

House Bill 3273

Sponsored by Representatives MCKEOWN, KENY-GUYER, Senators KRUSE, GELSER; Representatives ESQUIVEL, GOMBERG, Senator ROBLAN

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**.

Modifies requirements relating to evacuation of residents of adult foster homes.

Directs Department of Human Services to issue license as conversion facility to long term care facility converting to residential care facility.

Modifies definition of "residential care facility."

Directs department to adopt rules regarding installation of electronic monitoring devices by residents of certain facilities.

A BILL FOR AN ACT

1
2 Relating to care facilities; creating new provisions; and amending ORS 409.720, 443.400, 443.420 and
3 443.760.

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

EVACUATION REQUIREMENTS

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8 **SECTION 1.** ORS 443.760 is amended to read:

9 443.760. (1) Adult foster homes that are certified as residential homes as defined in ORS 197.660
10 [*shall*] **must** meet all state and local building, sanitation, utility and fire code requirements appli-
11 cable to single family dwellings. However, by rule, the licensing agency may adopt more stringent
12 standards upon a finding that there is a significant health or safety threat to residents that neces-
13 sitates a standard not imposed on other single family dwellings.

14 (2) In adopting more stringent standards, the licensing agency shall consult with the [*Department*
15 *of Consumer and Business Services and the office of the State Fire Marshal to insure adequate evac-*
16 *uation of residents.*] **appropriate regulatory authorities to develop standards that ensure that**
17 **the provider has the ability to evacuate all residents from the dwelling within:**

18 (a) **Three minutes; or**

19 (b) **A period that meets applicable life safety requirements if the adult foster home has**
20 **an interior sprinkler system approved by the appropriate regulatory authorities.**

21 [(3) *As used in this section, "adequate evacuation" means the ability of a provider to evacuate all*
22 *residents from the dwelling within three minutes.*]

23 [(4)] (3) If a licensed provider rents or leases the premises where the adult foster home is lo-
24 cated, the lessor shall charge a flat rate for the lease or rental.

RESIDENTIAL CARE FACILITIES

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28 **SECTION 2.** ORS 443.400 is amended to read:

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.

1 443.400. As used in ORS 443.400 to 443.455 and 443.991, unless the context requires otherwise:

2 (1) **“Conversion facility” means a facility that has applied for, or been issued, a conver-**
3 **sion facility license as described in section 4 of this 2017 Act.**

4 [(1)] (2) “Director” means the director of the licensing agency for the residential facility.

5 [(2)] (3) “Licensing agency” means:

6 (a) The Department of Human Services, if the residential facility that is licensed, or that the
7 Director of Human Services determines should be licensed, is a residential care facility, residential
8 training facility or residential training home; or

9 (b) The Oregon Health Authority, if the residential facility that is licensed, or that the Director
10 of the Oregon Health Authority determines should be licensed, is a residential treatment facility or
11 residential treatment home.

12 [(3)] (4) “Resident” means any individual residing in a facility who receives residential care,
13 treatment or training. For purposes of ORS 443.400 to 443.455, an individual is not considered to be
14 a resident if the individual is related by blood or marriage within the fourth degree as determined
15 by civil law to the person licensed to operate or maintain the facility.

16 [(4)] (5) “Residential care” means services such as supervision; protection; assistance while
17 bathing, dressing, grooming or eating; management of money; transportation; recreation; and the
18 providing of room and board.

19 [(5)] (6) “Residential care facility” means a facility that provides[, *for six or more socially de-*
20 *pendent individuals or individuals with physical disabilities,*] residential care in one or more buildings
21 on contiguous properties:

22 (a) **For six or more socially dependent individuals or individuals with physical disabilities;**
23 **or**

24 (b) **For fewer than six socially dependent individuals or individuals with physical disabil-**
25 **ities if the purpose of the facility is to serve individuals with mental, emotional or behavioral**
26 **disturbances that are more appropriately served in smaller settings.**

27 [(6)] (7) “Residential facility” means a residential care facility, residential training facility, res-
28 idential treatment facility, residential training home [or], residential treatment home **or conversion**
29 **facility.**

30 [(7)] (8) “Residential training facility” means a facility that provides, for six or more individuals
31 with mental retardation or other developmental disabilities, residential care and training in one or
32 more buildings on contiguous properties.

33 [(8)] (9) “Residential training home” means a facility that provides, for five or fewer individuals
34 with mental retardation or other developmental disabilities, residential care and training in one or
35 more buildings on contiguous properties, when so certified and funded by the Department of Human
36 Services.

37 [(9)] (10) “Residential treatment facility” means a facility that provides, for six or more indi-
38 viduals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential
39 care and treatment in one or more buildings on contiguous properties.

40 [(10)] (11) “Residential treatment home” means a facility that provides for five or fewer indi-
41 viduals with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential
42 care and treatment in one or more buildings on contiguous properties.

