

## HOUSE AMENDMENTS TO HOUSE BILL 3359

By COMMITTEE ON HUMAN SERVICES AND HOUSING

April 24

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and line 3 and insert  
2 “409.720, 443.400, 443.415, 443.420, 443.425, 443.440, 443.452, 443.760 and 443.886; and repealing ORS  
3 443.885.”.

4 Delete lines 5 through 19 and delete pages 2 through 8 and insert:

### “LEGISLATIVE FINDINGS

5  
6  
7  
8 “**SECTION 1.** (1) The Legislative Assembly finds that:

9 “(a) Residents of Oregon’s community-based care facilities are valued citizens of this  
10 state and deserve to live a life of autonomy and dignity; and

11 “(b) Support and training for those who serve these valued citizens is important to en-  
12 suring these valued citizens are able to live the life they deserve.

13 “(2) The Legislative Assembly finds and declares that it is the policy of this state to:

14 “(a) Promote the autonomy of residents of community-based care facilities and accord  
15 them honor, dignity and the ability to freely choose how they live their lives so as to en-  
16 courage maximum independence and fulfillment; and

17 “(b) Ensure that administrators of residential care facilities, which include assisted living  
18 and memory care facilities, are licensed by independent boards no later than July 1, 2019.

### “RESIDENTIAL CARE FACILITIES

19  
20  
21 “(Quality Measures)

22  
23 “**SECTION 2.** Sections 3, 6, 9, 10, 12 and 13 of this 2017 Act are added to and made a part  
24 of ORS 443.400 to 443.455.

25 “**SECTION 3.** (1) The Residential Care Quality Measurement Program is established in  
26 the Department of Human Services. The department shall, no later than July 1 of each year,  
27 publish a report, based on data reported by each residential care facility under subsection (2)  
28 of this section, other than data that identifies residents, that includes data compilation, il-  
29 lustration and narratives to:

30 “(a) Describe statewide patterns and trends that emerge from the data reported to the  
31 department under subsection (2) of this section and compliance data maintained by the de-  
32 partment;

33 “(b) Identify residential care facilities that failed to report data as required by this sec-  
34 tion;

35 “(c) Allow residential care facilities and the public to compare a residential care facility’s

1 performance on each quality metric, by demographics, geographic region, facility type and  
2 other categories the department believes may be useful to consumers;

3 “(d) Show trends in performance quality on each of the quality metrics;

4 “(e) Identify patterns of performance quality by geographic regions and other categories  
5 the department believes will be useful to consumers;

6 “(f) Identify the number, scope and severity of regulatory violations by each geographic  
7 region; and

8 “(g) Show average timelines for surveys and for investigations of abuse or regulatory  
9 noncompliance.

10 “(2) Residential care facilities shall report, no later than December 31 of each year and  
11 in the form and manner prescribed by the department, the following quality metrics for the  
12 prior calendar year, consistent with accepted professional standards and excluding informa-  
13 tion that identifies a resident of the residential care facility:

14 “(a) The residential care facility’s retention of direct care staff;

15 “(b) The number of resident falls in the residential care facility that result in physical  
16 injury;

17 “(c) The incidence in the residential care facility of the use of antipsychotic medications  
18 for nonstandard purposes;

19 “(d) The residential care facility’s compliance with staff training requirements;

20 “(e) The results of an annual resident satisfaction survey conducted by an independent  
21 entity that meets the requirements established by the department by rule; and

22 “(f) A quality metric recommended by the Quality Measurement Council established un-  
23 der section 4 of this 2017 Act that measures the quality of the resident experience.

24 “(3) The department shall provide an annual report to each residential care facility that  
25 reports quality metrics under subsection (2) of this section using data compilation, illus-  
26 tration and narratives to allow the residential care facility to measure and compare its  
27 quality metrics over time.

28 “(4) The department shall make available to the public in a standard format and in plain  
29 language the data reported by each residential care facility.

30 “(5) The department shall, using moneys from the Quality Care Fund established in ORS  
31 443.001:

32 “(a) Develop online training modules to address the top two statewide issues identified  
33 by surveys or reviews of residential care facilities during the previous year; and

34 “(b) Post and keep updated the data used to prepare the report described in subsection  
35 (1) of this section.

36 “(6) The department, in consultation with the Quality Measurement Council established  
37 in section 4 of this 2017 Act, shall establish a uniform system for residential care facilities  
38 to report quality metrics as required by subsection (2) of this section. The system must:

39 “(a) Allow for electronic reporting of data, to the greatest extent practicable; and

40 “(b) Take into account and utilize existing data reporting systems used by residential  
41 care facilities.

42 “(7)(a) Quality metric data reported to the department under this section may not be  
43 used as the basis for an enforcement action by the department nor may it be disclosed to  
44 another agency for use in an enforcement or regulatory action.

