acceptance of the rules gov-  
9 erning residential facilities;

10 (b) Mentally and physically capable of caring for such residents; and

11 (c) Who employs or utilizes only individuals whose presence does not  
12 jeopardize the health, safety or welfare of residents.

13 (2) A residential facility shall not be operated or maintained in combina-  
14 tion with a nursing home or hospital unless licensed, maintained and oper-  
15 ated as a separate and distinct part.

16 (3) All physical residential facilities used for residents shall meet appli-  
17 cable requirements [*of the State Fire Marshal*] **under section 4 of this 2015**  
18 **Act.**

19 (4) Prior to licensure, a residential facility must be in substantial com-  
20 pliance with applicable state and local laws, rules, codes, ordinances and  
21 permit requirements.

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

25 (a) Comply with ORS 336.575; and

26 (b) Ensure that the children who reside at the residential facility receive  
27 appropriate educational services that are:

28 (A) Comprehensive and age-appropriate;

29 (B) In compliance with requirements of state and federal law; and

30 (C) If applicable, in compliance with the individual education program of  
31 the child.



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

3 (a) The license applicant's history of regulatory compliance and opera-  
4 tional experience;

5 (b) The need in the local community for the services offered by the license  
6 applicant, as demonstrated by a market study produced by the license appli-  
7 cant;

8 (c) The willingness of the license applicant to serve underserved popu-  
9 lations; and

10 (d) The willingness of the license applicant to contract with the licensing  
11 agency to provide services through the state medical assistance program.

12 **SECTION 14.** ORS 443.425 is amended to read:

13 443.425. (1) Licensure under ORS 443.415 is effective for two years from  
14 the date of issue unless sooner revoked. Each license shall state:

15 (a) The name of the person operating the residential facility;

16 (b) The name of the person who owns the facility;

17 (c) The address of the premises to which the license applies [*and*];

18 (d) The maximum number of residents to be maintained in such residen-  
19 tial facility at any time;

20 (e) Whether the residential facility is licensed as a residential training  
21 facility, a residential treatment facility, a residential care facility[;], a resi-  
22 dential training home or a residential treatment home; and

23 (f) Such other information as the Department of Human Services or the  
24 Oregon Health Authority considers necessary.

25 (2) A license is renewable upon submission of an application to the De-  
26 partment **of Human Services** or the authority and payment of a fee. No fee  
27 shall be required of a governmentally operated residential facility. Filing of  
28 an application for renewal before the date of expiration of a license extends  
29 the effective date of expiration of the license until the licensing agency has  
30 acted upon such application. The licensing agency shall refuse to renew a  
31 license if the facility is not substantially in compliance with all applicable

1 laws and rules, or if the [*State Fire Marshal or the authorized representative*  
2 *thereof*] **Department of Consumer and Business Services or a municipi-**  
3 **pality carrying out a program under section 6 of this 2015 Act** has given  
4 notice of noncompliance of facilities under ORS 443.400 (5), (7) and (9) pur-  
5 suant to ORS 479.220.

6 (3) The biennial fee required under subsection (2) of this section for fa-  
7 cilities:

8 (a) Defined in ORS 443.400 (7) and (9), shall be \$60.

9 (b) Defined in ORS 443.400 (8) and (10), shall be \$30.

10 (c) Defined in ORS 443.400 (5) with:

11 (A) One to 15 beds, shall be \$360.

12 (B) Sixteen to 49 beds, shall be \$520.

13 (C) Fifty to 99 beds, shall be \$1,040.

14 (D) One hundred to 150 beds, shall be \$1,340.

15 (E) More than 150 beds, shall be \$1,500.

16 **SECTION 15.** ORS 443.435 is amended to read:

17 443.435. (1) The Director of Human Services or authorized representative  
18 shall periodically visit and inspect every residential care facility, residential  
19 training facility or residential training home to determine whether it is  
20 maintained and operated in accordance with ORS 443.400 to 443.455 and the  
21 rules of the director, and to consult with and advise management concerning  
22 methods of care, treatment, training, records, housing and equipment. Em-  
23 ployees of the Department of Human Services [*and the State Fire Marshal*  
24 *or authorized representative*] **or the Department of Consumer and Busi-**  
25 **ness Services, or building officials or inspectors for a municipality**  
26 **carrying out a program under section 6 of this 2015 Act**, on request shall  
27 be permitted access to the premises and records of individuals in the facility  
28 or home that are pertinent to fire safety.

