

Senate Bill 886

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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, 441.030, 441.060, 441.061,
3 441.710, 443.415, 443.420, 443.425, 443.435, 443.452, 455.210, 479.155, 479.180, 479.215, 479.217 and
4 479.220; and declaring an emergency.

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

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

8 **(2) The duties, functions and powers of the State Fire Marshal relating to plan review**
9 **and inspections for health care facility structures are transferred to and vested in the De-**
10 **partment of Consumer and Business Services.**

11 **(3) Any State Fire Marshal authorization for a governmental subdivision or approved**
12 **authority exempted under ORS 476.030 (3) or an approved authority under ORS 476.030 (3)**
13 **or 479.215 to perform duties, powers or functions relating to plan review and inspections for**
14 **health care facility structures ceases on the operative date of this section. Any governmental**
15 **subdivision exempted under ORS 476.030 (3) and any approved authority under ORS 476.030**
16 **(3) or 479.215 shall deliver to the State Fire Marshal copies of all records for health care fa-**
17 **ility structures within the jurisdiction of the governmental subdivision or approved au-**
18 **thority for which plan review or inspection are pending. The State Fire Marshal shall include**
19 **any such records with the records and property delivered by the State Fire Marshal under**
20 **subsection (4) of this section.**

21 **(4) The State Fire Marshal shall deliver to the Director of the Department of Consumer**
22 **and Business Services all records and property within the jurisdiction of the State Fire**
23 **Marshal that relate to the duties, functions and powers transferred by this section. The**
24 **State Fire Marshal, in cooperation with the director, shall take all actions necessary and**
25 **proper to allow the director to assume any contractual obligation of the State Fire Marshal**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 for the performance of duties, powers and functions transferred under this section, including
2 but not limited to any contract with the Centers for Medicare and Medicaid Services for the
3 certification of health care facility structures.

4 (5) The transfer of duties, functions and powers by this section does not affect any
5 action, proceeding or prosecution involving or with respect to such duties, functions and
6 powers begun before and pending at the time of the transfer, except that the department is
7 substituted for the State Fire Marshal, governmental subdivision or approved authority in
8 the action, proceeding or prosecution.

9 (6) Nothing in this section relieves a person of a liability, duty or obligation accruing
10 under or with respect to the duties, functions and powers transferred by this section. The
11 department may undertake the collection or enforcement of any such liability, duty or obli-
12 gation that could have been collected or enforced by the State Fire Marshal. This section
13 does not prevent a governmental subdivision or approved authority from collecting or en-
14 forcing any liability, duty or obligation owed to the governmental subdivision or approved
15 authority.

16 **SECTION 2.** Any moneys appropriated to the State Fire Marshal for carrying out the
17 duties transferred under section 1 of this 2015 Act during the biennium ending June 30, 2017,
18 and remaining unexpended on the operative date of section 1 of this 2015 Act shall be
19 transferred to the Consumer and Business Services Fund for use by the Department of
20 Consumer and Business Services in carrying out the duties transferred under section 1 of
21 this 2015 Act.

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

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

24 (a) "Health care facility" means:

25 (A) An inpatient care facility required to be licensed under ORS 441.015 to 441.087 or
26 441.525 to 441.595; or

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

29 (b) "Federal health program construction standard" means a construction standard for
30 health care facility structures adopted by the Centers for Medicare and Medicaid Services.

31 (2) Notwithstanding ORS 476.030, 476.150 or 476.155 or any other provision conferring a
32 duty or power on the State Fire Marshal regarding fire and life safety standards, the De-
33 partment of Consumer and Business Services or a municipality that has a building inspection
34 program under ORS 455.148 or 455.150 shall:

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

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

39 (B) Any rules adopted by the Department of Consumer and Business Services establish-
40 ing special construction standards for health care facilities that are more stringent than the
41 requirement imposed under a corresponding applicable federal health program construction
42 standard or under the state building code; and

43 (C) Any local laws or ordinances regarding fire equipment access or water supply ade-
44 quacy applicable to the site of the health care facility.

45 (b) Conduct any required fire and life safety inspections during construction of a health

1 care facility structure to ensure compliance with applicable standards, codes and rules as
2 described in paragraph (a) of this subsection.