45 “(b) Quality metric data is not admissible as evidence in any civil action, including but

1 **not limited to a judicial, administrative, arbitration or mediation proceeding.**

2 **“(c) Quality metric data reported to the department is not subject to:**

3 **“(A) Civil or administrative subpoena; or**

4 **“(B) Discovery in connection with a civil action, including but not limited to a judicial,**  
5 **administrative, arbitration or mediation proceeding.**

6 **“(8) Subsection (7) of this section does not exempt a residential care facility from com-**  
7 **plying with state law or prohibit the department’s use of quality metric data obtained from**  
8 **an outside source in the normal course of business or compliance activity.**

9 **“SECTION 4. (1) The Quality Measurement Council is established in the Department of**  
10 **Human Services to advise the department regarding the operation of the Residential Care**  
11 **Quality Measurement Program established in section 3 of this 2017 Act.**

12 **“(2) The council consists of eight members, appointed by the Governor, as follows:**

13 **“(a) One individual representing the Oregon Patient Safety Commission;**

14 **“(b) One individual representing residential care facilities;**

15 **“(c) One consumer representative from an Alzheimers’ advocacy organization;**

16 **“(d) One licensed health care practitioner with experience in geriatrics;**

17 **“(e) One individual associated with an academic institution who has expertise in research**  
18 **using data and analytics and in community-based care and quality reporting;**

19 **“(f) One individual representing consumers of long term care;**

20 **“(g) The Long Term Care Ombudsman or a designee of the Long Term Care Ombudsman;**  
21 **and**

22 **“(h) One individual representing the department.**

23 **“(3)(a) The council shall develop, no later than January 1, 2022, and annually update by**  
24 **rule the quality metrics to be reported by residential care facilities under section 3 of this**  
25 **2017 Act.**

26 **“(b) In developing quality metrics the council shall consider whether the data that must**  
27 **be reported reflects and promotes quality care and whether reporting the data is unneces-**  
28 **sarily burdensome on residential care facilities.**

29 **“SECTION 5. Section 3 of this 2017 Act is amended to read:**

30 **“Sec. 3. (1) The Residential Care Quality Measurement Program is established in the Depart-**  
31 **ment of Human Services. The department shall, no later than July 1 of each year, publish a report,**  
32 **based on data reported by each residential care facility under subsection (2) of this section, other**  
33 **than data that identifies residents, that includes data compilation, illustration and narratives to:**

34 **“(a) Describe statewide patterns and trends that emerge from the data reported to the depart-**  
35 **ment under subsection (2) of this section and compliance data maintained by the department;**

36 **“(b) Identify residential care facilities that failed to report data as required by this section;**

37 **“(c) Allow residential care facilities and the public to compare a residential care facility’s per-**  
38 **formance on each quality metric, by demographics, geographic region, facility type and other cate-**  
39 **gories the department believes may be useful to consumers;**

40 **“(d) Show trends in performance quality on each of the quality metrics;**

41 **“(e) Identify patterns of performance quality by geographic regions and other categories the**  
42 **department believes will be useful to consumers;**

43 **“(f) Identify the number, scope and severity of regulatory violations by each geographic region;**

44 **and**

45 **“(g) Show average timelines for surveys and for investigations of abuse or regulatory noncom-**

1 pliance.

2 “(2) Residential care facilities shall report, no later than December 31 of each year and in the  
3 form and manner prescribed by the department, the *[following]* quality metrics **developed by the**  
4 **Quality Measurement Council under section 4 of this 2017 Act.** *[for the prior calendar year,*  
5 *consistent with accepted professional standards and excluding information that identifies a resident of*  
6 *the residential care facility:]*

7 “[*(a) The residential care facility’s retention of direct care staff;*]

8 “[*(b) The number of resident falls in the residential care facility that result in physical injury;*]

9 “[*(c) The incidence in the residential care facility of the use of antipsychotic medications for non-*  
10 *standard purposes;*]

11 “[*(d) The residential care facility’s compliance with staff training requirements;*]

12 “[*(e) The results of resident satisfaction surveys conducted by an independent entity that meets the*  
13 *requirements established by the department by rule; and]*

14 “[*(f) A quality metric recommended by the Quality Measurement Council established under section*  
15 *4 of this 2017 Act that measures the quality of the resident experience.]*

16 “(3) The department shall provide an annual report to each residential care facility that reports  
17 quality metrics under subsection (2) of this section using data compilation, illustration and narra-  
18 tives to allow the residential care facility to measure and compare its quality metrics over time.

19 “(4) The department shall make available to the public in a standard format and in plain lan-  
20 guage the data reported by each residential care facility.

21 “(5) The department shall, using moneys from the Quality Care Fund established in ORS 443.001:

22 “(a) Develop online training modules to address the top two statewide issues identified by sur-  
23 veys or reviews of residential care facilities during the previous year; and

24 “(b) Post and keep updated the data used to prepare the report described in subsection (1) of this  
25 section.

26 “(6) The department, in consultation with the Quality Measurement Council established in sec-  
27 tion 4 of this 2017 Act, shall establish a uniform system for residential care facilities to report  
28 quality metrics as required by subsection (2) of this section. The system must:

29 “(a) Allow for electronic reporting of data, to the greatest extent practicable; and

30 “(b) Take into account and utilize existing data reporting systems used by residential care fa-  
31 cilities.

