

At the request of Long Term Care Ombudsman

**PROPOSED AMENDMENTS TO  
SENATE BILL 58**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest  
2 of the line and delete line 3 and insert “creating new provisions; amending  
3 ORS 125.678, 410.550, 441.402, 441.403, 441.406, 441.407, 441.408, 441.409,  
4 441.411, 441.412, 441.413, 441.414, 441.416, 441.417, 441.418, 441.419, 443.738,  
5 443.767 and 476.030; and declaring an emergency.”.

6 Delete lines 5 through 30 and delete pages 2 through 7 and insert:  
7

8 **“RESIDENTIAL FACILITIES OMBUDSMAN**

9  
10 **“SECTION 1. As used in sections 1 to 5 of this 2017 Act:**

11 **“(1) ‘Administrative action’ means an action, inaction or a decision**  
12 **by an owner, employee or agent of a residential facility or by a state,**  
13 **local, social service or health agency that affects the services or**  
14 **quality of life of residents of the facility.**

15 **“(2) ‘Designee’ means an individual appointed by the Long Term**  
16 **Care Ombudsman in accordance with ORS 441.413.**

17 **“(3) ‘Legal representative’ means a person to whom a resident or a**  
18 **court has granted legal authority to permit access to the resident’s**  
19 **personal information and medical records.**

20 **“(4) ‘Resident’ means an individual who resides in a residential fa-**  
21 **cility.**

1       **“(5)(a) ‘Residential facility’ means one of the following:**

2       **“(A) A residential training facility, as defined in ORS 443.400.**

3       **“(B) A residential training home, as defined in ORS 443.400.**

4       **“(C) A licensed adult foster home as defined in ORS 443.705.**

5       **“(D) A developmental disability child foster home, as defined in**  
6 **ORS 443.830.**

7       **“(b) ‘Residential facility’ does not include a:**

8       **“(A) Facility housing persons committed under ORS 161.327; or**

9       **“(B) Facility licensed by the Oregon Health Authority to provide**  
10 **alcohol and drug treatment.**

11       **“SECTION 2. (1) The Long Term Care Ombudsman shall appoint a**  
12 **Residential Facilities Ombudsman for a four-year term from a list of**  
13 **three nominees nominated by the Residential Ombudsman and Public**  
14 **Guardianship Advisory Board established under ORS 441.416. The**  
15 **Residential Facilities Ombudsman serves at the pleasure of the Long**  
16 **Term Care Ombudsman and may be removed by the Long Term Care**  
17 **Ombudsman for cause. The salary of the Residential Facilities Om-**  
18 **budsman shall be determined by the Long Term Care Ombudsman. The**  
19 **Residential Facilities Ombudsman shall be reimbursed for all reason-**  
20 **able travel and other expenses incurred in the performance of the**  
21 **ombudsman’s official duties.**

22       **“(2) The Residential Facilities Ombudsman or a designee shall:**

23       **“(a) Provide residents, families of residents, guardians, community**  
24 **members and administrators and staff of residential facilities with in-**  
25 **formation regarding the rights of residents as set forth in ORS 427.107**  
26 **and 430.210 and any other applicable rights of residents.**

27       **“(b) Widely publicize the Residential Facilities Ombudsman’s ser-**  
28 **vices, purpose and mode of operation.**

29       **“(c) Identify, investigate and resolve complaints that are made by**  
30 **or on behalf of a resident, in accordance with section 4 of this 2017**

1 **Act, concerning an administrative action.**

2 **“(d) Provide services to residents to assist them in protecting their**  
3 **health, safety, welfare and rights.**

4 **“(e) Ensure that residents have regular, timely, private and unim-**  
5 **peded access to the Residential Facilities Ombudsman’s services and**  
6 **that a resident and an individual acting on behalf of a resident who**  
7 **files a complaint receives a timely response to the complaint from the**  
8 **ombudsman or a designee.**

9 **“(f) Represent the interests of residents before government agencies**  
10 **and seek administrative, legal or other appropriate remedies to protect**  
11 **the health, safety, welfare and rights of residents.**

12 **“(g) Analyze, comment on and monitor the development and im-**  
13 **plementation of federal, state and local laws and other governmental**  
14 **policies pertaining to the health, safety, welfare and rights of resi-**  
15 **dents.**

16 **“(h) Recommend any changes to state or local laws to improve the**  
17 **health, safety and welfare of residents.**

18 **“(i) Facilitate public comment on laws and policies that affect the**  
19 **health, safety and welfare of residents.**

20 **“(j) Train designees.**

21 **“(k) Promote the development of organizations to advocate on be-**  
22 **half of residents of residential facilities.**

23 **“(L) To the extent practicable, assist residents who move from a**  
24 **residential facility to a home care setting.**

25 **“(m) Assist residents and individuals acting on their behalf in lo-**  
26 **cating and accessing resources in the community and in connecting**  
27 **with local service providers.**

28 **“(n) Engage the participation of residents in general studies, con-**  
29 **ferences, inquiries or meetings related to residential care in this state.**

30 **“(o) Make recommendations for improvements in the functioning**

1 of the residential facility system in this state.

2 “(p) Collaborate with the Oregon Health Authority, the Department  
3 of Human Services, and any other appropriate agencies and organiza-  
4 tions to establish a statewide system to collect and analyze informa-  
5 tion on complaints about and conditions in residential facilities for the  
6 purpose of publicizing improvements and resolving significant prob-  
7 lems for residents.

8 “(q) Work with residents to identify and recommend processes for  
9 making complaints about service providers and entities.

10 “(r) Provide information to public agencies about the problems of  
11 residents.

12 “(s) Collect and compile data necessary to prepare the report sub-  
13 mitted to the Governor under ORS 182.500.

14 “(t) Adopt rules necessary for carrying out sections 1 to 5 of this  
15 2017 Act, in accordance with ORS chapter 183, in consultation with the  
16 Long Term Care Ombudsman and the Residential Ombudsman and  
17 Public Guardianship Advisory Board.

18 “(3) The Oregon Health Authority and the Department of Human  
19 Services shall provide the Residential Facilities Ombudsman and the  
20 designees monthly, in a format specified by the ombudsman, demo-  
21 graphic information about the residents in the residential facilities for  
22 which the ombudsman has responsibilities under this section.

23 “(4) All state agencies shall cooperate with and assist the Residen-  
24 tial Facilities Ombudsman in the performance of the ombudsman’s  
25 duties and functions.

26 “SECTION 3. The Residential Facilities Ombudsman and each  
27 designee shall have:

28 “(1) Private and unimpeded access to residential facilities and resi-  
29 dents at any time considered necessary and reasonable by the om-  
30 budsman or the designee for the purpose of:

1       “(a) Investigating and resolving complaints made by or on behalf  
2 of residents;

3       “(b) Offering the services of the ombudsman or the designee to any  
4 resident, in private;

5       “(c) Interviewing employees or agents of the facility and, with their  
6 consent, residents;

7       “(d) Consulting regularly with the facility administration; and

8       “(e) Providing other services authorized by law or by rule.