3 (3) A municipality may carry out an inspection program under subsection (2) of this
4 section only within an area that is subject to a building inspection program administered by
5 the municipality under ORS 455.148 or 455.150. This section does not require a municipality
6 that administers a building inspection program under ORS 455.150 to perform plan review or
7 construction inspection of a health care facility structure that exceeds the scope of the
8 municipal building inspection program.

9 (4) The State Fire Marshal may not conduct or authorize any plan review or inspection
10 for fire and life safety code compliance on a health care facility structure or any determi-
11 nation of compliance or noncompliance of a health care facility structure with federal health
12 program construction standards, the state building code or special construction standards
13 for health facilities established by the Department of Consumer and Business Services by
14 rule.

15 (5) The State Fire Marshal, or a local fire official for a governmental subdivision ex-
16 empted under ORS 476.030 (3) or an approved authority under ORS 476.030 (3), may provide
17 advice to building officials and inspectors of a municipality and to Department of Consumer
18 and Business Services employees concerning federal health program construction standards
19 and concerning health care facility construction standards proposed or adopted by the de-
20 partment. A local building official or inspector or department employee shall give consider-
21 ation to advice of the State Fire Marshal or a local fire official, but shall retain the authority
22 to make final decisions under subsection (2) of this section.

23 (6) A decision during plan review or an inspection under this section regarding compli-
24 ance with the special construction standards for health care facilities under subsection
25 (2)(a)(B) of this section is a decision made under ORS 479.155. A decision during plan review
26 or inspection regarding any standards under subsection (2)(a)(A) or (C) of this section is a
27 decision subject to the provisions of this chapter.

28 (7) This section does not affect the authority of the State Fire Marshal, a governmental
29 subdivision exempted under ORS 476.030 (3) or an approved authority under ORS 476.030 (3)
30 to have access to and conduct an inspection of a health care facility for the purpose of in-
31 vestigating and determining cause, origin, circumstances, damage or other information re-
32 garding a fire that has occurred at the facility.

33 **SECTION 5.** Notwithstanding ORS 197.763, 197.768, 215.402 to 215.438, 222.840 to 222.915
34 and 227.160 to 227.186, a determination made by the Department of Consumer and Business
35 Services or a municipality under section 4 of this 2015 Act regarding whether a proposed
36 health care facility complies with local laws or ordinances regarding fire equipment access
37 or water supply adequacy is binding on the local jurisdiction in any hearing regarding siting
38 of the facility. This section and section 4 (6) of this 2015 Act do not apply to limit or prevent
39 the appeal of a land use order containing findings that incorporate the determination.

40 **SECTION 6.** (1) The Department of Consumer and Business Services or any municipality
41 that has authority under section 4 of this 2015 Act to conduct inspections of a health care
42 facility structure during construction shall, except as provided in ORS 441.062, also conduct
43 any required post-construction inspections of the operating health care facility as provided
44 under ORS 479.215 for compliance with applicable construction standards, codes and rules
45 related to facility construction. The department or municipality may take any actions rea-

1 sonable or necessary to carry out inspections under this section, including but not limited
2 to conducting investigations, taking sworn testimony and inspecting records.

3 (2) The Department of Human Services shall enter into agreements with the Department
4 of Consumer and Business Services or municipalities for the purpose of carrying out post-
5 construction inspections under this section. The Department of Consumer and Business
6 Services or a municipality may establish reasonable fees for carrying out post-construction
7 inspections of health care facilities in accordance with an agreement described in this sub-
8 section.

9 (3) Notwithstanding ORS chapter 455, if the department or municipality has reason to
10 believe that a health care facility is in violation of applicable standards, codes or rules re-
11 lated to facility construction, the department or municipality shall issue a certificate of
12 noncompliance under ORS 479.215 for the facility and give notice of the noncompliance to the
13 Department of Human Services. In addition to any sanctions imposed by the Department of
14 Human Services, the Department of Consumer and Business Services or a municipality may
15 impose a civil penalty for the violation, not to exceed \$5,000 or, for a continuing violation,
16 not to exceed \$1,000 for each day the violation continues.

17 (4) If the department or a municipality has reason to believe that a health care facility
18 has been engaged in, is engaging in or is about to engage in any violation of standards, codes
19 and rules related to facility construction, the department or municipality may issue an order
20 directing the facility to cease and desist from the violation or threatened violation or may
21 bring suit in the circuit court for the county where the facility is located to enjoin the vio-
22 lation and to enforce compliance with the standards, codes and rules related to facility con-
23 struction.