29 (2) The Director of the Oregon Health Authority or authorized represen-  
30 tative shall periodically visit and inspect every residential treatment facility  
31 or residential treatment home to determine whether it is maintained and

1 operated in accordance with ORS 443.400 to 443.455 and the rules of the di-  
2 rector, and to consult with and advise management concerning methods of  
3 care, treatment, training, records, housing and equipment. Employees of the  
4 Oregon Health Authority [*and the State Fire Marshal or authorized repre-*  
5 *sentative*] **or the Department of Consumer and Business Services, or**  
6 **building officials or inspectors for a municipality carrying out a pro-**  
7 **gram under section 6 of this 2015 Act**, on request shall be permitted access  
8 to the premises and records of individuals in the facility or home that are  
9 pertinent to fire safety.

10 **SECTION 16.** ORS 443.452 is amended to read:

11 443.452. (1) The director shall waive the requirements of ORS 443.410 for  
12 a residential care facility caring for residents with physical disabilities if:

13 (a) Each resident is over 16 years of age;

14 (b) No more than five individuals with physical disabilities reside in any  
15 one building of the facility; and

16 (c) The residential facility complies with the applicable requirements [*of*  
17 *the State Fire Marshal*] **under section 4 of this 2015 Act.**

18 (2) As used in this section, “building” means any structure that does not  
19 share a common wall or roof with another structure.

20 **SECTION 17.** ORS 455.210 is amended to read:

21 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan  
22 review and permits issued by the Department of Consumer and Business  
23 Services for the construction, reconstruction, alteration and repair of pre-  
24 fabricated structures and of buildings and other structures and the installa-  
25 tion of mechanical heating and ventilating devices and equipment. The fees  
26 may not exceed 130 percent of the fee schedule printed in the “Uniform  
27 Building Code,” 1979 Edition, and in the “Uniform Mechanical Code,” 1979  
28 Edition, both published by the International Conference of Building Officials.  
29 Fees are not effective until approved by the Oregon Department of Admin-  
30 istrative Services.

31 (2) Notwithstanding subsection (1) of this section, the maximum fee the

1 Director of the Department of Consumer and Business Services may prescribe  
2 for a limited plan review for fire and life safety [*as required under*] **requir-**  
3 **ing State Fire Marshal approval under** ORS 479.155 shall be 40 percent  
4 of the prescribed permit fee.

5 (3)(a) A municipality may adopt by ordinance or regulation such fees as  
6 may be necessary and reasonable to provide for the administration and  
7 enforcement of any specialty code or codes for which the municipality has  
8 assumed responsibility under ORS 455.148 or 455.150. A municipality shall  
9 give the director notice of the proposed adoption of a new or increased fee  
10 under this subsection. The municipality shall give the notice to the director  
11 at the time the municipality provides the opportunity for public comment  
12 under ORS 294.160 regarding the fee or, if the proposed fee is contained in  
13 an estimate of municipal budget resources, at the time notice of the last  
14 budget meeting is published under ORS 294.426.

15 (b) Ten or more persons or an association with 10 or more members may  
16 appeal the adoption of a fee described in this subsection to the Director of  
17 the Department of Consumer and Business Services. The persons or associ-  
18 ation must file the appeal no later than 60 days after the director receives  
19 notice of the proposed adoption of the fee from the municipality under par-  
20 agraph (a) of this subsection. However, if the municipality failed to give  
21 notice to the director, an appeal may be filed with the director within one  
22 year after adoption of the new or increased fee. Upon receiving a timely  
23 appeal, the director shall, after notice to affected parties and hearing, review  
24 the municipality's fee adoption process and the costs of administering and  
25 enforcing the specialty code or codes referred to in paragraph (a) of this  
26 subsection. The director shall approve the fee if the director feels the fee is  
27 necessary and reasonable. If the director does not approve the fee upon ap-  
28 peal, the fee is not effective. The appeal process provided in this paragraph  
29 does not apply to fees that have been submitted for a vote and approved by  
30 a majority of the electors voting on the question.