9       “(2) Access to the administrative records, policies and documents  
10 of residential facilities that are available to residents or the general  
11 public.

12       “(3) Access to, upon request, copies of all licensing and certification  
13 records maintained by the Department of Human Services with respect  
14 to residential facilities. The Residential Facilities Ombudsman shall  
15 have direct access to the department’s electronic records, if practica-  
16 ble.

17       “SECTION 4. (1) The Residential Facilities Ombudsman shall pre-  
18 pare and distribute to each residential facility in this state a written  
19 notice describing the procedures to follow in making a complaint, in-  
20 cluding the address and telephone number of the ombudsman and  
21 designee, if any, and a poster describing the Residential Facilities  
22 Ombudsman and providing contact information. The Department of  
23 Human Services shall facilitate the distribution of information re-  
24 garding the Residential Facilities Ombudsman’s services to residents,  
25 providers and the public.

26       “(2) The administrator of each residential facility shall post the  
27 written notice and poster required by this section in conspicuous  
28 places in the facility in accordance with procedures provided by the  
29 ombudsman and shall give the written notice to each resident and le-  
30 gal representative, if any, at least annually during the care planning

1 **process.**

2 **“(3)(a) If a complaint is made on behalf of a resident who has lim-**  
3 **ited or no decision-making capacity, has no known legal representative**  
4 **and is unable to communicate consent for the Residential Facilities**  
5 **Ombudsman to investigate the complaint, the ombudsman shall seek**  
6 **to discern the outcome that the resident desires and shall work to**  
7 **accomplish that outcome.**

8 **“(b) If the ombudsman is unable to discern the resident’s desired**  
9 **outcome, it shall be assumed that the resident desires to have the**  
10 **resident’s health, safety, welfare and rights protected.**

11 **“(4) The Residential Facilities Ombudsman or a designee investi-**  
12 **gating a complaint:**

13 **“(a) May subpoena any person to appear, to give sworn testimony**  
14 **or to produce documentary or other evidence that is reasonably ma-**  
15 **terial to the matter under investigation.**

16 **“(b) Shall have access to any resident’s records, including medical**  
17 **records, necessary to investigate a complaint if:**

18 **“(A) The resident or the legal representative of the resident con-**  
19 **sents; or**

20 **“(B) With respect to a resident who is unable to communicate**  
21 **consent and has no known legal representative or whose legal repre-**  
22 **sentative refuses to consent, the ombudsman or a designee, with the**  
23 **approval of the ombudsman, has reasonable cause to believe that it is**  
24 **in the best interests of the resident.**

25 **“(5) A resident shall have the right to refuse to communicate with**  
26 **the ombudsman or the designee. The refusal shall be made directly to**  
27 **the ombudsman or the designee and not through an intermediary.**

28 **“(6) Following an investigation of a complaint, the Residential Fa-**  
29 **cilities Ombudsman or a designee shall report the ombudsman’s**  
30 **findings and conclusions to the resident who made the complaint and**

1 to a complainant acting on behalf of a resident. If the ombudsman or  
2 designee finds conditions threatening the health, safety or welfare of  
3 a resident that cannot be resolved informally, the ombudsman or  
4 designee shall refer the findings to the Department of Human Services,  
5 the Oregon Health Authority or law enforcement officials.

6 “(7) The resident shall have the right to participate in planning any  
7 course of action to be taken on behalf of the resident by the ombuds-  
8 man or the designee.

9 “(8) The identity of any complainant or resident on whose behalf a  
10 complaint is made, or individual providing information on behalf of  
11 the complainant or the resident, shall be confidential. If the com-  
12 plaint becomes the subject of judicial proceedings, the investigative  
13 information held by the ombudsman or designee shall be disclosed for  
14 the purpose of the proceedings if requested by the court.

15 “(9) A resident or an individual who makes a complaint to the  
16 Residential Facilities Ombudsman under this section, or who partic-  
17 ipates in an investigation of a complaint, may not be subjected to a  
18 penalty, sanction or restriction or be denied any right, privilege or  
19 benefit on account of making the complaint or participating in the  
20 investigation of the complaint.

21 “(10) The Department of Human Services shall prohibit retaliation  
22 or reprisals by a residential facility or other entity with respect to any  
23 resident, employee or other person who files a complaint, provides in-  
24 formation or otherwise cooperates with the Residential Facilities Om-  
25 budsman or a designee and shall provide by rule for appropriate  
26 sanctions with respect to the interference, retaliation and reprisals.

27 “(11) In order to encourage residents and individuals acting on be-  
28 half of residents to communicate with the Residential Facilities Om-  
29 budsman or designee, any resident or individual acting on behalf of a  
30 resident who makes a complaint to the Residential Facilities Om-

1 **budsman in good faith under this section or who participates in an**  
2 **investigation of a complaint shall have immunity from any civil or**  
3 **criminal liability that might otherwise be incurred or imposed with**  
4 **respect to the communication.**

5 **“SECTION 5. The Residential Facilities Ombudsman shall establish**  
6 **procedures to maintain the confidentiality of the records and files of**  
7 **residents. The procedures must meet the following requirements:**

8 **“(1) The ombudsman or a designee may not disclose, except to law**  
9 **enforcement, the identity of any resident or individual acting on be-**  
10 **half of a resident without a written consent signed by the resident, the**  
11 **legal representative of the resident or the individual acting on behalf**  
12 **of the resident. The written consent must specify to whom the disclo-**  
13 **sure may be made.**

14 **“(2) The identity of any resident or individual providing information**  
15 **on behalf of the resident shall be confidential. If a complaint becomes**  
16 **the subject of judicial proceedings, the investigative information held**  
17 **by the ombudsman or the designee shall be disclosed for the purpose**  
18 **of the proceedings if requested by the court.**

19

20 **“OFFICE OF THE LONG TERM CARE OMBUDSMAN**

21

22 **“SECTION 6. ORS 441.402 is amended to read:**

23 **“441.402. As used in ORS 441.402 to 441.419:**

24 **“(1) ‘Administrative action’ means any action or decision made by**  
25 **an owner, employee or agent of a long term care facility or by a public**  
26 **agency that affects the services to residents of long term care facili-**  
27 **ties.**

28 **“[(1)] (2) ‘Designee’ means an individual appointed by the Long Term Care**  
29 **Ombudsman under ORS 441.413 to serve as a representative in a local**  
30 **community in order to carry out the purpose of ORS 441.402 to 441.419.**



