

Senate Bill 811

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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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act adds new requirements for getting a license to run certain types of long term care facilities. (Flesch Readability Score: 61.6).

Adds new requirements for obtaining a license to operate a residential facility or adult foster home. Requires the Department of Human Services and the Oregon Health Authority to inspect residential facilities and adult foster homes under certain conditions. Permits the department to extend the duration of an adult foster home license to two years if the home has been found in substantial compliance for three consecutive years. Directs the department to adopt additional standards for obtaining a memory care endorsement.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to community-based care; creating new provisions; amending ORS 443.415, 443.416, 443.425,
3 443.735, 443.755 and 443.886; and prescribing an effective date.

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

5 **SECTION 1.** ORS 443.415 is amended to read:

6 443.415. (1) Applications for licensure to maintain and operate a residential facility shall be
7 made to the Department of Human Services or the Oregon Health Authority on forms provided for
8 that purpose by the appropriate licensing agency **and shall include the facility's proposed policies**
9 **and procedures regarding staff and administrator training, service planning, medication ad-**
10 **ministration, food preparation and distribution, safety, emergency response, succession**
11 **planning and facility closure.**

12 (2) Each application shall be accompanied by a fee. No fee is required of any governmentally
13 operated residential facility. **The application fee for:**

14 [(2)](a) [*The application fee for*] A residential treatment facility is \$60.

15 (b) [*The application fee for*] A residential training home or residential training facility shall be
16 prescribed by the department pursuant to ORS 427.021.

17 (c) [*The application fee for*] A residential treatment home is \$30.

18 (d) [*The application fee for*] A residential care facility is:

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

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

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

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

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

24 (3) Upon receipt of an application and fee, the licensing agency shall conduct an in-person site
25 inspection, including, for residential care facilities, an inspection of the kitchen and other areas

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 where food is prepared for residents. *[The licensing agency shall issue a license to any applicant for*
 2 *operation of a residential facility in compliance with ORS 443.002 and 443.400 to 443.455 and the rules*
 3 *of the licensing agency. Licensure may be denied when a residential facility is not in compliance with*
 4 *ORS 443.002 or 443.400 to 443.455 or the rules of the licensing agency.]*

5 **(4) The licensing agency shall issue an initial license to a residential facility only if:**

6 **(a) The facility is in compliance with ORS 443.002 and 443.400 to 443.455 and the rules of**
 7 **the licensing agency;**

8 **(b) The licensing agency has completed an inspection of the facility under this section;**
 9 **and**

10 **(c) The licensing agency has reviewed and approved the facility's proposed policies and**
 11 **procedures submitted under subsection (1) of this section.**

12 **(5)** Licensure shall be denied if the State Fire Marshal, deputy or approved authority has given
 13 notice of noncompliance of a residential care facility, residential training facility or residential
 14 treatment facility pursuant to ORS 479.220.

15 **SECTION 2.** ORS 443.416 is amended to read:

16 443.416. (1)(a) The Director of Human Services or authorized representative shall *[periodically]*
 17 visit and inspect every residential care facility, residential training facility or residential training
 18 home to determine whether it is maintained and operated in accordance with ORS **443.002 and**
 19 **443.400 to 443.455** and the rules of the director, and to consult with and advise management con-
 20 cerning methods of care, treatment, training, records, housing and equipment. Employees of the
 21 Department of Human Services and the State Fire Marshal or authorized representative on request
 22 shall be permitted access to the premises and records of individuals in the facility or home that are
 23 pertinent to fire safety.

