

# Oversight of Community Based Care Settings

---

Mike McCormick, Interim Director

Office of Aging and People with Disabilities

**Senate Committee on Human Services, Mental Health and Recovery**

April 8, 2021

# Long-term care settings

---

Oregon has led the nation in providing community-based care options for older adults and people with disabilities. The number and type of licensed facilities in Oregon is dominated by these settings:

- Adult foster homes – about **1,400**.
- Assisted living and residential care facilities – **558**;
  - Of these, **217** have memory care endorsements.
- Nursing facilities – **130**.

# Support and monitoring during pandemic

---

**Multiple preventive and proactive COVID-19 policies and initiatives were instituted in 2020 including:**

- In March 2020, conducted on-site reviews of emergency plans at more than **670 facilities** statewide.
- Policy adopted in March required Executive Orders (EOs) for facilities with a suspected or confirmed case of COVID-19 in a resident or staff member:
  - EOs put additional infection control protections in place;
  - **2,641 EOs** issued involving **825 facilities** as of April 5, 2021.
- Starting in April 2020, facilities with EOs in place received a focused infection control review:
  - Many received reviews weekly with the frequency based on the nature of the outbreak;
  - More than **3,000 total reviews** completed including **2,000** for community-based care settings.

# Support and monitoring during pandemic

---

## Continued:

- Interagency facility support teams formed to provide wraparound services for more than **30 facilities** with outbreaks;
  - Included coordinated support from ODHS, OHA and the Local Public Health Authority.
- Set up a statewide network of **7 COVID-19 Recovery Units** to help manage outbreaks at facilities.
- Deployed routine COVID-19 testing policies that go beyond federal requirements;
  - Routine surveillance testing of staff who have NOT been fully vaccinated will continue to be required on a monthly basis.
- ODHS and OHA collaborated to provide instructional infection control webinars for facilities.

# COVID-19 testing and vaccines

---

**APD staff, in coordination with other agencies, supported and supplemented the CDC Pharmacy Partnership for Long-Term Care Program to ensure Oregonians living in long-term care settings received vaccine clinic opportunities.**

- Highlights as of April 5:
  - **100%** of facilities in the program have completed first-dose vaccine clinics;
  - **97.2%** completed second-dose clinics;
  - **87.1%** completed third clinics.
- APD and Area Agencies on Aging (AAA) district offices continue to survey adult foster homes to connect them with vaccine clinic opportunities;
  - **906** APD-licensed adult foster homes statewide received a vaccine opportunity for residents and staff as of April 5, 2021.

# Outcomes from COVID-19 activity

---

## Regulatory action taken and national ranking:

- **229** infection control tags (deficiencies) issued;
  - Nearly **\$500,000** in federal fines and civil penalties issued.
- More than **1,300 Oregonians served** by COVID-19 Recovery Units since April 2020.
  - As outbreaks decrease, number of COVID-19 Recovery Units has decreased from 7 to 4.
- Performance rankings:
  - CMS ranks Oregon in the **lowest of 5 categories** for incidence of COVID-19 cases and deaths in nursing facilities;
  - Oregon had the **fourth fewest cases** and **fifth fewest deaths** per 100,000 residents among states, according to data from the COVID Tracking Project from January 20, 2021.

# SOS advisory report

---

**Secretary of State advisory report, issued in March 2021, evaluated the state's COVID-19 pandemic response in protecting long-term care facilities.**

- APD is committed to continuous improvement and plans a full review of its COVID-19 response related to long-term care facilities.
- Among the actions already taken that are in line with recommendations:
  - Redirecting some COVID-19 related facility reviews to resume routine survey activities in community-based care facilities.
  - Engaging with the Governor's Office and the Legislature on resources necessary to normalize activities and analyzing the new funding for survey activities offered in the American Rescue Plan.
  - Adopting a system to collect vaccination data on an ongoing basis, as needed to inform vaccination progress.