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

25 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
26 other than a long term care facility, the Oregon Health Authority shall review the application and
27 conduct an on-site inspection of the health care facility. The authority shall issue a license if it finds
28 that the applicant and health care facility comply with ORS 441.015 to 441.063 and the rules of the
29 authority provided that the authority does not receive within the time specified a certificate of
30 noncompliance issued by the [*State Fire Marshal, deputy, or approved authority pursuant to ORS*
31 *479.215*] **Department of Consumer and Business Services or a municipality under ORS**
32 **479.215.**

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

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

36 (B) The [*State Fire Marshal, a deputy or an approved authority*] **Department of Consumer and**
37 **Business Services or a municipality** has issued a certificate of noncompliance [*pursuant to*] **under**
38 **ORS 479.215.**

39 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the
40 Department of Human Services shall review the application and conduct an on-site inspection of the
41 long term care facility. The department shall issue a license if the department finds that the appli-
42 cant and long term care facility comply with ORS 441.015 to 441.063 and 441.087 and the rules of
43 the department provided that [*it*] **the department** does not receive within the time specified a cer-
44 tificate of noncompliance issued by the [*State Fire Marshal, deputy, or approved authority pursuant*
45 *to ORS 479.215*] **Department of Consumer and Business Services or a municipality under ORS**

1 **479.215.**

2 (b) The Department of **Human Services** shall, following an on-site inspection and payment of
3 the fee, annually renew each license issued under this subsection unless:

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

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

7 (C) The [*State Fire Marshal, a deputy or an approved authority*] **Department of Consumer and**
8 **Business Services or a municipality** has issued a certificate of noncompliance [*pursuant to*] **under**
9 **ORS 479.215.**

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

12 (4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by
13 rule of the authority or the Department of **Human Services**.

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) Offer or provide services beyond the scope of the license classification assigned by the au-
14 thority or department; or

15 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-
16 fication assigned by the authority or department.

17 (13) A health care facility must reapply for licensure to change the classification assigned or the
18 type of license issued by the authority or **the Department of Human Services**.

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

20 441.030. (1) The Oregon Health Authority or the Department of Human Services [*may assess a*
21 *civil penalty and*], pursuant to ORS 479.215, shall deny, suspend or revoke a license, in any case
22 where the [*State Fire Marshal, or the representative of the State Fire Marshal,*] **Department of**
23 **Consumer and Business Services or a municipality** certifies that there is a failure to comply
24 with [*all*] applicable laws, lawful ordinances and rules relating to safety from fire.

25 (2) The authority may:

26 (a) Assess a civil penalty or deny, suspend or revoke a license of a health care facility other
27 than a long term care facility in any case where it finds that there has been a substantial failure
28 to comply with ORS 441.015 to 441.063 or the rules or minimum standards adopted under ORS
29 441.015 to 441.063.

30 (b) Assess a civil penalty or suspend or revoke a license issued under ORS 441.025 for failure
31 to comply with an authority order arising from a health care facility's substantial lack of compliance
32 with the provisions of ORS 441.015 to 441.063, 441.162 or 441.166 or the rules adopted under ORS
33 441.015 to 441.063, 441.162 or 441.166.

34 (c) Suspend or revoke a license issued under ORS 441.025 for failure to pay a civil penalty im-
35 posed under ORS 441.170.

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

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

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

44 (c) Suspend or revoke a license issued under ORS 441.025 for failure to pay a civil penalty im-
45 posed under ORS 441.710.

1 (d) Order a long term care facility licensed under ORS 441.025 to restrict the admission of pa-
 2 tients when the department finds an immediate threat to patient health and safety arising from
 3 failure of the long term care facility to be in compliance with ORS 441.015 to 441.063, 441.084 or
 4 441.087 and the rules adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

5 (4) Any long term care facility that has been ordered to restrict the admission of patients pur-
 6 suant to subsection (3)(d) of this section shall post a notice of the restriction, provided by the De-
 7 partment **of Human Services**, on all doors providing ingress to and egress from the facility, for the
 8 duration of the restriction.

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

10 441.060. (1) The Oregon Health Authority shall make or cause to be made on-site inspections of
 11 health care facilities licensed under ORS 441.025 (1) at least once every three years.