1       “[(2) ‘Residential facility’ includes a:]  
2       “[(a) Long term care facility;]  
3       “[(b) Residential facility as defined in ORS 443.400, excluding a:]  
4       “[(A) Facility housing persons committed under ORS 161.327; and]  
5       “[(B) Facility licensed by the Oregon Health Authority to provide alcohol  
6 and drug treatment;]  
7       “[(c) Licensed adult foster home as defined in ORS 443.705;]  
8       “[(d) Developmental disability child foster home, as defined in ORS 443.830,  
9 that is certified by the Department of Human Services; and]  
10       “[(e) Continuing care retirement community as defined in ORS 101.020.]  
11       **“(3) ‘Long term care facility’ means any licensed skilled nursing  
12 facility, intermediate care facility, as defined in rules adopted under  
13 ORS 442.015, adult foster homes with residents over 60 years of age and  
14 residential care facility as defined in ORS 443.400.**  
15       **“(4) ‘Long Term Care Ombudsman Program’ means the services  
16 provided by the Long Term Care Ombudsman.**  
17       **“SECTION 7. ORS 441.403 is amended to read:**  
18       “441.403. (1) The office of the Long Term Care Ombudsman is established.  
19 The Long Term Care Ombudsman shall function separately and independ-  
20 ently from any other state agency. The Governor shall appoint the Long  
21 Term Care Ombudsman for a four-year term from a list of three nominees  
22 nominated by the [*Residential Facilities Advisory Committee*] **Residential  
23 Ombudsman and Public Guardianship Advisory Board** established under  
24 ORS 441.416. The appointment of the Long Term Care Ombudsman is subject  
25 to Senate confirmation under ORS 171.562 and 171.565. A vacancy shall be  
26 filled within 60 days in the same manner as an appointment is made.  
27       “(2) The Long Term Care Ombudsman may be removed for just cause,  
28 upon recommendation to the Governor by the [*Residential Facilities Advisory  
29 Committee*] **Residential Ombudsman and Public Guardianship Advisory  
30 Board.**

1 “(3) The Long Term Care Ombudsman shall have background and experi-  
2 ence in the following areas:

3 “(a) The fields of aging, mental health or developmental disabilities;

4 “(b) Physical or behavioral health care;

5 “(c) Working with community programs;

6 “(d) Strong understanding of long term care issues, both regulatory and  
7 policy;

8 “(e) Working with health care providers;

9 “(f) Working with and involvement in volunteer programs; and

10 “(g) Administrative and managerial experience.

11 **“SECTION 8.** ORS 441.406 is amended to read:

12 “441.406. (1) The [*office of the*] Long Term Care Ombudsman shall carry  
13 out the following duties:

14 “(a) Investigate and resolve complaints made by or for residents of [*resi-*  
15 *dential*] **long term care** facilities about administrative actions that may  
16 adversely affect their health, safety, welfare or rights, including subpoenaing  
17 any person to appear, **to** give sworn testimony or to produce documentary  
18 or other evidence that is reasonably material to any matter under investi-  
19 gation.

20 “(b) Undertake, participate in or cooperate with persons and agencies in  
21 such conferences, inquiries, meetings or studies as may lead to improvements  
22 in the functioning of [*residential*] **long term care** facilities.

23 “(c) Monitor the development and implementation of federal, state and  
24 local laws, regulations and policies that relate to [*residential*] **long term**  
25 **care** facilities in this state.

26 “(d) Provide information to public agencies about the problems of resi-  
27 dents of [*residential*] **long term care** facilities.

28 “(e) Work closely with cooperative associations and citizen groups in this  
29 state and the state protection and advocacy system under ORS 192.517.

30 “(f) Widely publicize the Long Term Care Ombudsman’s [*service*]

1 **services**, purpose and mode of operation.

2 “(g) Collaborate with the Oregon Health Authority, the Department of  
3 Human Services, the Nursing Home Administrators Board and any other  
4 appropriate agencies and organizations to establish a statewide system to  
5 collect and analyze information on complaints and conditions in  
6 [*residential*] **long term care** facilities for the purpose of publicizing im-  
7 provements and resolving significant problems.

8 “[*(h)(A) Identify and coordinate programs, services and other assistance for*  
9 *persons receiving public guardian and conservator services under ORS 125.675*  
10 *to 125.687, that are available statewide;*]

11 “[*(B) Contract with qualified individuals and entities to provide programs,*  
12 *services and assistance to persons receiving public guardian and conservator*  
13 *services under ORS 125.675 to 125.687 who are located in areas of this state*  
14 *where such programs, services and other assistance are inadequate or nonex-*  
15 *istent; and*]

16 “[*(C)*] **(h)** Contract with the state protection and advocacy system de-  
17 scribed in ORS 192.517 (1) to provide services and assistance to persons who  
18 are prospective or current residents of a mental health treatment facility or  
19 of a residential facility for individuals with developmental disabilities when  
20 the system has received a notice regarding the person pursuant to ORS  
21 125.060 (7)(c) or (8)(c).

22 “(i) Appoint designees to serve as local representatives of the office **of**  
23 **the Long Term Care Ombudsman** in various districts of the state and  
24 regularly monitor their functions.

25 “(j) Specify qualifications and duties of designees.

26 “(k) Adopt rules necessary for carrying out ORS 441.402 to 441.414, after  
27 consultation with the [*Residential Facilities Advisory Committee*] **Residen-**  
28 **tial Ombudsman and Public Guardianship Advisory Board.**

29 “(L) Provide periodically, or at least annually, a report to the Governor,  
30 authority, department and Legislative Assembly.

1 “(m) Prepare necessary reports with the assistance of the authority and  
2 the department.

3 “(n) Supervise, monitor, advise and support the Oregon Public Guardian  
4 and Conservator appointed under ORS 125.678 **and the Residential Facili-**  
5 **ties Ombudsman appointed under section 2 of this 2017 Act.**

6 “(2) At least quarterly, [*the Oregon Health Authority and*] the Department  
7 of Human Services shall provide the Long Term Care Ombudsman with a list  
8 of the number of licensed or certified beds in each [*residential*] **long term**  
9 **care** facility for which the ombudsman has responsibilities under this sec-  
10 tion.

11 “[*(3) As used in this section, ‘administrative action’ means any action or*  
12 *decision made by an owner, employee or agent of a residential facility or by*  
13 *a public agency that affects the services to residents of the facility.*]

14 **“SECTION 9.** ORS 441.407 is amended to read:

15 “441.407. The Long Term Care Ombudsman shall establish procedures to  
16 maintain the confidentiality of the records and files of residents of [*residen-*  
17 *tial*] **long term care** facilities. These procedures must meet the following  
18 requirements:

19 “(1) The ombudsman or a designee may not disclose, except to [*state*  
20 *agencies*] **law enforcement**, the identity of any resident unless the  
21 complainant or the resident, or the legal representative of either, consents  
22 in writing to the disclosure and specifies to whom the disclosure may be  
23 made.

24 “(2) The identity of any complainant or resident on whose behalf a com-  
25 plaint is made, or individual providing information on behalf of the  
26 complainant or the resident, shall be confidential. If the complaint becomes  
27 the subject of judicial proceedings, the investigative information held by the  
28 ombudsman or **the** designee shall be disclosed for the purpose of the pro-  
29 ceedings if requested by the court.

30 **“SECTION 10.** ORS 441.408 is amended to read:

1 “441.408. (1) The Long Term Care Ombudsman and each designee shall  
2 have the right of entry into [*residential*] **long term care** facilities at any  
3 time considered necessary and reasonable by the ombudsman or the designee  
4 for the purpose of:

5 “(a) Investigating and resolving complaints made by residents or made on  
6 their behalf;

7 “(b) Interviewing residents, with their consent, in private;

8 “(c) Offering the services of the ombudsman or the designee to any resi-  
9 dent, in private;

10 “(d) Interviewing employees or agents of the facility;

11 “(e) Consulting regularly with the facility administration; and

12 “(f) Providing services authorized by law or by rule.

