

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 556**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete lines 3 and 4 and insert “441.025, 441.060, 441.062, 441.157,
3 443.019, 443.415, 443.436, 443.705 and 443.860 and 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
6 Laws 2019, is amended to read:

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

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

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

19 “(B) The State Fire Marshal, a deputy or an approved authority has is-
20 sued a certificate of noncompliance pursuant to ORS 479.215.

21 “(2)(a) Upon receipt of a license fee and an application to operate a long

1 term care facility, the Department of Human Services shall review the ap-
2 plication and conduct an [*on-site*] **in-person site** inspection of the long term
3 care facility, including an inspection of the kitchen and other areas where
4 food is prepared for residents. The department shall issue a license if the
5 department finds that the applicant and long term care facility comply with
6 ORS 441.015 to 441.087 and the rules of the department provided that it does
7 not receive within the time specified a certificate of noncompliance issued
8 by the State Fire Marshal, deputy, or approved authority pursuant to ORS
9 479.215.

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

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

14 “(B) The long term care facility is found not to be in substantial compli-
15 ance, following the [*on-site*] **in-person site** inspection, with ORS 441.015 to
16 441.087 and 443.012 and the rules of the department;

17 “(C) The long term care facility has failed an inspection of the kitchen
18 or other areas where food is prepared for residents that was conducted by
19 the department in accordance with ORS 443.417, except as provided in ORS
20 443.417 (2); or

21 “(D) The State Fire Marshal, a deputy or an approved authority has is-
22 sued a certificate of noncompliance pursuant to ORS 479.215.

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

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

28 “(5) No license shall be issued or renewed for any health care facility or
29 health maintenance organization that is required to obtain a certificate of
30 need under ORS 442.315 until a certificate of need has been granted. An

1 ambulatory surgical center is not subject to the certificate of need require-
2 ments in ORS 442.315.

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

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

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

30 “(9) The authority shall adopt rules for each type of health care facility,

1 except long term care facilities, to carry out the purposes of ORS 441.015 to
2 441.087 including, but not limited to:

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

5 “(b) Standards for patient care and safety, adequate professional staff or-
6 ganizations, training of staff for whom no other state regulation exists,
7 suitable delineation of professional privileges and adequate staff analyses of
8 clinical records.

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

12 “(a) Establishing classifications and descriptions for the different types
13 of long term care facilities that are licensed under ORS 441.015 to 441.087;

14 “(b) Standards for patient care and safety, adequate professional staff or-
15 ganizations, training of staff for whom no other state regulation exists,
16 suitable delineation of professional privileges and adequate staff analyses of
17 clinical records; and

18 “(c) Rules to ensure that a long term care facility complies with ORS
19 443.012.

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

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

25 “(a) Offer or provide services beyond the scope of the license classifica-
26 tion assigned by the authority or department; or

27 “(b) Assume a descriptive title or represent itself under a descriptive title
28 other than the classification assigned by the authority or department.

29 “(13) A health care facility must reapply for licensure to change the
30 classification assigned or the type of license issued by the authority or de-

1 partment.

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

3 “441.060. (1) The Oregon Health Authority shall make or cause to be made
4 [*on-site*] **in-person site** inspections of health care facilities licensed under
5 ORS 441.025 (1) at least once every three years.

6 “(2) The authority and the Department of Human Services may prescribe
7 by rule that any licensee or prospective applicant desiring to make specified
8 types of alteration or addition to its facilities or to construct new facilities
9 shall, before commencing such alteration, addition or new construction, ei-
10 ther prior to or after receiving a certificate of need pursuant to ORS 442.315,
11 if required, submit plans and specifications therefor to the authority or the
12 department for preliminary inspection and approval or recommendations with
13 respect to compliance with the rules authorized by ORS 441.025 and 443.420
14 and for compliance with National Fire Protection Association standards
15 when the facility is also to be Medicare or Medicaid certified.

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

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

22 “(5) For long term care facilities and residential care facilities, the de-
23 partment shall develop a review fee schedule as minimally necessary to sup-
24 port the staffing level and expenses required to administer the program. The
25 fee for project review of residential care facilities shall equal two-thirds that
26 required of health care facilities.

27 “(6) The authority or the department may also conduct an on-site review
28 of projects as a prerequisite to licensure of new facilities, major renovations
29 and expansions. The authority and the department shall, at least annually,
30 with the advice of the facilities covered by the review, present proposed rule

1 changes regarding facility design and construction to such agencies for their
2 consideration.