32 “(7)(a) Quality metric data reported to the department under this section may not be used as the  
33 basis for an enforcement action by the department nor may it be disclosed to another agency for  
34 use in an enforcement or regulatory action.

35 “(b) Quality metric data is not admissible as evidence in any civil action, including but not  
36 limited to a judicial, administrative, arbitration or mediation proceeding.

37 “(c) Quality metric data reported to the department is not subject to:

38 “(A) Civil or administrative subpoena; or

39 “(B) Discovery in connection with a civil action, including but not limited to a judicial, admin-  
40 istrative, arbitration or mediation proceeding.

41 “(8) Subsection (7) of this section does not exempt a residential care facility from complying with  
42 state law or prohibit the department’s use of quality metric data obtained from an outside source  
43 in the normal course of business or compliance activity.

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45

“(Conversion Facilities)”

1       “**SECTION 6.** (1) A facility that is licensed as a long term care facility under ORS 441.025  
2 may apply to the Department of Human Services for licensure as a conversion facility. The  
3 department shall issue a conversion facility license upon receipt of an application and fee  
4 that meet requirements established by the department by rule.

5       “(2)(a) The department shall adopt rules governing the conversion of a facility’s license  
6 from a long term care facility license to a residential care facility license and the regulation  
7 of the facility during the conversion period.

8       “(b) As of the date of licensure as a conversion facility, the conversion facility must be  
9 in substantial compliance with applicable state and local laws, rules, codes, ordinances and  
10 permit requirements.

11       “**SECTION 7.** ORS 443.420 is amended to read:

12       “443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the  
13 director of the licensing agency, be a person:

14       “(a) Who demonstrates an understanding and acceptance of the rules governing residential fa-  
15 cilities;

16       “(b) Mentally and physically capable of caring for such residents; and

17       “(c) Who employs or utilizes only individuals whose presence does not jeopardize the health,  
18 safety or welfare of residents.

19       “(2) A residential facility *[shall]* **may** not be operated or maintained in combination with a  
20 nursing home or hospital unless:

21       “(a) **The residential facility is** licensed, maintained and operated as a separate and distinct  
22 part; **or**

23       “(b) **The residential facility is licensed as a conversion facility under section 6 of this 2017**  
24 **Act.**

25       “(3) All physical residential facilities used for residents *[shall]* **must** meet applicable require-  
26 ments of the State Fire Marshal.

27       “(4) *[Prior to]* **As of the date of** licensure, a residential facility must be in substantial compli-  
28 ance with applicable state and local laws, rules, codes, ordinances and permit requirements.

29       “(5) Prior to licensure, a residential facility that proposes to house persons under the age of 21  
30 years shall submit written proof to the licensing agency demonstrating that the facility will:

31       “(a) Comply with ORS 336.575; and

32       “(b) Ensure that the children who reside at the residential facility receive appropriate educa-  
33 tional services that are:

34       “(A) Comprehensive and age-appropriate;

35       “(B) In compliance with requirements of state and federal law; and

36       “(C) If applicable, in compliance with the individual education program of the child.

37       “(6) Prior to an initial licensure of a residential care facility, the licensing agency shall con-  
38 sider:

39       “(a) The license applicant’s history of regulatory compliance and operational experience;

40       “(b) The willingness of the license applicant to serve underserved populations; and

41       “(c) The willingness of the license applicant to contract with the licensing agency to provide  
42 services through the state medical assistance program.

43       “(7)(a) The licensing agency may not issue an initial license to a residential care facility if the  
44 facility has not conducted a market study that assesses the need for the services offered by the fa-  
45 cility in the geographic area served by the facility.

1       “(b) This subsection does not apply to a conversion facility licensed under section 6 of  
2 this 2017 Act.

3  
4                               “(Enhanced Regulatory Oversight)

5  
6       “**SECTION 8.** (1) As used in this section, ‘substantial compliance’ means a level of com-  
7 pliance with state law and with rules of the Department of Human Services such that any  
8 identified deficiencies pose a risk of no more than minimal harm to the health or safety of  
9 residents.

10       “(2)(a) The Department of Human Services shall develop a framework for assessing the  
11 compliance of residential care facilities with regulatory requirements and requiring correc-  
12 tive action that accurately and equitably measures compliance and the extent of noncompli-  
13 ance.

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

16       “(c) The department shall publish the framework on the department’s website and shall  
17 distribute the framework to residential care facilities licensed in this state.

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

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

23       “(b) Performance substantially below statewide averages on quality metrics reported  
24 under the Residential Care Quality Measurement Program established in section 3 of this  
25 2017 Act.

