

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO
HOUSE BILL 3359**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and line 3 and insert “409.720, 443.400, 443.415, 443.420, 443.425, 443.440,
3 443.452, 443.760 and 443.886; and repealing ORS 443.885.”.

4 Delete lines 6 through 19 and delete pages 2 through 8 and insert:
5

6 **“LEGISLATIVE FINDINGS**

7
8 **“SECTION 1. (1) The Legislative Assembly finds that:**

9 **“(a) Residents of Oregon’s community-based care facilities are val-**
10 **ued citizens of this state and deserve to live a life of autonomy and**
11 **dignity; and**

12 **“(b) Support and training for those who serve these valued citizens**
13 **is important to ensuring these valued citizens are able to live the life**
14 **they deserve.**

15 **“(2) The Legislative Assembly finds and declares that it is the policy**
16 **of this state to:**

17 **“(a) Promote the autonomy of residents of community-based care**
18 **facilities and accord them honor, dignity and the ability to freely**
19 **choose how they live their lives so as to encourage maximum inde-**
20 **pendence and fulfillment; and**

21 **“(b) Ensure that administrators of residential care facilities, which**

1 include assisted living and memory care facilities, are licensed by in-
2 dependent boards no later than July 1, 2019.

3
4 **“RESIDENTIAL CARE FACILITIES**

5 **“(Quality Measures)**

6
7 **“SECTION 2. Sections 3, 6, 9, 10, 12 and 13 of this 2017 Act are added**
8 **to and made a part of ORS 443.400 to 443.455.**

9 **“SECTION 3. (1) The Residential Care Quality Measurement Pro-**
10 **gram is established in the Department of Human Services. The de-**
11 **partment shall, no later than July 1 of each year, publish a report,**
12 **based on data reported by each residential care facility under sub-**
13 **section (2) of this section, other than data that identifies residents,**
14 **that includes data compilation, illustration and narratives to:**

15 **“(a) Describe statewide patterns and trends that emerge from the**
16 **data reported to the department under subsection (2) of this section**
17 **and compliance data maintained by the department;**

18 **“(b) Identify residential care facilities that failed to report data as**
19 **required by this section;**

20 **“(c) Allow residential care facilities and the public to compare a**
21 **residential care facility’s performance on each quality metric, by de-**
22 **mographics, geographic region, facility type and other categories the**
23 **department believes may be useful to consumers;**

24 **“(d) Show trends in performance quality on each of the quality**
25 **metrics;**

26 **“(e) Identify patterns of performance quality by geographic regions**
27 **and other categories the department believes will be useful to con-**
28 **sumers;**

29 **“(f) Identify the number, scope and severity of regulatory violations**
30 **by each geographic region; and**

1 “(g) Show average timelines for surveys and for investigations of
2 abuse or regulatory noncompliance.

3 “(2) Residential care facilities shall report, no later than December
4 31 of each year and in the form and manner prescribed by the depart-
5 ment, the following quality metrics for the prior calendar year, con-
6 sistent with accepted professional standards and excluding information
7 that identifies a resident of the residential care facility:

8 “(a) The residential care facility’s retention of direct care staff;

9 “(b) The number of resident falls in the residential care facility that
10 result in physical injury;

11 “(c) The incidence in the residential care facility of the use of
12 antipsychotic medications for nonstandard purposes;

13 “(d) The residential care facility’s compliance with staff training
14 requirements;

15 “(e) The results of an annual resident satisfaction survey conducted
16 by an independent entity that meets the requirements established by
17 the department by rule; and

18 “(f) A quality metric recommended by the Quality Measurement
19 Council established under section 4 of this 2017 Act that measures the
20 quality of the resident experience.

21 “(3) The department shall provide an annual report to each resi-
22 dential care facility that reports quality metrics under subsection (2)
23 of this section using data compilation, illustration and narratives to
24 allow the residential care facility to measure and compare its quality
25 metrics over time.

26 “(4) The department shall make available to the public in a stand-
27 ard format and in plain language the data reported by each residential
28 care facility.

29 “(5) The department shall, using moneys from the Quality Care
30 Fund established in ORS 443.001:

1 “(a) Develop online training modules to address the top two state-
2 wide issues identified by surveys or reviews of residential care facilities
3 during the previous year; and

4 “(b) Post and keep updated the data used to prepare the report de-
5 scribed in subsection (1) of this section.

6 “(6) The department, in consultation with the Quality Measurement
7 Council established in section 4 of this 2017 Act, shall establish a uni-
8 form system for residential care facilities to report quality metrics as
9 required by subsection (2) of this section. The system must:

10 “(a) Allow for electronic reporting of data, to the greatest extent
11 practicable; and

12 “(b) Take into account and utilize existing data reporting systems
13 used by residential care facilities.

14 “(7)(a) Quality metric data reported to the department under this
15 section may not be used as the basis for an enforcement action by the
16 department nor may it be disclosed to another agency for use in an
17 enforcement or regulatory action.

