

Senate Bill 1556

Sponsored by Senator PATTERSON, Representatives SANCHEZ, SMITH G, Senators GELSER BLOUIN, KENNEMER, MANNING JR, Representative NERON; Representatives EVANS, HOY, PRUSAK, REYNOLDS, WILLIAMS (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 **as introduced**.

Requires Department of Human Services to establish certification process for direct care providers of home- or community-based services and implement online registry of direct care providers of home- or community-based services. Specifies requirements for certification and information to be displayed on online registry.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to caregivers; and declaring an emergency.

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

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

5 (a) **“Employer” means:**

6 (A) **The Home Care Commission, for caregivers described in paragraph (e)(A) and (B) of**
7 **this subsection.**

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

10 (b) **“Home- or community-based services caregiver” or “caregiver” means a worker pro-**
11 **viding direct care to individuals receiving home- or community-based care that is funded, in**
12 **whole or in part, by state or federal funds.**

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

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

15 (e) **“Worker” includes an unlicensed:**

16 (A) **Home care worker, as defined in ORS 410.600.**

17 (B) **Private pay home care worker, as defined in ORS 410.600.**

18 (C) **Individual providing in-home care services as an employee of or under an arrange-**
19 **ment or contract with an in-home care agency.**

20 (2) **The Department of Human Services shall adopt by rule criteria for the certification**
21 **of home- or community-based services caregivers. The criteria must include, but is not lim-**
22 **ited to, requirements that the caregiver:**

23 (a) **Be 18 years of age or older;**

24 (b) **Not be excluded from participation in federal health care programs under 42 U.S.C.**
25 **1320a-7a;**

26 (c) **Satisfactorily complete a criminal background check through the Oregon Criminal**
27 **History and Abuse Records Database System or successor system;**

28 (d) **Complete all basic training requirements that are relevant to the position and to the**

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.

1 health and safety of workers and individuals receiving care, including but not limited to re-
 2 quirements adopted by the department under ORS 410.598 and 443.011; and

3 (e) Complete an attestation that the caregiver was provided the training described in
 4 paragraph (d) of this subsection.

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

7 (4) A home- or community-based services caregiver who is not certified may not be
 8 compensated in whole or in part with state or federal funds.

9 (5) Employers are responsible for initiating the certification of home- or community-
 10 based services caregivers who they employ. The department may charge a fee to private
 11 employers in an amount necessary to cover the department's costs in administering this
 12 section.

13 (6) A home- or community-based services caregiver maintains the caregiver's certifica-
 14 tion if all training requirements are timely completed.

15 **SECTION 2.** (1) The Department of Human Services shall maintain an online home- or
 16 community-based services caregiver registry accessible to the public. The department shall
 17 adopt by rule the information to be displayed on the registry for each caregiver, including
 18 but not limited to the:

19 (a) Name of the caregiver;

20 (b) County and, if applicable, city where the caregiver resides;

21 (c) Certification status of the caregiver under section 1 of this 2022 Act and any
 22 endorsements earned by the caregiver; and

23 (d) Background check status of the caregiver.

24 (2) The registry shall contain links to:

25 (a) Sites that explain the training requirements for the certification of each type of
 26 worker described in section 1 (1)(e) of this 2022 Act;

27 (b) The home care registry, as defined in ORS 410.600, for members of the public to find
 28 home care workers; and

29 (c) The Oregon Criminal History and Abuse Records Database System, or successor sys-
 30 tem, for members of the public to view the criminal background check records for a
 31 caregiver.

32 (3) The department shall create a process and adopt by rule the criteria for a caregiver
 33 to request to limit the information displayed on the registry if the caregiver:

34 (a) Is a family caregiver only;

35 (b) Is a survivor of intimate partner violence, domestic violence or sexual assault or has
 36 an outstanding stalking order against a third party; or

37 (c) Otherwise has a safety need for additional privacy.

38 (4) For caregivers excluded under subsection (3) of this section, the registry shall display
 39 only the name and county of residence.

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

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

42 (a) "Employer" means:

43 (A) The Home Care Commission, for caregivers described in paragraph (e)(A) and (B) of this
 44 subsection.

45 (B) An in-home care agency that hires, enters into an arrangement with or contracts with a

1 caregiver described in paragraph (e)(C) of this subsection.

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

4 (b) “Home- or community-based services caregiver” or “caregiver” means a worker providing
5 direct care to individuals receiving home- or community-based care that is funded, in whole or in
6 part, by state or federal funds.

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

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

9 (e) “Worker” includes [*an unlicensed*]:

10 (A) **An unlicensed** home care worker, as defined in ORS 410.600.

11 (B) **An unlicensed** private pay home care worker, as defined in ORS 410.600.

12 (C) **An unlicensed** individual providing in-home care services as an employee of or under an
13 arrangement or contract with an in-home care agency.

14 **(D) Licensed direct care staff, as defined in ORS 443.400, in residential care facilities, as**
15 **defined in ORS 443.400, which include residential care facilities with memory care endorse-**
16 **ments under ORS 443.886 and assisted living facilities.**

17 (2) The Department of Human Services shall adopt by rule criteria for the certification of home-
18 or community-based services caregivers. The criteria must include, but is not limited to, require-
19 ments that the caregiver:

20 (a) Be 18 years of age or older;

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

22 (c) Satisfactorily complete a criminal background check through the Oregon Criminal History
23 and Abuse Records Database System or successor system;

24 (d) Complete all basic training requirements that are relevant to the position and to the health
25 and safety of workers and individuals receiving care, including but not limited to requirements
26 adopted by the department under ORS 410.598, [*and*] **413.800**, 443.011 **and 443.886**; and

27 (e) Complete an attestation that the caregiver was provided the training described in paragraph
28 (d) of this subsection.

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

31 (4) A home- or community-based services caregiver who is not certified may not be compensated
32 in whole or in part with state or federal funds.

33 (5) Employers are responsible for initiating the certification of home- or community-based ser-
34 vices caregivers who they employ. The department may charge a fee to private employers in an
35 amount necessary to cover the department’s costs in administering this section.

36 (6) A home- or community-based services caregiver maintains the caregiver’s certification if all
37 training requirements are timely completed.

38 **SECTION 4. (1) The Department of Human Services shall complete rulemaking to imple-**
39 **ment the provisions of sections 1 and 2 of this 2022 Act no later than January 1, 2023, and**
40 **take all steps necessary to implement the provisions of sections 1 and 2 of this 2022 Act on**
41 **and after the operative date specified in section 5 of this 2022 Act.**

42 **(2) The department shall take all steps necessary to implement the amendments to sec-**
43 **tion 1 of this 2022 Act by section 3 of this 2022 Act no later than the operative date specified**
44 **in section 5 of this 2022 Act.**

45 **SECTION 5. (1) Sections 1 and 2 of this 2022 Act become operative on December 31, 2023.**

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

3 **SECTION 6.** **This 2022 Act being necessary for the immediate preservation of the public**
4 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**
5 **on its passage.**

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