24 **(b) An inspection under this subsection shall be conducted at a minimum:**

25 **(A) No later than 120 days after an initial license is issued under ORS 443.415;**

26 **(B) No later than 120 days after a change in ownership of a residential care facility,**
 27 **residential training facility or residential training home; and**

28 **(C) Upon receipt of a license renewal application and fee under ORS 443.425.**

29 **(c) Inspections under this subsection may be conducted at other times as determined by**
 30 **the licensing agency.**

31 (2)(a) The Director of the Oregon Health Authority or authorized representative shall *[period-*
 32 *ically]* visit and inspect every residential treatment facility or residential treatment home to deter-
 33 mine whether it is maintained and operated in accordance with ORS **443.002 and** 443.400 to 443.455
 34 and the rules of the director, and to consult with and advise management concerning methods of
 35 care, treatment, training, records, housing and equipment. Employees of the Oregon Health Author-
 36 ity and the State Fire Marshal or authorized representative on request shall be permitted access to
 37 the premises and records of individuals in the facility or home that are pertinent to fire safety.

38 **(b) An inspection under this subsection shall be conducted at a minimum:**

39 **(A) No later than 120 days after an initial license is issued under ORS 443.415;**

40 **(B) No later than 120 days after a change in ownership of a residential treatment facility**
 41 **or residential treatment home; and**

42 **(C) Upon receipt of a license renewal application and fee under ORS 443.425.**

43 **(c) Inspections under this subsection may be conducted at other times as determined by**
 44 **the licensing agency.**

45 **SECTION 3.** ORS 443.425 is amended to read:

1 443.425. (1) Licensure under ORS 443.415 is effective for two years from the date of issue unless
 2 sooner revoked. Each license shall state:

3 (a) The name of the person operating the residential facility;

4 (b) The name of the person who owns the residential facility and, for a residential training fa-
 5 cility or a residential training home, all persons with an ownership interest of five percent or more;

6 (c) The address of the premises to which the license applies and the maximum number of resi-
 7 dents to be maintained in the residential facility at any time whether the residential facility is li-
 8 censed as a residential training facility, a residential treatment facility, a residential care facility,
 9 a residential training home or residential treatment home; and

10 (d) Other information that the Department of Human Services or the Oregon Health Authority
 11 considers necessary.

12 (2) A license is renewable upon submission of an application to the department or the authority
 13 [and], payment of a renewal fee **and completion of an inspection under ORS 443.416**. No fee is
 14 required of a governmentally operated residential facility. Filing of an application for renewal before
 15 the date of expiration of a license extends the effective date of expiration of the license until the
 16 licensing agency has acted upon the application. The licensing agency shall refuse to renew a li-
 17 cense if:

18 (a) The facility is not substantially in compliance with all applicable laws and rules;

19 (b) For a residential care facility, the facility has failed an inspection of the kitchen or other
 20 areas where food is prepared for residents that was conducted by the department in accordance with
 21 ORS 443.417, except as provided in ORS 443.417 (2); or

22 (c) The State Fire Marshal, deputy or approved authority has given notice of noncompliance of
 23 a residential care facility, residential training facility or residential treatment facility pursuant to
 24 ORS 479.220.

25 (3)[(a)] The biennial renewal fee for:

26 (a) A residential training facility or a residential treatment facility is \$60.

27 (b) [*The biennial renewal fee for*] A residential training home is \$50.

28 (c) [*The biennial renewal fee for*] A residential treatment home is \$30.

29 (d) [*The biennial renewal fee for*] A residential care facility is:

30 (A) For a facility with one to 15 beds, \$1,000.

31 (B) For a facility with 16 to 49 beds, \$1,500.

32 (C) For a facility with 50 to 99 beds, \$2,000.

33 (D) For a facility with 100 to 150 beds, \$2,500.

34 (E) For a facility with more than 150 beds, \$3,000.

35 **SECTION 4.** ORS 443.735 is amended to read:

36 443.735. (1)(a) Applications for a license to maintain and operate an adult foster home shall be
 37 made on forms provided by the licensing agency **and shall include the home's proposed policies**
 38 **and procedures regarding staff and administrator training, service planning, medication ad-**
 39 **ministration, food preparation and distribution, safety, emergency response, succession**
 40 **planning and facility closure.**

41 (b) Each application submitted to the Department of Human Services for an adult foster home
 42 serving individuals with intellectual or developmental disabilities shall be accompanied by a fee
 43 prescribed by the department under ORS 427.021.