31 (c) Fees collected by a municipality under this subsection shall be used

1 for the administration and enforcement of a building inspection program for  
2 which the municipality has assumed responsibility under ORS 455.148 or  
3 455.150.

4 (d) For purposes of paragraph (b) of this subsection, in determining  
5 whether a fee is reasonable the director shall consider whether:

6 (A) The fee is the same amount as or closely approximates the amount  
7 of the fee charged by other municipalities of a similar size and geographic  
8 location for the same level of service;

9 (B) The fee is calculated with the same or a similar calculation method  
10 as the fee charged by other municipalities for the same service;

11 (C) The fee is the same type as the fee charged by other municipalities  
12 for the same level of service; and

13 (D) The municipality, in adopting the fee, complied with ORS 294.160,  
14 294.361 and 294.426 and this section and standards adopted by the director  
15 under ORS 455.148 (11) or 455.150 (11).

16 (4) Notwithstanding any other provision of this chapter:

17 (a) For the purpose of partially defraying state administrative costs, there  
18 is imposed a surcharge in the amount of four percent of the total permit fees  
19 or, if the applicant chooses to pay an hourly rate instead of purchasing a  
20 permit, four percent of the total hourly charges collected.

21 (b) For the purpose of partially defraying state inspection costs, there is  
22 imposed a surcharge in the amount of two percent of the total permit fees  
23 or, if the applicant chooses to pay an hourly rate instead of purchasing a  
24 permit, two percent of the total hourly charges collected.

25 (c) For the purpose of defraying the cost of administering and enforcing  
26 the state building code, there is imposed a surcharge on permit fees and on  
27 hourly charges collected instead of permit fees. The surcharge may not ex-  
28 ceed one percent of the total permit fees or, if the applicant chooses to pay  
29 an hourly rate instead of purchasing a permit, one percent of the total hourly  
30 charges collected.

31 (d) For the purpose of defraying the cost of developing and administering

1 the electronic building codes information system described in ORS 455.095  
2 and 455.097, there is imposed a surcharge in the amount of five percent on  
3 permit fees, or if the applicant chooses to pay an hourly rate instead of  
4 purchasing a permit, five percent of the total hourly charges collected.  
5 However, the department may adopt rules to waive a portion of the sur-  
6 charge imposed under this paragraph if the department determines that the  
7 amount collected by the surcharge imposed under this paragraph exceeds the  
8 actual cost to the department of developing and administering the electronic  
9 building codes information system described in ORS 455.095 and 455.097.

10 (5) Municipalities shall collect and remit surcharges imposed under sub-  
11 section (4) of this section to the director as provided in ORS 455.220.

12 (6) The director shall adopt administrative rules to allow reduced fees for  
13 review of plans that have been previously reviewed.

14 **SECTION 18.** ORS 455.210, as amended by section 6, chapter 69, Oregon  
15 Laws 2007, and section 30, chapter 473, Oregon Laws 2011, is amended to  
16 read:

17 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan  
18 review and permits issued by the Department of Consumer and Business  
19 Services for the construction, reconstruction, alteration and repair of pre-  
20 fabricated structures and of buildings and other structures and the installa-  
21 tion of mechanical heating and ventilating devices and equipment. The fees  
22 may not exceed 130 percent of the fee schedule printed in the "Uniform  
23 Building Code," 1979 Edition, and in the "Uniform Mechanical Code," 1979  
24 Edition, both published by the International Conference of Building Officials.  
25 Fees are not effective until approved by the Oregon Department of Admin-  
26 istrative Services.

27 (2) Notwithstanding subsection (1) of this section, the maximum fee the  
28 Director of the Department of Consumer and Business Services may prescribe  
29 for a limited plan review for fire and life safety [*as required under*] **requir-**  
30 **ing State Fire Marshal approval under** ORS 479.155 shall be 40 percent  
31 of the prescribed permit fee.

1 (3)(a) A municipality may adopt by ordinance or regulation such fees as  
2 may be necessary and reasonable to provide for the administration and  
3 enforcement of any specialty code or codes for which the municipality has  
4 assumed responsibility under ORS 455.148 or 455.150. A municipality shall  
5 give the director notice of the proposed adoption of a new or increased fee  
6 under this subsection. The municipality shall give the notice to the director  
7 at the time the municipality provides the opportunity for public comment  
8 under ORS 294.160 regarding the fee or, if the proposed fee is contained in  
9 an estimate of municipal budget resources, at the time notice of the last  
10 budget meeting is published under ORS 294.426.

