

Enrolled
Senate Bill 669

Sponsored by Senator MONNES ANDERSON; Representatives FAHEY, HOLVEY, KENY-GUYER, MCKEOWN, SCHOUTEN, SOLLMAN

CHAPTER

AN ACT

Relating to assistance with activities of daily living provided to individuals in their own homes; creating new provisions; and amending ORS 443.065, 443.315 and 443.325 and section 2, chapter 75, Oregon Laws 2018.

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

SECTION 1. (1) The Oregon Health Authority shall establish by rule training requirements that must be met before an individual may be permitted to provide in-home care services, as defined in ORS 443.305. The training requirements must include a minimum number of hours of orientation and assessment of competency. The minimum number of hours may be greater for an individual who will be providing enhanced care and services, such as medication management.

(2) Except as provided in subsection (3) of this section, the training requirements apply to any individual who is not licensed or certified to provide health care in this state and who provides in-home care services as an employee or contractor of a licensed:

- (a) In-home care agency as defined in ORS 443.305;
- (b) Home health agency as defined in ORS 443.014; or
- (c) Hospital as defined in ORS 442.015.

(3) The training requirements shall not apply to an individual providing personal care services that are incidental to the provision of home health care or hospital services.

SECTION 2. (1) The Department of Human Services shall develop recommendations for methods to assess and monitor home care services, as defined in ORS 410.600, provided by home care workers, as defined in ORS 410.600. The recommendations may include electronic monitoring of home care workers or on-site monitoring by case managers or services coordinators of home care workers providing care in their clients' homes. The department shall avoid any recommendations regarding assessment and monitoring that might lead to the state being deemed the legal employer of home care workers.

(2) No later than February 1, 2021, the department shall report its recommendations to the Legislative Assembly in the manner provided in ORS 192.245.

SECTION 3. ORS 443.065 is amended to read:

443.065. [The] A home health agency licensed in this state shall:

(1) Be primarily engaged in providing skilled nursing services and at least one other service delineated in ORS 443.075 (1)(b) and (c);

(2) Have policies established by professional personnel associated with the agency or organization, including one or more physicians or naturopathic physicians and one or more registered

nurses, at least two of whom are neither owners nor employees of the agency, and two consumers, to govern the services that it provides;

(3) Require supervision of services that it provides under subsection (1) of this section by a physician, physician assistant, nurse practitioner, naturopathic physician or registered nurse, preferably a public health nurse;

(4) Ensure that in-home care services, as defined in ORS 443.305, that it provides in addition to skilled nursing services are provided by individuals who meet the training requirements established by the Oregon Health Authority under section 1 of this 2019 Act, if applicable;

[4] (5) Maintain clinical and financial records on all patients; and

[5] (6) Have an overall plan and budget in effect.

SECTION 4. ORS 443.315 is amended to read:

443.315. (1) A person may not establish, manage or operate an in-home care agency or purport to manage or operate an in-home care agency without obtaining a license from the Oregon Health Authority.

(2) The authority shall establish classification requirements and qualifications for licensure under this section by rule. The authority shall issue a license to an applicant that has the necessary qualifications and meets all requirements established by rule, including the payment of required fees. An in-home care agency shall be required to maintain administrative and professional oversight to ensure the quality of services provided **and that the training requirements established by the authority under section 1 of this 2019 Act, if applicable, have been met by any individual employed by or contracting with the in-home care agency to provide in-home care services.**

(3) Application for a license required under subsection (1) of this section shall be made in the form and manner required by the authority by rule and shall be accompanied by any required fees.

(4) A license may be granted, or may be renewed annually, upon payment of a fee as follows:

(a) For the initial licensure of an in-home care agency that is classified as:

(A) Limited, the fee is \$2,000.

(B) Basic, the fee is \$2,250.

(C) Intermediate, the fee is \$2,500.

(D) Comprehensive, the fee is \$3,000.

(b) There is an additional fee of \$1,250 for the initial licensure of each subunit in any classification of in-home care agency.

(c) For the renewal of a license classified as:

(A) Limited or basic, the fee is \$1,000.

(B) Intermediate, the fee is \$1,250.

(C) Comprehensive, the fee is \$1,500.

(d) There is an additional fee of \$1,000 for the renewal of licensure for each subunit in any classification of in-home care agency.

(e) For a change of ownership at a time other than the annual renewal date:

(A) The fee is \$350; and

(B) There is an additional fee of \$350 for each subunit.

(5) A license issued under this section is valid for one year. A license may be renewed by payment of the required renewal fee and by demonstration of compliance with requirements for renewal established by rule.

(6) A license issued under this section is not transferable.

(7) The authority shall conduct an on-site inspection of each in-home care agency prior to services being rendered and once every *[three]* **two** years thereafter as a requirement for licensing.