18 “(b) Quality metric data is not admissible as evidence in any civil
19 action, including but not limited to a judicial, administrative, arbi-
20 tration or mediation proceeding.

21 “(c) Quality metric data reported to the department is not subject
22 to:

23 “(A) Civil or administrative subpoena; or

24 “(B) Discovery in connection with a civil action, including but not
25 limited to a judicial, administrative, arbitration or mediation pro-
26 ceeding.

27 “(8) Subsection (7) of this section does not exempt a residential care
28 facility from complying with state law or prohibit the department’s
29 use of quality metric data obtained from an outside source in the
30 normal course of business or compliance activity.

1 **“SECTION 4. (1) The Quality Measurement Council is established**
2 **in the Department of Human Services to advise the department re-**
3 **garding the operation of the Residential Care Quality Measurement**
4 **Program established in section 3 of this 2017 Act.**

5 **“(2) The council consists of eight members, appointed by the Gov-**
6 **ernor, as follows:**

7 **“(a) One individual representing the Oregon Patient Safety Com-**
8 **mission;**

9 **“(b) One individual representing residential care facilities;**

10 **“(c) One consumer representative from an Alzheimers’ advocacy**
11 **organization;**

12 **“(d) One licensed health care practitioner with experience in**
13 **geriatrics;**

14 **“(e) One individual associated with an academic institution who has**
15 **expertise in research using data and analytics and in community-based**
16 **care and quality reporting;**

17 **“(f) One individual representing consumers of long term care;**

18 **“(g) The Long Term Care Ombudsman or a designee of the Long**
19 **Term Care Ombudsman; and**

20 **“(h) One individual representing the department.**

21 **“(3)(a) The council shall develop, no later than January 1, 2022, and**
22 **annually update by rule the quality metrics to be reported by resi-**
23 **dential care facilities under section 3 of this 2017 Act.**

24 **“(b) In developing quality metrics the council shall consider**
25 **whether the data that must be reported reflects and promotes quality**
26 **care and whether reporting the data is unnecessarily burdensome on**
27 **residential care facilities.**

28 **“SECTION 5. Section 3 of this 2017 Act is amended to read:**

29 **“Sec. 3. (1) The Residential Care Quality Measurement Program is es-**
30 **tablished in the Department of Human Services. The department shall, no**

1 later than July 1 of each year, publish a report, based on data reported by
2 each residential care facility under subsection (2) of this section, other than
3 data that identifies residents, that includes data compilation, illustration and
4 narratives to:

5 “(a) Describe statewide patterns and trends that emerge from the data
6 reported to the department under subsection (2) of this section and compli-
7 ance data maintained by the department;

8 “(b) Identify residential care facilities that failed to report data as re-
9 quired by this section;

10 “(c) Allow residential care facilities and the public to compare a resi-
11 dential care facility’s performance on each quality metric, by demographics,
12 geographic region, facility type and other categories the department believes
13 may be useful to consumers;

14 “(d) Show trends in performance quality on each of the quality metrics;

15 “(e) Identify patterns of performance quality by geographic regions and
16 other categories the department believes will be useful to consumers;

17 “(f) Identify the number, scope and severity of regulatory violations by
18 each geographic region; and

19 “(g) Show average timelines for surveys and for investigations of abuse
20 or regulatory noncompliance.

21 “(2) Residential care facilities shall report, no later than December 31 of
22 each year and in the form and manner prescribed by the department, the
23 *[following]* quality metrics **developed by the Quality Measurement**
24 **Council under section 4 of this 2017 Act.** *[for the prior calendar year,*
25 *consistent with accepted professional standards and excluding information that*
26 *identifies a resident of the residential care facility:]*

27 “*[(a) The residential care facility’s retention of direct care staff;]*

28 “*[(b) The number of resident falls in the residential care facility that result*
29 *in physical injury;]*

30 “*[(c) The incidence in the residential care facility of the use of antipsychotic*

1 *medications for nonstandard purposes;]*

2 *“[(d) The residential care facility’s compliance with staff training require-*
3 *ments;]*

4 *“[(e) The results of resident satisfaction surveys conducted by an inde-*
5 *pendent entity that meets the requirements established by the department by*
6 *rule; and]*

7 *“[(f) A quality metric recommended by the Quality Measurement Council*
8 *established under section 4 of this 2017 Act that measures the quality of the*
9 *resident experience.]*

10 *“(3) The department shall provide an annual report to each residential*
11 *care facility that reports quality metrics under subsection (2) of this section*
12 *using data compilation, illustration and narratives to allow the residential*
13 *care facility to measure and compare its quality metrics over time.*

14 *“(4) The department shall make available to the public in a standard*
15 *format and in plain language the data reported by each residential care fa-*
16 *cility.*

17 *“(5) The department shall, using moneys from the Quality Care Fund es-*
18 *tablished in ORS 443.001:*

19 *“(a) Develop online training modules to address the top two statewide*
20 *issues identified by surveys or reviews of residential care facilities during*
21 *the previous year; and*

22 *“(b) Post and keep updated the data used to prepare the report described*
23 *in subsection (1) of this section.*

24 *“(6) The department, in consultation with the Quality Measurement*
25 *Council established in section 4 of this 2017 Act, shall establish a uniform*
26 *system for residential care facilities to report quality metrics as required by*
27 *subsection (2) of this section. The system must:*

28 *“(a) Allow for electronic reporting of data, to the greatest extent practi-*
29 *cable; and*

30 *“(b) Take into account and utilize existing data reporting systems used*

1 by residential care facilities.

