

## SENATE AMENDMENTS TO SENATE BILL 556

By COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH AND RECOVERY

April 15

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete lines 3  
2 and 4 and insert “441.025, 441.060, 441.062, 441.157, 443.019, 443.415, 443.436, 443.705 and 443.860 and  
3 section 12b,”.

4 Delete lines 7 through 27 and delete pages 2 through 24 and insert:

5 “**SECTION 1.** ORS 441.025, as amended by section 4, chapter 592, Oregon Laws 2019, is  
6 amended to read:

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

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

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

17 “(B) The State Fire Marshal, a deputy or an approved authority has issued a certificate of  
18 noncompliance pursuant to ORS 479.215.

19 “(2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the  
20 Department of Human Services shall review the application and conduct an [*on-site*] **in-person site**  
21 inspection of the long term care facility, including an inspection of the kitchen and other areas  
22 where food is prepared for residents. The department shall issue a license if the department finds  
23 that the applicant and long term care facility comply with ORS 441.015 to 441.087 and the rules of  
24 the department provided that it does not receive within the time specified a certificate of noncom-  
25 pliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

26 “(b) The department shall, following an [*on-site*] **in-person site** inspection and payment of the  
27 fee, annually renew each license issued under this subsection unless:

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

29 “(B) The long term care facility is found not to be in substantial compliance, following the [*on-*  
30 *site*] **in-person site** inspection, with ORS 441.015 to 441.087 and 443.012 and the rules of the de-  
31 partment;

32 “(C) The long term care facility has failed an inspection of the kitchen or other areas where  
33 food is prepared for residents that was conducted by the department in accordance with ORS  
34 443.417, except as provided in ORS 443.417 (2); or

35 “(D) The State Fire Marshal, a deputy or an approved authority has issued a certificate of

1 noncompliance pursuant to ORS 479.215.

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

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

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

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

19 “(7) A license may be denied to any applicant for a license or renewal thereof or any stock-  
20 holder of any such applicant who has incidents of ownership in the health care facility representing  
21 an interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement  
22 for the facility, if during the five years prior to the application the applicant or any stockholder of  
23 the applicant had an interest of 10 percent or more in the facility or of a lease for the facility and  
24 has divested that interest after receiving from the authority or the department written notice that  
25 the authority or the department intends to suspend or revoke the license or to decertify the facility  
26 from eligibility to receive payments for services provided under this section.

27 “(8) The Department of Human Services may not issue or renew a license for a long term care  
28 facility, unless the applicant has included in the application the identity of any person who has in-  
29 cident of ownership in the long term care facility who also has a financial interest in any pharmacy,  
30 as defined in ORS 689.005.

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

33 “(a) Establishing classifications and descriptions for the different types of health care facilities  
34 that are licensed under ORS 441.015 to 441.087; and

35 “(b) Standards for patient care and safety, adequate professional staff organizations, training of  
36 staff for whom no other state regulation exists, suitable delineation of professional privileges and  
37 adequate staff analyses of clinical records.

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

40 “(a) Establishing classifications and descriptions for the different types of long term care facili-  
41 ties that are licensed under ORS 441.015 to 441.087;

42 “(b) Standards for patient care and safety, adequate professional staff organizations, training of  
43 staff for whom no other state regulation exists, suitable delineation of professional privileges and  
44 adequate staff analyses of clinical records; and

45 “(c) Rules to ensure that a long term care facility complies with ORS 443.012.

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

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

5 “(a) Offer or provide services beyond the scope of the license classification assigned by the au-  
6 thority or department; or

7 “(b) Assume a descriptive title or represent itself under a descriptive title other than the clas-  
8 sification assigned by the authority or department.

9 “(13) A health care facility must reapply for licensure to change the classification assigned or  
10 the type of license issued by the authority or department.

11 “**SECTION 2.** ORS 441.060 is amended to read:

12 “441.060. (1) The Oregon Health Authority shall make or cause to be made [*on-site*] **in-person**  
13 **site** inspections of health care facilities licensed under ORS 441.025 (1) at least once every three  
14 years.

15 “(2) The authority and the Department of Human Services may prescribe by rule that any  
16 licensee or prospective applicant desiring to make specified types of alteration or addition to its  
17 facilities or to construct new facilities shall, before commencing such alteration, addition or new  
18 construction, either prior to or after receiving a certificate of need pursuant to ORS 442.315, if re-  
19 quired, submit plans and specifications therefor to the authority or the department for preliminary  
20 inspection and approval or recommendations with respect to compliance with the rules authorized  
21 by ORS 441.025 and 443.420 and for compliance with National Fire Protection Association standards  
22 when the facility is also to be Medicare or Medicaid certified.

23 “(3) The authority or the department may require by rule payment of a fee for project review  
24 services at a variable rate, dependent on total project cost.