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

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

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

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

31 [(6)] (3) The authority or the Department **of Human Services** may also [*conduct an on-site re-*
 32 *view of projects*] **require a post-construction review by the Department of Consumer and**
 33 **Business Services or a municipality under section 6 of this 2015 Act** as a prerequisite to
 34 licensure of new facilities, major renovations and expansions. The authority and the Department **of**
 35 **Human Services** shall, at least annually, with the advice of the facilities covered by the review,
 36 present proposed rule changes regarding facility design and construction to [*such agencies for*
 37 *their*] **the Department of Consumer and Business Services for its** consideration.

38 [(7)] (4) The authority shall publish a state submissions guide for health care facility projects
 39 and advise project sponsors of applicable requirements of federal, state and local regulatory agen-
 40 cies.

41 [(8)] (5) The Department **of Human Services** shall publish a state submissions guide for long
 42 term care facility and residential care facility projects and advise project sponsors of applicable
 43 requirements of federal, state and local regulatory agencies.

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

45 441.061. (1) Upon agreement, the Director of Human Services may grant specific authorization

1 to any county or district board of health to administer and enforce any law or rules of the Depart-
 2 ment of Human Services relating to [*inspections and*] issuance, revocation and suspension of
 3 licenses[, or *portion thereof*,] for long term care facilities.

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

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

8 441.710. (1) In addition to any other liability or penalty provided by law, the Director of Human
 9 Services may impose a civil penalty on a person for any of the following:

10 (a) Violation of any of the terms or conditions of a license issued under ORS 441.015 to 441.087,
 11 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 for a long term
 12 care facility, as defined in ORS 442.015.

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

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

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

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

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

23 (3) The Director of Human Services may not impose a penalty under subsection (1) of this sec-
 24 tion for violations other than those involving direct patient care or feeding, an adequate staff to
 25 patient ratio, sanitation involving direct patient care or a violation of ORS 441.605 or 443.880 or
 26 443.881 or of the rules required to be adopted by ORS 441.610 unless a violation is found on two
 27 consecutive surveys of a long term care facility. The Director of Human Services in every case shall
 28 prescribe a reasonable time for elimination of a violation:

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

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

32 (4) The Director of the Oregon Health Authority may not impose a penalty under subsection (2)
 33 of this section for violations other than those involving direct patient care or feeding, an adequate
 34 staff to patient ratio, sanitation involving direct patient care or a violation of ORS 443.880 or
 35 443.881. The Director of the Oregon Health Authority in every case shall prescribe a reasonable
 36 time for elimination of a violation:

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

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

40 **(5) The Director of Human Services or the Director of the Oregon Health Authority may**
 41 **not impose a civil penalty for a violation of standards, codes or rules for facility con-**
 42 **struction.**

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

44 443.415. (1) Applications for licensure to maintain and operate a residential facility shall be
 45 made to the Department of Human Services or the Oregon Health Authority on forms provided for

1 that purpose by the appropriate licensing agency. Each application shall be accompanied by a fee.
 2 No fee is required of any governmentally operated residential facility.

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

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

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

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

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

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

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

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

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

12 (3) Upon receipt of an application and fee, the licensing agency shall conduct an investigation.
 13 The licensing agency shall issue a license to any applicant for operation of a residential facility in
 14 compliance with ORS 443.002 and 443.400 to 443.455 and the rules of the licensing agency. Licensure
 15 may be denied when a residential facility is not in compliance with ORS 443.002 or 443.400 to
 16 443.455 or the rules of the licensing agency. Licensure shall be denied if the [*State Fire Marshal or*
 17 *other authority*] **Department of Consumer and Business Services or a municipality** has given
 18 notice of noncompliance of facilities defined in ORS 443.400 (5), (7) and (9) pursuant to ORS 479.220.

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

20 443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the di-
 21 rector of the licensing agency, be a person:

22 (a) Who demonstrates an understanding and acceptance of the rules governing residential facil-
 23 ities;

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

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

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

29 (3) All physical residential facilities used for residents shall meet applicable requirements [*of the*
 30 *State Fire Marshal*] **under section 4 of this 2015 Act.**

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

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

35 (a) Comply with ORS 336.575; and

36 (b) Ensure that the children who reside at the residential facility receive appropriate educa-
 37 tional services that are:

38 (A) Comprehensive and age-appropriate;

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

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

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

42 (a) The license applicant's history of regulatory compliance and operational experience;

43 (b) The need in the local community for the services offered by the license applicant, as dem-
 44 onstrated by a market study produced by the license applicant;

45 (c) The willingness of the license applicant to serve underserved populations; and

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

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

4 443.425. (1) Licensure under ORS 443.415 is effective for two years from the date of issue unless
5 sooner revoked. Each license shall state:

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

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

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

9 (d) The maximum number of residents to be maintained in such residential facility at any
10 time;

11 (e) Whether the residential facility is licensed as a residential training facility, a residential
12 treatment facility, a residential care facility[;], a residential training home or a residential treatment
13 home; and

14 (f) Such other information as the Department of Human Services or the Oregon Health Au-
15 thority considers necessary.

