A-Engrossed

House Bill 2394

Ordered by the House April 16
Including House Amendments dated April 16

Sponsored by Representative PRUSAK, Senator GELSER, Representative NOBLE; Representatives CAMPOS, GRAYBER, LEIF, NERON, SCHOUTEN, SMITH DB (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires long term care facilities, residential facilities, adult foster homes and facilities with memory care endorsements to have isolation prevention plans to enable residents to communicate with other residents, family members, friends or other external support systems during public emergency. Authorizes Department of Human Services to provide financial assistance to long term care facilities, residential facilities, adult foster homes and facilities with memory care endorsements to enable purchase of necessary equipment and technology.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to preventing the social isolation of individuals in community-based care settings during public emergencies; creating new provisions; amending ORS 443.886; and declaring an emergency.

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

ISOLATION PREVENTION PLANS
FOR LONG TERM CARE FACILITIES

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 441.015 to 441.087.

SECTION 2. (1) As used in this section:
(a) “Disease outbreak” has the meaning given that term in ORS 431A.005.
(b) “Epidemic” has the meaning given that term in ORS 431A.005.
(c) “Outbreak response plan” means a protocol established by a long term care facility for isolating infected and at-risk residents at the facility in the event of a disease outbreak.
(d) “Public emergency” includes:
(A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak or epidemic; and
(B) A public health emergency declared pursuant to ORS 433.441.

(2) A long term care facility shall have an isolation prevention plan, as part of the facility’s emergency response plan, that must be provided to any resident or member of the public upon request. The plan must ensure, to the greatest extent practicable, that:
(a) Residents of the facility continue to engage in in-person contact and communication with other facility residents and with family members, friends and other external support

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.
systems during a public emergency, if a resident desires the contact and communication, to
the extent that the in-person contact and communication is consistent with the circum-
stances of the public emergency, orders that have been issued to address the public emer-
gency and the facility's outbreak response plan.

(b) If in-person contact and communication is physically impossible due to guidelines,
requirements or other official limitations imposed on in-person contact and communication,
residents of the facility, including residents who are physically isolated due to the facility's
outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal
or auditory contact and communication with other facility residents and with family mem-
bers, friends and other external support systems through the use of electronic or virtual
means or methods, including but not limited to computer technology, the Internet, social
media, videoconferencing or other technological means or methods.

c) Residents who experience cognitive impairments that limit their ability to express
their desires for virtual contact or communication with family members, friends or external
support systems have the opportunity for such contact or communication, including by re-
quiring staff to reach out to individuals listed on a resident's care plan to inform the indi-
viduals that contact or communication is available.

d) Residents who have disabilities that impede their ability to communicate, including
but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations,
including Alzheimer's disease or other form of dementia, have access to assistive and sup-
portive technology as necessary to facilitate their face-to-face, verbal or auditory contact
with other facility residents and with family members, friends and other external support
systems.

e) The facility staff assists residents, if necessary, in successfully accessing and using
the equipment and technology acquired in accordance with subsection (4) of this section.

3 Notwithstanding subsection (2)(c) of this section, a resident may not be required to
engage in virtual contact or communication.

4 A long term care facility must acquire and maintain computers, videoconferencing
equipment, distance-based communications technology, assistive and supportive technology
and devices and other technological equipment as may be necessary to ensure that in the
event of a public emergency, the facility can comply with the requirements of subsection (2)
of this section.

5 The Department of Human Services may provide financial assistance to a long term
care facility out of funds from the Quality Care Fund, established in ORS 443.001, to enable
the facility to purchase equipment and technology described in subsection (4) of this section.

ISOLATION PREVENTION PLANS
FOR RESIDENTIAL FACILITIES

SECTION 3. Section 4 of this 2021 Act is added to and made a part of ORS 443.400 to
443.455.

SECTION 4. (1) As used in this section:
(a) “Disease outbreak” has the meaning given that term in ORS 431A.005.
(b) “Epidemic” has the meaning given that term in ORS 431A.005.
(c) “Outbreak response plan” means a protocol established by a residential facility for
isolating infected and at-risk residents at the facility in the event of a disease outbreak.

(d) “Public emergency” includes:

(A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak or epidemic; and

(B) A public health emergency declared pursuant to ORS 433.441.

(2) A residential facility shall have an isolation prevention plan, as part of the facility's emergency response plan, that must be provided to any resident or member of the public upon request. The plan must ensure, to the greatest extent practicable, that:

(a) Residents of the facility continue to engage in in-person contact and communication with other facility residents and with family members, friends and other external support systems during a public emergency, if a resident desires the contact and communication, to the extent that the in-person contact and communication is consistent with the circumstances of the public emergency, orders that have been issued to address the public emergency and the facility's outbreak response plan.

