

Requested by Representative NATHANSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 2600**

1 On page 1 of the printed bill, line 3, after “441.406,” delete the rest of the
2 line and insert “441.413, 443.382, 443.386, 443.415 and 443.735.”.

3 In line 9, after the semicolon insert “and

4 “(C) A residential care facility, as defined in ORS 443.400, including a
5 residential care facility with a memory care endorsement.”.

6 Delete lines 10 and 11.

7 In line 21, after “outbreaks” insert “based on the current best evidence
8 in the field of infection and disease outbreak identification, prevention and
9 control”.

10 In line 24, after the period insert “The authority shall make the training
11 available online.

12 “(4)(a) A facility must establish and maintain infection prevention and
13 control protocols designed to provide a safe, sanitary and comfortable envi-
14 ronment and to prevent the development and transmission of communicable
15 diseases.

16 “(b) A facility must designate an individual to be responsible for carrying
17 out the infection prevention and control protocols and to serve as the pri-
18 mary point of contact for the department regarding disease outbreaks. The
19 individual must:

20 “(A) Be qualified by education, training and experience or certification;
21 and

1 “(B) Complete specialized training in infection prevention and control
2 within three months of being designated under this paragraph.”.

3 In line 25, delete “(4)” and insert “(c)”.

4 On page 2, line 7, after “shall” insert a colon and begin a new paragraph
5 and insert “(a)”.

6 Delete lines 11 through 25 and insert:

7 “(b) Provide notification of a reportable disease outbreak to the facilities
8 in a community where residents and staff may be at risk of exposure to the
9 disease outbreak.

10 “(7) The training required by this section is in addition to and may not
11 supplant existing training requirements.

12 **“SECTION 2. (1) A facility, as defined in section 1 of this 2019 Act,
13 must have its kitchen, and other areas where food is prepared for
14 residents, inspected by the local public health authority at least two
15 times each year. The inspection must be conducted by a registered
16 environmental health specialist who has food sanitation expertise. The
17 facility shall contract or enter into an agreement with the local public
18 health authority establishing the compensation or fee to be paid by the
19 facility for the inspections.**

20 **“(2) In counties where there is no local public health authority, the
21 facility shall contract with the Oregon Health Authority to conduct
22 the inspections.”.**

23 In line 26, delete “4” and insert “3”.

24 On page 3, line 25, delete “5” and insert “4”.

25 In line 43, delete “section 1” and insert “sections 1 and 2”.

26 Delete line 45.

27 On page 4, delete line 1 and insert:

28 “(B) In accordance with section 2 of this 2019 Act, the local public health
29 authority or the Oregon Health Authority has conducted an inspection of the
30 health care facility’s kitchen or other area where food is prepared for resi-

1 dents; and”.

2 In line 8, delete “section 1” and insert “sections 1 and 2”.

3 In line 44, delete “and”.

4 On page 5, line 2, delete the period and insert “; and

5 “(c) Rules, adopted in consultation with the Department of Human Ser-
6 vices, to ensure that a health care facility complies with section 2 of this
7 2019 Act, if applicable.”.

8 In line 6, delete “and”.

9 In line 9, delete the period and insert “; and

10 “(c) Rules to ensure that a long term care facility complies with section
11 2 of this 2019 Act.”.

12 In line 20, delete “6” and insert “5”.

13 In line 39, delete “section 1” and insert “sections 1 and 2”.

14 In line 42, after the first “residential” delete the rest of the line and lines
15 43 and 44 and insert “care facility, the local public health authority, or the
16 Oregon Health Authority if there is no local public health authority, has
17 conducted an inspection of the kitchen and other areas where food is pre-
18 pared for residents in accordance with section 2 of this 2019 Act.”.

19 On page 6, line 2, delete “section 1” and insert “sections 1 and 2”.

20 In line 6, after the first “residential” delete the rest of the line and line
21 7 and insert “care facility, the facility has failed an inspection of the kitchen
22 or other areas where food is prepared for residents that was conducted by
23 the local public health authority or the Oregon Health Authority in accord-
24 ance with section 2 of this 2019 Act”.

25 In line 8, delete “tation laws”.

26 Delete lines 9 through 45 and delete pages 7 through 10 and insert:

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

28 “443.735. (1)(a) Applications for a license to maintain and operate an adult
29 foster home shall be made on forms provided by the licensing agency.