2 “(7)(a) Quality metric data reported to the department under this section
3 may not be used as the basis for an enforcement action by the department
4 nor may it be disclosed to another agency for use in an enforcement or reg-
5 ulatory action.

6 “(b) Quality metric data is not admissible as evidence in any civil action,
7 including but not limited to a judicial, administrative, arbitration or medi-
8 ation proceeding.

9 “(c) Quality metric data reported to the department is not subject to:

10 “(A) Civil or administrative subpoena; or

11 “(B) Discovery in connection with a civil action, including but not limited
12 to a judicial, administrative, arbitration or mediation proceeding.

13 “(8) Subsection (7) of this section does not exempt a residential care fa-
14 cility from complying with state law or prohibit the department’s use of
15 quality metric data obtained from an outside source in the normal course of
16 business or compliance activity.

17

18 “(Conversion Facilities)

19

20 “**SECTION 6. (1) A facility that is licensed as a long term care fa-**
21 **cility under ORS 441.025 may apply to the Department of Human Ser-**
22 **vices for licensure as a conversion facility. The department shall issue**
23 **a conversion facility license upon receipt of an application and fee that**
24 **meet requirements established by the department by rule.**

25 “(2)(a) **The department shall adopt rules governing the conversion**
26 **of a facility’s license from a long term care facility license to a resi-**
27 **dential care facility license and the regulation of the facility during**
28 **the conversion period.**

29 “(b) **As of the date of licensure as a conversion facility, the con-**
30 **version facility must be in substantial compliance with applicable state**

1 **and local laws, rules, codes, ordinances and permit requirements.**

2 **“SECTION 7.** ORS 443.420 is amended to read:

3 “443.420. (1) A person applying for a license under ORS 443.415 must, in
4 the judgment of the director of the licensing agency, be a person:

5 “(a) Who demonstrates an understanding and acceptance of the rules
6 governing residential facilities;

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

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

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

12 **“(a) The residential facility is licensed, maintained and operated as a**
13 **separate and distinct part; or**

14 **“(b) The residential facility is licensed as a conversion facility under**
15 **section 6 of this 2017 Act.**

16 “(3) All physical residential facilities used for residents [*shall*] **must** meet
17 applicable requirements of the State Fire Marshal.

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

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

24 “(a) Comply with ORS 336.575; and

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

27 “(A) Comprehensive and age-appropriate;

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

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

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

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

5 “(b) The willingness of the license applicant to serve underserved popu-
6 lations; and

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

9 “(7)(a) The licensing agency may not issue an initial license to a resi-
10 dential care facility if the facility has not conducted a market study that
11 assesses the need for the services offered by the facility in the geographic
12 area served by the facility.

13 **“(b) This subsection does not apply to a conversion facility licensed
14 under section 6 of this 2017 Act.**

15

16 **“(Enhanced Regulatory Oversight)**

17

18 **“SECTION 8. (1) As used in this section, ‘substantial compliance’
19 means a level of compliance with state law and with rules of the De-
20 partment of Human Services such that any identified deficiencies pose
21 a risk of no more than minimal harm to the health or safety of resi-
22 dents.**

23 **“(2)(a) The Department of Human Services shall develop a frame-
24 work for assessing the compliance of residential care facilities with
25 regulatory requirements and requiring corrective action that accu-
26 rately and equitably measures compliance and the extent of noncom-
27 pliance.**

28 **“(b) The framework must include but is not limited to measures of
29 the scope and severity of a residential care facility’s noncompliance.**

30 **“(c) The department shall publish the framework on the**

1 department's website and shall distribute the framework to residential
2 care facilities licensed in this state.

3 “(3) The department shall administer a residential care facility en-
4 hanced oversight and supervision program that focuses department
5 resources on residential care facilities that consistently demonstrate:

6 “(a) A lack of substantial compliance with the requirements of ORS
7 443.400 to 443.455; or

8 “(b) Performance substantially below statewide averages on quality
9 metrics reported under the Residential Care Quality Measurement
10 Program established in section 3 of this 2017 Act.

11 “(4) The residential care facility enhanced oversight and supervision
12 program shall take one or more of the following actions as the de-
13 partment deems necessary to improve the performance of a residential
14 care facility:

15 “(a) Increase the frequency of surveys of the residential care facil-
16 ity.