13 “(2)(a) The Long Term Care Ombudsman shall have access to any  
14 resident’s records, and to records of any public agency, **including direct**  
15 **access to electronic records if practicable**, necessary to the duties of the  
16 ombudsman, including records on [*patient abuse complaints*] **reports of res-**  
17 **ident abuse** made pursuant to ORS [*430.735 to 430.765,*] **124.050 to 124.095,**  
18 **441.630 to 441.680 and 441.995.** The provisions of ORS 192.553 to 192.581 are  
19 not intended to limit the access of the [*Long Term Care*] ombudsman to  
20 medical records of residents of [*residential*] **long term care** facilities. **If**  
21 **necessary to investigate a complaint**, designees [*may*] **shall** have access  
22 to individual resident’s records, including medical records as authorized by  
23 the resident or **the** resident’s legal representative[, *if needed to investigate*  
24 *a complaint*].

25 “(b) **If a resident’s legal representative denies access to the**  
26 **resident’s records by the ombudsman or a designee, the ombudsman**  
27 **shall have access to the records if the ombudsman has reasonable**  
28 **cause to believe that the legal representative is not acting in the best**  
29 **interests of the resident.**

30 “(3) Entry and investigation authorized by this section shall be done in

1 a manner that does not disrupt significantly the providing of nursing, resi-  
2 dential or other personal care or treatment to residents.

3 “(4) The ombudsman or the designee must show identification to the per-  
4 son in charge of the facility. The resident shall have the right to refuse to  
5 communicate with the ombudsman or the designee. The refusal shall be made  
6 directly to the ombudsman or the designee and not through an intermediary.

7 “(5) The resident shall have the right to participate in planning any  
8 course of action to be taken on behalf of the resident by the ombudsman or  
9 the designee.

10 **“SECTION 11.** ORS 441.409 is amended to read:

11 “441.409. (1) Following an investigation, the Long Term Care Ombudsman  
12 or the designee shall report opinions or recommendations to the party or  
13 parties affected and, if appropriate, shall attempt to resolve the complaint  
14 using informal techniques of mediation, conciliation and persuasion. Com-  
15 plaints of conditions adversely affecting residents of [*residential*] **long term**  
16 **care** facilities, or complaints of conditions threatening the safety or well-  
17 being of residents that cannot be resolved in the manner described in this  
18 section, shall be referred to an appropriate state agency.

19 “(2) Programs that promote the safety or emotional or physical well-being  
20 of residents of [*residential*] **long term care** facilities shall be promoted and  
21 publicized by the ombudsman and the designees.

22 **“SECTION 12.** ORS 441.411 is amended to read:

23 “441.411. (1) The Long Term Care Ombudsman shall prepare and distribute  
24 to each [*residential*] **long term care** facility in this state a written notice  
25 describing the procedures to follow in making a complaint, including the  
26 address and telephone number of the ombudsman and local designee, if any,  
27 and a poster describing the Long Term Care Ombudsman Program and pro-  
28 viding contact information.

29 “(2) The administrator of each [*residential*] **long term care** facility shall  
30 post the written notice and poster required by this section in conspicuous

1 places in the facility in accordance with procedures provided by the om-  
2 budsman and shall give the written notice to each resident and legally ap-  
3 pointed guardian, if any.

4 **“SECTION 13.** ORS 441.412 is amended to read:

5 “441.412. (1) Any employee or agent of a [*residential*] **long term care** fa-  
6 cility acting in good faith in discussing resident care pursuant to ORS  
7 441.408 shall have immunity from any civil liability that might otherwise be  
8 incurred or imposed with respect to the making of such report.

9 “(2) Any employee or agent who makes a report pursuant to ORS 441.408  
10 may not be subjected to any retaliation by any official or other employee of  
11 a [*residential*] **long term care** facility solely for making a report, including  
12 but not limited to restriction of otherwise lawful access to the facility or to  
13 any resident of the facility, or, if an employee, to dismissal or harassment.

14 “(3) The Long Term Care Ombudsman or the designee acting in good faith  
15 in discussing resident care pursuant to ORS 441.408 shall have immunity  
16 from any civil liability, that might otherwise be incurred or imposed with  
17 respect to the discussion.

18 **“SECTION 14.** ORS 441.413 is amended to read:

19 “441.413. (1) The [*appointments of designees shall be made in consultation*  
20 *with a local screening committee*] **Long Term Care Ombudsman shall ap-**  
21 **point designees in consultation with local screening committees** that  
22 may consist of but not be limited to persons representing:

23 “(a) The area agency [*on aging*], **as defined in ORS 410.040.**

24 “(b) The local office of the Department of Human Services.

25 “(c) The local health department.

26 “(d) Senior citizens groups in the area.

27 “(e) Residential facilities **as defined in section 1 of this 2017 Act and**  
28 **long term care facilities** in the area.

29 “(f) Local elected officials.

30 “(g) The community mental health program director or local mental

1 health authority.

2 “(h) The community developmental disabilities program director.

3 “(i) Representatives from the Oregon Health Authority.

4 “(2) To be appointed as a designee, a person must complete [*six days of*]  
5 **an initial training, as prescribed by the Long Term Care Ombudsman**  
6 **by rule**, and attend quarterly training sessions that are approved by the  
7 [*Long Term Care*] ombudsman and that shall be coordinated and funded by  
8 the Department of Human Services and the Oregon Health Authority, subject  
9 to the availability of funds. Local screening committees shall be appointed  
10 by and serve at the pleasure of the ombudsman.

11 “(3) Designees must sign a contract with the state that outlines the scope  
12 of their duties. In districts where a designee is an employee or agent of a  
13 local entity, a three-party contract shall be executed. Violation of the con-  
14 tract is cause for the termination of the appointment. A directory of all  
15 designees shall be maintained in the office of the Long Term Care Ombuds-  
16 man.

17 “(4) The qualifications of designees shall include experience with resi-  
18 dential facilities **as defined in section 1 of this 2017 Act or long term**  
19 **care facilities** or residents or potential residents of residential facilities **or**  
20 **long term care facilities**, and the ability to communicate well, to under-  
21 stand laws, rules and regulations, and to be assertive, yet objective.

22 “(5) Applicants who have experience in either social service, mental  
23 health, developmental disability services, gerontology, nursing or paralegal  
24 work shall be given preference in the appointment of designees.

25 “(6) The contract shall include statements that the purpose of the Long  
26 Term Care Ombudsman Program is to:

27 “(a) Promote rapport and trust between the residents and staff of the  
28 residential facilities **as defined in section 1 of this 2017 Act or long term**  
29 **care facilities** and Long Term Care Ombudsman;

30 “(b) Assist residents with participating more actively in determining the



1 delivery of services at the facilities;

2 “(c) Serve as an educational resource;

3 “(d) Receive, resolve or relay concerns to the Long Term Care Ombuds-  
4 man or the appropriate agency; and

5 “(e) Ensure equitable resolution of problems.

