

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2684**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest
2 of the line and delete line 3 and insert “and amending ORS 127.646, 443.400,
3 443.415, 443.425, 443.735 and 456.559.”.

4 Delete lines 5 through 24 and delete pages 2 through 7 and insert:

5 **“SECTION 1. Sections 2 and 3 of this 2017 Act are added to and**
6 **made a part of ORS 443.400 to 443.455.**

7 **“SECTION 2. It is the intent of the Legislative Assembly that, when**
8 **the Legislative Assembly approves increases in funding of services**
9 **provided by residential training facilities or residential training homes,**
10 **wages and health benefits paid to direct support professionals in the**
11 **residential training facilities or residential training homes be in-**
12 **creased at a comparable rate.**

13 **“SECTION 3. A residential training facility or residential training**
14 **home licensed by the Department of Human Services shall submit**
15 **annual staffing data to a nationally standardized reporting survey or-**
16 **ganization specified by the Department of Human Services. The de-**
17 **partment shall obtain state-specific data from the nationally**
18 **standardized reporting survey organization, disaggregated by provider.**

19 **“SECTION 4. ORS 443.415 is amended to read:**

20 “443.415. (1) Applications for licensure to maintain and operate a resi-
21 dential facility shall be made to the Department of Human Services or the

1 Oregon Health Authority on forms provided for that purpose by the appro-
2 priate licensing agency. Each application shall be accompanied by a fee. No
3 fee is required of any governmentally operated residential facility.

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

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

6 “**(b) Defined in ORS 443.400 (8), shall be \$50.**

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

8 “[*(c)*] (d) Defined in ORS 443.400 (5) with:

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

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

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

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

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

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

23 “**SECTION 5.** ORS 443.425 is amended to read:

24 “443.425. (1) Licensure under ORS 443.415 is effective for two years from
25 the date of issue unless sooner revoked. Each license shall state the name
26 of the person operating the residential facility; the name of the person who
27 owns the facility; the address of the premises to which the license applies
28 and the maximum number of residents to be maintained in such residential
29 facility at any time whether the residential facility is licensed as a residen-
30 tial training facility, a residential treatment facility, a residential care fa-

1 cility; a residential training home or residential treatment home and such
2 other information as the Department of Human Services or the Oregon
3 Health Authority considers necessary.

4 “(2) A license is renewable upon submission of an application to the de-
5 partment or the authority and payment of a fee. No fee shall be required of
6 a governmentally operated residential facility. Filing of an application for
7 renewal before the date of expiration of a license extends the effective date
8 of expiration of the license until the licensing agency has acted upon such
9 application. The licensing agency shall refuse to renew a license if the fa-
10 cility is not substantially in compliance with all applicable laws and rules,
11 or if the State Fire Marshal or the authorized representative thereof has
12 given notice of noncompliance of facilities under ORS 443.400 (5), (7) and (9)
13 pursuant to ORS 479.220.

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

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

17 “**(b) Defined in ORS 443.400 (8), shall be \$50.**

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

19 “[~~(c)~~] (d) Defined in ORS 443.400 (5) with:

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

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

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

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

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

25 “**SECTION 6.** ORS 443.735 is amended to read:

26 “443.735. (1)(a) Applications for a license to maintain and operate an
27 adult foster home shall be made on forms provided by the licensing agency.

28 “**(b) Each application submitted to the Department of Human Ser-**
29 **VICES for an adult foster home serving individuals with intellectual or**
30 **developmental disabilities shall be accompanied by a fee of \$50 per bed**

1 **requested for licensing.**

2 **“(c) Each application submitted to the Oregon Health Authority, or**
3 **to the Department of Human Services for an adult foster home not**
4 **serving individuals with intellectual or developmental disabilities,** shall
5 be accompanied by a fee of \$20 per bed requested for licensing.

6 “(2) Upon receipt of an application and fee, the licensing agency shall
7 conduct an investigation.