17 “(b) Conduct surveys that focus on areas of consistent noncompli-
18 ance identified by the department.

19 “(5) The department may terminate the enhanced oversight and
20 supervision of a residential care facility:

21 “(a) After three years if the residential care facility has shown
22 through at least two on-site surveys and reported quality metrics that
23 the residential care facility no longer meets the criteria in subsection
24 (3) of this section; or

25 “(b) After one year if the residential care facility submits a written
26 assertion of substantial compliance and the department determines
27 that the residential care facility no longer meets the criteria in sub-
28 section (3) of this section.

29 “(6) Using moneys from the Quality Care Fund established under
30 ORS 443.001, the department shall develop, maintain and periodically

1 **update compliance guidelines for residential care facilities serving**
2 **seniors and persons with disabilities. The guidelines must be made**
3 **available electronically.**

4

5

“(Acuity-based Staffing Tool)

6

7 **“SECTION 9. (1) The Department of Human Services shall develop**
8 **or obtain, in collaboration with residential care facilities, an objective,**
9 **technology-based, acuity-based staffing tool that may be used to:**

10 **“(a) Evaluate whether a residential care facility has qualified awake**
11 **caregivers sufficient in number to meet the 24-hour scheduled and**
12 **unscheduled needs of each resident; and**

13 **“(b) Assess the number of direct care staff hours required by each**
14 **residential care facility to meet each resident’s scheduled and un-**
15 **scheduled needs.**

16 **“(2) The acuity-based staffing tool shall be made available to resi-**
17 **dential care facilities to:**

18 **“(a) Enable the residential care facilities to assess their staffing**
19 **needs and whether they have a sufficient number of qualified awake**
20 **caregivers to meet the 24-hour scheduled and unscheduled needs of**
21 **each resident;**

22 **“(b) Communicate the required staffing needs and each residential**
23 **care facility’s staffing plan to residents, their family members and the**
24 **general public; and**

25 **“(c) Demonstrate to the department that the residential care**
26 **facility’s staffing plan meets the scheduled and unscheduled needs of**
27 **each resident.**

28 **“(3) The department may not impose a new staffing requirement,**
29 **without the residential care facility’s agreement, unless the depart-**
30 **ment has used the acuity-based staffing tool to evaluate a residential**

1 care facility's staffing needs.

2
3 **“(Direct Care Staff Training)”**
4

5 **“SECTION 10. (1) In addition to any other training required by law,**
6 **all direct care staff employed by a residential care facility shall, prior**
7 **to providing direct care to residents of the facility, complete training**
8 **in dementia care that includes:**

9 **“(a) Education on the dementia disease process, including the**
10 **progression of the disease, memory loss, psychiatric and behavioral**
11 **symptoms;**

12 **“(b) Techniques for understanding and managing behavioral symp-**
13 **toms, including but not limited to reducing the use of antipsychotic**
14 **medications for nonstandard uses;**

15 **“(c) Strategies for addressing the social needs of persons with**
16 **dementia and providing them with meaningful activities; and**

17 **“(d) Information on addressing specific aspects of dementia care**
18 **and ensuring the safety of residents with dementia, including but not**
19 **limited to how to:**

20 **“(A) Address pain;**

21 **“(B) Provide food and fluids;**

22 **“(C) Prevent wandering and elopement; and**

23 **“(D) Use a person-centered approach.**

24 **“(2) A residential care facility shall provide a certificate of com-**
25 **pletion to direct care staff who complete the training described in**
26 **subsection (1) of this section. If a member of the direct care staff is**
27 **employed by a different residential care facility no later than 24**
28 **months after completing the training, the staff member may not be**
29 **required to repeat the training.**

30 **“(3) In addition to the training described in subsection (1) of this**

1 section, direct care staff each must annually complete at least four
2 hours of training in dementia care. This training may be part of any
3 existing continuing education requirement imposed by law.

4 “(4) All training in dementia care provided to direct care staff must
5 be approved by a private or nonprofit organization, approved by the
6 department, that has expertise and specializes in educational training
7 for residential care facility staff.

8 “(5) The department shall prescribe by rule how to assess the com-
9 petency of direct care staff and shall administer competency tests to
10 direct care staff who have completed the training.

11

12

“(Suspension of License)

13

14 “**SECTION 11.** ORS 443.440 is amended to read:

15 “443.440. (1) **Except as provided in subsection (2) of this section for**
16 **residential care facilities**, the Department of Human Services or the
17 Oregon Health Authority may revoke or suspend the license of any residen-
18 tial facility that is not operated in accordance with ORS 443.002 or 443.400
19 to 443.455 or the rules of the licensing agency. Such revocation or suspension
20 shall be taken in accordance with rules of the licensing agency and ORS
21 chapter 183. However, in cases where an imminent danger to the health or
22 safety of the residents exists, a license may be suspended immediately pend-
23 ing a fair hearing not later than the 10th day after such suspension.