44 (c) **Each application submitted to the department for an adult foster home serving older**
 45 **adults or individuals with physical disabilities shall be accompanied by a fee prescribed by the**

1 **department by rule.**

2 [(c)] (d) Each application submitted to the Oregon Health Authority[, or to the Department of
3 Human Services for an adult foster home not serving individuals with intellectual or developmental
4 disabilities,] shall be accompanied by a fee of \$20 per bed requested for licensing.

5 (2) Upon receipt of an application and fee, the licensing agency shall conduct an investigation,
6 **including an in-person site inspection.**

7 (3) The licensing agency shall [not] issue an initial license [unless] **only if:**

8 (a) The applicant and adult foster home are in compliance with ORS 443.002 and 443.705 to
9 443.825 and the rules of the licensing agency;

10 (b) The licensing agency has completed an inspection **under this section** of the adult foster
11 home;

12 **(c) The licensing agency has reviewed and approved the adult foster home's proposed**
13 **policies and procedures submitted under subsection (1) of this section;**

14 [(c)] (d) The licensing agency has completed a criminal records check under ORS 181A.195 on
15 the applicant and any person, other than a resident, 16 years of age or older who will be residing
16 in the adult foster home. The criminal records check shall be conducted in accordance with rules
17 adopted under ORS 181A.195;

18 [(d)] (e) The licensing agency has determined that the registry maintained under ORS 441.678
19 contains no finding that the applicant or any nursing assistant employed by the applicant has been
20 responsible for abuse; and

21 [(e)] (f) The applicant has demonstrated to the licensing agency the financial ability and re-
22 sources necessary to operate the adult foster home. The licensing agency shall adopt rules as the
23 agency deems appropriate that establish the financial standards an applicant must meet to qualify
24 for issuance of a license and that protect financial information from public disclosure. The demon-
25 stration of financial ability under this paragraph shall include, but need not be limited to, providing
26 the licensing agency with a list of any unsatisfied judgments, pending litigation and unpaid taxes
27 and notifying the agency regarding whether the applicant is in bankruptcy. If the applicant is unable
28 to demonstrate the financial ability and resources required by this paragraph, the licensing agency
29 may require the applicant to furnish a financial guarantee as a condition of initial licensure.

30 (4) The licensing agency [may not] **shall** renew a license under this section [unless] **only if:**

31 (a) The applicant and the adult foster home are in **substantial** compliance with ORS 443.002,
32 443.012 and 443.705 to 443.825 and the rules of the licensing agency;

33 (b) The licensing agency has completed an inspection **under ORS 443.755** of the adult foster
34 home;

35 (c) The licensing agency has completed a criminal records check under ORS 181A.195 on the
36 applicant and any person, other than a resident, 16 years of age or older who will be residing in the
37 adult foster home. The criminal records check under this paragraph shall be conducted in accord-
38 ance with rules adopted under ORS 181A.195; and

39 (d) The licensing agency has determined that the registry maintained under ORS 441.678 con-
40 tains no finding that the applicant or any nursing assistant employed by the applicant has been re-
41 sponsible for abuse.

42 (5)(a) In seeking an initial license and renewal of a license when an adult foster home has been
43 licensed for less than 24 months, the burden of proof shall be upon the provider and the adult foster
44 home to establish compliance with ORS 443.705 to 443.825 and the rules of the licensing agency.

45 (b) In proceedings for renewal of a license when an adult foster home has been licensed for at

1 least 24 continuous months, the burden of proof shall be upon the licensing agency to establish
2 noncompliance with ORS 443.705 to 443.825 and the rules of the agency.

3 (6)(a) Persons who have been convicted of one or more crimes that, as determined by rules of
4 the licensing agency, are substantially related to the qualifications, functions or duties of a provider,
5 substitute caregiver or other household member of an adult foster home shall be prohibited from
6 operating, working in or residing in an adult foster home.

7 (b) The licensing agency shall adopt rules that distinguish the criminal convictions and types
8 of abuse that permanently prohibit a person from operating, working in or living in an adult foster
9 home from the convictions and types of abuse that do not permanently prohibit the person from
10 operating, working in or living in an adult foster home.