8 “(3) The licensing agency shall not issue an initial license unless:

9 “(a) The applicant and adult foster home are in compliance with ORS
10 443.002 and 443.705 to 443.825 and the rules of the licensing agency;

11 “(b) The licensing agency has completed an inspection of the adult foster
12 home;

13 “(c) The licensing agency has completed a criminal records check under
14 ORS 181A.195 on the applicant and any person, other than a resident, 16
15 years of age or older who will be residing in the adult foster home. The
16 criminal records check shall be conducted in accordance with rules adopted
17 under ORS 181A.195;

18 “(d) The licensing agency has determined that the registry maintained
19 under ORS 441.678 contains no finding that the applicant or any nursing
20 assistant employed by the applicant has been responsible for abuse; and

21 “(e) The applicant has demonstrated to the licensing agency the financial
22 ability and resources necessary to operate the adult foster home. The li-
23 censing agency shall adopt rules as the agency deems appropriate that es-
24 tablish the financial standards an applicant must meet to qualify for issuance
25 of a license and that protect financial information from public disclosure.
26 The demonstration of financial ability under this paragraph shall include,
27 but need not be limited to, providing the licensing agency with a list of any
28 unsatisfied judgments, pending litigation and unpaid taxes and notifying the
29 agency regarding whether the applicant is in bankruptcy. If the applicant is
30 unable to demonstrate the financial ability and resources required by this

1 paragraph, the licensing agency may require the applicant to furnish a fi-
2 nancial guarantee as a condition of initial licensure.

3 “(4) The licensing agency may not renew a license under this section un-
4 less:

5 “(a) The applicant and the adult foster home are in compliance with ORS
6 443.002 and 443.705 to 443.825 and the rules of the licensing agency;

7 “(b) The licensing agency has completed an inspection of the adult foster
8 home;

9 “(c) The licensing agency has completed a criminal records check under
10 ORS 181A.195 on the applicant and any person, other than a resident, 16
11 years of age or older who will be residing in the adult foster home. The
12 criminal records check under this paragraph shall be conducted in accord-
13 ance with rules adopted under ORS 181A.195; and

14 “(d) The licensing agency has determined that the registry maintained
15 under ORS 441.678 contains no finding that the applicant or any nursing
16 assistant employed by the applicant has been responsible for abuse.

17 “(5)(a) In seeking an initial license and renewal of a license when an
18 adult foster home has been licensed for less than 24 months, the burden of
19 proof shall be upon the provider and the adult foster home to establish
20 compliance with ORS 443.705 to 443.825 and the rules of the licensing agency.

21 “(b) In proceedings for renewal of a license when an adult foster home
22 has been licensed for at least 24 continuous months, the burden of proof shall
23 be upon the licensing agency to establish noncompliance with ORS 443.705
24 to 443.825 and the rules of the agency.

25 “(6)(a) Persons who have been convicted of one or more crimes that, as
26 determined by rules of the licensing agency, are substantially related to the
27 qualifications, functions or duties of a provider, substitute caregiver or other
28 household member of an adult foster home shall be prohibited from operat-
29 ing, working in or residing in an adult foster home.

30 “(b) The licensing agency shall adopt rules that distinguish the criminal

1 convictions and types of abuse that permanently prohibit a person from op-
2 erating, working in or living in an adult foster home from the convictions
3 and types of abuse that do not permanently prohibit the person from oper-
4 ating, working in or living in an adult foster home.

5 “(c) A provider may not hire, retain in employment or allow to live in
6 an adult foster home, other than as a resident, any person who the provider
7 knows has been convicted of a disqualifying crime or has been found re-
8 sponsible for a disqualifying type of abuse.

9 “(7) A license under ORS 443.725 is effective for one year from the date
10 of issue unless sooner revoked. Each license shall state the name of the
11 resident manager of the adult foster home, the names of all providers who
12 own the adult foster home, the address of the premises to which the license
13 applies, the maximum number of residents and the classification of the adult
14 foster home. If, during the period covered by the license, a resident manager
15 changes, the provider must within 15 days request modification of the li-
16 cense. The request must be accompanied by a fee of \$10.

17 “(8) No license under ORS 443.725 is transferable or applicable to any
18 location, persons operating the adult foster home or the person owning the
19 adult foster home other than that indicated on the application for licensing.

20 “(9) The licensing agency shall not issue a license to operate an addi-
21 tional adult foster home to a provider unless the provider has demonstrated
22 the qualifications and capacity to operate the provider’s existing licensed
23 adult foster homes and has demonstrated the ability to provide to the resi-
24 dents of those adult foster homes care that is adequate and substantially free
25 from abuse and neglect.

26 “(10)(a) All moneys collected under ORS 443.725 to 443.780 from adult
27 foster homes that are licensed to serve persons with mental, emotional or
28 behavioral disturbances or alcohol or drug dependence shall be deposited in
29 a special account in the General Fund, and are appropriated continuously for
30 payment of expenses incurred by the Oregon Health Authority.