6 “(7) The duties of the designees are to:

7 “(a) Visit each assigned residential facility **as defined in section 1 of**  
8 **this 2017 Act or long term care facility** on a regular basis:

9 “(A) Upon arrival and departure, inform a specified staff member.

10 “(B) Review, with a specified staff member, any problems or concerns that  
11 need to be considered.

12 “(C) Visit individual residents and resident councils.

13 “(b) Maintain liaison with appropriate agencies and the Long Term Care  
14 Ombudsman.

15 “(c) Report, in writing, monthly to the Long Term Care Ombudsman.

16 “(d) Keep residents and staff informed of the Long Term Care Ombudsman  
17 Program.

18 “(e) Periodically review the [*patients’ bill of*] rights prescribed in ORS  
19 441.605, 441.610 and 441.612, **and any other applicable rights to services,**  
20 with residents, families, guardians, administrators and staff of residential  
21 facilities **or long term care facilities.**

22 “(f) Perform other related duties as specified.

23 **“SECTION 15.** ORS 441.414 is amended to read:

24 “441.414. Nothing in ORS 441.402 to 441.419 shall affect the right of resi-  
25 dents of a [*residential*] **long term care** facility to see visitors of their choice.

26 **“SECTION 16.** ORS 441.416 is amended to read:

27 “441.416. (1) There is established a [*Residential Facilities Advisory Com-*  
28 *mittee*] **Residential Ombudsman and Public Guardianship Advisory**  
29 **Board** of 11 members to be appointed in the following manner:

30 “(a) One person appointed by the Speaker of the House of Representatives;

1       “(b) One person appointed by the President of the Senate;  
2       “(c) One person appointed by the House Minority Leader;  
3       “(d) One person appointed by the Senate Minority Leader;  
4       “(e) One person appointed by the Governor from each list of four names  
5 submitted by organizations for seniors, organizations for persons with mental  
6 illness and the Oregon Council on Developmental Disabilities; and  
7       “(f) Four persons appointed by the Governor, two of whom must have  
8 expertise in the provision of guardianship, conservatorship and other  
9 fiduciary services for persons with inadequate resources.  
10       “(2) Members described in subsection (1)(e) and (f) of this section are  
11 subject to confirmation by the Senate under ORS 171.562 and 171.565.  
12       “(3) The term of office of each member is four years. Before the expiration  
13 of the term of a member, the appointing authority shall appoint a successor  
14 whose term begins on July 1 next following. A member is eligible for reap-  
15 pointment. If there is a vacancy for any cause, the appointing authority shall  
16 make an appointment to become immediately effective for the unexpired  
17 term.  
18       “(4) The members of the [committee] **board** must be residents of this state  
19 who are broadly representative, to the extent possible, of persons residing in  
20 residential facilities **as defined in section 1 of this 2017 Act or long term**  
21 **care facilities**, including members of racial and ethnic minorities, who have  
22 knowledge and interest in the problems of persons residing in residential  
23 facilities, and who are representative of all areas of this state and the de-  
24 mographics of groups served by the Long Term Care Ombudsman.  
25       “(5) A member of the [committee] **board** may not have a financial or  
26 fiduciary interest in residential facilities **as defined in section 1 of this**  
27 **2017 Act, long term care facilities** or service providers, or involvement in  
28 the licensing or certification of residential facilities, **long term care facil-**  
29 **ities** or service providers.  
30       “(6) The [committee] **board** shall select one of its members as chairperson

1 and another as vice chairperson, for such terms and with duties and powers  
2 necessary for the performance of the functions of such offices as the [*com-*  
3 *mittee*] **board** determines.

4 “(7) A majority of the members of the [*committee*] **board** constitutes a  
5 quorum for the transaction of business. Decisions may be made by a majority  
6 of the quorum.

7 “(8) The [*committee*] **board** shall meet at least once each month at a place,  
8 day and hour determined by the [*committee*] **board**. The [*committee*] **board**  
9 also shall meet at other times and places specified by the call of the chair-  
10 person or of a majority of the members of the [*committee*] **board**. The [*com-*  
11 *mittee*] **board** shall confer each month with the Long Term Care Ombudsman.  
12 All meetings are subject to ORS 192.610 to 192.690.

13 “(9) A member of the [*committee*] **board** is entitled to compensation and  
14 expenses as provided in ORS 292.495.

15 “**SECTION 17.** ORS 441.417 is amended to read:

16 “441.417. The [*Residential Facilities Advisory Committee*] **Residential**  
17 **Ombudsman and Public Guardianship Advisory Board** shall:

18 “(1) Monitor the Long Term Care Ombudsman Program.

19 “(2) Advise the Governor and the Legislative Assembly on the Long Term  
20 Care Ombudsman Program.

21 “(3) Nominate, after interviews and according to prescribed criteria, three  
22 persons to fill the Long Term Care Ombudsman position or to fill a vacancy  
23 in the position.

24 “**SECTION 18.** ORS 441.418 is amended to read:

25 “441.418. (1) A residential facility **as defined in section 1 of this 2017**  
26 **Act or a long term care facility** that files a complaint against a designee  
27 appointed under ORS 441.413 and objects to the action of the Long Term  
28 Care Ombudsman in resolving the complaint may appeal the ombudsman’s  
29 action to a panel of the [*Residential Facilities Advisory Committee*] **Resi-**  
30 **dential Ombudsman and Public Guardianship Advisory Board.**

1       “(2) The [committee] **board** on its own motion may review any action by  
2 the ombudsman appealable under this section. The review shall provide an  
3 opportunity for written and oral presentation by the residential facility **as**  
4 **defined in section 1 of this 2017 Act or a long term care facility** and the  
5 ombudsman. The [committee] **board** shall issue its findings and any in-  
6 structions to the ombudsman in written form consistent with the federal  
7 Older Americans Act or other applicable federal law.

8       “(3) If the [committee] **board** disagrees with the action of the ombudsman,  
9 the [committee] **board** may refer the resolution back to the ombudsman with  
10 instructions consistent with the federal Older Americans Act or other ap-  
11 plicable federal law to conform the ombudsman’s action in the matter to the  
12 recommendations of the [committee] **board**.

13       “**SECTION 19.** ORS 441.419 is amended to read:

14       “441.419. The Long Term Care Ombudsman Account is established in the  
15 State Treasury, separate and distinct from the General Fund. All miscella-  
16 neous receipts, gifts and federal and other grants received by the Long Term  
17 Care Ombudsman shall be deposited into the Long Term Care Ombudsman  
18 Account and are continuously appropriated to the Long Term Care Ombuds-  
19 man for carrying out the responsibilities **of the office** of the Long Term  
20 Care Ombudsman and the Oregon Public Guardian and Conservator.