16 (2) A license is renewable upon submission of an application to the Department of **Human**
17 **Services** or the authority and payment of a fee. No fee shall be required of a governmentally oper-
18 ated residential facility. Filing of an application for renewal before the date of expiration of a li-
19 cense extends the effective date of expiration of the license until the licensing agency has acted
20 upon such application. The licensing agency shall refuse to renew a license if the facility is not
21 substantially in compliance with all applicable laws and rules, or if the *[State Fire Marshal or the*
22 *authorized representative thereof]* **Department of Consumer and Business Services or a municipi-**
23 **ality carrying out a program under section 6 of this 2015 Act** has given notice of noncompli-
24 ance of facilities under ORS 443.400 (5), (7) and (9) pursuant to ORS 479.220.

25 (3) The biennial fee required under subsection (2) of this section for facilities:

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

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

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

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

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

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

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

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

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

35 443.435. (1) The Director of Human Services or authorized representative shall periodically visit
36 and inspect every residential care facility, residential training facility or residential training home
37 to determine whether it is maintained and operated in accordance with ORS 443.400 to 443.455 and
38 the rules of the director, and to consult with and advise management concerning methods of care,
39 treatment, training, records, housing and equipment. Employees of the Department of Human Ser-
40 vices *[and the State Fire Marshal or authorized representative]* **or the Department of Consumer**
41 **and Business Services, or building officials or inspectors for a municipality carrying out a**
42 **program under section 6 of this 2015 Act**, on request shall be permitted access to the premises
43 and records of individuals in the facility or home that are pertinent to fire safety.

44 (2) The Director of the Oregon Health Authority or authorized representative shall periodically
45 visit and inspect every residential treatment facility or residential treatment home to determine

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

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

9 443.452. (1) The director shall waive the requirements of ORS 443.410 for a residential care fa-
10 cility caring for residents with physical disabilities if:

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

12 (b) No more than five individuals with physical disabilities reside in any one building of the fa-
13 cility; and

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

16 (2) As used in this section, "building" means any structure that does not share a common wall
17 or roof with another structure.

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

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

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

31 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and
32 reasonable to provide for the administration and enforcement of any specialty code or codes for
33 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality
34 shall give the director notice of the proposed adoption of a new or increased fee under this sub-
35 section. The municipality shall give the notice to the director at the time the municipality provides
36 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is
37 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting
38 is published under ORS 294.426.

39 (b) Ten or more persons or an association with 10 or more members may appeal the adoption
40 of a fee described in this subsection to the Director of the Department of Consumer and Business
41 Services. The persons or association must file the appeal no later than 60 days after the director
42 receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this
43 subsection. However, if the municipality failed to give notice to the director, an appeal may be filed
44 with the director within one year after adoption of the new or increased fee. Upon receiving a
45 timely appeal, the director shall, after notice to affected parties and hearing, review the

1 municipality's fee adoption process and the costs of administering and enforcing the specialty code
2 or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the
3 director feels the fee is necessary and reasonable. If the director does not approve the fee upon
4 appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees
5 that have been submitted for a vote and approved by a majority of the electors voting on the ques-
6 tion.

7 (c) Fees collected by a municipality under this subsection shall be used for the administration
8 and enforcement of a building inspection program for which the municipality has assumed responsi-
9 bility under ORS 455.148 or 455.150.

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

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

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

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

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

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

21 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-
22 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an
23 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

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

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

31 (d) For the purpose of defraying the cost of developing and administering the electronic building
32 codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the
33 amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of
34 purchasing a permit, five percent of the total hourly charges collected. However, the department
35 may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department
36 determines that the amount collected by the surcharge imposed under this paragraph exceeds the
37 actual cost to the department of developing and administering the electronic building codes infor-
38 mation system described in ORS 455.095 and 455.097.

39 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section
40 to the director as provided in ORS 455.220.

