

SB 669-2
(LC 1408)
4/8/19 (LHF/ps)

Requested by Senator MONNES ANDERSON

**PROPOSED AMENDMENTS TO
SENATE BILL 669**

1 On page 1 of the printed bill, line 3, delete “443.025, 443.090” and insert
2 “441.025, 443.025, 443.085, 443.090, 443.105”.

3 In line 9, delete “place of residence” and insert “private home”.

4 In line 10, delete the period and insert “, a service provider as defined in
5 ORS 427.101 or a developmental disability child foster home certified under
6 ORS 443.835.”.

7 In line 19, after “services” insert “in the individual’s private home”.

8 Delete lines 23 through 29.

9 Delete page 2.

10 On page 3, delete lines 1 through 25 and insert:

11 **“SECTION 2. ORS 443.315 is amended to read:**

12 “443.315. (1) A person may not establish, manage or operate an in-home
13 care agency or purport to manage or operate an in-home care agency without
14 [*obtaining*] a license from the Oregon Health Authority **and may not**
15 **manage or operate an in-home care agency that provides services**
16 **outside of the scope of the services authorized by the classification of**
17 **an in-home care agency’s license.**

18 “(2) The authority shall establish classification requirements and quali-
19 fications for licensure under **subsection (1) of** this section by rule. The au-
20 thority shall issue a license to an applicant that has the necessary
21 qualifications and meets all requirements established by rule **in accordance**

1 **with ORS 443.340**, including the payment of required fees. An in-home care
2 agency shall be required to maintain administrative and professional over-
3 sight to ensure the quality of services provided **and compliance with ORS**
4 **443.340**.

5 “(3) **An application [for] to obtain, renew or change the classification**
6 **of a license required under subsection (1) of this section shall be made in the**
7 **form and manner required by the authority by rule and shall be accompanied**
8 **by any required fees, information and documentation to verify that the**
9 **in-home care agency meets the requirements of ORS 443.340**.

10 “(4) A license may be granted, or may be renewed annually, **if the au-**
11 **thority determines that the in-home care agency meets the require-**
12 **ments of ORS 443.305 to 443.350 and** upon payment of a fee as follows:

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

15 “(A) Limited, the fee is \$2,000.

16 “(B) Basic, the fee is \$2,250.

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

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

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

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

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

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

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

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

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

29 “(A) The fee is \$350; and

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

1 “(5) A license issued under this section is valid for one year. A license
2 may be renewed by payment of the required renewal fee and by demon-
3 stration of compliance with requirements for renewal established by rule **in**
4 **accordance with ORS 443.340.**

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

6 “(7) The authority shall conduct an on-site inspection of each in-home
7 care agency prior to services being rendered and once every [*three*] **two** years
8 thereafter as a requirement for licensing. **The on-site inspection must**
9 **include but is not limited to:**

10 **“(a) Interviews with and observation of clients and in-home**
11 **caregivers; and**

12 **“(b) An inspection of records to verify compliance with the re-**
13 **quirements of ORS 443.340.**

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

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

20 “(b) Provides copies of all **materials or** documentation concerning the
21 certification or accreditation requested by the authority **under ORS 443.340**
22 **(2).**

23 **“(9) The authority may issue a probationary license, for up to 90**
24 **days, to an applicant who was denied a license based on failing to**
25 **comply with a provision of ORS 443.340 (1)(b) or to an in-home care**
26 **agency whose license was suspended based on any provision of ORS**
27 **443.340, to allow the applicant or in-home care agency to come into**
28 **compliance with ORS 443.340.”.**

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

30 In line 38, delete “5” and insert “4”.

1 Delete line 45.

2 On page 4, line 1, delete “(c)” and insert “(b)” and delete “the training
3 required by section 2” and insert “training that meets the requirements for
4 accessibility, cultural competency and minimum hours adopted by the De-
5 partment of Human Services under section 2 (1)”.