24 “(2)(a) **In accordance with ORS chapter 183 and rules adopted by the**
25 **Department of Human Services, the department may revoke or sus-**
26 **pend the license of a residential care facility licensed by the depart-**
27 **ment that is not operated in accordance with ORS 443.002 or 443.400 to**
28 **443.455 or the rules of the department.**

29 “(b) **In a case where an imminent danger to the health or safety**
30 **of the residents exists, a residential care facility license may be sus-**

1 pended immediately.

2 “(c) The residential care facility is entitled to a contested case
3 hearing to appeal an order of immediate suspension in accordance with
4 procedures adopted by the Department of Justice by rule concerning
5 emergency license suspensions.

6 “(d) When the Department of Human Services issues an immediate
7 suspension order under this subsection, the department may:

8 “(A) Transition all residents of the residential care facility to other
9 residential facilities; or

10 “(B) Appoint a management company with demonstrated skill and
11 experience in operating residential facilities to manage the facility and
12 care for the residents of the facility.

13

14 “(Prescription Drug Packaging)

15

16 “SECTION 12. (1) A residential care facility shall ensure that pre-
17 scription drugs dispensed to residents of the facility are packaged in
18 a manner that reduces errors in the tracking of and the adminis-
19 tration of the drugs, including but not limited to the use of unit dose
20 systems or blister packs.

21 “(2) Subsection (1) of this section does not apply to residents re-
22 ceiving pharmacy benefits through the United States Department of
23 Veterans Affairs if the pharmacy benefit does not reimburse the cost
24 of such packaging.

25

26 “(Binding Arbitration)

27

28 “SECTION 13. (1) As used in this section, ‘facility’ means:

29 “(a) A long term care facility as defined in ORS 442.015.

30 “(b) A residential care facility, including but not limited to an as-

1 **sisted living facility or endorsed memory care community.**

2 **“(2) A facility may enter into an agreement for binding arbitration**
3 **with a resident of the facility only if:**

4 **“(a) It is not a condition for admission to the facility;**

5 **“(b) The agreement is explained to the resident in a manner that**
6 **the resident is likely to understand;**

7 **“(c) The resident enters into the agreement voluntarily and signals**
8 **consent by initialing the arbitration clause in the agreement;**

9 **“(d) The agreement provides for the selection of a neutral arbitrator**
10 **and selection of a venue in this state that is convenient to both par-**
11 **ties; and**

12 **“(e) The agreement does not prohibit or discourage the resident or**
13 **any other person from communicating with federal, state or local of-**
14 **ficials, including but not limited to federal and state surveyors and the**
15 **Office of the Long Term Care Ombudsman.**

16

17 **“(Memory Care)**

18

19 **“SECTION 14. ORS 443.886 is amended to read:**

20 **“443.886. (1) If a facility intends to provide care for [*patients or*] residents**
21 **with Alzheimer’s disease or other **forms of** dementia by means of an**
22 **[*Alzheimer’s care unit*] **endorsed memory care community**, the facility**
23 **must obtain a [*special indorsement*] **memory care endorsement** on its li-**
24 **cence or registration.**

25 **“(2) The Department of Human Services, with the input from represen-**
26 **tatives of advocate groups and the long term care industry, shall adopt by**
27 **rule standards that ensure that the special needs of any [*Alzheimer’s patient***
28 ***or*] resident **with dementia** who is cared for in [*a special unit*] **an endorsed****
29 ****memory care community** are met and that quality care is provided. The**
30 **standards must include but are not limited to provisions for:**

1 “(a) Care planning, including physical design, staffing, staff training,
2 safety, egress control, individual care planning, admission policy, family in-
3 volvement, therapeutic activities and social services;

4 “(b) Continuity of basic care requirements;

5 “(c) **Initial and ongoing training requirements for direct care staff;**
6 and

7 “[*(c)*] **(d) Marketing and advertising of the availability of and services**
8 **from [*Alzheimer’s care units*] endorsed memory care communities.**

9 “(3) The department shall adopt a fee schedule for [*indorsement*] **memory**
10 **care endorsement**, taking into account the type of facility and the number
11 of [*patients and*] residents.

12 “(4) The department shall enforce rules adopted under subsection (2) of
13 this section and shall allow a licensee or registrant to retain the [*special*
14 *indorsement*] **memory care endorsement** required to care for [*patients*
15 *and*] residents with Alzheimer’s disease or other **forms of** dementia only so
16 long as the licensee or registrant complies with the rules.

17 “(5) The [*special indorsement*] **memory care endorsement** may be sus-
18 pended or revoked in the same manner as the license or registration is sus-
19 pended or revoked.

20 “(6) Unless a facility has obtained the [*indorsement*] **memory care**
21 **endorsement** required by subsection (1) of this section, the facility shall
22 not:

23 “(a) Advertise the facility as providing an Alzheimer’s care unit **or**
24 **memory care community**; or

25 “(b) Market the facility as providing an Alzheimer’s care unit **or memory**
26 **care community**.