11 (b) Ten or more persons or an association with 10 or more members may  
12 appeal the adoption of a fee described in this subsection to the Director of  
13 the Department of Consumer and Business Services. The persons or associ-  
14 ation must file the appeal no later than 60 days after the director receives  
15 notice of the proposed adoption of the fee from the municipality under par-  
16 agraph (a) of this subsection. However, if the municipality failed to give  
17 notice to the director, an appeal may be filed with the director within one  
18 year after adoption of the new or increased fee. Upon receiving a timely  
19 appeal, the director shall, after notice to affected parties and hearing, review  
20 the municipality's fee adoption process and the costs of administering and  
21 enforcing the specialty code or codes referred to in paragraph (a) of this  
22 subsection. The director shall approve the fee if the director feels the fee is  
23 necessary and reasonable. If the director does not approve the fee upon ap-  
24 peal, the fee is not effective. The appeal process provided in this paragraph  
25 does not apply to fees that have been submitted for a vote and approved by  
26 a majority of the electors voting on the question.

27 (c) Fees collected by a municipality under this subsection shall be used  
28 for the administration and enforcement of a building inspection program for  
29 which the municipality has assumed responsibility under ORS 455.148 or  
30 455.150.

31 (d) For purposes of paragraph (b) of this subsection, in determining

1 whether a fee is reasonable the director shall consider whether:

2 (A) The fee is the same amount as or closely approximates the amount  
3 of the fee charged by other municipalities of a similar size and geographic  
4 location for the same level of service;

5 (B) The fee is calculated with the same or a similar calculation method  
6 as the fee charged by other municipalities for the same service;

7 (C) The fee is the same type as the fee charged by other municipalities  
8 for the same level of service; and

9 (D) The municipality, in adopting the fee, complied with ORS 294.160,  
10 294.361 and 294.426 and this section and standards adopted by the director  
11 under ORS 455.148 (11) or 455.150 (11).

12 (4) Notwithstanding any other provision of this chapter:

13 (a) For the purpose of partially defraying state administrative costs, there  
14 is imposed a surcharge in the amount of four percent of the total permit fees  
15 or, if the applicant chooses to pay an hourly rate instead of purchasing a  
16 permit, four percent of the total hourly charges collected.

17 (b) For the purpose of partially defraying state inspection costs, there is  
18 imposed a surcharge in the amount of two percent of the total permit fees  
19 or, if the applicant chooses to pay an hourly rate instead of purchasing a  
20 permit, two percent of the total hourly charges collected.

21 (c) For the purpose of defraying the cost of administering and enforcing  
22 the state building code, there is imposed a surcharge on permit fees and on  
23 hourly charges collected instead of permit fees. The surcharge may not ex-  
24 ceed one percent of the total permit fees or, if the applicant chooses to pay  
25 an hourly rate instead of purchasing a permit, one percent of the total hourly  
26 charges collected.

27 (5) Municipalities shall collect and remit surcharges imposed under sub-  
28 section (4) of this section to the director as provided in ORS 455.220.

29 (6) The director shall adopt administrative rules to allow reduced fees for  
30 review of plans that have been previously reviewed.

31 **SECTION 19.** ORS 479.155 is amended to read:



1 479.155. (1) As used in this section, “director” means the Director of the  
2 Department of Consumer and Business Services.

3 (2) Prior to construction or alteration of a hospital, public building as  
4 defined in ORS 479.168, public garage, dry cleaning establishment, apartment  
5 house, hotel, bulk oil storage plant, school, institution as defined in ORS  
6 479.210, or any other building or structure regulated by the State Fire Mar-  
7 shal for use and occupancy, [*or*] requiring approval by the State Fire Mar-  
8 shal [*pursuant to statute,*] **or requiring approval by the Department of**  
9 **Consumer and Business Services or a municipality carrying out a**  
10 **program under section 4 of this 2015 Act**, the owner shall submit to the  
11 director two copies of a plan or sketch showing the location of the building  
12 or structure with relation to the premises, distances, lengths and details of  
13 construction as the director shall require. A filing is not required with re-  
14 spect to any such building or structure in any area exempted by order of the  
15 State Fire Marshal pursuant to ORS 476.030. Approval of the plans or  
16 sketches by the director is considered approval by the State Fire Marshal  
17 and satisfies any statutory provision requiring approval by the State Fire  
18 Marshal. **Approval by the director of plans or sketches for a health care**  
19 **facility that is subject to plan review as provided in section 4 of this**  
20 **2015 Act is considered approval by the Department of Consumer and**  
21 **Business Services or the municipality.**