30 “(b) Each application submitted to the Department of Human Services for

1 an adult foster home serving individuals with intellectual or developmental
2 disabilities shall be accompanied by a fee of \$50 per bed requested for li-
3 censing.

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

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

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

11 “(a) The applicant and adult foster home are in compliance with ORS
12 443.002 and 443.705 to 443.825 and the rules of the licensing agency;

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

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

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

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

1 agency regarding whether the applicant is in bankruptcy. If the applicant is
2 unable to demonstrate the financial ability and resources required by this
3 paragraph, the licensing agency may require the applicant to furnish a fi-
4 nancial guarantee as a condition of initial licensure; **and**

5 **“(f) The applicant and any staff of the applicant have received the**
6 **training described in section 1 (3) of this 2019 Act.**

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

9 “(a) The applicant and the 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 under this paragraph shall be conducted in accord-
17 ance with rules adopted under ORS 181A.195; and

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.

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

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

29 “(6)(a) Persons who have been convicted of one or more crimes that, as
30 determined by rules of the licensing agency, are substantially related to the

1 qualifications, functions or duties of a provider, substitute caregiver or other
2 household member of an adult foster home shall be prohibited from operat-
3 ing, working in or residing in an adult foster home.

4 “(b) The licensing agency shall adopt rules that distinguish the criminal
5 convictions and types of abuse that permanently prohibit a person from op-
6 erating, working in or living in an adult foster home from the convictions
7 and types of abuse that do not permanently prohibit the person from oper-
8 ating, working in or living in an adult foster home.

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

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

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

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

30 “(10)(a) All moneys collected under ORS 443.725 to 443.780 from adult

1 foster homes that are licensed to serve persons with mental, emotional or
2 behavioral disturbances or alcohol or drug dependence shall be deposited in
3 a special account in the General Fund, and are appropriated continuously for
4 payment of expenses incurred by the Oregon Health Authority.

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

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

14 **“SECTION 7.** ORS 441.406, as amended by section 17, chapter 61, Oregon
15 Laws 2018, is amended to read:

16 “441.406. (1) The Long Term Care Ombudsman shall carry out the fol-
17 lowing duties:

18 “(a) Investigate and resolve complaints made by or for residents of long
19 term care facilities about administrative actions that may adversely affect
20 their health, safety, welfare or rights, including subpoenaing any person to
21 appear, to give sworn testimony or to produce documentary or other evidence
22 that is reasonably material to any matter under investigation.

23 **“(b) Notify the Department of Human Services or the Oregon**
24 **Health Authority about disease outbreaks reported by residents to the**
25 **ombudsman or identified by the ombudsman.**

26 “[*b*] (c) Undertake, participate in or cooperate with persons and agen-
27 cies in such conferences, inquiries, meetings or studies as may lead to im-
28 provements in the functioning of long term care facilities.

29 “[*c*] (d) Monitor the development and implementation of federal, state
30 and local laws, regulations and policies that relate to long term care facili-

1 ties in this state.

2 “[*d*] (**e**) Provide information to public agencies about the problems of
3 residents of long term care facilities.

4 “[*e*] (**f**) Work closely with cooperative associations and citizen groups
5 in this state and the state protection and advocacy system under ORS
6 192.517.

7 “[*f*] (**g**) Widely publicize the Long Term Care Ombudsman’s services,
8 purpose and mode of operation.

9 “[*g*] (**h**) Collaborate with the Oregon Health Authority, the Department
10 of Human Services, the Long Term Care Administrators Board and any other
11 appropriate agencies and organizations to establish a statewide system to
12 collect and analyze information on complaints and conditions in long term
13 care facilities for the purpose of publicizing improvements and resolving
14 significant problems.

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

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

24 “[*j*] (**k**) Specify qualifications and duties of designees.

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

28 “[*L*] (**m**) Provide periodically, or at least annually, a report to the
29 Governor, authority, department and Legislative Assembly.

30 “[*m*] (**n**) Prepare necessary reports with the assistance of the authority

1 and the department.

2 “[*n*] (o) Advise and support the Oregon Public Guardian and
3 Conservator appointed under ORS 125.678.