11 (c) A provider may not hire, retain in employment or allow to live in an adult foster home, other
12 than as a resident, any person who the provider knows has been convicted of a disqualifying crime
13 or has been found responsible for a disqualifying type of abuse.

14 (7) **Except as provided in subsection (8) of this section**, a license under ORS 443.725 is ef-
15 fective for one year from the date of issue **or renewal** unless sooner revoked.

16 (8)(a) **For adult foster homes licensed by the Department of Human Services, the de-**
17 **partment may extend the duration of a license to two years if the department determines**
18 **that the home has been in substantial compliance with ORS 443.002 and 443.705 to 443.825 and**
19 **the rules of the licensing agency for three consecutive years.**

20 (b) **If the duration of an adult foster home's license has been extended to two years under**
21 **this subsection, the home shall remain on a two-year renewal cycle, unless the department**
22 **determines that the home is no longer in substantial compliance, at which time the depart-**
23 **ment may return the home to a one-year renewal cycle.**

24 (9) Each license shall state the name of the resident manager of the adult foster home, the
25 names of all providers who own the adult foster home, the address of the premises to which the li-
26 cense applies, the maximum number of residents and the classification of the adult foster home. If,
27 during the period covered by the license, a resident manager changes, the provider must within 15
28 days request modification of the license. The request must be accompanied by a fee of \$10.

29 [(8)] (10) No license under ORS 443.725 is transferable or applicable to any location, persons
30 operating the adult foster home or the person owning the adult foster home other than that indi-
31 cated on the application for licensing.

32 [(9)] (11) The licensing agency shall not issue a license to operate an additional adult foster
33 home to a provider unless the provider has demonstrated the qualifications and capacity to operate
34 the provider's existing licensed adult foster homes and has demonstrated the ability to provide to
35 the residents of those adult foster homes care that is adequate and substantially free from abuse and
36 neglect.

37 [(10)(a)] (12)(a) All moneys collected under ORS 443.725 to 443.780 from adult foster homes that
38 are licensed to serve persons with mental, emotional or behavioral disturbances or alcohol or drug
39 dependence shall be deposited in a special account in the General Fund, and are appropriated con-
40 tinuously for payment of expenses incurred by the Oregon Health Authority.

41 (b) All moneys collected under ORS 443.725 to 443.780 from adult foster homes licensed to serve
42 persons who are elderly or have physical disabilities shall be deposited in the Quality Care Fund
43 established in ORS 443.001.

44 [(11)] (13) Notwithstanding any other provision of this section or ORS 443.725 or 443.738, the
45 licensing agency may issue a 60-day provisional license to a qualified person if the agency deter-

1 mines that an emergency situation exists after being notified that the licensed provider of an adult
 2 foster home is no longer overseeing operation of the adult foster home.

3 **SECTION 5.** ORS 443.755 is amended to read:

4 443.755. (1)(a) The licensing agency staff shall be permitted access to enter and inspect all li-
 5 censed adult foster homes. **The licensing agency shall visit and inspect every adult foster home**
 6 **to determine whether the home is maintained and operated in accordance with ORS 443.002**
 7 **and 443.705 to 443.825 and the rules of the licensing agency, and to consult with and advise**
 8 **the provider concerning methods of care, treatment, training, records, housing and equip-**
 9 **ment.**

10 (b) **The licensing agency shall conduct an inspection under this subsection at a minimum:**

11 (A) **No later than 120 days after an initial license is issued under ORS 443.735; and**

12 (B) **Upon receipt of a license renewal application under ORS 443.735.**

13 (c) **Inspections under this subsection may be conducted at other times as determined by**
 14 **the licensing agency.**

15 (2) The licensing agency shall be permitted access to enter and inspect any unlicensed adult
 16 foster home upon the receipt of an oral or written complaint, or in case the agency itself has cause
 17 to believe that an adult foster home is operating without a license or there exists a threat to the
 18 health, safety or welfare of any resident. The licensing agency staff shall be permitted access to the
 19 residents of adult foster homes in order to interview residents privately and to inspect residents'
 20 records.