27 “(7) As used in this section:

28 “(a) [*Alzheimer’s care unit*] **‘Endorsed memory care community’**
29 means a special care unit in a designated, separated area for [*patients and*]
30 residents with Alzheimer’s disease or other **forms of** dementia that is

1 locked[, *segregated*] or secured to prevent or limit access by a [*patient or*]
2 resident outside the designated or separated area.

3 “(b) ‘Facility’ means a nursing home, **long term care facility**, residential
4 care facility, assisted living facility or any other like facility required to be
5 licensed by the department.

6 “(c) ‘Registry’ means a facility will provide the department with infor-
7 mation relating to the [*Alzheimer’s care unit*] **endorsed memory care**
8 **community** including the number of residents in the unit, stage of dementia
9 for each resident, description of how services are provided[,] and length of
10 time the [*unit*] **community** has been operating.

11
12 **“ADULT FOSTER HOMES**

13 **“(Caregiver Training)**

14
15 **“SECTION 15. Sections 16 and 17 of this 2017 Act are added to and**
16 **made a part of ORS 443.705 to 443.825.**

17 **“SECTION 16. (1) As used in this section, ‘caregiver’ means an in-**
18 **dividual who is responsible for providing care and services to residents**
19 **of an adult foster home, including but not limited to a caregiver and**
20 **a substitute caregiver.**

21 **“(2) In addition to any other training required by law, all caregivers**
22 **in an adult foster home shall, prior to providing direct care to resi-**
23 **dents of the home, complete training in dementia care that includes:**

24 **“(a) Education on the dementia disease process, including the**
25 **progression of the disease, memory loss, psychiatric and behavioral**
26 **symptoms;**

27 **“(b) Techniques for understanding and managing behavioral symp-**
28 **toms, including but not limited to reducing the use of antipsychotic**
29 **medications for nonstandard uses;**

30 **“(c) Strategies for addressing the social needs of persons with**

1 dementia and providing them with meaningful activities; and

2 “(d) Information on addressing specific aspects of dementia care
3 and ensuring the safety of residents with dementia, including but not
4 limited to how to:

5 “(A) Address pain;

6 “(B) Provide food and fluids;

7 “(C) Prevent wandering and elopement; and

8 “(D) Use a person-centered approach.

9 “(3) All training provided to caregivers related to dementia care
10 must reflect current standards for dementia care and be informed by
11 the best evidence in the care and treatment of persons with dementia.

12
13 “(Medication Packaging)

14
15 “SECTION 17. (1) An adult foster home shall ensure that pre-
16 scription drugs dispensed to residents of the home are packaged in a
17 manner that reduces errors in the tracking of and the administration
18 of the drugs, including but not limited to the use of unit dose systems
19 or blister packs.

20 “(2) Subsection (1) of this section does not apply to residents re-
21 ceiving pharmacy benefits through the United States Department of
22 Veterans Affairs if the pharmacy benefit does not reimburse the cost
23 of such packaging.

24
25 “(Evacuation of Residents)

26
27 “SECTION 18. ORS 443.760 is amended to read:

28 “443.760. (1) Adult foster homes that are certified as residential homes as
29 defined in ORS 197.660 [*shall*] **must** meet all state and local building, sani-
30 tation, utility and fire code requirements applicable to single family

1 dwellings. However, by rule, the licensing agency may adopt more stringent
2 standards upon a finding that there is a significant health or safety threat
3 to residents that necessitates a standard not imposed on other single family
4 dwellings.

5 “(2) In adopting more stringent standards, the licensing agency shall
6 consult with the Department of Consumer and Business Services and the of-
7 fice of the State Fire Marshal to [*insure adequate evacuation of residents*]
8 **ensure that the provider has the ability to evacuate all residents from**
9 **the building within:**

10 “(a) **Three minutes; or**

11 “(b) **A period that meets applicable fire, life and safety require-**
12 **ments if the adult foster home has an interior sprinkler system ap-**
13 **proved by the appropriate regulatory authorities.**

14 “[3] *As used in this section, ‘adequate evacuation’ means the ability of a*
15 *provider to evacuate all residents from the dwelling within three minutes.*]

16 “[4] (3) If a licensed provider rents or leases the premises where the
17 adult foster home is located, the lessor shall charge a flat rate for the lease
18 or rental.

19

20 “PHYSICIAN EDUCATION IN ALZHEIMER’S DISEASE

21

22 “**SECTION 19. Section 20 of this 2017 Act is added to and made a**
23 **part of ORS chapter 677.**

24 “**SECTION 20. (1) The Oregon Medical Board shall encourage each**
25 **physician with a specialty in primary care or geriatrics, or another**
26 **specialty designated by the board, to obtain continuing medical edu-**
27 **cation in the detection and early diagnosis of Alzheimer’s disease and**
28 **the appropriate prescribing of antipsychotic drugs to treat patients**
29 **with Alzheimer’s disease.**

30 “(2) **The continuing medical education described in subsection (1)**

1 of this section shall be considered relevant continuing medical educa-
2 tion for all licensees of the board and the hours may be applied to any
3 required continuing medical education requirements.

