

D R A F T

SUMMARY

Clarifies text of section related to adoption by Department of Human Services of nursing home patients' bill of rights. Corrects references. Adds missing definitions for series.

A BILL FOR AN ACT

1
2 Relating to long term care facilities; amending ORS 441.610, 441.685 and
3 441.705.

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

4 **SECTION 1.** ORS 441.610 is amended to read:

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6 441.610. (1) The Department of Human Services shall adopt **rules pre-**
7 **scribing** a nursing home patients' bill of rights consistent with the princi-
8 ples set forth in ORS 441.605. The rules shall be applicable to all residents
9 and as far as practicable shall conform to any federal nursing home patients'
10 bill of rights.

11 (2) The department shall periodically review the rules to [*assure*] **ensure**
12 that they meet the principles set forth in ORS 441.605 and that they are in
13 conformity with federal standards but in no case shall the rules be less pro-
14 tective than required by ORS 441.605.

15 (3) The department shall be guided by federal interpretative standards in
16 its enforcement of the nursing home patients' bill of rights.

17 **SECTION 2.** ORS 441.685 is amended to read:

18 441.685. (1) Upon receipt of a report under ORS 441.645 to 441.680 or upon
19 receipt of a complaint by a resident or legal guardian of a resident, or other
20 public or private official, as defined in ORS 441.630 by the Department of

1 Human Services, the Director of Human Services may designate monitors
2 who shall observe the activities of the facility and report to the director.
3 The monitors may be designated without prior notice to the operator or
4 owner of the facility. The monitors shall observe the operations of the fa-
5 cility for a period of not to exceed 10 days, assist the facility by advising it
6 on how to comply with state requirements and shall submit a written report
7 periodically to the director on the operation and condition of the facility.

8 (2) The monitors shall have access to the facilities to the extent necessary
9 to carry out their duties. The monitors shall also have access to all records
10 pertaining to the operation of the facility.

11 (3) Upon completion of their investigations, the monitors shall file a final
12 report with the director and may:

13 (a) Find that problems in the facility have been resolved and recommend
14 that further action by the department is unnecessary;

15 (b) Find that the problems in the facility are continuing but the facility
16 owner, operator or other controlling person can resolve them within a period
17 of not more than three months, and that during the three-month period the
18 health and welfare of the residents of the facility are not jeopardized
19 thereby; or

20 (c) Find that the problems of the facility have not been resolved and the
21 department should take steps to obtain compliance with resident care stan-
22 dards and continue monitoring for an additional period.

23 (4) Associations representing long term care facilities may initiate a peer
24 review process for any facility that is a member of the association and that
25 is the subject of any complaint filed against it under ORS 441.630 to
26 441.685[, 678.155 and 678.445] or any other provision of law. The report of the
27 peer review process shall be submitted to the department. The peer review
28 described in this subsection is in addition to and not in lieu of any other
29 investigation, observation or report of the monitors otherwise required or
30 authorized by ORS 441.630 to 441.685[, 678.155 and 678.445] **and 678.150**. The
31 association and persons conducting the peer review process acting in good

1 faith shall not be subject to an action for civil damages as a result thereof.

2 (5) As used in this section:

3 (a) "Department" means the Department of Human Services.

4 (b) "Director" means the Director of Human Services.

5 (c) "Facility" means a long term care facility as defined in ORS 442.015.

6 (d) "Monitor" means an agent of the director designated by the director
7 to observe the operation of a facility.

8 **SECTION 3.** ORS 441.705 is amended to read:

9 441.705. As used in ORS 441.705 to 441.745:

10 (1) "Direct patient care or feeding" means any care provided directly to
11 or for any patient related to that patient's physical, medical and dietary
12 well-being as defined by rules of:

13 (a) The Department of Human Services when the facility is a long term
14 care facility, as defined in ORS 442.015, or a residential care facility, resi-
15 dential training facility or residential training home[, *as those terms are de-*
16 *fin ed in ORS 443.400*]; and

17 (b) The Oregon Health Authority if the facility is a residential treatment
18 facility or a residential treatment home[, *as defined in ORS 443.400*].

19 (2) "Person" means a licensee of a long term care facility, a residential
20 care facility, a residential training facility, a residential treatment facility,
21 a residential training home or a residential treatment home, or an unlicensed
22 person who the Director of Human Services finds should be licensed to op-
23 erate a long term care facility, a residential care facility, a residential
24 training facility or a residential training home, or an unlicensed person who
25 the Director of the Oregon Health Authority finds should be licensed to op-
26 erate a residential treatment facility or residential treatment home.
27 "Person" does not mean an employee of a licensee or unlicensed person who
28 the Director of Human Services or the Director of the Oregon Health Au-
29 thority finds should be licensed.

30 (3) "**Residential care facility**" has the meaning given that term in
31 **ORS 443.400.**

1 (4) “Residential training facility” has the meaning given that term
2 in ORS 443.400.

3 (5) “Residential training home” has the meaning given that term
4 in ORS 443.400.

5 (6) “Residential treatment facility” has the meaning given that
6 term in ORS 443.400.

7 (7) “Residential treatment home” has the meaning given that term
8 in ORS 443.400.

9 [(3)] (8) “Staff to patient ratio” means the number and training of persons
10 providing direct patient care as defined in rules of the:

11 (a) Department if the facility is a long term care facility, a residential
12 care **facility, a** [*or*] residential training facility or a residential training
13 home; or

14 (b) Authority if the facility is a residential treatment facility or a resi-
15 dential treatment home.

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