

Enrolled Senate Bill 1556

Sponsored by Senator PATTERSON, Representatives SANCHEZ, SMITH G, Senators GELSER BLOUIN, KENNEMER, MANNING JR, Representative NERON; Senator ARMITAGE, Representatives EVANS, GOMBERG, HOY, NATHANSON, NOSSE, PRUSAK, REARDON, REYNOLDS, SOSA, WILLIAMS (Presession filed.)

CHAPTER

AN ACT

Relating to caregivers; and declaring an emergency.

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

SECTION 1. (1) As used in this section and section 2 of this 2022 Act:

(a) “Employer” means:

(A) The Home Care Commission, for caregivers described in paragraph (b)(A) of this subsection.

(B) An in-home care agency that hires, enters into an arrangement with or contracts with a caregiver described in paragraph (b)(B) of this subsection.

(b) “Home or community-based services caregiver” or “caregiver” means:

(A) A home care worker, as defined in ORS 410.600.

(B) An individual providing in-home care services as an employee of or under an arrangement or contract with an in-home care agency.

(c) “In-home care agency” has the meaning given that term in ORS 443.305.

(d) “In-home care services” has the meaning given that term in ORS 443.305.

(2) The Department of Human Services shall adopt by rule criteria for the certification and continuing certification of home or community-based services caregivers. The criteria must include, but are not limited to, requirements that:

(a) The caregiver:

(A) Be 18 years of age or older;

(B) Not be excluded from participation in federal health care programs under 42 U.S.C. 1320a-7a;

(C) Have in effect a satisfactorily completed criminal records check in accordance with ORS 443.004; and

(D) Complete all basic training requirements that are relevant to the position and to the health and safety of workers and individuals receiving care, including but not limited to requirements adopted by the department under ORS 410.598 and 443.011; and

(b) The employer provide to the department verification from a person that provides training, including but not limited to the employer, a training institution, an approved training entity or an apprenticeship program, that the caregiver was provided the training described in paragraph (a)(D) of this subsection. The department shall prescribe by rule the

deadline by which the department must receive the verification from the employer following the completion of the training.

(3) The department shall prescribe an application process and verification requirements for the certification and continuing certification of home or community-based services caregivers.

(4) Employers are responsible for initiating the certification of home or community-based services caregivers who they employ.

(5) A home or community-based services caregiver maintains the caregiver's certification if all training requirements are completed timely.

SECTION 2. (1) The Department of Human Services shall maintain an online home or community-based services caregiver registry accessible to the public. The information to be displayed on the registry for each caregiver shall be limited to the:

- (a) Name of the caregiver;
- (b) County and, if applicable, city where the caregiver resides;
- (c) Certification status of the caregiver under section 1 of this 2022 Act and any endorsements earned by the caregiver; and
- (d) Criminal records check status of the caregiver.

(2) The registry shall contain links to:

- (a) Sites that explain the training requirements for the certification of each type of home or community-based services caregiver described in section 1 (1)(b) of this 2022 Act; and
- (b) The home care registry, as defined in ORS 410.600, for members of the public to find home care workers.

(3) The department shall create a process for a home or community-based services caregiver to request to be excluded from the registry.

(4) The department shall prominently display a notice on the registry that states that:

- (a) Home or community-based services caregivers may choose not to be listed on the registry; and

(b) The registry is not an exclusive list of all home and community-based services caregivers that are qualified and trained in this state.

(5) The department may include on the registry disclaimers, user guidance and other resources that the department deems appropriate to help users of the registry.

(6) This section does not prohibit the department from requesting and collecting from home or community-based services caregivers information in addition to the information that must be displayed on the registry under subsection (1) of this section.

SECTION 3. Section 1 of this 2022 Act is amended to read:

Sec. 1. (1) As used in this section and section 2 of this 2022 Act:

- (a) "Employer" means:
 - (A) The Home Care Commission, for caregivers described in paragraph (b)(A) of this subsection.
 - (B) An in-home care agency that hires, enters into an arrangement with or contracts with a caregiver described in paragraph (b)(B) of this subsection.