4
5 **“DEFINITIONS**

6
7 **“SECTION 21.** ORS 443.400 is amended to read:

8 “443.400. As used in ORS 443.400 to 443.455 and 443.991, unless the context
9 requires otherwise:

10 “[~~(1)~~ *‘Director’ means the director of the licensing agency for the residential*
11 *facility.*]

12 **“(1) ‘Conversion facility’ means a facility that has applied for, or**
13 **been issued, a conversion facility license as described in section 6 of**
14 **this 2017 Act.**

15 **“(2) ‘Co-occurring behavioral health needs’ means mental, emo-**
16 **tional or behavioral disturbances.**

17 **“(3) ‘Direct care staff’ means the employees of a residential facility**
18 **whose primary responsibilities are to provide personal care services to**
19 **residents, including but not limited to:**

20 **“(a) Administering medications;**

21 **“(b) Coordinating resident-focused activities;**

22 **“(c) Supervising and supporting residents; and**

23 **“(d) Serving but not preparing meals.**

24 “[~~(2)~~] (4) ‘Licensing agency’ means:

25 **“(a) The Department of Human Services, if the residential facility that is**
26 **licensed, or that the Director of Human Services determines should be li-**
27 **icensed, is a residential care facility, residential training facility or residen-**
28 **tial training home; or**

29 **“(b) The Oregon Health Authority, if the residential facility that is li-**
30 **icensed, or that the Director of the Oregon Health Authority determines**

1 should be licensed, is a residential treatment facility or residential treatment
2 home.

3 “[3] (5) ‘Resident’ means any individual residing in a facility who re-
4 ceives residential care, treatment or training. For purposes of ORS 443.400
5 to 443.455, an individual is not considered to be a resident if the individual
6 is related by blood or marriage within the fourth degree as determined by
7 civil law to the person licensed to operate or maintain the facility.

8 “[4] (6) ‘Residential care’ means services such as supervision; protection;
9 assistance while bathing, dressing, grooming or eating; management of
10 money; transportation; recreation; and the providing of room and board.

11 “[5] (7) ‘Residential care facility’ means a facility that provides[, *for six*
12 *or more socially dependent individuals or individuals with physical disabili-*
13 *ties,*] residential care in one or more buildings on contiguous properties:

14 **“(a) For six or more socially dependent individuals or individuals**
15 **with physical disabilities; or**

16 **“(b) For fewer than six socially dependent individuals or individuals**
17 **with physical disabilities if the purpose of the facility is to serve indi-**
18 **viduals with co-occurring behavioral health needs that are more ap-**
19 **propriately served in smaller settings.**

20 “[6] (8) ‘Residential facility’ means a residential care facility, residential
21 training facility, residential treatment facility, residential training home,
22 [or] residential treatment home **or conversion facility.**

23 “[7] (9) ‘Residential training facility’ means a facility that provides, for
24 six or more individuals with mental retardation or other developmental dis-
25 abilities, residential care and training in one or more buildings on contig-
26 uous properties.

27 “[8] (10) ‘Residential training home’ means a facility that provides, for
28 five or fewer individuals with mental retardation or other developmental
29 disabilities, residential care and training in one or more buildings on con-
30 tiguous properties, when so certified and funded by the Department of Hu-

1 man Services.

2 “[9] (11) ‘Residential treatment facility’ means a facility that provides,
3 for six or more individuals with [*mental, emotional or behavioral*
4 *disturbances*] **co-occurring behavioral health needs** or alcohol or drug
5 dependence, residential care and treatment in one or more buildings on
6 contiguous properties.

7 “[10] (12) ‘Residential treatment home’ means a facility that provides for
8 five or fewer individuals with [*mental, emotional or behavioral disturbances*]
9 **co-occurring behavioral health needs** or alcohol or drug dependence, res-
10 idential care and treatment in one or more buildings on contiguous proper-
11 ties.

12 “[11] (13) ‘Training’ means the systematic, planned maintenance, devel-
13 opment or enhancement of self-care skills, social skills or independent living
14 skills, or the planned sequence of systematic interactions, activities or
15 structured learning situations designed to meet each resident’s specified
16 needs in the areas of physical, social, emotional and intellectual growth.

17 “[12] (14) ‘Treatment’ means a planned, individualized program of med-
18 ical, psychological or rehabilitative procedures, experiences and activities
19 designed to relieve or minimize mental, emotional, physical or other symp-
20 toms or social, educational or vocational disabilities resulting from or re-
21 lated to the mental or emotional disturbance, physical disability or alcohol
22 or drug problem.