22 (3) A declaration of the value of the proposed construction or alteration  
23 and the appropriate fee required under ORS 455.210 must accompany the plan  
24 or sketch. However, the determination of value or valuation shall be made  
25 by the director.

26 (4) The director shall be furnished with not fewer than two accurate  
27 copies of the plan or sketch and details for the purpose of ascertaining  
28 compliance with applicable fire prevention and protection statutes and reg-  
29 ulations. The plan examiner shall indicate on the plan or sketch and in  
30 writing approval or disapproval and conditions for approval of the con-  
31 struction or alteration. One copy of the plan or sketch shall be retained by

1 the director and one copy shall be returned to the applicant. No building or  
2 structure referred to in subsection (2) of this section shall be erected or  
3 constructed without approval by the director if the building or structure re-  
4 quires approval by the State Fire Marshal **or by the department or a**  
5 **municipality carrying out a program under section 4 of this 2015 Act.**  
6 After such approval or issuance of the required permit, construction or al-  
7 teration must comply with the plan or sketch in all respects unless modified  
8 by subsequent permit or order of the director.

9 (5) The approval of a plan or sketch may not be construed to be a permit  
10 for, or an approval of, any violation of any statute or regulation or the ap-  
11 plicable ordinances and regulations of any governmental subdivision of the  
12 state. The approval of a plan or sketch may not be construed as an approval  
13 for noncompliance with fire marshal **rules or other applicable** regulations.  
14 Any condition upon approval or disapproval is an order subject to appeal as  
15 other orders are appealable.

16 (6) Notwithstanding the requirements of subsections (2) and (4) of this  
17 section, the State Fire Marshal may, by rule, require an additional copy of  
18 a plan or sketch for local government use and may specify that plans or  
19 sketches submitted for review be drawn clearly and to scale.

20 **SECTION 20.** ORS 479.180 is amended to read:

21 479.180. (1) If the owner, lessee, agent or occupant is aggrieved by the  
22 order of an officer under the provisions of ORS 476.030, 479.170, [479.210 to  
23 479.220,] **479.215 (1) to (4), 479.220 (2)**, 480.122 to 480.160, 480.330, 480.340,  
24 480.420 to 480.434 or 480.450 and desires a hearing, the person may complain  
25 or appeal in writing to the State Fire Marshal within 10 days from the ser-  
26 vice of the order. The complaint or appeal shall set forth the specific grounds  
27 of the complaint or appeal and no other ground shall be considered there-  
28 after. The complaint or appeal shall be accompanied by a fee of \$40 payable  
29 to the State Fire Marshal, and the State Fire Marshal may refer the com-  
30 plaint or appeal to the regional appeal advisory board established for that  
31 region by notifying the chairperson of that board and sending a copy of the

1 notice to the complainant or appellant. The board shall fix a time for hearing  
2 and notify the complainant or appellant of the time and place thereof, which  
3 shall be within 10 days after such referral by the State Fire Marshal. If the  
4 State Fire Marshal does not refer the matter to a regional appeal advisory  
5 board, the State Fire Marshal shall fix a time and place, not less than five  
6 and not more than 10 days thereafter, when and where the complaint or ap-  
7 peal will be heard by the State Fire Marshal. Within 10 days after receiving  
8 a recommendation from the regional appeal advisory board, or if no referral  
9 was made to such board, within 10 days after the hearing before the State  
10 Fire Marshal, the State Fire Marshal may affirm, modify, revoke or vacate  
11 the order complained of or appealed from. Unless the order is modified, re-  
12 voked or vacated by the State Fire Marshal, it shall remain in force and be  
13 complied with by the owner, lessee, agent or occupant, and within the time  
14 fixed in the order or fixed by the State Fire Marshal. If the State Fire  
15 Marshal vacates or revokes the order complained of or appealed from, or  
16 modified it in any particular other than extending time for compliance, the  
17 fee paid with the complaint or appeal shall be refunded. Otherwise, it shall  
18 be credited to appropriate state funds, and the State Fire Marshal shall so  
19 notify the State Treasurer.