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

43 **SECTION 18.** ORS 455.210, as amended by section 6, chapter 69, Oregon Laws 2007, and section
44 30, chapter 473, Oregon Laws 2011, is amended to read:

45 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits

1 issued by the Department of Consumer and Business Services for the construction, reconstruction,
2 alteration and repair of prefabricated structures and of buildings and other structures and the in-
3 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130
4 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-
5 form Mechanical Code," 1979 Edition, both published by the International Conference of Building
6 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-
7 vices.

8 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-
9 ment of Consumer and Business Services may prescribe for a limited plan review for fire and life
10 safety [*as required under*] **requiring State Fire Marshal approval under** ORS 479.155 shall be 40
11 percent of the prescribed permit fee.

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

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

33 (c) Fees collected by a municipality under this subsection shall be used for the administration
34 and enforcement of a building inspection program for which the municipality has assumed responsi-
35 bility under ORS 455.148 or 455.150.

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

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

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

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

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

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

2 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-
3 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an
4 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

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

8 (c) For the purpose of defraying the cost of administering and enforcing the state building code,
9 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.
10 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to
11 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

12 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section
13 to the director as provided in ORS 455.220.

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

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

17 479.155. (1) As used in this section, "director" means the Director of the Department of Con-
18 sumer and Business Services.

19 (2) Prior to construction or alteration of a hospital, public building as defined in ORS 479.168,
20 public garage, dry cleaning establishment, apartment house, hotel, bulk oil storage plant, school,
21 institution as defined in ORS 479.210, or any other building or structure regulated by the State Fire
22 Marshal for use and occupancy, [or] requiring approval by the State Fire Marshal [*pursuant to*
23 *statute,*] **or requiring approval by the Department of Consumer and Business Services or a**
24 **municipality carrying out a program under section 4 of this 2015 Act,** the owner shall submit
25 to the director two copies of a plan or sketch showing the location of the building or structure with
26 relation to the premises, distances, lengths and details of construction as the director shall require.
27 A filing is not required with respect to any such building or structure in any area exempted by order
28 of the State Fire Marshal pursuant to ORS 476.030. Approval of the plans or sketches by the direc-
29 tor is considered approval by the State Fire Marshal and satisfies any statutory provision requiring
30 approval by the State Fire Marshal. **Approval by the director of plans or sketches for a health**
31 **care facility that is subject to plan review as provided in section 4 of this 2015 Act is con-**
32 **sidered approval by the Department of Consumer and Business Services or the municipality.**

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

36 (4) The director shall be furnished with not fewer than two accurate copies of the plan or sketch
37 and details for the purpose of ascertaining compliance with applicable fire prevention and protection
38 statutes and regulations. The plan examiner shall indicate on the plan or sketch and in writing ap-
39 proval or disapproval and conditions for approval of the construction or alteration. One copy of the
40 plan or sketch shall be retained by the director and one copy shall be returned to the applicant.
41 No building or structure referred to in subsection (2) of this section shall be erected or constructed
42 without approval by the director if the building or structure requires approval by the State Fire
43 Marshal **or by the department or a municipality carrying out a program under section 4 of**
44 **this 2015 Act.** After such approval or issuance of the required permit, construction or alteration
45 must comply with the plan or sketch in all respects unless modified by subsequent permit or order

1 of the director.

2 (5) The approval of a plan or sketch may not be construed to be a permit for, or an approval
3 of, any violation of any statute or regulation or the applicable ordinances and regulations of any
4 governmental subdivision of the state. The approval of a plan or sketch may not be construed as
5 an approval for noncompliance with fire marshal **rules or other applicable** regulations. Any con-
6 dition upon approval or disapproval is an order subject to appeal as other orders are appealable.

