

SB 86 STAFF MEASURE SUMMARY

Senate Committee On Human Services, Mental Health and Recovery

Prepared By: C. Ross, Counsel

Meeting Dates: 2/4, 3/4

WHAT THE MEASURE DOES:

Expands licensing agency evaluation of initial and renewal applications to operate residential facilities, to include consideration of persons with at least a five percent ownership interest in the subject facility, and requires identification of such persons on licenses. Clarifies that a licensing agency's authority to consider an applicant's experience and history of compliance, includes history in any jurisdiction, and safety history, and adds reference to agency rules. Clarifies licensing agency actions include the authority to impose conditions on a license for specified noncompliance, in addition to the authority to suspend or revoke. Replaces discretion to immediately suspend a license when there is evidence of abuse, or threat to resident safety, or other specified noncompliance, with a requirement that the Department of Human Services (DHS) adopt rules to impose license conditions.

ISSUES DISCUSSED:

- Explicit statutory authority to enable agency actions; express authority to consider applicant performance in other jurisdictions; strengthening licensing authority generally
- Aligning facilities so all operate under same structures; consistency across systems

EFFECT OF AMENDMENT:

[-1 amendment dated 01/29/21] Changes reference to "residential care facility" to the broader term "residential facility."

[-2 amendment dated 02/23/21] Refinement to achieve same ends. Restores original statutory definitions and the provision governing issuance or denial of license applications, and expressly authorizes DHS and OHA to revoke, suspend or condition residential training home and residential training facility licenses, including immediate suspension, pursuant to rules adopted by the relevant licensing entity in the event of noncompliance or specified harms to residents. Restores original statutory language governing applicant qualifications and adds requirement that licensing entities consider applicant's past performance and experience in any jurisdiction pursuant to rules adopted by the licensing entity.

BACKGROUND:

The Oregon Health Authority (OHA) and the Department of Human Services (DHS) are responsible for licensing and regulating all manner of care providers and care facilities, which includes express authority to issue, deny, suspend and revoke licenses. Upon receipt of an application to license a residential training home or residential training facility, the licensing agency is currently required to consider only the applicant's regulatory and operational history, willingness to serve the relevant population, and willingness to contract with the agency for certain services; and only the names of licensees, operators and facility owners are required to appear on the license. Licensing agencies are also currently authorized, in certain circumstances, to suspend a license immediately.

Senate Bill 86 clarifies that licensing entities are authorized to impose conditions on a license for certain noncompliance, as well as to suspend or revoke. The measure also broadens the licensing agency's authority to evaluate an applicant's history, as applicable to any person with at least a five percent ownership interest in the facility, and requires such persons be named on the relevant license. The measure also specifies that an applicant's history in any jurisdiction may be considered, and that safety compliance history is also included.

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Finally, the measure replaces agency discretion to suspend a license immediately for certain noncompliance, with a requirement that DHS adopt rules to impose conditions instead.

PRELIMINARY