25 “(4) For health care facilities, the authority shall develop a review fee schedule as minimally  
26 necessary to support the staffing level and expenses required to administer the program.

27 “(5) For long term care facilities and residential care facilities, the department shall develop a  
28 review fee schedule as minimally necessary to support the staffing level and expenses required to  
29 administer the program. The fee for project review of residential care facilities shall equal two-  
30 thirds that required of health care facilities.

31 “(6) The authority or the department may also conduct an on-site review of projects as a pre-  
32 requisite to licensure of new facilities, major renovations and expansions. The authority and the  
33 department shall, at least annually, with the advice of the facilities covered by the review, present  
34 proposed rule changes regarding facility design and construction to such agencies for their consid-  
35 eration.

36 “(7) The authority shall publish a state submissions guide for health care facility projects and  
37 advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

38 “(8) The department shall publish a state submissions guide for long term care facility and res-  
39 idential care facility projects and advise project sponsors of applicable requirements of federal, state  
40 and local regulatory agencies.

41 “**SECTION 3.** ORS 441.062 is amended to read:

42 “441.062. (1) In conducting inspections for the purpose of licensing health care facilities under  
43 ORS 441.020, the Oregon Health Authority and the Department of Human Services shall avoid un-  
44 necessary facility disruption by coordinating inspections performed by the authority or the depart-  
45 ment with inspections performed by other federal, state and local agencies that have responsibility

1 for health care facility licensure.

2 “(2) Whenever possible, the authority and the department shall avoid duplication of inspections  
3 by accepting inspection reports or surveys prepared by other state agencies that have responsibility  
4 for health care facility licensure for purposes of the inspection required for licensure.

5 “(3) In lieu of an *[on-site]* **in-person site** inspection as required by ORS 441.025 and 441.060, the  
6 authority or the department may accept a certification or accreditation from a federal agency or  
7 an accrediting body approved by the authority or the department that the state licensing standards  
8 have been met, if:

9 “(a) The certification or accreditation is recognized by the authority or the department as ad-  
10 dressing the standards and condition of participation requirements of the Centers for Medicare and  
11 Medicaid Services and other standards set by the authority or the department;

12 “(b) The health care facility notifies the authority or the department to participate in any exit  
13 interview conducted by the federal agency or accrediting body; and

14 “(c) The health care facility provides copies of all documentation concerning the certification  
15 or accreditation requested by the authority or the department.

16 “(4) The authority and the department shall adopt rules necessary to implement this section.

17 “**SECTION 4.** ORS 441.157 is amended to read:

18 “441.157. (1) For the sole purpose of verifying compliance with the requirements of ORS 441.152  
19 to 441.177 and 441.192, the Oregon Health Authority shall audit each hospital in this state once  
20 every three years, at the time of conducting an *[on-site]* **in-person site** inspection of the hospital  
21 under ORS 441.025.

22 “(2) When conducting an audit pursuant to this section, the authority shall:

23 “(a) If the authority provides notice of the audit to the hospital, provide notice of the audit to  
24 the cochairs of the hospital nurse staffing committee established pursuant to ORS 441.154;

25 “(b) Interview both cochairs of the hospital nurse staffing committee;

26 “(c) Review any other hospital record and conduct any other interview or site visit that is  
27 necessary to verify that the hospital is in compliance with the requirements of ORS 441.152 to  
28 441.177 and 441.192; and

29 “(d) Within 60 days after issuing an order requiring a hospital to implement a plan to correct  
30 a violation of ORS 441.152 to 441.177 or 441.192, conduct an investigation of the hospital to ensure  
31 compliance with the order.

32 “(3) Following an investigation conducted pursuant to subsection (2) of this section, the au-  
33 thority shall provide in writing a report of the authority’s findings to the hospital and the cochairs  
34 of the hospital nurse staffing committee.

35 “(4) The authority shall compile and maintain for public inspection an annual report of audits  
36 and investigations conducted pursuant to this section.

37 “(5) The costs of audits required by this section may be paid out of funds from licensing fees  
38 paid by hospitals under ORS 441.020.

39 “**SECTION 5.** ORS 443.019 is amended to read:

40 “443.019. (1) The Oregon Health Authority shall conduct an *[on-site]* **in-person site** inspection  
41 of a home health agency and a caregiver registry prior to licensure and at least once every three  
42 years thereafter.

43 “(2) In lieu of an *[on-site]* **in-person site** inspection, the authority may accept a certification or  
44 accreditation from a federal agency or an accrediting body approved by the authority that the state  
45 licensing standards have been met, if:

1 “(a) The certification or accreditation is recognized by the authority as addressing the standards  
2 and conditions of participation requirements of the Centers for Medicare and Medicaid Services and  
3 any additional standards set by the authority;

4 “(b) The agency or registry notifies the authority to participate in any exit interview conducted  
5 by the federal agency or accrediting body; and

6 “(c) The agency or registry provides copies of all documentation concerning the certification or  
7 accreditation requested by the authority.