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

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

11 479.180. (1) If the owner, lessee, agent or occupant is aggrieved by the order of an officer under
12 the provisions of ORS 476.030, 479.170, [479.210 to 479.220,] **479.215 (1) to (4), 479.220 (2)**, 480.122
13 to 480.160, 480.330, 480.340, 480.420 to 480.434 or 480.450 and desires a hearing, the person may
14 complain or appeal in writing to the State Fire Marshal within 10 days from the service of the order.
15 The complaint or appeal shall set forth the specific grounds of the complaint or appeal and no other
16 ground shall be considered thereafter. The complaint or appeal shall be accompanied by a fee of \$40
17 payable to the State Fire Marshal, and the State Fire Marshal may refer the complaint or appeal
18 to the regional appeal advisory board established for that region by notifying the chairperson of that
19 board and sending a copy of the notice to the complainant or appellant. The board shall fix a time
20 for hearing and notify the complainant or appellant of the time and place thereof, which shall be
21 within 10 days after such referral by the State Fire Marshal. If the State Fire Marshal does not refer
22 the matter to a regional appeal advisory board, the State Fire Marshal shall fix a time and place,
23 not less than five and not more than 10 days thereafter, when and where the complaint or appeal
24 will be heard by the State Fire Marshal. Within 10 days after receiving a recommendation from the
25 regional appeal advisory board, or if no referral was made to such board, within 10 days after the
26 hearing before the State Fire Marshal, the State Fire Marshal may affirm, modify, revoke or vacate
27 the order complained of or appealed from. Unless the order is modified, revoked or vacated by the
28 State Fire Marshal, it shall remain in force and be complied with by the owner, lessee, agent or
29 occupant, and within the time fixed in the order or fixed by the State Fire Marshal. If the State Fire
30 Marshal vacates or revokes the order complained of or appealed from, or modified it in any partic-
31 ular other than extending time for compliance, the fee paid with the complaint or appeal shall be
32 refunded. Otherwise, it shall be credited to appropriate state funds, and the State Fire Marshal
33 shall so notify the State Treasurer.

34 (2) If the complainant or appellant under subsection (1) of this section is aggrieved by the final
35 order of the State Fire Marshal, and if such order necessitates the expenditure of money or involves
36 statutory interpretation, the complainant or appellant may, within 10 days thereafter, appeal to the
37 circuit court of the county in which the property is situated, notifying the State Fire Marshal of the
38 appeal within 10 days thereafter[, *which notice*]. **The notice of appeal given to the State Fire**
39 **Marshal** shall be in writing and delivered personally or by registered letter to the marshal, or left
40 at the principal office of the State Fire Marshal at the state capital. The party so appealing shall,
41 within two days after filing the appeal, file with the circuit court in which appeal is made a bond
42 in an amount to be fixed by the court or judge, but in no case less than \$100, with two sufficient
43 sureties possessing the qualification of bail on arrest, the bond to be approved by the court and
44 conditioned to pay all the costs on the appeal in case the appellant fails to sustain it or it is dis-
45 missed for any cause. In the case of an appeal involving an order under ORS 479.170, the circuit

1 court shall hear and determine the appeal within 10 days after the date of filing the same.

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

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

8 479.215. (1) Except as provided in subsection (3) of this section or [*in*] ORS 479.217, **for an in-**
9 **stitution that is not a health care facility as defined in section 4 of this 2015 Act**, the De-
10 partment of Human Services or the Oregon Health Authority may not issue an initial license or an
11 initial certificate of approval [*to any institution when*] **if** the State Fire Marshal, or an approved
12 representative as provided in subsection (3) of this section, notifies in writing that the institution
13 is not in substantial compliance with all applicable laws and rules relating to safety from fire es-
14 tablished pursuant to ORS 476.030.

15 (2) On January [*Ist*] **1** of each year or as soon thereafter as practicable, the Department of
16 **Human Services** and the **Oregon Health** Authority shall furnish the State Fire Marshal with a
17 complete list of all institutions licensed or approved by the department or the authority within the
18 State of Oregon **that are not health care facilities as defined in section 4 of this 2015 Act.**

19 (3) The State Fire Marshal, deputy or the approved authority shall make or have made at least
20 once each year an inspection of any [*such*] licensed or approved institution **identified in a list**
21 **provided under subsection (2) of this section** to determine its substantial compliance with the
22 laws and rules as provided in subsection (1) of this section. If any required corrective measures are
23 not completed within the reasonable time fixed or an extension thereof made by order of the in-
24 specting authority, the Department of **Human Services** or the Oregon Health Authority shall be
25 notified of the fact of noncompliance and appropriate action shall be initiated in accordance with
26 provisions of ORS 476.030 and 479.170.

27 (4) Except as provided in ORS 479.217, if, at any time, the State Fire Marshal, or deputy, or the
28 approved authority notifies the Department of **Human Services** or the Oregon Health Authority in
29 writing that an institution **subject to subsection (1) of this section** is not in substantial compli-
30 ance with all applicable laws and rules as provided in subsection (1) of this section, the licensing
31 agency shall deny, withhold, suspend or revoke the license or certificate of approval of the institu-
32 tion.