21       “**SECTION 20.** ORS 441.418 is added to and made a part of ORS  
22 **441.402 to 441.419.**

23       “**SECTION 21.** ORS 125.678 is amended to read:

24       “125.678. (1) The Long Term Care Ombudsman appointed under ORS  
25 441.403, in consultation with the [*Residential Facilities Advisory Committee*]  
26 **Residential Ombudsman and Public Guardianship Advisory Board**, shall  
27 appoint the Oregon Public Guardian and Conservator in the office of the  
28 Long Term Care Ombudsman for a four-year term. The Oregon Public  
29 Guardian and Conservator serves at the pleasure of the Long Term Care  
30 Ombudsman and may be removed by the Long Term Care Ombudsman for

1 good cause. If there is a vacancy for any cause, the Long Term Care Om-  
2 budsman shall make an appointment within 60 days. The Oregon Public  
3 Guardian and Conservator shall receive a salary as fixed by the Long Term  
4 Care Ombudsman and be reimbursed for all reasonable travel and other ex-  
5 penses incurred in the performance of official duties.

6 “(2) The Oregon Public Guardian and Conservator shall be responsible for  
7 carrying out the powers, duties and functions of the Oregon Public Guardian  
8 and Conservator pursuant to ORS 125.675 to 125.687, within the office of the  
9 Long Term Care Ombudsman, and subject to the direction, supervision and  
10 control of the Long Term Care Ombudsman.

11 “(3) The Oregon Public Guardian and Conservator, in consultation with  
12 and subject to the approval of the Long Term Care Ombudsman, may:

13 “(a) Hire or contract with volunteers, staff, deputy public guardians and  
14 conservators and other qualified individuals, as necessary, to carry out the  
15 powers, duties and functions of the Oregon Public Guardian and  
16 Conservator;

17 “(b) Prescribe the duties and assignments of persons hired or under con-  
18 tract with the Oregon Public Guardian and Conservator;

19 “(c) Fix the compensation, including reasonable travel and other expenses  
20 incurred in the performance of official duties, of persons hired by or under  
21 contract with the Oregon Public Guardian and Conservator subject to the  
22 State Personnel Relations Law; and

23 “(d) Adopt rules to carry out the provisions of ORS 125.675 to 125.687.

24 “(4) The Long Term Care Ombudsman may hire or contract with staff to  
25 serve in the office of the Long Term Care Ombudsman as necessary to carry  
26 out the powers, duties and functions of the Long Term Care Ombudsman in  
27 supervising, monitoring, advising and supporting the Oregon Public Guard-  
28 ian and Conservator [*as required under ORS 441.406*].

29 “(5) The Oregon Public Guardian and Conservator may delegate the ex-  
30 ercise or discharge of any power, duty or function that is vested in or im-

1 posed by law upon the Oregon Public Guardian and Conservator to a deputy  
2 public guardian and conservator, staff person or volunteer hired by or under  
3 contract with the Oregon Public Guardian and Conservator as appropriate  
4 for the purpose of conducting an official act in the name of the Oregon  
5 Public Guardian and Conservator. The official act of any person acting in  
6 the name of the Oregon Public Guardian and Conservator by the authority  
7 of the Oregon Public Guardian and Conservator is an official act of the  
8 Oregon Public Guardian and Conservator.

9 “(6) The Oregon Public Guardian and Conservator may solicit and accept  
10 gifts, grants and donations from public and private sources for the purpose  
11 of carrying out the provisions of ORS 125.675 to 125.687, which moneys shall  
12 be deposited in the Long Term Care Ombudsman Account established under  
13 ORS 441.419.

14

15

#### “CONFORMING AMENDMENTS

16

17 **“SECTION 22.** ORS 410.550 is amended to read:

18 “410.550. (1) The Medicaid Long Term Care Quality and Reimbursement  
19 Advisory Council is created, to consist of 12 members. Appointed members  
20 shall be residents of the State of Oregon and representative of the geographic  
21 locations of all long term care facilities and community-based care facilities  
22 in this state. The members shall include:

23 “(a) The Long Term Care Ombudsman, who shall serve as a standing  
24 member of the council;

25 “(b) A representative of the Governor’s Commission on Senior Services,  
26 to be appointed by the commission;

27 “(c) A representative of the Oregon Disabilities Commission, to be ap-  
28 pointed by the commission;

29 “(d) A representative of the Oregon Association of Area Agencies on Ag-  
30 ing and Disabilities, to be appointed by the Governor;

1 “(e) A representative of a senior or disabilities advocacy organization or  
2 an individual who advocates on behalf of seniors or persons with disabilities,  
3 to be appointed by the Governor;

4 “(f) A nursing home administrator licensed under ORS 678.710 to 678.820  
5 who has practiced continuously in Oregon in long term care for three years  
6 immediately preceding appointment, to be appointed by the Speaker of the  
7 House of Representatives;

8 “(g) Two consumers of [*residential*] **long term care** facilities, as defined  
9 in ORS 441.402, or community-based care facilities or family members of such  
10 residents, to be appointed by the Speaker of the House of Representatives;

11 “(h) A director of nurses of an Oregon long term care facility who has  
12 practiced in this state in long term care for three years preceding appoint-  
13 ment, to be appointed by the Speaker of the House of Representatives;

14 “(i) A representative of an assisted living facility or a residential care  
15 facility, to be appointed by the President of the Senate;

16 “(j) A representative of an adult foster home, to be appointed by the  
17 President of the Senate; and

18 “(k) An in-home care agency provider, to be appointed by the President  
19 of the Senate.

20 “(2) The term of office for each member appointed under this section shall  
21 be three years or until a successor has been appointed and qualified.

22 “(3) Members of the council shall receive no compensation for their ser-  
23 vices but unpaid volunteers not otherwise compensated shall be allowed ac-  
24 tual and necessary travel expenses incurred in the performance of their  
25 duties.

26 “(4) The council shall:

27 “(a) Elect a chairperson from among its members and elect or appoint a  
28 secretary, each of whom shall hold office for one year or until successors are  
29 elected;

30 “(b) Hold an annual meeting and hold other meetings at such times and

1 places as the Department of Human Services or the chairperson of the  
2 council may direct;

3 “(c) Keep a record of its proceedings that is open to inspection at all  
4 times; and

5 “(d) Act in an advisory capacity to the department on matters pertaining  
6 to quality of long term care facilities and community-based care facilities  
7 and reimbursement for long term care services and community-based care  
8 services.

9 **“SECTION 23.** ORS 443.738 is amended to read:

10 “443.738. (1) Except as provided in subsection (3) of this section, all pro-  
11 viders, resident managers and substitute caregivers for adult foster homes  
12 shall satisfactorily meet all educational requirements established by the li-  
13 censing agency. After consultation with representatives of providers, edu-  
14 cators, residents’ advocates and the [*Long Term Care*] **Residential Facilities**  
15 Ombudsman, the licensing agency shall adopt by rule standards governing  
16 the educational requirements. The rules shall require that a person may not  
17 provide care to any resident prior to acquiring education or supervised  
18 training designed to impart the basic knowledge and skills necessary to  
19 maintain the health, safety and welfare of the resident. Each provider shall  
20 document compliance with the educational requirements for persons subject  
21 to the requirements.