(b) If in-person contact and communication is physically impossible due to guidelines, requirements or other official limitations imposed on in-person contact and communication, residents of the facility, including residents who are physically isolated due to the facility's outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal or auditory contact and communication with other facility residents and with family members, friends and other external support systems through the use of electronic or virtual means or methods, including but not limited to computer technology, the Internet, social media, videoconferencing or other technological means or methods.

(c) Residents who experience cognitive impairments that limit their ability to express their desires for virtual contact or communication with family members, friends or external support systems have the opportunity for such contact or communication, including by requiring staff to reach out to individuals listed on a resident's care plan to inform the individuals that contact or communication is available.

(d) Residents who have disabilities that impede their ability to communicate, including but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations, including Alzheimer's disease or other form of dementia, have access to assistive and supportive technology as necessary to facilitate their face-to-face, verbal or auditory contact with other facility residents and with family members, friends and other external support systems.

(e) The facility staff assists residents, if necessary, in successfully accessing and using the equipment and technology acquired in accordance with subsection (4) of this section.

(3) Notwithstanding subsection (2)(c) of this section, a resident may not be required to engage in virtual contact or communication.

(4) A residential facility must acquire and maintain computers, videoconferencing equipment, distance-based communications technology, assistive and supportive technology and devices and other technological equipment as may be necessary to ensure that in the event of a public emergency, the facility can comply with the requirements of subsection (2) of this section.

(5) The Department of Human Services may provide financial assistance to a residential facility out of funds from the Quality Care Fund, established in ORS 443.001, to enable the facility to purchase equipment and technology described in subsection (4) of this section.
ISOLATION PREVENTION PLANS
FOR ADULT FOSTER HOMES

SECTION 5. Section 6 of this 2021 Act is added to and made a part of ORS 443.705 to
443.825.

SECTION 6. (1) As used in this section:
(a) “Disease outbreak” has the meaning given that term in ORS 431A.005.
(b) “Epidemic” has the meaning given that term in ORS 431A.005.
(c) “Outbreak response plan” means a protocol established by an adult foster home for
isolating infected and at-risk residents at the home in the event of a disease outbreak.
(d) “Public emergency” includes:
   (A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak
or epidemic; and
   (B) A public health emergency declared pursuant to ORS 433.441.
(2) An adult foster home shall have an isolation prevention plan, as part of the home’s
emergency response plan, that must be provided to any resident or member of the public
upon request. The plan must ensure, to the greatest extent practicable, that:
   (a) Residents of the adult foster home continue to engage in in-person contact and com-
munication with other residents in the home and with family members, friends and other
external support systems during a public emergency, if a resident desires the contact and
communication, to the extent that the in-person contact and communication is consistent
with the circumstances of the public emergency, orders that have been issued to address the
public emergency and the home’s outbreak response plan.
   (b) If in-person contact and communication is physically impossible due to guidelines,
requirements or other official limitations imposed on in-person contact and communication,
residents in the home, including residents who are physically isolated due to the home's
outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal
or auditory contact and communication with other residents in the home and with family
members, friends and other external support systems through the use of electronic or virtual
means or methods, including but not limited to computer technology, the Internet, social
media, videoconferencing or other technological means or methods.
   (c) Residents who experience cognitive impairments that limit their ability to express
their desires for virtual contact or communication with family members, friends or external
support systems have the opportunity for such contact or communication, including by re-
quiring staff to reach out to individuals listed on a resident's care plan to inform the indi-
viduals that contact or communication is available.
   (d) Residents who have disabilities that impede their ability to communicate, including
but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations,
including Alzheimer’s disease or other form of dementia, have access to assistive and sup-
portive technology as necessary to facilitate their face-to-face, verbal or auditory contact
with other residents in the home and with family members, friends and other external sup-
port systems.
   (e) The staff of the adult foster home assists residents, if necessary, in successfully ac-
cessing and using the equipment and technology acquired in accordance with subsection (4)
of this section.
(3) Notwithstanding subsection (2)(c) of this section, a resident may not be required to engage in virtual contact or communication.

(4) An adult foster home must acquire and maintain computers, videoconferencing equipment, distance-based communications technology, assistive and supportive technology and devices and other technological equipment as may be necessary to ensure that in the event of a public emergency, the home can comply with the requirements of subsection (2) of this section.

(5) The Department of Human Services may provide financial assistance to an adult foster home out of funds from the Quality Care Fund, established in ORS 443.001, to enable the home to purchase equipment and technology described in subsection (4) of this section.

ISOLATION PREVENTION PLANS
FOR FACILITIES WITH
MEMORY CARE ENDORSEMENTS

SECTION 7. ORS 443.886 is amended to read:

443.886. (1) If a facility intends to provide care for residents with Alzheimer's disease or other forms of dementia by means of an endorsed memory care community, the facility must obtain a memory care endorsement on its license or registration.