33 [(4)] (5) When an area has been exempted by the State Fire Marshal under ORS 476.030, certi-
34 fication, annual inspection and notification of noncompliance when appropriate, shall be made and
35 performed **for an institution described in subsection (1) of this section** by the approved author-
36 ity of the governmental subdivision having jurisdiction in such area.

37 (6) **Except as provided in ORS 479.217, for an institution that is a health care facility as**
38 **defined in section 4 of this 2015 Act, the Department of Human Services or the Oregon**
39 **Health Authority may not issue an initial license or an initial certificate of approval if the**
40 **Department of Consumer and Business Services or a municipality carrying out a program**
41 **under section 4 of this 2015 Act notifies the department or the authority in writing that the**
42 **institution is not in substantial compliance with all applicable laws and rules relating to**
43 **safety from fire that are described in section 4 of this 2015 Act.**

44 (7) On January 1 of each year or as soon thereafter as practicable, the Department of
45 **Human Services and the Oregon Health Authority shall furnish the Director of the Depart-**

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

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

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

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

21 479.217. (1) In lieu of *[an]* inspection **and** approval **under ORS 479.215** by the State Fire Mar-
 22 shal or the approved authority of a governmental subdivision having jurisdiction in an area ex-
 23 empted by the State Fire Marshal, *[under ORS 479.215]* for institutions licensed under ORS 412.001
 24 to 412.161, 418.005 to 418.025, 418.205 to 418.315, 418.625 to 418.685, 418.647, *[441.015 to 441.087,*
 25 *441.525 to 441.595,]* 441.815, 441.820, 441.990[,] **or** 442.400 to 442.463 *[or 443.400 to 443.455]*, the State
 26 Fire Marshal or the approved authority may issue a temporary permit *[which]* **that** meets the re-
 27 quirements of ORS 479.215 for licensing of such institutions. *[The]* **In lieu of inspection and ap-**
 28 **proval under ORS 479.215 by the Department of Consumer and Business Services or a**
 29 **municipality carrying out a program under section 4 or 6 of this 2015 Act, for institutions**
 30 **licensed under ORS 441.015 to 441.087, 441.525 to 441.595 or 443.400 to 443.455, the department**
 31 **or municipality may issue a temporary permit that meets the requirements of ORS 479.215**
 32 **for licensing of those institutions. A temporary permit may be issued under this section only**
 33 **when it appears that:**

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

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

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

41 (a) Plans for compliance with all applicable laws and rules relating to safety from fire be sub-
 42 mitted with the application for a temporary permit;

43 (b) Periodic reports be submitted on the progress of the plans for compliance; and

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

1 (3) If at any time, the [*State Fire Marshal or the approved authority*] **issuer of a temporary**
 2 **permit** determines that the facilities for protection from fire at the institution are no longer ade-
 3 quate to protect the residents or patients or that the requirements imposed under subsection (2) of
 4 this section are not being maintained, the [*State Fire Marshal or the approved authority*] **issuer** shall
 5 cancel the temporary permit and shall notify the licensing agency of such cancellation.

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

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

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

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

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

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

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

28 **SECTION 24.** (1) Sections 1 to 6 of this 2015 Act and the amendments to ORS 441.025,
 29 441.030, 441.060, 441.061, 441.710, 443.415, 443.420, 443.425, 443.435, 443.452, 455.210, 479.155,
 30 479.180, 479.215, 479.217 and 479.220 by sections 7 to 23 of this 2015 Act become operative
 31 January 1, 2016.

32 (2) **Notwithstanding subsection (1) of this section, the State Fire Marshal, affected gov-**
 33 **ernment subdivisions and approved authorities, the Director of the Department of Consumer**
 34 **and Business Services, municipalities, the Oregon Health Authority and the Department of**
 35 **Human Services may take any actions reasonable or necessary prior to January 1, 2016, for**
 36 **the purpose of facilitating the administration and enforcement beginning January 1, 2016, of**
 37 **sections 1 to 6 of this 2015 Act and the amendments to ORS 441.025, 441.030, 441.060, 441.061,**
 38 **441.710, 443.415, 443.420, 443.425, 443.435, 443.452, 455.210, 479.155, 479.180, 479.215, 479.217 and**
 39 **479.220 by sections 7 to 23 of this 2015 Act.**

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