22 “(2) The rules required under subsection (1) of this section shall include  
23 but need not be limited to the following:

24 “(a) A requirement that, before being licensed, a provider successfully  
25 completes training that satisfies a defined curriculum, including demon-  
26 strations and practice in physical caregiving, screening for care and service  
27 needs, appropriate behavior toward residents with physical, cognitive and  
28 mental disabilities and issues related to architectural accessibility;

29 “(b) A requirement that a provider pass a test before being licensed or  
30 becoming a resident manager. The test shall evaluate the ability to under-



1 stand and respond appropriately to emergency situations, changes in medical  
2 conditions, physicians' orders and professional instructions, nutritional  
3 needs, residents' preferences and conflicts; and

4 “(c) A requirement that, after being licensed, a provider or resident  
5 manager successfully completes continuing education as described in ORS  
6 443.742.

7 “(3) After consultation with representatives of providers, educators,  
8 residents' advocates and the [*Long Term Care*] **Residential Facilities** Om-  
9 budsman, the licensing agency may adopt by rule exceptions to the training  
10 requirements of subsections (1) and (2) of this section for persons who are  
11 appropriately licensed medical care professionals in Oregon or who possess  
12 sufficient education, training or experience to warrant an exception. The li-  
13 censing agency may not make any exceptions to the testing requirements.

14 “(4) The licensing agency may permit a person who has not completed the  
15 training or passed the test required in subsection (2)(a) and (b) of this section  
16 to act as a resident manager until the training and testing are completed or  
17 for 60 days, whichever is shorter, if the licensing agency determines that an  
18 unexpected and urgent staffing need exists. The licensed provider must notify  
19 the licensing agency of the situation and demonstrate that the provider is  
20 unable to find a qualified resident manager, that the person has met the re-  
21 quirements for a substitute caregiver for the adult foster home and that the  
22 provider will provide adequate supervision.

23 “(5) Providers shall serve three nutritionally balanced meals to residents  
24 each day. A menu for the meals for the coming week shall be prepared and  
25 posted weekly.

26 “(6) Providers shall make available at least six hours of activities each  
27 week which are of interest to the residents, not including television or  
28 movies. The licensing agency shall make information about resources for  
29 activities available to providers upon request. Providers or substitute  
30 caregivers shall be directly involved with residents on a daily basis.

1 “(7) Providers shall give at least 30 days’ written notice to the residents,  
2 and to the legal representative, guardian or conservator of any resident, be-  
3 fore selling, leasing or transferring the adult foster home business or the real  
4 property on which the adult foster home is located. Providers shall inform  
5 real estate licensees, prospective buyers, lessees and transferees in all writ-  
6 ten communications that the license to operate an adult foster home is not  
7 transferable and shall refer them to the licensing agency for information  
8 about licensing.

9 “(8) If a resident dies or leaves an adult foster home for medical reasons  
10 and indicates in writing the intent to not return, the provider may not  
11 charge the resident for more than 15 days or the time specified in the pro-  
12 vider contract, whichever is less, after the resident has left the adult foster  
13 home. The provider has an affirmative duty to take reasonable actions to  
14 mitigate the damages by accepting a new resident. However, if a resident  
15 dies or leaves an adult foster home due to neglect or abuse by the provider  
16 or due to conditions of imminent danger to life, health or safety, the provider  
17 may not charge the resident beyond the resident’s last day in the home. The  
18 provider shall refund any advance payments within 30 days after the resident  
19 dies or leaves the adult foster home.

20 “(9) Chemical and physical restraints may be used only after considering  
21 all other alternatives and only when required to treat a resident’s medical  
22 symptoms or to maximize a resident’s physical functioning. Restraints may  
23 not be used for discipline of a resident or for the convenience of the adult  
24 foster home. Restraints may be used only as follows:

25 “(a) Psychoactive medications may be used only pursuant to a pre-  
26 scription that specifies the circumstances, dosage and duration of use.

27 “(b) Physical restraints may be used only pursuant to a qualified  
28 practitioner’s order that specifies the type, circumstances and duration of  
29 use in accordance with rules adopted by the licensing agency. The rules  
30 adopted by the licensing agency relating to physical restraints shall include

1 standards for use and training.

2 “(10) If the physical characteristics of the adult foster home do not en-  
3 courage contact between caregivers and residents and among residents, the  
4 provider shall demonstrate how regular positive contact will occur. Providers  
5 may not place residents who are unable to walk without assistance in a  
6 basement, split-level, second story or other area that does not have an exit  
7 at ground level. Nonambulatory residents shall be given first floor rooms.

8 “(11)(a) The provider may not transfer or discharge a resident from an  
9 adult foster home unless the transfer or discharge is necessary for medical  
10 reasons, for the welfare of the resident or for the welfare of other residents,  
11 or due to nonpayment. In such cases, the provider shall give the resident  
12 written notice as soon as possible under the circumstances.

13 “(b) The provider shall give the resident and the resident’s legal repre-  
14 sentative, guardian or conservator written notice at least 30 days prior to  
15 the proposed transfer or discharge, except in a medical emergency including  
16 but not limited to a resident’s experiencing an increase in level of care needs  
17 or engaging in behavior that poses an imminent danger to self or others. In  
18 such cases, the provider shall give the resident written notice as soon as  
19 possible under the circumstances.

20 “(c) The resident has the right to an administrative hearing prior to an  
21 involuntary transfer or discharge. If the resident is being transferred or  
22 discharged for a medical emergency, or to protect the welfare of the resident  
23 or other residents, as defined by rule, the hearing must be held within seven  
24 days of the transfer or discharge. The provider shall hold a space available  
25 for the resident pending receipt of an administrative order. ORS 441.605 (4)  
26 and the rules thereunder governing transfer notices and hearings for resi-  
27 dents of long term care facilities shall apply to adult foster homes.

28 “(12) The provider may not include any illegal or unenforceable provision  
29 in a contract with a resident and may not ask or require a resident to waive  
30 any of the resident’s rights.

1       “(13) Any lessor of a building in which an adult foster home is located  
2 may not interfere with the admission, discharge or transfer of any resident  
3 in the adult foster home unless the lessor is a provider or coprovider on the  
4 license.

5       “**SECTION 24.** ORS 443.767 is amended to read:

6       “443.767. (1) When the licensing agency receives a complaint that alleges  
7 that a resident of a licensed adult foster home has been injured, abused or  
8 neglected, and that the resident’s health or safety is in imminent danger, or  
9 that the resident has died or been hospitalized, the investigation shall begin  
10 immediately after the complaint is received. If the investigator determines  
11 that the complaint is substantiated, the licensing agency shall take appro-  
12 priate corrective action immediately.

13       “(2) When the licensing agency receives a complaint that alleges the ex-  
14 istence of any circumstance that could result in injury, abuse or neglect of  
15 a resident of a licensed adult foster home, and that the circumstance could  
16 place the resident’s health or safety in imminent danger, the agency shall  
17 investigate the complaint promptly. If the investigator determines that the  
18 complaint is substantiated, the agency shall take appropriate corrective  
19 action promptly.