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

6 “(8) The department shall publish a state submissions guide for long term
7 care facility and residential care facility projects and advise project sponsors
8 of applicable requirements of federal, state and local regulatory agencies.

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

10 “441.062. (1) In conducting inspections for the purpose of licensing health
11 care facilities under ORS 441.020, the Oregon Health Authority and the De-
12 partment of Human Services shall avoid unnecessary facility disruption by
13 coordinating inspections performed by the authority or the department with
14 inspections performed by other federal, state and local agencies that have
15 responsibility for health care facility licensure.

16 “(2) Whenever possible, the authority and the department shall avoid du-
17 plication of inspections by accepting inspection reports or surveys prepared
18 by other state agencies that have responsibility for health care facility
19 licensure for purposes of the inspection required for licensure.

20 “(3) In lieu of an [*on-site*] **in-person site** inspection as required by ORS
21 441.025 and 441.060, the authority or the department may accept a certifica-
22 tion or accreditation from a federal agency or an accrediting body approved
23 by the authority or the department that the state licensing standards have
24 been met, if:

25 “(a) The certification or accreditation is recognized by the authority or
26 the department as addressing the standards and condition of participation
27 requirements of the Centers for Medicare and Medicaid Services and other
28 standards set by the authority or the department;

29 “(b) The health care facility notifies the authority or the department to
30 participate in any exit interview conducted by the federal agency or accred-

1 iting body; and

2 “(c) The health care facility provides copies of all documentation con-
3 cerning the certification or accreditation requested by the authority or the
4 department.

5 “(4) The authority and the department shall adopt rules necessary to im-
6 plement this section.

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

8 “441.157. (1) For the sole purpose of verifying compliance with the re-
9 quirements of ORS 441.152 to 441.177 and 441.192, the Oregon Health Au-
10 thority shall audit each hospital in this state once every three years, at the
11 time of conducting an [*on-site*] **in-person site** inspection of the hospital un-
12 der ORS 441.025.

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

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

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

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

22 “(d) Within 60 days after issuing an order requiring a hospital to imple-
23 ment a plan to correct a violation of ORS 441.152 to 441.177 or 441.192, con-
24 duct an investigation of the hospital to ensure compliance with the order.

25 “(3) Following an investigation conducted pursuant to subsection (2) of
26 this section, the authority shall provide in writing a report of the authority’s
27 findings to the hospital and the cochairs of the hospital nurse staffing com-
28 mittee.

29 “(4) The authority shall compile and maintain for public inspection an
30 annual report of audits and investigations conducted pursuant to this sec-

1 tion.

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

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

5 “443.019. (1) The Oregon Health Authority shall conduct an [*on-site*] **in-**
6 **person site** inspection of a home health agency and a caregiver registry
7 prior to licensure and at least once every three years thereafter.

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

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

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

18 “(c) The agency or registry provides copies of all documentation con-
19 cerning the certification or accreditation requested by the authority.

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

22 “443.415. (1) Applications for licensure to maintain and operate a resi-
23 dential facility shall be made to the Department of Human Services or the
24 Oregon Health Authority on forms provided for that purpose by the appro-
25 priate licensing agency. Each application shall be accompanied by a fee. No
26 fee is required of any governmentally operated residential facility.

27 “(2)(a) The application fee for a residential training facility or a residen-
28 tial treatment facility is \$60.

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

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

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

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

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

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

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

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

7 “(3) Upon receipt of an application and fee, the licensing agency shall
8 conduct an [*on-site*] **in-person site** inspection, including, for residential care
9 facilities, an inspection of the kitchen and other areas where food is prepared
10 for residents. The licensing agency shall issue a license to any applicant for
11 operation of a residential facility in compliance with ORS 443.002 and 443.400
12 to 443.455 and the rules of the licensing agency. Licensure may be denied
13 when a residential facility is not in compliance with ORS 443.002 or 443.400
14 to 443.455 or the rules of the licensing agency. Licensure shall be denied if
15 the State Fire Marshal, deputy or approved authority has given notice of
16 noncompliance of a residential care facility, residential training facility or
17 residential treatment facility pursuant to ORS 479.220.

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

19 “443.436. (1) As used in this section, ‘substantial compliance’ means a
20 level of compliance with state law and with rules of the Department of Hu-
21 man Services such that any identified deficiencies pose a risk of no more
22 than negligible harm to the health or safety of residents.

23 “(2)(a) The department shall develop a framework for assessing the com-
24 pliance of residential care facilities with regulatory requirements and for
25 requiring corrective action that accurately and equitably measures compli-
26 ance and the extent of noncompliance.