# Getting back to normal (post COVID)

---

**With implementation of vaccine clinics, APD is normalizing its focus away from pandemic response:**

- Hiring surveyors;
- Addressing backlog of licensing complaints;
- Returning to regular survey cycle;
- Completing implementation of:
  - HB3359 (2017);
  - HB2600 (2019); and
  - SB917 (2019).



# Regulatory oversight

---

## Licensing and abuse investigation varies by facility type:

- **For nursing facilities-**
  - Receive federal and state licensing oversight provided through the APD Safety, Oversight and Quality unit (SOQ). The nursing facility team within SOQ began conducting all abuse investigations at these facilities in October 2018;
  - CMS requires nursing facility surveyors to have specialized Federal training and certification before conducting facility investigations.
- **For assisted living and residential care facilities, including those that provide memory care-**
  - The community-based care unit within SOQ oversees state licensing compliance and includes a complaint division that also provides technical support;
  - APD and Area Agency on Aging (AAA) Adult Protective Services (APS) employees investigate abuse allegations.
- **For adult foster homes-**
  - Licensing staff work in local APD or Area Agency on Aging (AAA) offices; Multnomah County licenses adult foster homes in its jurisdiction;
  - APD and Area Agency on Aging (AAA) Adult Protective Services (APS) employees investigate abuse allegations.

# Regulatory philosophy and approach

---

**Compliance framework adopted in June 2018 from HB3359 (2017) requires preventive, positive and progressively restrictive measures as follows:**

- Accurate and equitable assessment of substantial compliance;
- Employment of progressive and positive action to promote and achieve substantial compliance;
- Accurate and equitable imposition of corrective action; and
- Administration of Enhanced Oversight Program.

## **Techniques:**

- Proactive communication;
- Technical support;
- Consultation with policy analysts to clarify regulatory requirements;
- Corrective action involving civil penalties;
- Imposition of sanctions, including but not limited to, conditions on a provider's license; and
- Suspension, non-renewal or revocation of license.

# HB3359 (2017) overview and progress

---

## Effective January 2018. Completed projects include:

- Adopted progressive discipline policies and protocols;
- Published the *Regulatory Compliance Framework Guide*;
- Increased licensing fees and civil penalties along a progressive scale;
- Codified the corrective action process and timelines in administrative rule;
- Developed new dementia training program;
- Established the *Quality Measurement Council*;
- Produced *compliance guidelines* outlining standards of care for facilities to use;
- Developed requirements for prescription drug packaging in facilities; and
- Adopted rules for converting nursing facilities to residential care facilities and to create *Intensive Intervention Communities* for high-need residents.

# HB3359 (2017) ongoing work

---

## Projects in process:

- Implementing **Enhanced Oversight Program** to address non-compliant facilities (*rules already adopted 411-054-0106*).
- Creating online version of **Acuity-Based Staffing Tool** to calculate staffing needs.
- Publishing first annual **Quality Metrics Report**.

# Enhanced Oversight Program

---

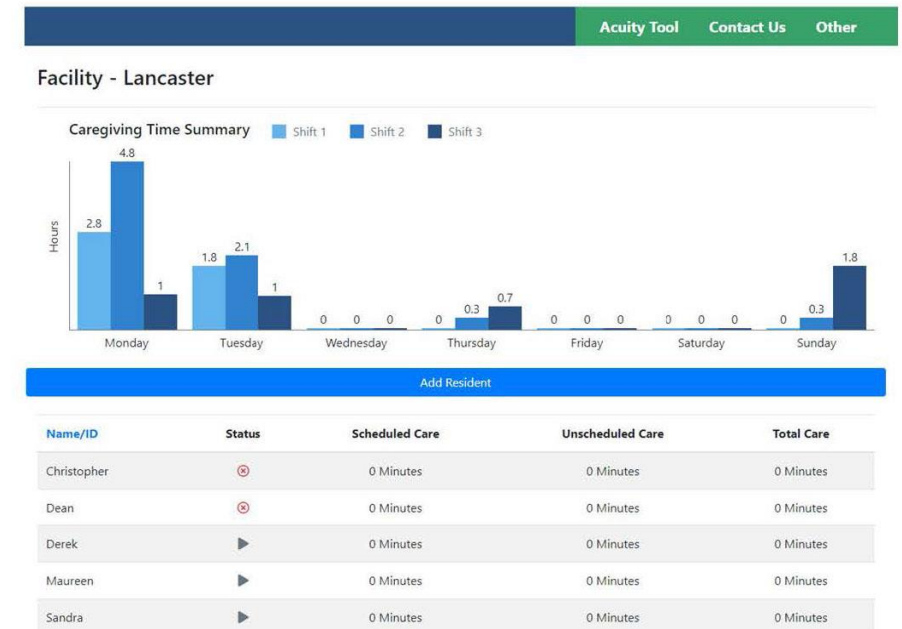
**When facilities consistently demonstrate a lack of substantial compliance or perform substantially below statewide averages on quality metrics, the Department will:**