1 “(b) All moneys collected under ORS 443.725 to 443.780 from adult foster
2 homes licensed to serve persons who are elderly, have physical disabilities
3 or have developmental disabilities shall be deposited in the Quality Care
4 Fund established in ORS 443.001.

5 “(11) Notwithstanding any other provision of this section or ORS 443.725
6 or 443.738, the licensing agency may issue a 60-day provisional license to a
7 qualified person if the agency determines that an emergency situation exists
8 after being notified that the licensed provider of an adult foster home is no
9 longer overseeing operation of the adult foster home.

10 **“SECTION 7. The amendments to ORS 443.415, 443.425 and 443.735**
11 **by sections 4 to 6 of this 2017 Act apply to applications for licensure**
12 **or renewal of licensure made on or after January 1, 2018.**

13 **“SECTION 8.** ORS 127.646 is amended to read:

14 “127.646. As used in ORS 127.646 to 127.654:

15 “(1) ‘Health care organization’ means a home health agency, hospice pro-
16 gram, hospital, long term care facility or health maintenance organization.

17 “(2) ‘Health maintenance organization’ has the meaning given that term
18 in ORS 750.005, except that ‘health maintenance organization’ includes only
19 those organizations that participate in the federal Medicare or Medicaid
20 programs.

21 “(3) ‘Home health agency’ has the meaning given that term in ORS
22 443.014.

23 “(4) ‘Hospice program’ has the meaning given that term in ORS 443.850.

24 “(5) ‘Hospital’ has the meaning given that term in ORS 442.015.
25 ‘Hospital’ does not include a special inpatient care facility.

26 “(6) ‘Long term care facility’ has the meaning given that term in ORS
27 442.015, except that ‘long term care facility’ does not include an intermediate
28 care facility for individuals with [*mental retardation*] **intellectual or de-**
29 **velopmental disabilities.**

30 **“SECTION 9.** ORS 443.400 is amended to read:

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

3 “(1) ‘Director’ means the director of the licensing agency for the residen-
4 tial facility.

5 “(2) ‘Licensing agency’ means:

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

10 “(b) The Oregon Health Authority, if the residential facility that is li-
11 censed, or that the Director of the Oregon Health Authority determines
12 should be licensed, is a residential treatment facility or residential treatment
13 home.

14 “(3) ‘Resident’ means any individual residing in a facility who receives
15 residential care, treatment or training. For purposes of ORS 443.400 to
16 443.455, an individual is not considered to be a resident if the individual is
17 related by blood or marriage within the fourth degree as determined by civil
18 law to the person licensed to operate or maintain the facility.

19 “(4) ‘Residential care’ means services such as supervision; protection; as-
20 sistance while bathing, dressing, grooming or eating; management of money;
21 transportation; recreation; and the providing of room and board.

22 “(5) ‘Residential care facility’ means a facility that provides, for six or
23 more socially dependent individuals or individuals with physical disabilities,
24 residential care in one or more buildings on contiguous properties.

25 “(6) ‘Residential facility’ means a residential care facility, residential
26 training facility, residential treatment facility, residential training home or
27 residential treatment home.

28 “(7) ‘Residential training facility’ means a facility that provides, for six
29 or more individuals with [*mental retardation or other*] **intellectual or** devel-
30 opmental disabilities, residential care and training in one or more buildings

1 on contiguous properties.

2 “(8) ‘Residential training home’ means a facility that provides, for five
3 or fewer individuals with [*mental retardation or other*] **intellectual or de-**
4 **velopmental** disabilities, residential care and training in one or more
5 buildings on contiguous properties, when so certified and funded by the De-
6 partment of Human Services.

7 “(9) ‘Residential treatment facility’ means a facility that provides, for six
8 or more individuals with mental, emotional or behavioral disturbances or
9 alcohol or drug dependence, residential care and treatment in one or more
10 buildings on contiguous properties.

11 “(10) ‘Residential treatment home’ means a facility that provides for five
12 or fewer individuals with mental, emotional or behavioral disturbances or
13 alcohol or drug dependence, residential care and treatment in one or more
14 buildings on contiguous properties.

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

20 “(12) ‘Treatment’ means a planned, individualized program of medical,
21 psychological or rehabilitative procedures, experiences and activities de-
22 signed to relieve or minimize mental, emotional, physical or other symptoms
23 or social, educational or vocational disabilities resulting from or related to
24 the mental or emotional disturbance, physical disability or alcohol or drug
25 problem.