8 “**SECTION 6.** ORS 443.415, as amended by section 5, chapter 592, Oregon Laws 2019, is  
9 amended to read:

10 “443.415. (1) Applications for licensure to maintain and operate a residential facility shall be  
11 made to the Department of Human Services or the Oregon Health Authority on forms provided for  
12 that purpose by the appropriate licensing agency. Each application shall be accompanied by a fee.  
13 No fee is required of any governmentally operated residential facility.

14 “(2)(a) The application fee for a residential training facility or a residential treatment facility  
15 is \$60.

16 “(b) The application fee for a residential training home is \$50.

17 “(c) The application fee for a residential treatment home is \$30.

18 “(d) The application fee for a residential care facility is:

19 “(A) For a facility with one to 15 beds, \$2,000.

20 “(B) For a facility with 16 to 49 beds, \$3,000.

21 “(C) For a facility with 50 to 99 beds, \$4,000.

22 “(D) For a facility with 100 to 150 beds, \$5,000.

23 “(E) For a facility with more than 150 beds, \$6,000.

24 “(3) Upon receipt of an application and fee, the licensing agency shall conduct an [*on-site*] **in-**  
25 **person site** inspection, including, for residential care facilities, an inspection of the kitchen and  
26 other areas where food is prepared for residents. The licensing agency shall issue a license to any  
27 applicant for operation of a residential facility in compliance with ORS 443.002 and 443.400 to  
28 443.455 and the rules of the licensing agency. Licensure may be denied when a residential facility  
29 is not in compliance with ORS 443.002 or 443.400 to 443.455 or the rules of the licensing agency.  
30 Licensure shall be denied if the State Fire Marshal, deputy or approved authority has given notice  
31 of noncompliance of a residential care facility, residential training facility or residential treatment  
32 facility pursuant to ORS 479.220.

33 “**SECTION 7.** ORS 443.436 is amended to read:

34 “443.436. (1) As used in this section, ‘substantial compliance’ means a level of compliance with  
35 state law and with rules of the Department of Human Services such that any identified deficiencies  
36 pose a risk of no more than negligible harm to the health or safety of residents.

37 “(2)(a) The department shall develop a framework for assessing the compliance of residential  
38 care facilities with regulatory requirements and for requiring corrective action that accurately and  
39 equitably measures compliance and the extent of noncompliance.

40 “(b) The framework must include but is not limited to measures of the severity and scope of a  
41 residential care facility’s noncompliance.

42 “(c) The department shall publish the framework on the department’s website and shall distrib-  
43 ute the framework to residential care facilities licensed in this state.

44 “(3) The department shall administer a residential care facility enhanced oversight and super-  
45 vision program that focuses department resources on residential care facilities that consistently

1 demonstrate:

2 “(a) A lack of substantial compliance with the requirements of ORS 443.400 to 443.455; or

3 “(b) Performance substantially below statewide averages on quality metrics reported under the  
4 Residential Care Quality Measurement Program established under ORS 443.446.

5 “(4) The residential care facility enhanced oversight and supervision program shall take one or  
6 more of the following actions that the department deems necessary to improve the performance of  
7 a residential care facility:

8 “(a) Increase the frequency of surveys of the residential care facility.

9 “(b) Conduct surveys that focus on areas of consistent noncompliance identified by the depart-  
10 ment.

11 “(5) The department shall terminate the enhanced oversight and supervision of a residential care  
12 facility:

13 “(a) After three years if the residential care facility has shown through at least two consecutive  
14 *[on-site]* **in-person site** surveys and reported quality metrics that the residential care facility no  
15 longer meets the criteria set forth in subsection (3) of this section; or

16 “(b) After one year if the residential care facility submits a written assertion of substantial  
17 compliance and the department determines that the residential care facility no longer meets the  
18 criteria set forth in subsection (3) of this section.

19 “(6) Using moneys from the Quality Care Fund established under ORS 443.001, the department  
20 shall develop, maintain and periodically update compliance guidelines for residential care facilities  
21 serving seniors and persons with disabilities. The guidelines must be made available electronically.

22 “(7) This section does not preclude the department from taking any action authorized by ORS  
23 443.400 to 443.455.

24 “**SECTION 8.** ORS 443.705 is amended to read:

25 “443.705. As used in ORS 443.705 to 443.825:

26 “(1) ‘Adult foster home’ means any family home or facility in which residential care is provided  
27 in a homelike environment for five or fewer adults who are not related to the provider by blood or  
28 marriage.

29 “(2) ‘Licensed adult foster home’ means a home which has been investigated and approved by  
30 the licensing agency. This includes an *[on-site]* **in-person site** inspection of the facility.