26       “(4) The residential care facility enhanced oversight and supervision program shall take  
27 one or more of the following actions as the department deems necessary to improve the  
28 performance of a residential care facility:

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

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

32       “(5) The department may terminate the enhanced oversight and supervision of a resi-  
33 dential care facility:

34       “(a) After three years if the residential care facility has shown through at least two on-  
35 site surveys and reported quality metrics that the residential care facility no longer meets  
36 the criteria in subsection (3) of this section; or

37       “(b) After one year if the residential care facility submits a written assertion of sub-  
38 stantial compliance and the department determines that the residential care facility no  
39 longer meets the criteria in subsection (3) of this section.

40       “(6) Using moneys from the Quality Care Fund established under ORS 443.001, the de-  
41 partment shall develop, maintain and periodically update compliance guidelines for residen-  
42 tial care facilities serving seniors and persons with disabilities. The guidelines must be made  
43 available electronically.

44  
45                               “(Acuity-based Staffing Tool)

1           **SECTION 9.** (1) The Department of Human Services shall develop or obtain, in collaboration with residential care facilities, an objective, technology-based, acuity-based staffing tool that may be used to:

2           “(a) Evaluate whether a residential care facility has qualified awake caregivers sufficient  
3           in number to meet the 24-hour scheduled and unscheduled needs of each resident; and

4           “(b) Assess the number of direct care staff hours required by each residential care facility to meet each resident’s scheduled and unscheduled needs.

5           “(2) The acuity-based staffing tool shall be made available to residential care facilities to:

6           “(a) Enable the residential care facilities to assess their staffing needs and whether they  
7           have a sufficient number of qualified awake caregivers to meet the 24-hour scheduled and  
8           unscheduled needs of each resident;

9           “(b) Communicate the required staffing needs and each residential care facility’s staffing  
10           plan to residents, their family members and the general public; and

11           “(c) Demonstrate to the department that the residential care facility’s staffing plan  
12           meets the scheduled and unscheduled needs of each resident.

13           “(3) The department may not impose a new staffing requirement, without the residential  
14           care facility’s agreement, unless the department has used the acuity-based staffing tool to  
15           evaluate a residential care facility’s staffing needs.  
16  
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19

20   **“(Direct Care Staff Training)”**  
21

22           **SECTION 10.** (1) In addition to any other training required by law, all direct care staff  
23           employed by a residential care facility shall, prior to providing direct care to residents of the  
24           facility, complete training in dementia care that includes:

25           “(a) Education on the dementia disease process, including the progression of the disease,  
26           memory loss, psychiatric and behavioral symptoms;

27           “(b) Techniques for understanding and managing behavioral symptoms, including but not  
28           limited to reducing the use of antipsychotic medications for nonstandard uses;

29           “(c) Strategies for addressing the social needs of persons with dementia and providing  
30           them with meaningful activities; and

31           “(d) Information on addressing specific aspects of dementia care and ensuring the safety  
32           of residents with dementia, including but not limited to how to:

33           “(A) Address pain;

34           “(B) Provide food and fluids;

35           “(C) Prevent wandering and elopement; and

36           “(D) Use a person-centered approach.

37           “(2) A residential care facility shall provide a certificate of completion to direct care staff  
38           who complete the training described in subsection (1) of this section. If a member of the direct  
39           care staff is employed by a different residential care facility no later than 24 months  
40           after completing the training, the staff member may not be required to repeat the training.

41           “(3) In addition to the training described in subsection (1) of this section, direct care staff  
42           each must annually complete at least four hours of training in dementia care. This training  
43           may be part of any existing continuing education requirement imposed by law.

44           “(4) All training in dementia care provided to direct care staff must be approved by a  
45           private or nonprofit organization, approved by the department, that has expertise and spe-

1 cializes in educational training for residential care facility staff.

2 “(5) The department shall prescribe by rule how to assess the competency of direct care  
3 staff and shall administer competency tests to direct care staff who have completed the  
4 training.

5  
6 “(Suspension of License)

7  
8 “SECTION 11. ORS 443.440 is amended to read:

9 “443.440. (1) **Except as provided in subsection (2) of this section for residential care fa-**  
10 **ilities,** the Department of Human Services or the Oregon Health Authority may revoke or suspend  
11 the license of any residential facility that is not operated in accordance with ORS 443.002 or 443.400  
12 to 443.455 or the rules of the licensing agency. Such revocation or suspension shall be taken in ac-  
13 cordance with rules of the licensing agency and ORS chapter 183. However, in cases where an im-  
14 mminent danger to the health or safety of the residents exists, a license may be suspended  
15 immediately pending a fair hearing not later than the 10th day after such suspension.

