

Presentation to the Senate Interim Committee on Health Care

Oversight of long-term care facility ownership

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January 10, 2024

Agenda

I. Overview

- Community-based care
- Nursing facilities

II. Information collected

III. Challenges

IV. Next steps

V. Questions

Office of Aging and
People with Disabilities



Overview: Long-term care settings

Four types of long-term care settings are licensed by the ODHS Office of Aging and People with Disabilities (APD).

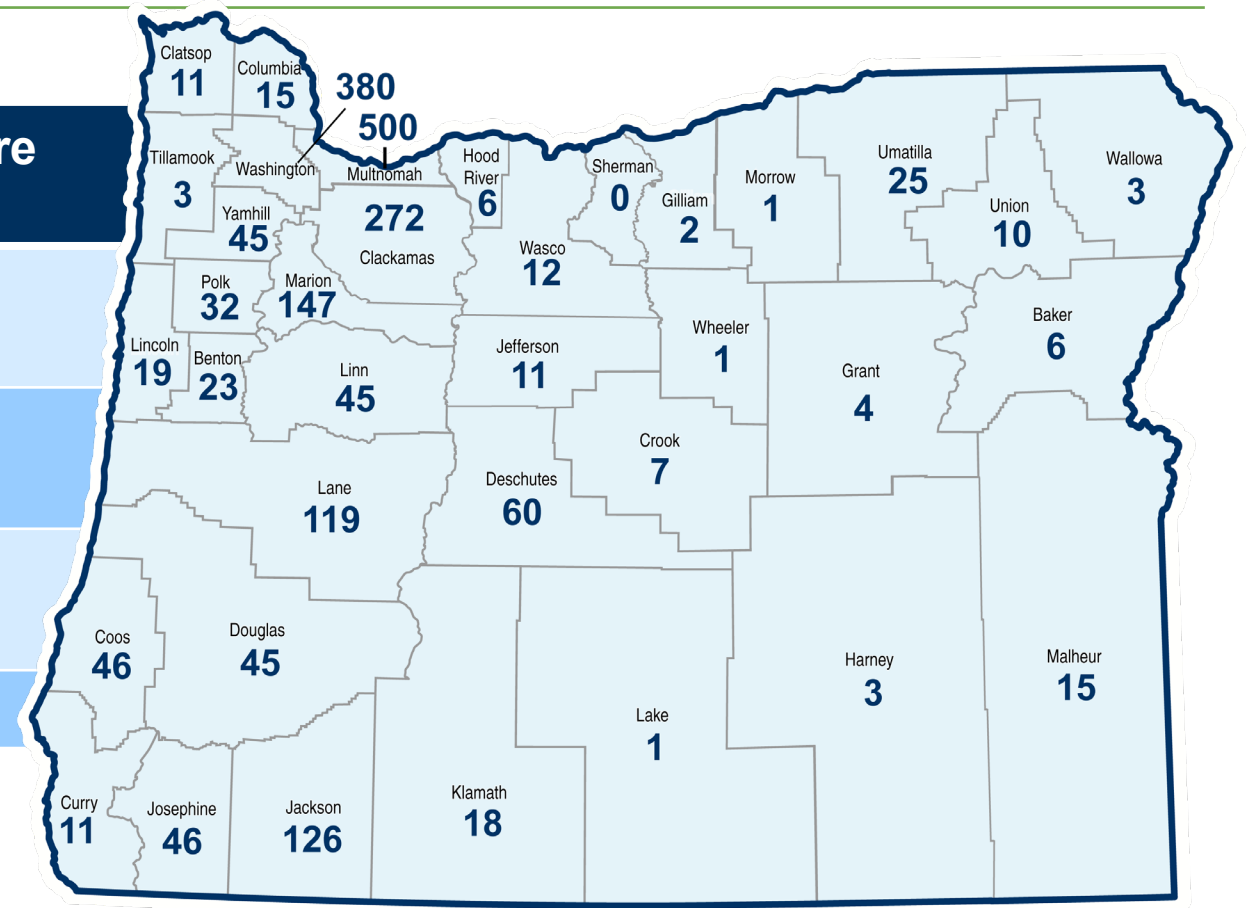
- Community-based settings:
 - Adult foster homes
 - Assisted living facilities
 - Residential care facilities
- Nursing facilities



Overview: Number of licensed providers by type

Setting type	Number	Memory care endorsed
Nursing facility	128	11
Assisted living and residential care	575	239
Adult foster home	1,367	N/A
Totals	2,070	250

Data as of December 2023



Overview: Regulatory oversight

Adult foster homes

Licensing oversight and complaint investigation provided by staff in local APD or Area Agency on Aging (AAA) offices and a central office unit.

Adult Protective Services investigates abuse.



Assisted living/ residential care facilities

Oversight, complaint investigation and technical support provided through staff in an APD central office unit.

Adult Protective Services investigates abuse.



Nursing facilities

Oversight and complaint investigation provided by an APD central office unit and the Centers for Medicare and Medicaid Services (CMS).

APD's nursing facility unit investigates abuse.



Community-based care: Adult foster homes

- Single-family homes offering services in a family-style setting.
- Care often provided directly by the owner of the home.
- Serve five or fewer residents.
- Inspected for licensing compliance a minimum of every 12 months.