20 (2) If the complainant or appellant under subsection (1) of this section is  
21 aggrieved by the final order of the State Fire Marshal, and if such order  
22 necessitates the expenditure of money or involves statutory interpretation,  
23 the complainant or appellant may, within 10 days thereafter, appeal to the  
24 circuit court of the county in which the property is situated, notifying the  
25 State Fire Marshal of the appeal within 10 days thereafter[, *which notice*].  
26 **The notice of appeal given to the State Fire Marshal** shall be in writing  
27 and delivered personally or by registered letter to the marshal, or left at the  
28 principal office of the State Fire Marshal at the state capital. The party so  
29 appealing shall, within two days after filing the appeal, file with the circuit  
30 court in which appeal is made a bond in an amount to be fixed by the court  
31 or judge, but in no case less than \$100, with two sufficient sureties possess-

1 ing the qualification of bail on arrest, the bond to be approved by the court  
2 and conditioned to pay all the costs on the appeal in case the appellant fails  
3 to sustain it or it is dismissed for any cause. In the case of an appeal in-  
4 volving an order under ORS 479.170, the circuit court shall hear and deter-  
5 mine the appeal within 10 days after the date of filing the same.

6 (3) The State Fire Marshal shall make or have made a certified summary  
7 of the proceedings at the hearing before the regional appeal advisory board  
8 or before the State Fire Marshal, and together with all the evidentiary  
9 matter filed in the office of the State Fire Marshal or presented to the re-  
10 gional appeal advisory board, transmit them to the circuit court at least  
11 three days prior to the date fixed by the court for hearing when it shall be  
12 tried de novo.

13 **SECTION 21.** ORS 479.215 is amended to read:

14 479.215. (1) Except as provided in subsection (3) of this section or [*in*] ORS  
15 479.217, **for an institution that is not a health care facility as defined**  
16 **in section 4 of this 2015 Act**, the Department of Human Services or the  
17 Oregon Health Authority may not issue an initial license or an initial cer-  
18 tificate of approval [*to any institution when*] **if** the State Fire Marshal, or  
19 an approved representative as provided in subsection (3) of this section, no-  
20 tifies in writing that the institution is not in substantial compliance with  
21 all applicable laws and rules relating to safety from fire established pursuant  
22 to ORS 476.030.

23 (2) On January [*1st*] **1** of each year or as soon thereafter as practicable,  
24 the Department **of Human Services** and the **Oregon Health** Authority shall  
25 furnish the State Fire Marshal with a complete list of all institutions li-  
26 censed or approved by the department or the authority within the State of  
27 Oregon **that are not health care facilities as defined in section 4 of this**  
28 **2015 Act.**

29 (3) The State Fire Marshal, deputy or the approved authority shall make  
30 or have made at least once each year an inspection of any [*such*] licensed  
31 or approved institution **identified in a list provided under subsection (2)**

1 **of this section** to determine its substantial compliance with the laws and  
2 rules as provided in subsection (1) of this section. If any required corrective  
3 measures are not completed within the reasonable time fixed or an extension  
4 thereof made by order of the inspecting authority, the Department of **Hu-**  
5 **man Services** or the Oregon Health Authority shall be notified of the fact  
6 of noncompliance and appropriate action shall be initiated in accordance  
7 with provisions of ORS 476.030 and 479.170.

8 (4) Except as provided in ORS 479.217, if, at any time, the State Fire  
9 Marshal, or deputy, or the approved authority notifies the Department of  
10 **Human Services** or the Oregon Health Authority in writing that an insti-  
11 tution **subject to subsection (1) of this section** is not in substantial com-  
12 pliance with all applicable laws and rules as provided in subsection (1) of  
13 this section, the licensing agency shall deny, withhold, suspend or revoke the  
14 license or certificate of approval of the institution.

15 [(4)] (5) When an area has been exempted by the State Fire Marshal under  
16 ORS 476.030, certification, annual inspection and notification of noncompli-  
17 ance when appropriate, shall be made and performed **for an institution**  
18 **described in subsection (1) of this section** by the approved authority of  
19 the governmental subdivision having jurisdiction in such area.