(2) The Department of Human Services, with the input from representatives of advocate groups and the long term care industry, shall adopt by rule standards that ensure that the special needs of any resident with Alzheimer's disease or other form of dementia who is cared for in an endorsed memory care community are met and that quality care is provided. The standards must include but are not limited to provisions for:

(a) Care planning, including physical design, staffing, staff training, safety, egress control, individual care planning, admission policy, family involvement, therapeutic activities and social services;

(b) Continuity of basic care requirements; and

(c) Marketing and advertising of the availability of and services from endorsed memory care communities.

(3) The department shall adopt a fee schedule for memory care endorsement, taking into account the type of facility and the number of residents.

(4) The department shall enforce rules adopted under subsection (2) of this section and shall allow a licensee or registrant to retain the memory care endorsement required to care for residents with Alzheimer's disease or other forms of dementia only as long as the licensee or registrant complies with the rules.

(5) The memory care endorsement may be suspended or revoked in the same manner as the license or registration is suspended or revoked.

(6) Unless a facility has obtained the memory care endorsement required by subsection (1) of this section, the facility may not:

(a) Advertise the facility as providing an Alzheimer's care unit or memory care community; or

(b) Market the facility as providing an Alzheimer's care unit or memory care community.

(7) A facility with a memory care endorsement shall have an isolation prevention plan, as part of the facility's emergency response plan, that must be provided to any resident or member of the public upon request. The plan must ensure, to the greatest extent practicable, that:

[5]
(a) Residents of the facility continue to engage in in-person contact and communication with other facility residents and with family members, friends and other external support systems during a public emergency, if a resident desires the contact and communication, to the extent that the in-person contact and communication is consistent with the circumstances of the public emergency, orders that have been issued to address the public emergency and the facility's outbreak response plan.

(b) If in-person contact and communication is physically impossible due to guidelines, requirements or other official limitations imposed on in-person contact and communication, residents of the facility, including residents who are physically isolated due to the facility's outbreak response plan, can engage, as a resident reasonably desires, in face-to-face, verbal or auditory contact and communication with other facility residents and with family members, friends and other external support systems through the use of electronic or virtual means or methods, including but not limited to computer technology, the Internet, social media, videoconferencing or other technological means or methods.

(c) Residents who experience cognitive impairments that limit their ability to express their desires for virtual contact or communication with family members, friends or external support systems have the opportunity for such contact or communication, including by requiring staff to reach out to individuals listed on a resident's care plan to inform the individuals that contact or communication is available.

(d) Residents who have disabilities that impede their ability to communicate, including but not limited to residents who are blind, deaf or deaf-blind or have cognitive limitations, including Alzheimer's disease or other form of dementia, have access to assistive and supportive technology as necessary to facilitate their face-to-face, verbal or auditory contact with other facility residents and with family members, friends and other external support systems.

(e) The facility staff assists residents, if necessary, in successfully accessing and using the equipment and technology acquired in accordance with subsection (9) of this section.

(8) Notwithstanding subsection (7)(c) of this section, a resident may not be required to engage in virtual contact or communication.

(9) A facility with a memory care endorsement must acquire and maintain computers, videoconferencing equipment, distance-based communications technology, assistive and supportive technology and devices and other technological equipment as may be necessary to ensure that in the event of a public emergency, the facility can comply with the requirements of subsection (7) of this section.

(10) The Department of Human Services may provide financial assistance to a facility with a memory care endorsement out of funds from the Quality Care Fund, established in ORS 443.001, to enable the facility to purchase equipment and technology described in subsection (9) of this section.

[(7)] (11) As used in this section:

(a) “Disease outbreak” has the meaning given that term in ORS 431A.005.

[(a)] (b) “Endorsed memory care community” means a special care unit in a designated, separated area for residents with Alzheimer’s disease or other forms of dementia that is locked or secured to prevent or limit access by a resident outside the designated or separated area.

(c) “Epidemic” has the meaning given that term in ORS 431A.005.

[(b)] (d) “Facility” means a long term care facility, residential care facility, assisted living fa-
ility or any other like facility required to be licensed by the department.

(e) “Public emergency” includes:

(A) A state of emergency declared pursuant to ORS 401.165 based on a disease outbreak or epidemic; and

(B) A public health emergency declared pursuant to ORS 433.441.

[(c) “Registry” means a facility will provide the department with information relating to the endorsed memory care community, including the number of residents in the community, the stage of dementia for each resident, a description of how services are provided and the length of time the community has been operating.]

IMPLEMENTATION

SECTION 8. A long term care facility, a residential facility, an adult foster home and a facility with a memory care endorsement shall submit an isolation prevention plan to the Department of Human Services no later than the earlier of six months after the effective date of this 2021 Act or the time when the facility or home updates its emergency response plan, regardless of whether the department has adopted rules to carry out the provisions of section 2, 4 or 6 of this 2021 Act or the amendments to ORS 443.886 by section 7 of this 2021 Act.

CAPTIONS

SECTION 9. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EMERGENCY CLAUSE

SECTION 10. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.