(C) **An owner or operator of a residential care facility that employs a caregiver described in paragraph (b)(C) of this subsection.**

- (b) "Home or community-based services caregiver" or "caregiver" means:
 - (A) A home care worker, as defined in ORS 410.600.
 - (B) An individual providing in-home care services as an employee of or under an arrangement or contract with an in-home care agency.

(C) **An individual who is direct care staff, as defined in ORS 443.400, in a residential care facility, as defined in ORS 443.400, that includes a residential care facility with a memory care endorsement under ORS 443.886 and an assisted living facility.**

- (c) "In-home care agency" has the meaning given that term in ORS 443.305.
- (d) "In-home care services" has the meaning given that term in ORS 443.305.

(2) The Department of Human Services shall adopt by rule criteria for the certification and continuing certification of home or community-based services caregivers. The criteria must include, but are not limited to, requirements that:

(a) The caregiver:

(A) Be 18 years of age or older;

(B) Not be excluded from participation in federal health care programs under 42 U.S.C. 1320a-7a;

(C) Have in effect a satisfactorily completed criminal records check in accordance with ORS 443.004; and

(D) Complete all basic training requirements that are relevant to the position and to the health and safety of workers and individuals receiving care, including but not limited to requirements adopted by the department under ORS 410.598 and 443.011; and

(b) The employer provide to the department verification from a person that provides training, including but not limited to the employer, a training institution, an approved training entity or an apprenticeship program, that the caregiver was provided the training described in paragraph (a)(D) of this subsection. The department shall prescribe by rule the deadline by which the department must receive the verification from the employer following the completion of the training.

(3) The department shall prescribe an application process and verification requirements for the certification and continuing certification of home or community-based services caregivers.

(4) Employers are responsible for initiating the certification of home or community-based services caregivers who they employ.

(5) A home or community-based services caregiver maintains the caregiver's certification if all training requirements are completed timely.

SECTION 4. (1) The Department of Human Services shall work with stakeholder groups to:

(a) Design certification requirements under section 1 of this 2022 Act;

(b) Explore ways to improve the skill level and training of home or community-based services caregivers, as defined in section 1 of this 2022 Act; and

(c) Improve pathways for caregivers to access continued education and advancement.

(2) In the department's report to the Joint Interim Committee on Ways and Means, as required in the department's 2021-2023 biennial budget, the department shall report on the implementation of sections 1 and 2 of this 2022 Act and the department's efforts under subsection (1) of this section.

SECTION 5. (1) The Department of Human Services shall complete rulemaking to implement the provisions of sections 1 and 2 of this 2022 Act no later than January 1, 2023, and take all steps necessary to implement the provisions of sections 1 and 2 of this 2022 Act on and after the operative date specified in section 6 (1) of this 2022 Act.

(2) The department shall take all steps necessary to implement the amendments to section 1 of this 2022 Act by section 3 of this 2022 Act no later than the operative date specified in section 6 (2) of this 2022 Act.

SECTION 6. (1) Sections 1 and 2 of this 2022 Act become operative on December 31, 2023.

(2) The amendments to section 1 of this 2022 Act by section 3 of this 2022 Act become operative on December 31, 2024.

SECTION 7. Section 4 of this 2022 Act is repealed on January 2, 2024.

SECTION 8. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (6), chapter 606, Oregon Laws 2021, for the biennium ending June 30, 2023, for aging and people with disabilities programs, is increased by \$248,843 to implement the requirements of this 2022 Act.

SECTION 9. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (6), chapter 606, Oregon Laws 2021, for the biennium ending June 30, 2023, as the maximum limits for payment of expenses from federal funds, excluding federal funds described in section 2, chapter 606, Oregon Laws 2021, collected or

received by the Department of Human Services, for aging and people with disabilities programs, is increased by \$84,361 to implement the requirements of this 2022 Act.

SECTION 10. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Passed by Senate March 2, 2022

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House March 4, 2022

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Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2022

Approved:

.....M,....., 2022

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2022

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Shemia Fagan, Secretary of State