16 “(2)(a) **In accordance with ORS chapter 183 and rules adopted by the Department of Hu-**  
17 **man Services, the department may revoke or suspend the license of a residential care facility**  
18 **licensed by the department that is not operated in accordance with ORS 443.002 or 443.400**  
19 **to 443.455 or the rules of the department.**

20 “(b) **In a case where an imminent danger to the health or safety of the residents exists,**  
21 **a residential care facility license may be suspended immediately.**

22 “(c) **The residential care facility is entitled to a contested case hearing to appeal an order**  
23 **of immediate suspension in accordance with procedures adopted by the Department of Jus-**  
24 **stice by rule concerning emergency license suspensions.**

25 “(d) **When the Department of Human Services issues an immediate suspension order**  
26 **under this subsection, the department may:**

27 “(A) **Transition all residents of the residential care facility to other residential facilities;**  
28 **or**

29 “(B) **Appoint a management company with demonstrated skill and experience in operat-**  
30 **ing residential facilities to manage the facility and care for the residents of the facility.**

31  
32 “(Prescription Drug Packaging)

33  
34 “SECTION 12. (1) **A residential care facility shall ensure that prescription drugs dis-**  
35 **persed to residents of the facility are packaged in a manner that reduces errors in the**  
36 **tracking of and the administration of the drugs, including but not limited to the use of unit**  
37 **dose systems or blister packs.**

38 “(2) **Subsection (1) of this section does not apply to residents receiving pharmacy benefits**  
39 **through the United States Department of Veterans Affairs if the pharmacy benefit does not**  
40 **reimburse the cost of such packaging.**

41  
42 “(Binding Arbitration)

43  
44 “SECTION 13. (1) **As used in this section, ‘facility’ means:**

45 “(a) **A long term care facility as defined in ORS 442.015.**



1 “(b) A residential care facility, including but not limited to an assisted living facility or  
2 endorsed memory care community.

3 “(2) A facility may enter into an agreement for binding arbitration with a resident of the  
4 facility only if:

5 “(a) It is not a condition for admission to the facility;

6 “(b) The agreement is explained to the resident in a manner that the resident is likely  
7 to understand;

8 “(c) The resident enters into the agreement voluntarily and signals consent by initialing  
9 the arbitration clause in the agreement;

10 “(d) The agreement provides for the selection of a neutral arbitrator and selection of a  
11 venue in this state that is convenient to both parties; and

12 “(e) The agreement does not prohibit or discourage the resident or any other person from  
13 communicating with federal, state or local officials, including but not limited to federal and  
14 state surveyors and the Office of the Long Term Care Ombudsman.

15  
16 “(Memory Care)

17  
18 “**SECTION 14.** ORS 443.886 is amended to read:

19 “443.886. (1) If a facility intends to provide care for [*patients or*] residents with Alzheimer’s dis-  
20 ease or other **forms of dementia** by means of an [*Alzheimer’s care unit*] **endorsed memory care**  
21 **community**, the facility must obtain a [*special indorsement*] **memory care endorsement** on its li-  
22 cense or registration.

23 “(2) The Department of Human Services, with the input from representatives of advocate groups  
24 and the long term care industry, shall adopt by rule standards that ensure that the special needs  
25 of any [*Alzheimer’s patient or*] resident **with dementia** who is cared for in [*a special unit*] **an en-**  
26 **endorsed memory care community** are met and that quality care is provided. The standards must  
27 include but are not limited to provisions for:

28 “(a) Care planning, including physical design, staffing, staff training, safety, egress control, in-  
29 dividual care planning, admission policy, family involvement, therapeutic activities and social ser-  
30 vices;

31 “(b) Continuity of basic care requirements;

32 “(c) **Initial and ongoing training requirements for direct care staff**; and

33 “[*(c)*] **(d) Marketing and advertising of the availability of and services from [*Alzheimer’s care***  
34 **units] endorsed memory care communities.**

35 “(3) The department shall adopt a fee schedule for [*indorsement*] **memory care endorsement**,  
36 taking into account the type of facility and the number of [*patients and*] residents.

37 “(4) The department shall enforce rules adopted under subsection (2) of this section and shall  
38 allow a licensee or registrant to retain the [*special indorsement*] **memory care endorsement** re-  
39 quired to care for [*patients and*] residents with Alzheimer’s disease or other **forms of dementia** only  
40 so long as the licensee or registrant complies with the rules.

41 “(5) The [*special indorsement*] **memory care endorsement** may be suspended or revoked in the  
42 same manner as the license or registration is suspended or revoked.

43 “(6) Unless a facility has obtained the [*indorsement*] **memory care endorsement** required by  
44 subsection (1) of this section, the facility shall not:

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

1 or

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

3 “(7) As used in this section:

4 “(a) [‘*Alzheimer’s care unit*’] **‘Endorsed memory care community’** means a special care unit  
5 in a designated, separated area for [*patients and*] residents with Alzheimer’s disease or other **forms**  
6 **of dementia** that is locked[, *segregated*] or secured to prevent or limit access by a [*patient or*] resi-  
7 dent outside the designated or separated area.

8 “(b) ‘Facility’ means a nursing home, **long term care facility**, residential care facility, assisted  
9 living facility or any other like facility required to be licensed by the department.

10 “(c) ‘Registry’ means a facility will provide the department with information relating to the  
11 [*Alzheimer’s care unit*] **endorsed memory care community** including the number of residents in  
12 the unit, stage of dementia for each resident, description of how services are provided[,] and length  
13 of time the [*unit*] **community** has been operating.