23

24 **“CONFORMING AMENDMENTS**

25

26 **“SECTION 22.** ORS 409.720 is amended to read:

27 “409.720. (1) As used in this section:

28 “(a) ‘Adult foster home’ has the meaning given that term in ORS 443.705
29 (1).

30 “(b) ‘Health care facility’ has the meaning given that term in ORS 442.015.

1 “(c) ‘Residential facility’ has the meaning given that term in ORS 443.400
2 [(6)].

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

5 “(a) Adopt a plan to provide for the safety of persons who are receiving
6 care at or are residents of the home or facility in the event of an emergency
7 that requires immediate action by the staff of the home or facility due to
8 conditions of imminent danger that pose a threat to the life, health or safety
9 of persons who are receiving care at or are residents of the home or facility;
10 and

11 “(b) Provide training to all employees of the home or facility about the
12 responsibilities of the employees to implement the plan required by this
13 section.

14 “(3) The department shall adopt by rule the requirements for the plan and
15 training required by this section. The rules adopted shall include, but are
16 not limited to, procedures for the evacuation of the persons who are receiv-
17 ing care at or are residents of the adult foster home, health care facility or
18 residential facility to a place of safety when the conditions of imminent
19 danger require relocation of those persons.

20 **“SECTION 23.** ORS 443.415 is amended to read:

21 “443.415. (1) Applications for licensure to maintain and operate a resi-
22 dential facility shall be made to the Department of Human Services or the
23 Oregon Health Authority on forms provided for that purpose by the appro-
24 priate licensing agency. Each application shall be accompanied by a fee. No
25 fee is required of any governmentally operated residential facility.

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

27 “(a) Defined in ORS 443.400 [(7) and] (9) **and (11)**, shall be \$60.

28 “(b) Defined in ORS 443.400 [(8) and] (10) **and (12)**, shall be \$30.

29 “(c) Defined in ORS 443.400 [(5)] (7) with:

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

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

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

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

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

5 “(3) Upon receipt of an application and fee, the licensing agency shall
6 conduct an investigation. The licensing agency shall issue a license to any
7 applicant for operation of a residential facility in compliance with ORS
8 443.002 and 443.400 to 443.455 and the rules of the licensing agency.
9 Licensure may be denied when a residential facility is not in compliance
10 with ORS 443.002 or 443.400 to 443.455 or the rules of the licensing agency.
11 Licensure shall be denied if the State Fire Marshal or other authority has
12 given notice of noncompliance of facilities defined in ORS 443.400 [(5), (7)
13 and (9)] **(7), (9) and (11)** pursuant to ORS 479.220.

14 **“SECTION 24.** ORS 443.425 is amended to read:

15 “443.425. (1) Licensure under ORS 443.415 is effective for two years from
16 the date of issue unless sooner revoked. Each license shall state the name
17 of the person operating the residential facility; the name of the person who
18 owns the facility; the address of the premises to which the license applies
19 and the maximum number of residents to be maintained in such residential
20 facility at any time whether the residential facility is licensed as a residen-
21 tial training facility, a residential treatment facility, a residential care fa-
22 cility; a residential training home or residential treatment home and such
23 other information as the Department of Human Services or the Oregon
24 Health Authority considers necessary.

25 “(2) A license is renewable upon submission of an application to the de-
26 partment or the authority and payment of a fee. No fee shall be required of
27 a governmentally operated residential facility. Filing of an application for
28 renewal before the date of expiration of a license extends the effective date
29 of expiration of the license until the licensing agency has acted upon such
30 application. The licensing agency shall refuse to renew a license if the fa-

1 cility is not substantially in compliance with all applicable laws and rules,
2 or if the State Fire Marshal or the authorized representative thereof has
3 given notice of noncompliance of facilities under ORS 443.400 [(5), (7) and
4 (9)] **(7), (9) and (11)** pursuant to ORS 479.220.

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

7 “(a) Defined in ORS 443.400 [(7) and] (9) **and (11)**, shall be \$60.

8 “(b) Defined in ORS 443.400 [(8) and] (10) **and (12)**, shall be \$30.

9 “(c) Defined in ORS 443.400 [(5)] **(7)** with:

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

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

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

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

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

15 **“SECTION 25.** ORS 443.452 is amended to read:

16 “443.452. (1) The [*director*] **Director of Human Services** shall waive the
17 requirements of ORS 443.410 for a residential care facility caring for resi-
18 dents with physical disabilities if:

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

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

22 “(c) The residential **care** facility complies with the applicable require-
23 ments of the State Fire Marshal.

24 “(2) As used in this section, ‘building’ means any structure that does not
25 share a common wall or roof with another structure.

26

27 **“OPERATIVE/APPLICABILITY DATES**

28

29 **“SECTION 26.** The amendments to section 3 of this 2017 Act by
30 section 5 of this 2017 Act become operative on January 1, 2022.