26 “**SECTION 10.** ORS 456.559, as amended by section 6, chapter 61, Oregon
27 Laws 2016, is amended to read:

28 “456.559. (1) The Housing and Community Services Department shall:

29 “(a) Maintain current housing data and information concerning available
30 programs, status of funding, programs planned or undertaken which might

1 conflict with, overlap, duplicate or supersede other planned or existing pro-
2 grams and call these to the attention of appropriate state agencies, govern-
3 mental bodies and public or private housing sponsors.

4 “(b) Provide to appropriate state agencies, governmental bodies and public
5 or private housing sponsors such advisory and educational services as will
6 assist them in the development of housing plans and projects.

7 “(c) Subject to the approval of the Oregon Housing Stability Council,
8 make noninterest bearing advances, in accordance with ORS 456.710 and the
9 policies of the department, to qualified nonprofit sponsors for development
10 costs of housing projects until mortgage funds are released to repay the ad-
11 vances as provided in ORS 456.710.

12 “(d) Advise and assist appropriate state agencies, governmental bodies
13 and public or private housing sponsors, cities and counties, in all programs
14 and activities which are designed or might tend to fulfill the purposes of
15 ORS 456.548 to 456.725 and ORS chapter 458.

16 “(e) Encourage and assist in the planning, development, construction, re-
17 habilitation and conservation of dwelling units for persons and families of
18 lower income.

19 “(f) Be the central state department to apply for, receive and distribute,
20 on behalf of appropriate state agencies, governmental bodies and public or
21 private housing sponsors in the state, grants, gifts, contributions, loans,
22 credits or assistance from the federal government or any other source for
23 housing programs except when the donor, grantor, or lender of such funds
24 specifically directs some other agency to administer them. Moneys received
25 under this section shall be deposited with the State Treasurer in an account
26 separate and distinct from the General Fund. Interest earned by the account
27 shall be credited to the account.

28 “(g) For the purposes of acquiring moneys, credits or other assistance
29 from any agency or instrumentality of the United States or from any public
30 corporation chartered by the United States, comply with any applicable

1 agreements or restrictions for the receipt of such assistance and become a
2 member of any such association or public corporation chartered by the
3 United States.

4 “(h) Assist individuals, appropriate state agencies, governmental bodies
5 and public or private housing sponsors through a program which provides
6 housing information, planning, educational services and technical assistance.

7 “(i) Comply with the requirements of ORS 443.225 in assisting in the de-
8 velopment of any housing for residential care, training or treatment for
9 persons with [*mental retardation,*] **intellectual or** developmental disabilities
10 or mental or emotional disturbances.

11 “(2) Except as otherwise provided in ORS 456.625 (7) and sections 1 to 3,
12 chapter 61, Oregon Laws 2016, the department may not itself develop, con-
13 struct, rehabilitate or conserve housing units; and neither the department
14 nor any housing sponsor, including but not limited to any association, cor-
15 poration, cooperative housing authority or urban renewal agency organized
16 to provide housing and other facilities pursuant to ORS 456.548 to 456.725,
17 may own, acquire, construct, purchase, lease, operate or maintain utility fa-
18 cilities, including facilities for the generation of electricity, for the distrib-
19 ution of gas and electricity, and for the conveyance of telephone and
20 telegraph messages.

21 “(3) In accordance with the provisions of this section and with the advice
22 of the council, the department shall establish statewide priorities for housing
23 programs. State agencies shall coordinate their housing programs with the
24 department. All state agencies intending to apply for federal funds for use
25 in planning, developing or managing housing, or rendering assistance to
26 governmental bodies or sponsors or individuals involved therein shall submit
27 a description of the proposed activity to the department for review not less
28 than 30 days prior to the intended date of submission of the application to
29 the federal agency. The department shall determine whether the proposal
30 would result in a program that would overlap, duplicate or conflict with any

1 other housing program in the state. If the department finds overlapping or
2 duplication or conflict, it shall recommend modifications in the application.
3 The Oregon Department of Administrative Services shall consider these rec-
4 ommendations in making its decision to approve or disapprove the applica-
5 tion. The department shall complete its review and forward its
6 recommendations within 15 working days after receipt of the notification.
7 Failure of the department to complete the review within that time shall
8 constitute approval of the application by the department.

9 “(4) The Director of the Housing and Community Services Department
10 may participate in discussions and deliberations of the council. The director
11 may suggest policies and rules to the council, including those necessary to
12 stimulate and increase the supply of housing for persons and families of
13 lower income.”.

14