43 [(11)] (12) “Training” means the systematic, planned maintenance, development or enhancement
44 of self-care skills, social skills or independent living skills, or the planned sequence of systematic
45 interactions, activities or structured learning situations designed to meet each resident’s specified

1 needs in the areas of physical, social, emotional and intellectual growth.

2 [(12)] (13) "Treatment" means a planned, individualized program of medical, psychological or
 3 rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emo-
 4 tional, physical or other symptoms or social, educational or vocational disabilities resulting from or
 5 related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

6 **SECTION 3. Section 4 of this 2017 Act is added to and made a part of ORS 443.400 to**
 7 **443.455.**

8 **SECTION 4. (1) A facility that is licensed as a long term care facility under ORS 441.025**
 9 **may apply to the Department of Human Services for licensure as a conversion facility. The**
 10 **department shall issue a conversion facility license upon receipt of an application and fee**
 11 **that meet requirements established by the department by rule.**

12 (2)(a) The department shall adopt rules governing the conversion of a facility's license
 13 from a long term care facility license to a residential care facility license and the regulation
 14 of the facility during the conversion period.

15 (b) As of the date of licensure as a conversion facility, the conversion facility must be in
 16 substantial compliance with applicable state and local laws, rules, codes, ordinances and
 17 permit requirements.

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

19 443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the di-
 20 rector of the licensing agency, be a person:

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

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

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

26 (2) A residential facility [shall] **may** not be operated or maintained in combination with a
 27 nursing home or hospital unless:

28 (a) **The residential facility is** licensed, maintained and operated as a separate and distinct
 29 part; **or**

30 (b) **The residential facility is licensed as a conversion facility under section 4 of this 2017**
 31 **Act.**

32 (3) All physical residential facilities used for residents [shall] **must** meet applicable require-
 33 ments of the State Fire Marshal.

34 (4) [Prior to] **As of the date of** licensure, a residential facility must be in substantial compliance
 35 with applicable state and local laws, rules, codes, ordinances and permit requirements.

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

38 (a) Comply with ORS 336.575; and

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

41 (A) Comprehensive and age-appropriate;

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

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

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

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

1 (b) The willingness of the license applicant to serve underserved populations; and

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

4 (7)(a) The licensing agency may not issue an initial license to a residential care facility if the
5 facility has not conducted a market study that assesses the need for the services offered by the fa-
6 cility in the geographic area served by the facility.

7 (b) **This subsection does not apply to a conversion facility licensed under section 4 of this**
8 **2017 Act.**

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10 **ELECTRONIC MONITORING**

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12 **SECTION 6. (1) As used in this section:**

13 (a) **“Electronic monitoring device” means a surveillance instrument with a video camera**
14 **or audio recording device that is installed in a resident’s room and broadcasts, transmits or**
15 **records activity occurring in the room.**

16 (b) **“Facility” means:**

17 (A) **A long term care facility as defined in ORS 442.015;**

18 (B) **A residential care facility as defined in ORS 443.400, including but not limited to an**
19 **assisted living facility; or**

20 (C) **An adult foster home as defined in ORS 443.705.**

21 (2) **A facility may not discriminate or retaliate against a resident who installs or requests**
22 **to install an electronic monitoring device.**

23 (3) **The Department of Human Services shall adopt rules governing the use of electronic**
24 **monitoring devices by residents of facilities.**

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26 **CONFORMING AMENDMENTS**

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28 **SECTION 7. ORS 409.720 is amended to read:**

29 409.720. (1) As used in this section:

30 (a) **“Adult foster home” has the meaning given that term in ORS 443.705 (1).**

31 (b) **“Health care facility” has the meaning given that term in ORS 442.015.**

32 (c) **“Residential facility” has the meaning given that term in ORS 443.400 [(6)].**

33 (2) **Every adult foster home, health care facility and residential facility licensed or registered**
34 **by the Department of Human Services shall:**

35 (a) **Adopt a plan to provide for the safety of persons who are receiving care at or are residents**
36 **of the home or facility in the event of an emergency that requires immediate action by the staff of**
37 **the home or facility due to conditions of imminent danger that pose a threat to the life, health or**
38 **safety of persons who are receiving care at or are residents of the home or facility; and**

39 (b) **Provide training to all employees of the home or facility about the responsibilities of the**
40 **employees to implement the plan required by this section.**

41 (3) **The department shall adopt by rule the requirements for the plan and training required by**
42 **this section. The rules adopted shall include, but are not limited to, procedures for the evacuation**
43 **of the persons who are receiving care at or are residents of the adult foster home, health care fa-**
44 **ility or residential facility to a place of safety when the conditions of imminent danger require re-**
45 **location of those persons.**

UNIT CAPTIONS

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SECTION 8. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.