21 [(2)] (3) The state or local fire inspectors shall be permitted access to enter and inspect adult
 22 foster homes regarding fire safety upon request of the licensing agency.

23 [(3)(a)] (4)(a) The licensing agency shall provide to each licensed adult foster home in the state
 24 in writing in clear concise language readily comprehensible by the average person a copy of the
 25 inspection report of the most recent inspection of that home conducted by the agency.

26 (b) The provider shall post the inspection report in the entry or equally prominent place and
 27 shall, upon request, provide a copy of the information to each resident of, or person applying for
 28 admission to, the home, or the legal representative, guardian or conservator of the resident or ap-
 29 plicant.

30 **SECTION 6.** ORS 443.886 is amended to read:

31 443.886. (1) If a facility intends to provide care for residents with Alzheimer's disease or other
 32 forms of dementia by means of an endorsed memory care community, the facility must obtain a
 33 memory care endorsement on its license or registration.

34 (2) The Department of Human Services, with the input from representatives of advocate groups
 35 and the long term care industry, shall adopt by rule standards that ensure that the special needs
 36 of any resident with Alzheimer's disease or other form of dementia who is cared for in an endorsed
 37 memory care community are met and that quality care is provided. The standards must include but
 38 are not limited to provisions for:

39 (a) Care planning, [*including physical*] **facility design, staffing, staff and administrator training,**
 40 **safety, egress control, elopement notifications, individual care planning, admission and transfer**
 41 **policy, family involvement, therapeutic activities and social services;**

42 (b) Continuity of basic care requirements, **including procedures to be followed during emer-**
 43 **gency evacuations and facility closures; [and]**

44 (c) Marketing and advertising of the availability of and services from endorsed memory care
 45 communities; **and**

1 **(d) Minimum required qualifications for an administrator of a facility with a memory**
2 **care endorsement.**

3 (3) The department shall adopt a fee schedule for memory care endorsement, taking into account
4 the type of facility and the number of residents.

5 (4) The department shall enforce rules adopted under subsection (2) of this section and ORS
6 443.889 and shall allow a licensee or registrant to retain the memory care endorsement required to
7 care for residents with Alzheimer’s disease or other forms of dementia only as long as the licensee
8 or registrant complies with the rules.

9 (5) The memory care endorsement may be suspended or revoked in the same manner as the li-
10 cense or registration is suspended or revoked.

11 (6) Unless a facility has obtained the memory care endorsement required by subsection (1) of
12 this section, the facility may not:

13 (a) Advertise the facility as providing an Alzheimer’s care unit or memory care community; or

14 (b) Market the facility as providing an Alzheimer’s care unit or memory care community.

15 **SECTION 7. (1) The amendments to ORS 443.415, 443.416, 443.425, 443.735 and 443.755 by**
16 **sections 1 to 5 of this 2025 Act apply to licenses issued or renewed on or after the operative**
17 **date specified in section 8 of this 2025 Act.**

18 **(2) The amendments to ORS 443.886 by section 6 of this 2025 Act apply to memory care**
19 **endorsements obtained on or after the operative date specified in section 8 of this 2025 Act.**

20 **SECTION 8. (1) The amendments to ORS 443.415, 443.416, 443.425, 443.735, 443.755 and**
21 **443.886 by sections 1 to 6 of this 2025 Act become operative on January 1, 2026.**

22 **(2) The Department of Human Services and the Oregon Health Authority may take any**
23 **action before the operative date specified in subsection (1) of this section that is necessary**
24 **to enable the department and the authority to exercise, on and after the operative date**
25 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**
26 **on the department and the authority by the amendments to ORS 443.415, 443.416, 443.425,**
27 **443.735, 443.755 and 443.886 by sections 1 to 6 of this 2025 Act.**

28 **SECTION 9. This 2025 Act takes effect on the 91st day after the date on which the 2025**
29 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

30