20 (6) Except as provided in ORS 479.217, for an institution that is a  
21 **health care facility as defined in section 4 of this 2015 Act**, the De-  
22 **partment of Human Services or the Oregon Health Authority may not**  
23 **issue an initial license or an initial certificate of approval if the De-**  
24 **partment of Consumer and Business Services or a municipality carry-**  
25 **ing out a program under section 4 of this 2015 Act notifies the**  
26 **department or the authority in writing that the institution is not in**  
27 **substantial compliance with all applicable laws and rules relating to**  
28 **safety from fire that are described in section 4 of this 2015 Act.**

29 (7) On January 1 of each year or as soon thereafter as practicable,  
30 the Department of Human Services and the Oregon Health Authority  
31 shall furnish the Director of the Department of Consumer and Busi-

1 **ness Services with a complete list of all institutions licensed or ap-**  
2 **proved by the Department of Human Services or the Oregon Health**  
3 **Authority within the State of Oregon that are health care facilities**  
4 **as defined in section 4 of this 2015 Act.**

5 **(8) The Department of Consumer and Business Services or a**  
6 **municipality carrying out a program under section 6 of this 2015 Act**  
7 **shall inspect a licensed or approved institution identified in a list**  
8 **provided under subsection (7) of this section at least once every three**  
9 **years to determine whether the institution is in substantial compli-**  
10 **ance with the applicable laws and rules as provided in subsection (6)**  
11 **of this section. If any required corrective measures are not completed**  
12 **within the reasonable time fixed or an extension thereof made by order**  
13 **of the inspecting authority, the Department of Human Services or the**  
14 **Oregon Health Authority shall be notified of the fact of noncompliance**  
15 **and appropriate action shall be initiated as provided by state or local**  
16 **law.**

17 **(9) Except as provided in ORS 479.217, if, at any time, the Depart-**  
18 **ment of Consumer and Business Services or a municipality carrying**  
19 **out a program under section 6 of this 2015 Act notifies the Department**  
20 **of Human Services or the Oregon Health Authority in writing that an**  
21 **institution subject to subsection (6) of this section is not in substantial**  
22 **compliance with all applicable laws and rules as provided in subsection**  
23 **(6) of this section, the licensing agency shall deny, withhold, suspend**  
24 **or revoke the license or certificate of approval of the institution.**

25 **SECTION 22. ORS 479.217 is amended to read:**

26 **479.217. (1) In lieu of [an] inspection and approval under ORS 479.215**  
27 **by the State Fire Marshal or the approved authority of a governmental**  
28 **subdivision having jurisdiction in an area exempted by the State Fire Mar-**  
29 **shal, [under ORS 479.215] for institutions licensed under ORS 412.001 to**  
30 **412.161, 418.005 to 418.025, 418.205 to 418.315, 418.625 to 418.685, 418.647,**  
31 **[441.015 to 441.087, 441.525 to 441.595,] 441.815, 441.820, 441.990[,] or 442.400**

1 to 442.463 [*or 443.400 to 443.455*], the State Fire Marshal or the approved  
 2 authority may issue a temporary permit [*which*] **that** meets the requirements  
 3 of ORS 479.215 for licensing of such institutions. [*The*] **In lieu of inspection**  
 4 **and approval under ORS 479.215 by the Department of Consumer and**  
 5 **Business Services or a municipality carrying out a program under**  
 6 **section 4 or 6 of this 2015 Act, for institutions licensed under ORS**  
 7 **441.015 to 441.087, 441.525 to 441.595 or 443.400 to 443.455, the department**  
 8 **or municipality may issue a temporary permit that meets the re-**  
 9 **quirements of ORS 479.215 for licensing of those institutions. A tempo-**  
 10 **rary permit may be issued under this section only when it appears that:**

11 (a) The facilities for protection from fire in an institution are adequate  
 12 so that the institution can operate without jeopardizing the health or safety  
 13 of its residents or patients; and

14 (b) The institution can comply with all applicable laws and rules relating  
 15 to safety from fire within a period of two years from the date of issuance  
 16 of the temporary permit.