6 In line 3, delete “(d)” and insert “(c)”.

7 Delete lines 20 through 45.

8 On page 5, delete lines 1 through 8 and insert:

9 “(2) The authority may require an agency applying for or renewing a li-
10 cense under ORS 443.315 to provide a list of any convictions, complaints or
11 substantiated findings by a regulatory agency of:

12 “(a) A violation of consumer protection laws;

13 “(b) An unlawful practice described in ORS 646.608;

14 “(c) Elder abuse or neglect;

15 “(d) A violation of health information privacy laws;

16 “(e) Unlawful billing practices; and

17 “(f) Unlawful employment practices, including practices related to termi-
18 nation, discrimination, harassment, retaliation, leaves of absence, hours of
19 work, wages and pay, employee health and safety, temporary and on-call staff
20 and engagement, and classification of independent contractors.

21 “(3) The authority may refuse to renew the license of an in-home care
22 agency if, during a survey of the agency, the authority finds a number, as
23 prescribed by the authority by rule, of wage and hour law violations, com-
24 plaints of unfair labor practices or violations of training requirements.

25 “(4) The authority shall make publicly available all materials or doc-
26 umentation received under subsection (2) of this section. Information that is
27 not subject to disclosure as protected health information or trade secrets
28 must be withheld from disclosure or redacted from the materials or doc-
29 umentation.”.

30 In line 9, delete “6” and insert “5”.

1 In line 32, delete “7” and insert “6”.

2 In line 43, delete “8” and insert “7”.

3 On page 6, line 8, delete “9” and insert “8”.

4 In line 11, after “services” insert “in an individual’s home”.

5 In line 12, delete “10” and insert “9”.

6 On page 7, line 20, after “(14)” insert “(a)”.

7 In line 22, after “in” delete the rest of the line and insert “an individual’s

8 private home:

9 “(b) ‘Private agency caregiver’ does not include:

10 “(A) A service provider as defined in ORS 427.101; or

11 “(B) A developmental disability child foster home certified under ORS

12 443.835.”.

13 In line 42, delete “11” and insert “10”.

14 On page 9, delete lines 26 through 45 and delete page 10 and insert:

15 “**SECTION 11.** Section 2, chapter 75, Oregon Laws 2018, is amended to

16 read:

17 “**Sec. 2.** (1) The Department of Human Services, acting on behalf of and

18 subject to the approval of the Home Care Commission, shall adopt by rule

19 minimum training standards for home care workers and personal support

20 workers and shall establish procedures for testing home care workers and

21 personal support workers on their mastery of the skills and knowledge to be

22 acquired through the training.

23 “(2) **Except as provided in subsection (6) of this section,** the depart-

24 ment shall provide training on the mandatory training topics established

25 under this subsection and on any other training that the department or the

26 commission deems appropriate for the professionalization of home care

27 workers and personal support workers. The training provided pursuant to

28 this section may include, but is not limited to, training on the following

29 topics:

30 “(a) Safety and emergency measures.

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

3 “(c) Providing person-centered care.

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

6 “(e) Managing medications.

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

8 “(3) The training provided in accordance with this section must be ge-
9 ographically accessible in all areas of this state and culturally appropriate
10 for workers of all language abilities.

11 “(4) In developing the training provided under this section, the depart-
12 ment shall:

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

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

18 “(5) The department shall consult with the Developmental Disabilities and
19 Mental Health Committee, unions representing home care workers and per-
20 sonal support workers and other stakeholders in the adoption of rules to
21 carry out the provisions of this section.

22 “(6) **A caregiver providing personal care services, as defined in ORS**
23 **443.305, in a private home through a caregiver registry described in**
24 **ORS 443.100, in a home health agency as defined in ORS 443.014 or in**
25 **a health care facility licensed under ORS 441.020 must complete a**
26 **training that meets requirements for accessibility, cultural compe-**
27 **tency and minimum hours adopted by the department under sub-**
28 **section (1) of this section unless the caregiver is licensed or certified**
29 **by the Oregon State Board of Nursing.**

30 “**SECTION 12.** ORS 443.105 is amended to read:

1 “443.105. The Oregon Health Authority may adopt rules governing
2 caregiver registries, including but not limited to:

3 “(1) The minimum qualifications of individuals whose services are offered
4 through a caregiver registry;

5 “(2) **Requiring an individual placed on a roster by a caregiver reg-**
6 **istry to complete training that meets requirements for accessibility,**
7 **cultural competency and minimum hours adopted by the department**
8 **under section 2 (1), chapter 75, Oregon Laws 2018;**

9 “[2] (3) Standards for the organization and quality of client care;

10 “[3] (4) Procedures for maintaining records;

11 “[4] (5) Requirements for contractual arrangements for professional and
12 ancillary services;

13 “[5] (6) Requiring criminal background checks on individuals placed on
14 a roster by a caregiver registry;

15 “[6] (7) Procedures for complaints against caregiver registries; and

16 “[7] (8) Procedures for inspection of caregiver registries.

17 **“SECTION 13. ORS 443.085 is amended to read:**

18 “443.085. The Oregon Health Authority shall adopt rules to implement
19 ORS 443.014 to 443.105 including, but not limited to:

20 “(1) The qualifications of professional and ancillary personnel in order to
21 adequately furnish home health services;

22 “(2) **Requiring that personnel complete training that meets re-**
23 **quirements for accessibility, cultural competency and minimum hours**
24 **adopted by the department under section 2 (1), chapter 75, Oregon**
25 **Laws 2018;**

26 “[2] (3) Standards for the organization and quality of client care;

27 “[3] (4) Procedures for maintaining records;

28 “[4] (5) Provision for contractual arrangements for professional and an-
29 cillary health services; and

30 “[5] (6) Complaint and inspection procedures.

1 **“SECTION 14.** ORS 441.025, as amended by section 12, chapter 50, Oregon
2 Laws 2018, is amended to read:

3 “441.025. (1)(a) Upon receipt of a license fee and an application to operate
4 a health care facility other than a long term care facility, the Oregon Health
5 Authority shall review the application and conduct an on-site inspection of
6 the health care facility. The authority shall issue a license if it finds that
7 the applicant and health care facility comply with ORS 441.015 to 441.087 and
8 441.196 and the rules of the authority provided that the authority does not
9 receive within the time specified a certificate of noncompliance issued by the
10 State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

11 “(b) The authority shall, following payment of the fee, annually renew
12 each license issued under this subsection unless:

13 “(A) The health care facility’s license has been suspended or revoked; or

14 “(B) The State Fire Marshal, a deputy or an approved authority has is-
15 sued a certificate of noncompliance pursuant to ORS 479.215.

16 “(2)(a) Upon receipt of a license fee and an application to operate a long
17 term care facility, the Department of Human Services shall review the ap-
18 plication and conduct an on-site inspection of the long term care facility.
19 The department shall issue a license if the department finds that the appli-
20 cant and long term care facility comply with ORS 441.015 to 441.087 and
21 441.196 and the rules of the department provided that it does not receive
22 within the time specified a certificate of noncompliance issued by the State
23 Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

24 “(b) The department shall, following an on-site inspection and payment
25 of the fee, annually renew each license issued under this subsection unless:

26 “(A) The long term care facility’s license has been suspended or revoked;

27 “(B) The long term care facility is found not to be in substantial compli-
28 ance following the on-site inspection; or

29 “(C) The State Fire Marshal, a deputy or an approved authority has is-
30 sued a certificate of noncompliance pursuant to ORS 479.215.

1 “(3) Each license shall be issued only for the premises and persons or
2 governmental units named in the application and shall not be transferable
3 or assignable.

4 “(4) Licenses shall be posted in a conspicuous place on the licensed
5 premises as prescribed by rule of the authority or the department.

6 “(5) No license shall be issued or renewed for any health care facility or
7 health maintenance organization that is required to obtain a certificate of
8 need under ORS 442.315 until a certificate of need has been granted. An
9 ambulatory surgical center is not subject to the certificate of need require-
10 ments in ORS 442.315.