4 “[*o*] (p) Supervise, monitor, advise and support the Residential Facilities
5 Ombudsman appointed under ORS 443.382.

6 “(2) At least quarterly, the Department of Human Services shall provide
7 the Long Term Care Ombudsman with a list of the number of licensed or
8 certified beds in each long term care facility for which the ombudsman has
9 responsibilities under this section.

10 **“SECTION 8.** ORS 441.413 is amended to read:

11 “441.413. (1) The Long Term Care Ombudsman shall appoint designees, in
12 consultation with local screening committees **that are appointed by and**
13 **serve at the pleasure of the ombudsman,** that may consist of but not be
14 limited to persons representing:

15 “(a) The area agency, as defined in ORS 410.040.

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

17 “(c) The local health department.

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

19 “(e) Local elected officials.

20 “(2) To be appointed as a designee, a person must complete an initial
21 training, as prescribed by the Long Term Care Ombudsman by rule, and at-
22 tend quarterly training sessions that are approved by the ombudsman and
23 that shall be coordinated and funded by the Department of Human Services
24 and the Oregon Health Authority, subject to the availability of funds. **The**
25 **training must include instruction on how to identify and report disease**
26 **outbreaks.** [*Local screening committees shall be appointed by and serve at the*
27 *pleasure of the ombudsman.*]

28 “(3) Designees must sign a contract with the state that outlines the scope
29 of their duties. In districts where a designee is an employee or agent of a
30 local entity, a three-party contract shall be executed. Violation of the con-

1 tract is cause for the termination of the appointment. A directory of all
2 designees shall be maintained in the office of the Long Term Care Ombuds-
3 man.

4 “(4) The qualifications of designees shall include experience with long
5 term care facilities or residents or potential residents of long term care fa-
6 cilities, and the ability to communicate well, to understand laws, rules and
7 regulations, and to be assertive, yet objective.

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

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

13 “(a) Promote rapport and trust between the residents and staff of the long
14 term care facilities and Long Term Care Ombudsman;

15 “(b) Assist residents with participating more actively in determining the
16 delivery of services at the facilities;

17 “(c) Serve as an educational resource;

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

20 “(e) Ensure equitable resolution of problems.

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

22 “(a) Visit each assigned long term care facility on a regular basis:

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

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

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

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

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

30 “(d) Keep residents and staff informed of the Long Term Care Ombudsman

1 Program.

2 “(e) Periodically review the rights prescribed in ORS 441.605, 441.610 and
3 441.612, and any other applicable rights to services, with residents, families,
4 guardians, administrators and staff of long term care facilities.

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

6 **“SECTION 9.** ORS 443.382 is amended to read:

7 “443.382. (1) The Long Term Care Ombudsman, in consultation with the
8 Residential Ombudsman and Public Guardianship Advisory Board established
9 under ORS 441.416, shall appoint a Residential Facilities Ombudsman for a
10 four-year term. The Residential Facilities Ombudsman serves at the pleasure
11 of the Long Term Care Ombudsman and may be removed by the Long Term
12 Care Ombudsman for cause. The Long Term Care Ombudsman shall fill any
13 vacancy within 60 days. The salary of the Residential Facilities Ombudsman
14 shall be determined by the Long Term Care Ombudsman. The Residential
15 Facilities Ombudsman shall be reimbursed for all reasonable travel and other
16 expenses incurred in the performance of the ombudsman’s official duties.

17 “(2) The Residential Facilities Ombudsman may, subject to the approval
18 of the Long Term Care Ombudsman, hire or contract with volunteers, staff,
19 deputy ombudsmen and other qualified individuals as necessary to perform
20 the duties of the ombudsman.

21 “(3) The Residential Facilities Ombudsman shall:

22 “(a) Identify, investigate and resolve complaints made by or on behalf of
23 residents about administrative actions.

24 “(b) Provide residents, families of residents, guardians, community mem-
25 bers and administrators and staff of residential facilities with information
26 regarding the rights of residents as set forth in ORS 427.107 and 430.210 and
27 any other applicable rights of residents.

28 **“(c) Notify the licensing agency about disease outbreaks reported**
29 **by residents to the ombudsman or identified by the ombudsman.**

30 “[c)] (d) Widely publicize the Residential Facilities Ombudsman’s ser-

1 vices, purpose and mode of operation.