14

15 **“ADULT FOSTER HOMES**

16 **“(Caregiver Training)**

17

18 **“SECTION 15. Sections 16 and 17 of this 2017 Act are added to and made a part of ORS**  
19 **443.705 to 443.825.**

20 **“SECTION 16. (1) As used in this section, ‘caregiver’ means an individual who is respon-**  
21 **sible for providing care and services to residents of an adult foster home, including but not**  
22 **limited to a caregiver and a substitute caregiver.**

23 **“(2) In addition to any other training required by law, all caregivers in an adult foster**  
24 **home shall, prior to providing direct care to residents of the home, complete training in**  
25 **dementia care that includes:**

26 **“(a) Education on the dementia disease process, including the progression of the disease,**  
27 **memory loss, psychiatric and behavioral symptoms;**

28 **“(b) Techniques for understanding and managing behavioral symptoms, including but not**  
29 **limited to reducing the use of antipsychotic medications for nonstandard uses;**

30 **“(c) Strategies for addressing the social needs of persons with dementia and providing**  
31 **them with meaningful activities; and**

32 **“(d) Information on addressing specific aspects of dementia care and ensuring the safety**  
33 **of residents with dementia, including but not limited to how to:**

34 **“(A) Address pain;**

35 **“(B) Provide food and fluids;**

36 **“(C) Prevent wandering and elopement; and**

37 **“(D) Use a person-centered approach.**

38 **“(3) All training provided to caregivers related to dementia care must reflect current**  
39 **standards for dementia care and be informed by the best evidence in the care and treatment**  
40 **of persons with dementia.**

41

42 **“(Medication Packaging)**

43

44 **“SECTION 17. (1) An adult foster home shall ensure that prescription drugs dispensed**  
45 **to residents of the home are packaged in a manner that reduces errors in the tracking of**

1 and the administration of the drugs, including but not limited to the use of unit dose systems  
2 or blister packs.

3 “(2) Subsection (1) of this section does not apply to residents receiving pharmacy benefits  
4 through the United States Department of Veterans Affairs if the pharmacy benefit does not  
5 reimburse the cost of such packaging.

6  
7 “(Evacuation of Residents)  
8

9 “**SECTION 18.** ORS 443.760 is amended to read:

10 “443.760. (1) Adult foster homes that are certified as residential homes as defined in ORS 197.660  
11 [shall] **must** meet all state and local building, sanitation, utility and fire code requirements appli-  
12 cable to single family dwellings. However, by rule, the licensing agency may adopt more stringent  
13 standards upon a finding that there is a significant health or safety threat to residents that neces-  
14 sitates a standard not imposed on other single family dwellings.

15 “(2) In adopting more stringent standards, the licensing agency shall consult with the Depart-  
16 ment of Consumer and Business Services and the office of the State Fire Marshal to [*insure adequate*  
17 *evacuation of residents*] **ensure that the provider has the ability to evacuate all residents from**  
18 **the building within:**

19 “(a) **Three minutes; or**

20 “(b) **A period that meets applicable fire, life and safety requirements if the adult foster**  
21 **home has an interior sprinkler system approved by the appropriate regulatory authorities.**

22 “[*(3) As used in this section, ‘adequate evacuation’ means the ability of a provider to evacuate all*  
23 *residents from the dwelling within three minutes.*]

24 “[*(4)*] **(3)** If a licensed provider rents or leases the premises where the adult foster home is lo-  
25 cated, the lessor shall charge a flat rate for the lease or rental.

26  
27 “**PHYSICIAN EDUCATION IN ALZHEIMER’S DISEASE**  
28

29 “**SECTION 19.** Section 20 of this 2017 Act is added to and made a part of ORS chapter 677.

30 “**SECTION 20.** (1) **The Oregon Medical Board shall encourage each physician with a spe-**  
31 **cialty in primary care or geriatrics, or another specialty designated by the board, to obtain**  
32 **continuing medical education in the detection and early diagnosis of Alzheimer’s disease and**  
33 **the appropriate prescribing of antipsychotic drugs to treat patients with Alzheimer’s disease.**

34 “(2) **The continuing medical education described in subsection (1) of this section shall be**  
35 **considered relevant continuing medical education for all licensees of the board and the hours**  
36 **may be applied to any required continuing medical education requirements.**

37  
38 “**DEFINITIONS**  
39

40 “**SECTION 21.** ORS 443.400 is amended to read:

41 “443.400. As used in ORS 443.400 to 443.455 and 443.991, unless the context requires otherwise:

42 “[*(1) ‘Director’ means the director of the licensing agency for the residential facility.*]

43 “(1) **‘Conversion facility’ means a facility that has applied for, or been issued, a conver-**  
44 **sion facility license as described in section 6 of this 2017 Act.**

45 “(2) **‘Co-occurring behavioral health needs’ means mental, emotional or behavioral dis-**

1 **turbances.**

2 **“(3) ‘Direct care staff’ means the employees of a residential facility whose primary re-**  
3 **sponsibilities are to provide personal care services to residents, including but not limited to:**