11 “(6) No license shall be issued or renewed for any skilled nursing facility
12 or intermediate care facility, unless the applicant has included in the appli-
13 cation the name and such other information as may be necessary to establish
14 the identity and financial interests of any person who has incidents of own-
15 ership in the facility representing an interest of 10 percent or more thereof.
16 If the person having such interest is a corporation, the name of any stock-
17 holder holding stock representing an interest in the facility of 10 percent or
18 more shall also be included in the application. If the person having such
19 interest is any other entity, the name of any member thereof having incidents
20 of ownership representing an interest of 10 percent or more in the facility
21 shall also be included in the application.

22 “(7) A license may be denied to any applicant for a license or renewal
23 thereof or any stockholder of any such applicant who has incidents of own-
24 ership in the health care facility representing an interest of 10 percent or
25 more thereof, or an interest of 10 percent or more of a lease agreement for
26 the facility, if during the five years prior to the application the applicant
27 or any stockholder of the applicant had an interest of 10 percent or more in
28 the facility or of a lease for the facility and has divested that interest after
29 receiving from the authority or the department written notice that the au-
30 thority or the department intends to suspend or revoke the license or to de-

1 certify the facility from eligibility to receive payments for services provided
2 under this section.

3 “(8) The Department of Human Services may not issue or renew a license
4 for a long term care facility, unless the applicant has included in the appli-
5 cation the identity of any person who has incident of ownership in the long
6 term care facility who also has a financial interest in any pharmacy, as de-
7 fined in ORS 689.005.

8 “(9) The authority shall adopt rules for each type of health care facility,
9 except long term care facilities, to carry out the purposes of ORS 441.015 to
10 441.087 including, but not limited to:

11 “(a) Establishing classifications and descriptions for the different types
12 of health care facilities that are licensed under ORS 441.015 to 441.087;
13 [*and*]

14 “(b) Standards for patient care and safety[.];

15 “(c) Adequate professional staff organizations[.];

16 “(d) Training of staff, for whom no other state regulation exists, **that**
17 **meets requirements for accessibility, cultural competency and mini-**
18 **imum hours adopted by the department under section 2 (1), chapter 75,**
19 **Oregon Laws 2018;**

20 “(e) Suitable delineation of professional privileges; and

21 “(f) Adequate staff analyses of clinical records.

22 “(10) The department shall adopt rules for each type of long term care
23 facility to carry out the purposes of ORS 441.015 to 441.087 including, but
24 not limited to:

25 “(a) Establishing classifications and descriptions for the different types
26 of long term care facilities that are licensed under ORS 441.015 to 441.087;
27 [*and*]

28 “(b) Standards for patient care and safety[.];

29 “(c) Adequate professional staff organizations[.];

30 “(d) Training of staff, for whom no other state regulation exists, **that**

1 **meets requirements for accessibility, cultural competency and mini-**
2 **imum hours adopted by the department under section 2 (1), chapter 75,**
3 **Oregon Laws 2018;**

4 “(e) Suitable delineation of professional privileges; and

5 “(f) Adequate staff analyses of clinical records.

6 “(11) The authority or department may not adopt a rule requiring a health
7 care facility to serve a specific food as long as the necessary nutritional food
8 elements are present in the food that is served.

9 “(12) A health care facility licensed by the authority or department may
10 not:

11 “(a) Offer or provide services beyond the scope of the license classifica-
12 tion assigned by the authority or department; or

13 “(b) Assume a descriptive title or represent itself under a descriptive title
14 other than the classification assigned by the authority or department.

15 “(13) A health care facility must reapply for licensure to change the
16 classification assigned or the type of license issued by the authority or de-
17 partment.

18 **“SECTION 15. The amendments to ORS 410.600, 441.025, 443.025,**
19 **443.085, 443.090, 443.105, 443.305, 443.315, 443.327, 443.340, 443.350 and**
20 **443.355 and section 2, chapter 75, Oregon Laws 2018 by sections 1 to 14**
21 **of this 2019 Act become operative on January 1, 2021.”.**

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