20       “(3) After public hearing, the licensing agency shall by rule set standards  
21 for the procedure, content and time limits for the initiation and completion  
22 of investigations of complaints. The time limits shall be as short as possible  
23 and shall vary in accordance with the severity of the circumstances alleged  
24 in the complaint. In no event shall the investigation exceed a duration of 60  
25 days, unless there is an ongoing concurrent criminal investigation, in which  
26 case the licensing agency may take a reasonable amount of additional time  
27 in which to complete the investigation.

28       “(4) The licensing agency shall take no longer than 60 days from the  
29 completion of the investigation report to take appropriate corrective action  
30 in the case of any complaint that the investigator determines to be substan-

1 tiated.

2 “(5)(a) The licensing agency shall mail a copy of the investigation report  
3 within seven days of the completion of the report to:

4 “(A) The complainant, unless the complainant requests anonymity;

5 “(B) The resident, and any person designated by the resident to receive  
6 information concerning the resident;

7 “(C) The facility; and

8 “(D) The [*Long Term Care*] **Residential Facilities** Ombudsman.

9 “(b) The copy of the report shall be accompanied by a notice that informs  
10 the recipient of the right to submit additional evidence.

11 “(6)(a) The complaint and the investigation report shall be available to  
12 the public at the local office of the licensing agency or the type B area  
13 agency [*on aging*], if appropriate. When the licensing agency or type B area  
14 agency [*on aging*] concludes the investigation of a complaint, the licensing  
15 agency or type B area agency [*on aging*] shall clearly designate the outcome  
16 of the complaint investigation and make the designation available to the  
17 public together with the complaint and the investigation report.

18 “(b) **As used in this subsection, ‘area agency’ has the meaning given**  
19 **that term in ORS 410.040.**

20 “(7) A copy of the report shall be forwarded to the licensing agency  
21 whether or not the investigation report concludes that the complaint is  
22 substantiated.

23 “**SECTION 25.** ORS 476.030 is amended to read:

24 “476.030. (1) The State Fire Marshal shall enforce all statutes, and make  
25 rules relating to:

26 “(a) The prevention of fires.

27 “(b) The storage and use of combustibles and explosives.

28 “(c) The maintenance and regulation of structural fire safety features in  
29 occupied structures and overseeing the safety of and directing the means and  
30 adequacy of exit in case of fire from factories, asylums, hospitals, churches,

1 schools, halls, theaters, amphitheaters, all buildings, except private resi-  
2 dences, which are occupied for sleeping purposes, and all other places where  
3 large numbers of persons work, live or congregate from time to time for any  
4 purpose except that structural changes shall not be required in buildings  
5 built, occupied and maintained in conformity with state building code regu-  
6 lations applicable at the time of construction.

7 “(d) Standards for equipment used for fire protection purposes within this  
8 state including standard thread for fire hose couplings and hydrant fittings.

9 “(2) The State Fire Marshal and deputies shall have such powers and  
10 perform such other duties as are prescribed by law.

11 “(3) If, in the opinion of the State Fire Marshal, a governmental subdivi-  
12 sion of the state has enacted adequate regulations generally conforming to  
13 state and national standards concerning fire prevention, fire safety measures  
14 and building construction requirements for safety, and if the governmental  
15 subdivision provides reasonable enforcement of its regulations, the State Fire  
16 Marshal may exempt the area subject to such regulation either partially or  
17 fully from the statutes, rules and regulations administered by the State Fire  
18 Marshal. Prior to adoption of any such exemption, the State Fire Marshal  
19 may request from the Department of Public Safety Standards and Training  
20 consideration of and recommendations regarding the exemption. The ex-  
21 emption may extend for a two-year period, and may be renewed from time to  
22 time, but may be canceled by the State Fire Marshal following 30 days’  
23 written notice if the State Fire Marshal finds that the governmental  
24 subdivision’s regulations or enforcement thereof are not reasonably suffi-  
25 cient. The governmental subdivision shall furnish a copy of such regulations  
26 to the State Fire Marshal and shall file with the State Fire Marshal any  
27 amendment thereto within 30 days before the effective date of such amend-  
28 ment. The State Fire Marshal shall designate a person or division within  
29 such governmental subdivision as an approved authority for exercising  
30 functions relating to fire prevention, fire safety measures and building con-

1 instruction. Upon request of a local official having enforcement responsibility  
2 and a showing of unusual fire hazard or other special circumstances, the  
3 State Fire Marshal shall make investigation and appropriate recommen-  
4 dations.

5 “(4) The State Fire Marshal may investigate or cause an investigation to  
6 be made to determine the probable cause, origin and circumstances of any  
7 fire and shall classify such findings as the State Fire Marshal may find ap-  
8 propriate to promote fire protection and prevention.

9 “(5) The State Fire Marshal shall provide training in fire safety in-  
10 spection to the Department of Human Services, area agencies, the Oregon  
11 Health Authority, community mental health programs, developmental disa-  
12 bilities programs and designees of the Long Term Care Ombudsman **and the**  
13 **Residential Facilities Ombudsman**. If an adult foster home has been in-  
14 spected by the Department of Human Services, the Oregon Health Authority,  
15 an area agency, a community mental health program or a developmental  
16 disabilities program and the agency conducting the inspection reasonably  
17 believes that the adult foster home is not in compliance with applicable fire  
18 safety rules, the agency conducting the inspection may request the State Fire  
19 Marshal to inspect or cause an inspection to be made. If a designee of the  
20 [*Long Term Care*] **Residential Facilities** Ombudsman, in the course of vis-  
21 iting an adult foster home, believes that the adult foster home is not in  
22 compliance with applicable fire safety rules, the designee shall report the  
23 problem to the appropriate agency to request a fire safety inspection by the  
24 office of the State Fire Marshal or by a designated representative of the of-  
25 fice of the State Fire Marshal.

26 “(6) Upon the request of the Department of Human Services, the Oregon  
27 Health Authority, an area agency, a community mental health program or  
28 a developmental disabilities program, the State Fire Marshal shall inspect  
29 or cause an inspection to be made to determine if the adult foster home is  
30 in compliance with rules jointly adopted by the Department of Human Ser-

1 vices and the State Fire Marshal establishing fire safety standards for adult  
2 foster homes.

3 “(7) As used in subsections (5) and (6) of this section:

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

5 “(b) ‘Area agency’ has the meaning given that term in ORS 410.040.

6 “(c) ‘Community mental health program’ means a program established  
7 under ORS 430.620 (1)(b).

8 “(d) ‘Developmental disabilities program’ means a program established  
9 under ORS 430.620 (1)(a).

10

11

### “CAPTIONS

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13 **“SECTION 26. The unit captions used in this 2017 Act are provided**  
14 **only for the convenience of the reader and do not become part of the**  
15 **statutory law of this state or express any legislative intent in the**  
16 **enactment of this 2017 Act.**

17

18

### “EMERGENCY CLAUSE

19

20 **“SECTION 27. This 2017 Act being necessary for the immediate**  
21 **preservation of the public peace, health and safety, an emergency is**  
22 **declared to exist, and this 2017 Act takes effect on its passage.”.**

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