31 “(3) ‘Licensing agency’ means:

32 “(a) The Department of Human Services for adult foster homes licensed by the department.

33 “(b) The Oregon Health Authority for adult foster homes licensed by the authority.

34 “(4) ‘Provider’ means any person operating an adult foster home and includes a resident man-  
35 ager. ‘Provider’ does not include the owner or lessor of the building in which the adult foster home  
36 is located or the owner or lessor of the land on which the adult foster home is situated unless the  
37 owner or lessor is also the operator of the adult foster home.

38 “(5) ‘Residential care’ means the provision of room and board and services that assist the resi-  
39 dent in activities of daily living, such as assistance with bathing, dressing, grooming, eating,  
40 medication management, money management or recreation.

41 “(6) ‘Substitute caregiver’ means any person who provides care and services in an adult foster  
42 home under the jurisdiction of the licensing agency in the absence of the provider or resident  
43 manager.

44 “**SECTION 9.** ORS 443.860 is amended to read:

45 “443.860. (1) A person may not establish, conduct or maintain a hospice program providing

1 hospice services, or hold itself out to the public as a hospice program, without obtaining a license  
2 from the Oregon Health Authority.

3 “(2) The authority:

4 “(a) Shall adopt rules to carry out the provisions of ORS 443.850 to 443.869, including but not  
5 limited to rules for licensure that require an [*on-site*] **in-person site** inspection of each licensed  
6 hospice program at least once every three years.

7 “(b) May accept certification by a federal agency or accreditation by an accrediting organization  
8 approved by the authority as evidence of compliance with the requirements for licensure adopted  
9 under paragraph (a) of this subsection if:

10 “(A) The certification or accreditation meets standards and conditions established for hospice  
11 programs by the Centers for Medicare and Medicaid Services;

12 “(B) The hospice program invites the authority to participate in any exit interview conducted  
13 by the agency or organization; and

14 “(C) The hospice program provides the authority with copies of all documentation requested by  
15 the authority concerning the certification or accreditation.

16 “(3) The fee to obtain or renew a hospice program license is \$1,140.

17 “(4) The authority shall prescribe by rule the form and manner for application for or renewal  
18 of a license. The authority shall issue a license to an applicant that has the necessary qualifications,  
19 meets all requirements established by the authority by rule and has paid the fee.

20 “(5) A license issued under this section is valid for one year and is not transferable. A license  
21 may be renewed by payment of the fee and demonstration of compliance with requirements for re-  
22 newal established by the authority by rule.

23 “**SECTION 10.** Section 12b, chapter 19, Oregon Laws 2020 (first special session), is amended to  
24 read:

25 “**Sec. 12b.** A program is a qualified residential treatment program if it:

26 “(1) Provides residential care and treatment to a child who, based on an independent assessment  
27 described in section 13b, **chapter 19, Oregon Laws 2020 (first special session)**, [*of this 2020 spe-*  
28 *cial session Act,*] requires specialized, evidence-based, as defined by the Department of Human Ser-  
29 vices by rule, supports and services related to the effects of trauma or mental, emotional or  
30 behavioral health needs.

31 “(2) Uses a trauma-informed treatment model that is designed to address the needs, including  
32 clinical needs as appropriate, of the child.

33 “(3) Ensures that the staff at the facility includes licensed or registered nurses licensed under  
34 ORS chapter 678 and other licensed clinical staff who:

35 “(a) Provide care within their licensed scope of practice;

36 “(b) Are [*on site*] **on-site** according to the treatment model identified in subsection (2) of this  
37 section; and

38 “(c) Are available 24 hours per day and seven days per week.

39 “(4) Facilitates the involvement of the child’s family, as defined in ORS 418.575, in the child’s  
40 treatment program, to the extent appropriate and in the child’s best interests.

41 “(5) Facilitates outreach to the child’s family, as defined in ORS 418.575, documents how out-  
42 reach is made and maintains contact information for any known biological relatives or fictive kin,  
43 as defined by the department by rule.

44 “(6) Documents how the program integrates family into the child’s treatment process, including  
45 after discharge, and how sibling connections are maintained.

1 “(7) Provides discharge planning and family-based after-care support for at least six months fol-  
2 lowing the child’s discharge from the program.

3 “(8) Is licensed and accredited in accordance with requirements adopted by the department by  
4 rule. The rules adopted by the department under this subsection must:

5 “(a) Be consistent with federal licensure and accreditation requirements for qualified residential  
6 treatment programs [*and*];

7 “(b) Require that the qualified residential treatment program maintain site-specific accreditation  
8 from a nationally recognized organization; **and**

9 “(c) **Require an in-person site inspection.**

10 “**SECTION 11. This 2021 Act being necessary for the immediate preservation of the public**  
11 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
12 **on its passage.”**

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