17 (2) [*In issuing the temporary permit, the State Fire Marshal or approved*  
 18 *authority of the governmental subdivision having jurisdiction in an exempt*  
 19 *area*] **The issuer of a temporary permit** may require that during the two-  
 20 year period in which the temporary permit is in effect:

21 (a) Plans for compliance with all applicable laws and rules relating to  
 22 safety from fire be submitted with the application for a temporary permit;

23 (b) Periodic reports be submitted on the progress of the plans for com-  
 24 pliance; and

25 (c) Special temporary provisions specified by the [*State Fire Marshal or*  
 26 *the approved authority*] **issuer** be maintained for the protection from fire of  
 27 the residents or patients of the institution.

28 (3) If at any time, the [*State Fire Marshal or the approved authority*]  
 29 **issuer of a temporary permit** determines that the facilities for protection  
 30 from fire at the institution are no longer adequate to protect the residents  
 31 or patients or that the requirements imposed under subsection (2) of this

1 section are not being maintained, the [*State Fire Marshal or the approved*  
2 *authority*] **issuer** shall cancel the temporary permit and shall notify the li-  
3 censing agency of such cancellation.

4 (4) Extensions and renewals may be granted on the temporary permit.

5 **SECTION 23.** ORS 479.220 is amended to read:

6 479.220. (1) When application is made for the initial issuance or rein-  
7 statement of a license or certificate of approval to operate and maintain an  
8 institution, or for an enlargement **of** or addition to a licensed or approved  
9 institution, the licensing agency **under ORS 479.215** shall [*notify in*  
10 *writing*]:

11 (a) **Except as provided in paragraph (b) of this subsection, give**  
12 **written notice to the State Fire Marshal[, and].**

13 (b) **If the institution is a health care facility as defined in section**  
14 **4 of this 2015 Act, give written notice to the Director of the Depart-**  
15 **ment of Consumer and Business Services.**

16 (2) **No later than 30 days after notice is received by the State Fire**  
17 **Marshal under subsection (1)(a) of this section,** the State Fire Marshal  
18 or deputy, or the approved authority in the case of an institution located in  
19 an area exempted under ORS 476.030 (3), shall [*within 30 days*] inspect the  
20 institution as authorized by ORS 476.150 and [*within that time shall*] notify  
21 the licensing agency **under ORS 479.215** in writing [*when*] **if** the institution  
22 is not [*substantially*] in **substantial** compliance with all applicable laws and  
23 rules.

24 (3) **No later than 30 days after notice is received by the director**  
25 **under subsection (1)(b) of this section, the Department of Consumer**  
26 **and Business Services or a municipality carrying out a program under**  
27 **section 6 of this 2015 Act shall inspect the institution and notify the**  
28 **licensing agency under ORS 479.215 in writing if the institution is not**  
29 **in substantial compliance with the applicable laws and rules for a**  
30 **health care facility as defined in section 4 of this 2015 Act.**

31 **SECTION 24.** (1) **Sections 1 to 6 of this 2015 Act and the amend-**



1 ments to ORS 441.025, 441.030, 441.060, 441.061, 441.710, 443.415, 443.420,  
2 443.425, 443.435, 443.452, 455.210, 479.155, 479.180, 479.215, 479.217 and  
3 479.220 by sections 7 to 23 of this 2015 Act become operative January  
4 1, 2016.

5 (2) Notwithstanding subsection (1) of this section, the State Fire  
6 Marshal, affected government subdivisions and approved authorities,  
7 the Director of the Department of Consumer and Business Services,  
8 municipalities, the Oregon Health Authority and the Department of  
9 Human Services may take any actions reasonable or necessary prior  
10 to January 1, 2016, for the purpose of facilitating the administration  
11 and enforcement beginning January 1, 2016, of sections 1 to 6 of this  
12 2015 Act and the amendments to ORS 441.025, 441.030, 441.060, 441.061,  
13 441.710, 443.415, 443.420, 443.425, 443.435, 443.452, 455.210, 479.155, 479.180,  
14 479.215, 479.217 and 479.220 by sections 7 to 23 of this 2015 Act.

15 SECTION 25. This 2015 Act being necessary for the immediate  
16 preservation of the public peace, health and safety, an emergency is  
17 declared to exist, and this 2015 Act takes effect on its passage.

18