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

29 “(c) The department shall publish the framework on the department’s
30 website and shall distribute the framework to residential care facilities li-

1 censed in this state.

2 “(3) The department shall administer a residential care facility enhanced
3 oversight and supervision program that focuses department resources on
4 residential care facilities that consistently demonstrate:

5 “(a) A lack of substantial compliance with the requirements of ORS
6 443.400 to 443.455; or

7 “(b) Performance substantially below statewide averages on quality met-
8 rics reported under the Residential Care Quality Measurement Program es-
9 tablished under ORS 443.446.

10 “(4) The residential care facility enhanced oversight and supervision pro-
11 gram shall take one or more of the following actions that the department
12 deems necessary to improve the performance of a residential care facility:

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

14 “(b) Conduct surveys that focus on areas of consistent noncompliance
15 identified by the department.

16 “(5) The department shall terminate the enhanced oversight and super-
17 vision of a residential care facility:

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

22 “(b) After one year if the residential care facility submits a written as-
23 ssertion of substantial compliance and the department determines that the
24 residential care facility no longer meets the criteria set forth in subsection
25 (3) of this section.

26 “(6) Using moneys from the Quality Care Fund established under ORS
27 443.001, the department shall develop, maintain and periodically update
28 compliance guidelines for residential care facilities serving seniors and per-
29 sons with disabilities. The guidelines must be made available electronically.

30 “(7) This section does not preclude the department from taking any action

1 authorized by ORS 443.400 to 443.455.

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

3 “443.705. As used in ORS 443.705 to 443.825:

4 “(1) ‘Adult foster home’ means any family home or facility in which resi-
5 dential care is provided in a homelike environment for five or fewer adults
6 who are not related to the provider by blood or marriage.

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

10 “(3) ‘Licensing agency’ means:

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

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

15 “(4) ‘Provider’ means any person operating an adult foster home and in-
16 cludes a resident manager. ‘Provider’ does not include the owner or lessor
17 of the building in which the adult foster home is located or the owner or
18 lessor of the land on which the adult foster home is situated unless the
19 owner or lessor is also the operator of the adult foster home.

20 “(5) ‘Residential care’ means the provision of room and board and services
21 that assist the resident in activities of daily living, such as assistance with
22 bathing, dressing, grooming, eating, medication management, money man-
23 agement or recreation.

24 “(6) ‘Substitute caregiver’ means any person who provides care and ser-
25 vices in an adult foster home under the jurisdiction of the licensing agency
26 in the absence of the provider or resident manager.

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

28 “443.860. (1) A person may not establish, conduct or maintain a hospice
29 program providing hospice services, or hold itself out to the public as a
30 hospice program, without obtaining a license from the Oregon Health Au-

1 thority.

2 “(2) The authority:

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

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

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

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

16 “(C) The hospice program provides the authority with copies of all doc-
17 umentation requested by the authority concerning the certification or ac-
18 creditation.

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

20 “(4) The authority shall prescribe by rule the form and manner for appli-
21 cation for or renewal of a license. The authority shall issue a license to an
22 applicant that has the necessary qualifications, meets all requirements es-
23 tablished by the authority by rule and has paid the fee.

24 “(5) A license issued under this section is valid for one year and is not
25 transferable. A license may be renewed by payment of the fee and demon-
26 stration of compliance with requirements for renewal established by the au-
27 thority by rule.

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

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

1 “(1) Provides residential care and treatment to a child who, based on an
2 independent assessment described in section 13b, **chapter 19, Oregon Laws**
3 **2020 (first special session)**, [*of this 2020 special session Act,*] requires spe-
4 cialized, evidence-based, as defined by the Department of Human Services by
5 rule, supports and services related to the effects of trauma or mental, emo-
6 tional or behavioral health needs.

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

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

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

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

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

15 “(4) Facilitates the involvement of the child’s family, as defined in ORS
16 418.575, in the child’s treatment program, to the extent appropriate and in
17 the child’s best interests.

18 “(5) Facilitates outreach to the child’s family, as defined in ORS 418.575,
19 documents how outreach is made and maintains contact information for any
20 known biological relatives or fictive kin, as defined by the department by
21 rule.

22 “(6) Documents how the program integrates family into the child’s treat-
23 ment process, including after discharge, and how sibling connections are
24 maintained.

25 “(7) Provides discharge planning and family-based after-care support for
26 at least six months following the child’s discharge from the program.

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

30 “(a) Be consistent with federal licensure and accreditation requirements

1 for qualified residential treatment programs [*and*];

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

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

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

8