2 “[*d*] (e) Undertake, participate in or cooperate with persons and agen-
3 cies in conferences, inquiries, meetings or studies that may lead to improve-
4 ments in the functioning of residential facilities.

5 “[*e*] (f) Work closely with associations and citizen groups in this state
6 and the state protection and advocacy system under ORS 192.517.

7 “[*f*] (g) Provide services to residents to assist them in protecting their
8 health, safety, welfare and rights.

9 “[*g*] (h) Ensure that residents have regular, timely, private and unim-
10 peded access to the Residential Facilities Ombudsman’s services and that a
11 resident or an individual acting on behalf of a resident who files a complaint
12 receives a timely response to the complaint from the ombudsman or a
13 designee.

14 “[*h*] (i) Represent the interests of residents before government agencies
15 and seek administrative, legal or other appropriate remedies to protect the
16 health, safety, welfare and rights of residents.

17 “[*i*] (j) Analyze, comment on and monitor the development and imple-
18 mentation of federal, state and local laws and other governmental policies
19 pertaining to the health, safety, welfare and rights of residents.

20 “[*j*] (k) Recommend any changes to state or local laws to improve the
21 health, safety, welfare and rights of residents.

22 “[*k*] (L) Facilitate public comment on laws and policies that affect the
23 health, safety, welfare and rights of residents.

24 “[*L*] (m) Train designees.

25 “[*m*] (n) Promote the development of organizations to advocate on behalf
26 of residents of residential facilities.

27 “[*n*] (o) To the extent practicable, assist residents who move from a
28 residential facility to a home care setting.

29 “[*o*] (p) Assist residents and individuals acting on their behalf in locat-
30 ing and accessing resources in the community and in connecting with local

1 service providers.

2 “[p] (q) Engage the participation of residents in general studies, con-
3 ferences, inquiries or meetings related to residential care in this state.

4 “[q] (r) Make recommendations for improvements in the functioning of
5 the residential facility system in this state.

6 “[r] (s) Collaborate with the Oregon Health Authority, the Department
7 of Human Services, and any other appropriate agencies and organizations to
8 establish a statewide system to collect and analyze information on com-
9 plaints about and conditions in residential facilities for the purpose of pub-
10 licizing improvements and resolving significant problems for residents.

11 “[s] (t) Provide information to public agencies about the problems of
12 residents.

13 “[t] (u) Collect and compile data necessary to prepare the report sub-
14 mitted to the Governor under ORS 182.500.

15 “[u] (v) Adopt rules necessary for carrying out ORS 443.380 to 443.394,
16 in accordance with ORS chapter 183, in consultation with the Long Term
17 Care Ombudsman and the Residential Ombudsman and Public Guardianship
18 Advisory Board.

19 **“SECTION 10.** ORS 443.386 is amended to read:

20 “443.386. (1) The Residential Facilities Ombudsman shall, in consultation
21 with the Long Term Care Ombudsman, appoint designees to serve as repre-
22 sentatives of the ombudsman in local communities. The ombudsman shall
23 regularly monitor the functions of designees.

24 “(2) The Residential Facilities Ombudsman shall prescribe the qualifica-
25 tions of designees by rule.

26 “(3) To be appointed as a designee, a person must complete an initial
27 training prescribed by the Residential Facilities Ombudsman by rule and at-
28 tend required continuing educational training sessions that are approved by
29 the ombudsman. **The training must include instruction on how to iden-**
30 **tify and report disease outbreaks.**

1 “(4) Designees must sign a contract with the Residential Facilities Om-
2 budsman that outlines the scope of their duties. Violation of the contract
3 is cause for terminating the appointment of a designee.

4 “**SECTION 11. Sections 1 and 2 of this 2019 Act and the amendments**
5 **to ORS 433.004, 441.025, 441.406, 441.413, 443.382, 443.386, 443.415 and**
6 **443.735 by sections 3 to 10 of this 2019 Act apply to the issuance or re-**
7 **newal of a license for a long term care facility, conversion facility,**
8 **residential care facility or adult foster home on or after the effective**
9 **date of this 2019 Act.”.**

10