4 **“(a) Administering medications;**

5 **“(b) Coordinating resident-focused activities;**

6 **“(c) Supervising and supporting residents; and**

7 **“(d) Serving but not preparing meals.**

8 “[2] (4) ‘Licensing agency’ means:

9 **“(a) The Department of Human Services, if the residential facility that is licensed, or that the**  
10 **Director of Human Services determines should be licensed, is a residential care facility, residential**  
11 **training facility or residential training home; or**

12 **“(b) The Oregon Health Authority, if the residential facility that is licensed, or that the Director**  
13 **of the Oregon Health Authority determines should be licensed, is a residential treatment facility or**  
14 **residential treatment home.**

15 “[3] (5) ‘Resident’ means any individual residing in a facility who receives residential care,  
16 treatment or training. For purposes of ORS 443.400 to 443.455, an individual is not considered to be  
17 a resident if the individual is related by blood or marriage within the fourth degree as determined  
18 by civil law to the person licensed to operate or maintain the facility.

19 “[4] (6) ‘Residential care’ means services such as supervision; protection; assistance while  
20 bathing, dressing, grooming or eating; management of money; transportation; recreation; and the  
21 providing of room and board.

22 “[5] (7) ‘Residential care facility’ means a facility that provides[, *for six or more socially de-*  
23 *pendent individuals or individuals with physical disabilities,*] residential care in one or more buildings  
24 on contiguous properties:

25 **“(a) For six or more socially dependent individuals or individuals with physical disabili-**  
26 **ties; or**

27 **“(b) For fewer than six socially dependent individuals or individuals with physical disa-**  
28 **bilities if the purpose of the facility is to serve individuals with co-occurring behavioral**  
29 **health needs that are more appropriately served in smaller settings.**

30 “[6] (8) ‘Residential facility’ means a residential care facility, residential training facility, res-  
31 idential treatment facility, residential training home, [or] residential treatment home **or conversion**  
32 **facility.**

33 “[7] (9) ‘Residential training facility’ means a facility that provides, for six or more individuals  
34 with mental retardation or other developmental disabilities, residential care and training in one or  
35 more buildings on contiguous properties.

36 “[8] (10) ‘Residential training home’ means a facility that provides, for five or fewer individuals  
37 with mental retardation or other developmental disabilities, residential care and training in one or  
38 more buildings on contiguous properties, when so certified and funded by the Department of Human  
39 Services.

40 “[9] (11) ‘Residential treatment facility’ means a facility that provides, for six or more indi-  
41 viduals with [*mental, emotional or behavioral disturbances*] **co-occurring behavioral health needs**  
42 **or alcohol or drug dependence, residential care and treatment in one or more buildings on contig-**  
43 **uous properties.**

44 “[10] (12) ‘Residential treatment home’ means a facility that provides for five or fewer indi-  
45 viduals with [*mental, emotional or behavioral disturbances*] **co-occurring behavioral health needs**

1 or alcohol or drug dependence, residential care and treatment in one or more buildings on contig-  
2 uous properties.

3 “[~~(11)~~] (13) ‘Training’ means the systematic, planned maintenance, development or enhancement  
4 of self-care skills, social skills or independent living skills, or the planned sequence of systematic  
5 interactions, activities or structured learning situations designed to meet each resident’s specified  
6 needs in the areas of physical, social, emotional and intellectual growth.

7 “[~~(12)~~] (14) ‘Treatment’ means a planned, individualized program of medical, psychological or  
8 rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emo-  
9 tional, physical or other symptoms or social, educational or vocational disabilities resulting from or  
10 related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

11  
12 **“CONFORMING AMENDMENTS**

13  
14 **“SECTION 22.** ORS 409.720 is amended to read:

15 “409.720. (1) As used in this section:

16 “(a) ‘Adult foster home’ has the meaning given that term in ORS 443.705 (1).

17 “(b) ‘Health care facility’ has the meaning given that term in ORS 442.015.

18 “(c) ‘Residential facility’ has the meaning given that term in ORS 443.400 [~~(6)~~].

19 “(2) Every adult foster home, health care facility and residential facility licensed or registered  
20 by the Department of Human Services shall:

21 “(a) Adopt a plan to provide for the safety of persons who are receiving care at or are residents  
22 of the home or facility in the event of an emergency that requires immediate action by the staff of  
23 the home or facility due to conditions of imminent danger that pose a threat to the life, health or  
24 safety of persons who are receiving care at or are residents of the home or facility; and

25 “(b) Provide training to all employees of the home or facility about the responsibilities of the  
26 employees to implement the plan required by this section.

27 “(3) The department shall adopt by rule the requirements for the plan and training required by  
28 this section. The rules adopted shall include, but are not limited to, procedures for the evacuation  
29 of the persons who are receiving care at or are residents of the adult foster home, health care fa-  
30 cility or residential facility to a place of safety when the conditions of imminent danger require re-  
31 location of those persons.

32 **“SECTION 23.** ORS 443.415 is amended to read:

33 “443.415. (1) Applications for licensure to maintain and operate a residential facility shall be  
34 made to the Department of Human Services or the Oregon Health Authority on forms provided for  
35 that purpose by the appropriate licensing agency. Each application shall be accompanied by a fee.  
36 No fee is required of any governmentally operated residential facility.