- Increase the frequency of surveys;
- Conduct surveys that focus on areas of consistent noncompliance; and
- Terminate the enhanced oversight and supervision of a facility after:
  - 3 years, if the facility has shown substantial compliance;
  - 1 year, if the facility submits a written assertion of substantial compliance and the Department determines the facility no longer meets the criteria of the program.

# Acuity based staffing tool

After HB3359 passed, APD launched a preliminary dashboard including the acuity-based staffing tool, a formula-based tool accessed via a spreadsheet.

- Facilities have the option to use the tool provided or develop their own using similar methodology.
- A web-based version of the acuity-based staffing tool is ready for pilot.
- Anticipate full implementation in early 2022.



# Quality Measurement Council

---

**Helps consumers by developing uniform quality metrics to measure and compare performance of residential care and assisted living facilities across the state.**

- Made up of 8 individuals, appointed by the Governor.
- Metrics are intended to measure:
  - Retention of direct care staff;
  - Number of resident falls resulting in injury;
  - Use of antipsychotic medications for non-standard purposes;
  - Compliance with staff training requirements; and
  - Results of annual resident satisfaction survey conducted by an independent entity.
- Progress:
  - Developed the program;
  - Identified tracking requirements for each measure.
- QMC voted to require a simplified reporting process during the COVID-19 pandemic (2020 and 2021). APD will produce first quality metrics report by July 1, 2021.

# HB2600 (2019)

---

## Specific to assisted living/ residential care/ memory care:

- Two major components:
  - Infection control; and
  - “Off-year” kitchen inspections.
- Oregon Administrative Rule will be final by July 1, 2021.
- By July 1, 2022, all providers must have:
  - Completed staff training;
  - Hired an infection control specialist;
  - Adopted infectious disease protocols.
- SOQ will begin conducting kitchen inspections by July 1, 2022.



# Regulatory enforcement

---

In the period between March 2020 and February 2021, 1,574 fines were issued.

- **By license type:**
  - Assisted living facilities - **\$316,967**;
  - Residential care facilities (dominated by those with memory care endorsements) - **\$621,672**;
  - Nursing facilities - **\$92,179**.
- **229** infection control tags (deficiencies) recorded;
  - Nearly **\$500,000** in federal fines and civil penalties issued as a result of the tags.
- **56** license conditions were issued, which included a variety of requirements from restricting new admissions to requiring outside consultants be hired for additional oversight. License conditions by facility type are:
  - Adult foster home - **32**
  - Assisted living - **3**
  - Residential care - **15**
  - Nursing facility - **6**

# Investments

---

**Several initiatives are included in the Governor's Budget to enhance APD's capacity to respond to the pandemic including:**

- Provides more incentives and supports to retain health care workers including access to health coverage benefits;
- Increased funding for virtual visit technology to combat social isolation for older adults in congregate living settings;
- Funding for six infectious disease specialist positions to provide technical assistance on infectious disease prevention and response; and
- Training and apprenticeship programs for Certified Nursing Assistants (CNAs).

# Thank you

---

## Questions?