Overview: Community-based care

Assisted living and residential care facilities

- Provide services and supports in a multi-family building:
 - Assisted living facilities feature individual apartments.
 - Residential care settings often have shared kitchens and bathrooms.
- Serve six or more residents.
- All or part of building may be endorsed to provide memory care.
- Inspected for licensing compliance a minimum of every 24 months with kitchen surveys in alternate years.



Overview: Nursing facilities

- Provide short-term rehabilitative care following hospitalization and long-term care for individuals who may have a chronic illness or disability.
- Have licensed nursing and certified nursing assistant staff requirements.
- Serve six or more residents.
- All or part of building may be endorsed to provide memory care.
- Inspected for licensing compliance a minimum of every 12 months.



Ownership information collected

- ☐ Business owner name, address, phone, fax and mailing address
- ☐ Property owner information, if different than business owner
- ☐ Proof of issued Federal Employer Identification Number
- ☐ Individual Social Security numbers for 5 percent or more ownership if serving people who receive Medicaid/Medicare
- ☐ Workers' compensation and liability insurance carriers
- ☐ List of each long-term care facility owned or managed by any person owning 5 percent or more of a facility
- ☐ Background check
- ☐ Applicant history in meeting licensing compliance requirements
- ☐ Experience
- ☐ Financial history

Other ownership information collected

In addition to information required of all licensees, **adult foster home** operators must provide:

- ☐ Direct ownership interest
- ☐ Indirect ownership interest
- ☐ Controlling interest
- ☐ Other disclosing entity
- ☐ Subcontractor such as a management company



Adult foster home financial requirements

- ☐ Proof of ability to maintain sufficient liquid resources to pay operating costs for at least two months without relying on potential income from residents
- ☐ Applicant may be asked to furnish a financial guarantee as a condition of initial licensure
- ☐ 411-049-0125 (3)(a-c) provides other required information if there is reason to suspect finances are insufficient

Other related information required:

- ☐ List of unsatisfied judgments, pending litigation and unpaid taxes
- ☐ Bankruptcy filings

Facility financial information collected

Residential care, assisted living and nursing facilities must provide:

- ☐ Direct and indirect ownership interest, controlling interest, other disclosing entity or subcontractor
- ☐ Subcontractor name, address, Electronic Identification or Social Security number and percent of ownership
- ☐ Board of directors if applicable
- ☐ Business credit check
- ☐ Proof that prospective licensee has financial resources to operate for 60 days

- ☐ Proof of liquid assets sufficient to operate for 45 days
- ☐ Demonstrate the ability to cover cash flow problems identified by the pro forma
- ☐ Fiscal report that includes revenue, expenditures and resident days served by month for the first 12 months of operation

Additional requirement for nursing facilities only:

- ☐ Demonstration of right to property and business

Nursing facility financial information collected

Each fiscal year ending June 30, facilities file financial statements with the APD licensing and financial audit unit.

Detailed fiscal Information for the facility is submitted on cost reporting forms as follows:

- **Medicaid contracted** facilities with at least 1,000 Medicaid bed days must complete, as appropriate: ODHS 0035, Nursing Facility Financial Statement: Nursing Facilities
- **Non-Medicaid contracted** facilities or facilities with fewer than 1,000 Medicaid resident days during a 12-month reporting period must complete ODHS 0035a Revenue Statement: Non-contracted Nursing Facilities

How data is used in licensing

Ownership information

- Ownership information for licensed providers is shared on dedicated APD website.
- Identifies and determines who the licensee is for the facility or adult foster home.
- Determines if the provider can be enrolled as a Medicaid provider.
- May be used to determine responsibility when there is regulatory non-compliance and complaints, including abuse.

Financial data

- Financial data is not shared publicly on website.
- Used to assess the financial sufficiency of the facility to operate should unexpected events occur.
- Nursing facility cost reports are used to establish rates.

Challenges in collecting owner and financial data

- Detailed ownership information can be complicated to compile:
 - Multiple entities often involved
 - May take time to determine organizational structure and key individuals involved.
- Ownership turnover can be high:
 - In the 2023 calendar-year, nearly a quarter of all nursing facilities in Oregon changed owners
 - When change of ownership occurs, ownership finances and background information are reviewed, analyzed for fiscal solvency, and approved.



Other challenges

- Ownership data entered inconsistently.
- Process changes that affected the way the ownership details were entered.
- Federal reporting system, Aspen, has functionality limitations:
 - Currently no mechanism to build and depict complex ownership structures
 - CMS will need to update Aspen to support data entry
- Ensuring background clearance requirements for facility owners are up to date, particularly when owners reside outside of Oregon.

New federal rules for nursing facility owner and financial data

Effective Jan. 16, 2024:

- Defines *private equity* and *real estate investment trust*, allowing states to better identify whether a nursing facility belongs to one of these types of owners.
- Requires nursing facilities enrolled in Medicare or Medicaid disclose additional information about certain people or entities that have a business relationship with the facility.
- Nursing facilities must disclose entities that exercise financial control over the facility.
- Requires additional information about entities that lease or sublease property to nursing facilities.



Department support and next steps

- ODHS is waiting for federal forms and CMS data system (Aspen) to be updated to reflect new federal rules.
- Will engage with providers to develop a plan on how to meet the new federal rules.
- ODHS will launch a review of ownership and corporate structure information it has collected for all nursing facilities to ensure information is consistent with new federal rules.
- Corporations with indirect ownership will be analyzed and cross referenced to ensure full disclosure of all required owners has occurred.
- ODHS will explore adding more ownership details on its licensing compliance website.



Questions?
