

Enrolled
Senate Bill 714

Sponsored by Senators GELSER, PATTERSON, MANNING JR; Senator RILEY, Representatives KOTEK, REARDON, WILLIAMS

CHAPTER

AN ACT

Relating to residential care facility staffing; creating new provisions; amending ORS 443.886; and prescribing an effective date.

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

SECTION 1. As used in this section and ORS 443.886 and section 2 of this 2021 Act:

(1) “Acuity-based staffing tool” means the acuity-based staffing tool described in ORS 443.432 or an acuity-based staffing tool adopted by a facility that meets requirements established by the Department of Human Services by rule.

(2) “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.

(3) “Facility” means a residential care facility as defined in ORS 443.400.

SECTION 2. (1) The Department of Human Services shall adopt rules:

(a) Establishing minimum requirements for an acuity-based staffing tool adopted by a facility and the frequency with which a facility must reassess the facility’s staffing patterns with the acuity-based staffing tool.

(b) Establishing requirements for the design of an acuity-based staffing tool adopted by a facility to ensure that the tool recommends staffing levels, intensity and qualifications necessary to meet the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week.

(c) For carrying out subsection (4) of this section.

(2) The department shall assess the staffing levels of a facility, at a minimum, each time the department conducts a survey, license approval or renewal or an investigation into a complaint regarding:

- (a) Abuse of a resident;**
- (b) Injury to a resident;**
- (c) Resident safety; or**
- (d) Staffing levels.**

(3) The assessment under subsection (2) of this section must include a determination of whether the facility is:

(a) Using an acuity-based staffing tool that meets the requirements of rules adopted under subsection (1) of this section;

(b) Recalculating the facility’s staffing patterns using the acuity-based staffing tool with the frequency required by rules adopted under subsection (1) of this section;

(c) Consistently staffing to the levels, intensity and qualifications indicated by the acuity-based staffing tool; and

(d) Consistently meeting the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week.

(4) If the department finds, during an assessment under subsection (2) of this section, that a facility is:

(a) Not using an acuity-based staffing tool, the department shall require the facility to adopt the acuity-based staffing tool developed by the department.

(b) Not meeting the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week, the department shall:

(A) Place a condition on the facility's license as provided in ORS 441.736 (1)(b)(A), (B), (C) or (F) until the facility implements an acuity-based staffing tool and meets the minimum staffing levels identified by the department as necessary to meet the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week; and

(B) Impose fines, penalties or conditions required by law or that the department deems necessary to compel compliance.

(c) Using an acuity-based staffing tool but is not consistently staffing to the levels, intensity and qualifications indicated by the tool or is not recalculating the facility's staffing patterns with the tool at the frequency required by rule, the department shall:

(A) Assess whether the facility is meeting the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week;

(B) Place a condition on the facility's license as provided in ORS 441.736 (1)(b)(A), (B), (C) or (F) until the facility implements an acuity-based staffing tool and demonstrates the facility's ability to meet the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week; and

(C) Continuously monitor the facility, for at least six months, for compliance with the staffing levels, intensity and qualifications indicated by the acuity-based staffing tool.

(d) Not meeting the scheduled and unscheduled needs of all residents 24 hours a day, seven days a week, the department shall establish staffing standards in a corrective action plan and place a condition on the facility's license as provided in ORS 441.736 (1)(b)(A), (B), (C) or (F) until the facility complies with the corrective action plan.

SECTION 3. (1) The Department of Human Services shall ensure that a pilot of the acuity-based staffing tool described in ORS 443.432 is completed and that the tool is operational and accessible to residential care providers as an online tool no later than January 1, 2022.

(2) A facility with a memory care endorsement under ORS 443.886 shall adopt an acuity-based staffing tool, as defined in section 1 of this 2021 Act, no later than February 1, 2022.

(3) The department's assessment of staffing levels under section 2 (2) of this 2021 Act shall begin no later than February 1, 2022.

(4) The department shall solicit feedback from participants in the pilot of the acuity-based staffing tool and by October 1, 2021, and December 15, 2021, report, in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to human services regarding the progress of the pilot and implementation of the acuity-based staffing tool.

SECTION 4. 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 section 2 of this 2021 Act** 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) As used in this section:*]

[*(a) "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.*]

[*(b) "Facility" means a long term care facility, residential care facility, assisted living facility or any other like facility required to be licensed by the department.*]

[*(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.*]

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Human Services, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$824,797, which may be expended for carrying out the provisions of this 2021 Act.

SECTION 6. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (6), chapter _____, Oregon Laws 2021 (Enrolled Senate Bill 5529), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter _____, Oregon Laws 2021 (Enrolled Senate Bill 5529), collected or received by the Department of Human Services, is increased by \$824,797 for the purpose of carrying out sections 2 and 3 of this 2021 Act.

SECTION 7. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by Senate June 23, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 25, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State