37 “(2) The fee required under subsection (1) of this section for facilities:

38 “(a) Defined in ORS 443.400 [~~(7) and~~] (9) **and (11)**, shall be \$60.

39 “(b) Defined in ORS 443.400 [~~(8) and~~] (10) **and (12)**, shall be \$30.

40 “(c) Defined in ORS 443.400 [~~(5)~~] (7) with:

41 “(A) One to 15 beds, shall be \$360.

42 “(B) Sixteen to 49 beds, shall be \$520.

43 “(C) Fifty to 99 beds, shall be \$1,040.

44 “(D) One hundred to 150 beds, shall be \$1,340.

45 “(E) More than 150 beds, shall be \$1,500.

1 “(3) Upon receipt of an application and fee, the licensing agency shall conduct an investigation.  
2 The licensing agency shall issue a license to any applicant for operation of a residential facility in  
3 compliance with ORS 443.002 and 443.400 to 443.455 and the rules of the licensing agency. Licensure  
4 may be denied when a residential facility is not in compliance with ORS 443.002 or 443.400 to  
5 443.455 or the rules of the licensing agency. Licensure shall be denied if the State Fire Marshal or  
6 other authority has given notice of noncompliance of facilities defined in ORS 443.400 [(5), (7) and  
7 (9)] (7), (9) and (11) pursuant to ORS 479.220.

8 “**SECTION 24.** ORS 443.425 is amended to read:

9 “443.425. (1) Licensure under ORS 443.415 is effective for two years from the date of issue unless  
10 sooner revoked. Each license shall state the name of the person operating the residential facility;  
11 the name of the person who owns the facility; the address of the premises to which the license ap-  
12 plies and the maximum number of residents to be maintained in such residential facility at any time  
13 whether the residential facility is licensed as a residential training facility, a residential treatment  
14 facility, a residential care facility; a residential training home or residential treatment home and  
15 such other information as the Department of Human Services or the Oregon Health Authority con-  
16 sidered necessary.

17 “(2) A license is renewable upon submission of an application to the department or the authority  
18 and payment of a fee. No fee shall be required of a governmentally operated residential facility.  
19 Filing of an application for renewal before the date of expiration of a license extends the effective  
20 date of expiration of the license until the licensing agency has acted upon such application. The li-  
21 censing agency shall refuse to renew a license if the facility is not substantially in compliance with  
22 all applicable laws and rules, or if the State Fire Marshal or the authorized representative thereof  
23 has given notice of noncompliance of facilities under ORS 443.400 [(5), (7) and (9)] (7), (9) and (11)  
24 pursuant to ORS 479.220.

25 “(3) The biennial fee required under subsection (2) of this section for facilities:

26 “(a) Defined in ORS 443.400 [(7) and] (9) and (11), shall be \$60.

27 “(b) Defined in ORS 443.400 [(8) and] (10) and (12), shall be \$30.

28 “(c) Defined in ORS 443.400 [(5)] (7) with:

29 “(A) One to 15 beds, shall be \$360.

30 “(B) Sixteen to 49 beds, shall be \$520.

31 “(C) Fifty to 99 beds, shall be \$1,040.

32 “(D) One hundred to 150 beds, shall be \$1,340.

33 “(E) More than 150 beds, shall be \$1,500.

34 “**SECTION 25.** ORS 443.452 is amended to read:

35 “443.452. (1) The [*director*] **Director of Human Services** shall waive the requirements of ORS  
36 443.410 for a residential care facility caring for residents with physical disabilities if:

37 “(a) Each resident is over 16 years of age;

38 “(b) No more than five individuals with physical disabilities reside in any one building of the  
39 facility; and

40 “(c) The residential **care** facility complies with the applicable requirements of the State Fire  
41 Marshal.

42 “(2) As used in this section, ‘building’ means any structure that does not share a common wall  
43 or roof with another structure.

44  
45 “**OPERATIVE/APPLICABILITY DATES**

1       **SECTION 26.** The amendments to section 3 of this 2017 Act by section 5 of this 2017 Act  
2 become operative on January 1, 2022.

3       **SECTION 27.** The Department of Human Services shall first produce the report de-  
4 scribed in section 3 (1) of this 2017 Act no later than July 1, 2019.

5       **SECTION 28.** Section 13 of this 2017 Act applies to agreements for binding arbitration  
6 entered into on or after the effective date of this 2017 Act.

7  
8                                       **“REPEALS**

9  
10       **SECTION 29.** ORS 443.885 is repealed.

11       **SECTION 30.** Section 1 of this 2017 Act is repealed on December 31, 2019.

12  
13                                       **“CAPTIONS**

14  
15       **SECTION 31.** The unit captions used in this 2017 Act are provided only for the conven-  
16 ience of the reader and do not become part of the statutory law of this state or express any  
17 legislative intent in the enactment of this 2017 Act.”.

18 \_\_\_\_\_