(8) In lieu of the on-site inspection required by subsection (7) of this section, the authority may accept a certification or accreditation from a federal agency or an accrediting body approved by the authority that the state licensing standards have been met, if the in-home care agency:

(a) Notifies the authority to participate in any exit interview conducted by the federal agency or accrediting body; and

(b) Provides copies of all documentation concerning the certification or accreditation requested by the authority.

SECTION 5. ORS 443.325 is amended to read:

443.325. (1) The Oregon Health Authority may impose a civil penalty and may deny, suspend or revoke the license of any in-home care agency licensed under ORS 443.315 for failure to comply with ORS 443.305 to 443.350 or with rules adopted thereunder. *[The authority may deny, suspend or revoke the license of any in-home care agency licensed under ORS 443.315 for failure to comply with ORS 443.004.]* A failure to comply with ORS 443.305 to 443.350 includes, but is not limited to:

[(1)] (a) Failure to provide a written disclosure statement to the client or the client's representative prior to in-home care services being rendered;

[(2)] (b) Failure to provide the contracted in-home care services; [or]

[(3)] (c) Failure to correct deficiencies identified during an inspection by the authority; **or**

(d) A demonstrated pattern, over the previous five years, of significant and substantiated violations of:

(A) Employment or wage laws in this state, as prescribed by the authority by rule:

(i) By an in-home care agency licensee as an employer of staff in an in-home care agency; or

(ii) By an applicant for an in-home care agency license in any business owned or operated by the applicant; or

(B) Caregiver training requirements, as established by the authority by rule, in any in-home care agency owned or operated by an in-home care agency licensee.

(2) The authority may deny, suspend or revoke the license of any in-home care agency licensed under ORS 443.315 for failure to comply with ORS 443.004.

SECTION 6. Section 2, chapter 75, Oregon Laws 2018, is amended to read:

Sec. 2. (1) The Department of Human Services, acting on behalf of and subject to the approval of the Home Care Commission, shall adopt by rule minimum training standards for home care workers and personal support workers and shall establish procedures for testing home care workers and personal support workers on their mastery of the skills and knowledge to be acquired through the training. **The training standards must require a minimum number of hours of orientation and assessment of competency before a home care worker or personal support worker is permitted to provide home care services to a client. The minimum number of hours may be greater for home care workers who will be providing enhanced care and services, such as medication management.**

(2) The department shall provide training on the mandatory training topics established under this subsection and on any other training that the department or the commission deems appropriate for the professionalization of home care workers and personal support workers. The training provided pursuant to this section may include, but is not limited to, training on the following topics:

(a) Safety and emergency measures.

(b) Understanding the requirements for providers paid with Medicaid funds.

(c) Providing person-centered care.

(d) Understanding how to support the physical and emotional needs of the individual who is receiving care.

(e) Managing medications.

(f) Providing personal care and assistance with activities of daily living.

(3) The training provided in accordance with this section must be geographically accessible in all areas of this state and culturally appropriate for workers of all language abilities.

(4) In developing the training provided under this section, the department shall:

(a) Consider the needs of each worker type, including workers who are relatives of the individuals receiving care, workers who provide respite care, experienced workers and new workers; and

(b) Strive to align the training with the training requirements for care providers in other long term care settings.

(5) The department shall consult with the Developmental Disabilities and Mental Health Committee, unions representing home care workers and personal support workers and other stakeholders in the adoption of rules to carry out the provisions of this section.

SECTION 7. Section 1 of this 2019 Act and the amendments to ORS 443.065, 443.315 and 443.325 and section 2, chapter 75, Oregon Laws 2018, by sections 3 to 6 of this 2019 Act become operative on January 1, 2021.

SECTION 8. Notwithstanding any other provision of law, the General Fund appropriation made to the Oregon Health Authority by section 1 (1), chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 5525), for programs, for the biennium beginning July 1, 2019, is increased by \$399,587 for the purpose of carrying out the provisions of this 2019 Act.

SECTION 9. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (4), chapter _____, Oregon Laws 2019 (Enrolled House Bill 5026), for aging and people with disabilities and intellectual/developmental disabilities programs, for the biennium beginning July 1, 2019, is increased by \$125,000 for the purpose of carrying out the provisions of this 2019 Act.

SECTION 10. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (4), chapter _____, Oregon Laws 2019 (Enrolled House Bill 5026), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter _____, Oregon Laws 2019 (Enrolled House Bill 5026), collected or received by the Department of Human Services for aging and people with disabilities and intellectual/developmental disabilities programs, is increased by \$125,000 for the purpose of carrying out the provisions of this 2019 Act.

Passed by Senate June 29, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 30, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State