

Senate Bill 307

Sponsored by Senator JOHNSON (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**.

Imposes new requirements on continuing care retirement communities and residential facilities. Requires continuing care retirement communities and residential facilities licensed by Department of Human Services to have procedure for resident to request to be assisted in activities of daily living by staff person of particular sex. Requires accommodation of request unless doing so would be significantly difficult or costly.

A BILL FOR AN ACT

1
2 Relating to rights of residents in residential facilities; creating new provisions; and amending ORS
3 101.115, 101.150 and 441.100.

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

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 443.400 to**
6 **443.455.**

7 **SECTION 2. (1) A residential facility licensed by the Department of Human Services shall**
8 **have a procedure in place for a resident to request that a staff person of a particular sex**
9 **be assigned to assist the resident with activities of daily living. The facility shall accommo-**
10 **date the request unless it would be significantly difficult or costly to do so.**

11 **(2) If the facility denies a request under subsection (1) of this section, the facility shall**
12 **provide written notice to the resident explaining the basis for the denial and shall maintain**
13 **documentation demonstrating why the request would be significantly difficult or costly to**
14 **accommodate.**

15 **SECTION 3. ORS 101.115 is amended to read:**

16 101.115. (1) A provider must assist a resident, upon request, in the exercise of the resident's
17 rights as a citizen of the United States and as a resident of this state. A resident has the right to
18 exercise all rights that do not infringe upon the rights or safety of other residents.

19 (2) A resident has the right to review a provider's disclosure statements.

20 (3) A provider may not discriminate or impose any requirement or restriction based on sex,
21 marital status, race, color, sexual orientation or national origin of a resident, a prospective resident
22 or a resident's visitor.

23 (4) A provider shall make reasonable accommodations to ensure that services are accessible to
24 residents who have disabilities.

25 (5) A provider shall treat each resident with respect and dignity at all times, and ensure privacy
26 for each resident during rehabilitation or treatment and when receiving personal care services.

27 (6) A resident has the right to associate and communicate privately with persons of the
28 resident's choice and to send and receive mail that is not opened by the provider.

29 (7) A resident has the right to be free from abuse as defined in ORS 124.005.

30 (8) The residents' council has the right to meet with the provider no less than twice each year

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 and must be allowed free discussion at the meetings of subjects that may include, but need not be
 2 limited to, facility income, expenditures, financial trends, resident concerns, proposed changes in
 3 policy, programs and services, and any other issue identified by the council or a resident under ORS
 4 101.112 (1).

5 (9) A resident has the right to participate in social, religious and community activities at the
 6 discretion of the resident.

7 (10) A resident has the right to be fully informed, prior to or at the time of admission and during
 8 the resident's period of residency, of services available in the continuing care retirement community,
 9 whether the provider participates in the Medicare or Medicaid programs and the consequences of
 10 the participation or lack of participation by the provider in the Medicare or Medicaid programs.

11 (11) A resident has the right to refuse medication, treatment, care or participation in clinical
 12 trials or other research.

13 (12) A resident has the right to obtain treatment, care and services, including but not limited
 14 to home health and hospice care, from persons providing health care who have not entered into a
 15 contract with or are not affiliated with the provider, subject to policies of the CCRC regarding the
 16 provision of services by persons that are not under contract.

17 (13) A resident has the right to submit grievances and to suggest changes in policies and ser-
 18 vices either orally or in writing to staff or other individuals without fear of restraint, interference,
 19 coercion, discrimination or reprisal by the provider. A provider must *[listen to and respond promptly*
 20 *to a grievance or suggestion from a resident]* **adopt written policies and procedures to ensure the**
 21 **effective resolution of a resident's grievance in a timely manner.**

22 (14) A resident has the right to be free from harassment by other residents and to peaceful en-
 23 joyment of the CCRC without interference from other residents.

24 (15) A provider shall keep clinical and personal records of residents confidential. A resident or
 25 an authorized representative of the resident has the right to a prompt inspection of the records
 26 pertaining to the resident's care. The provider shall provide photocopies or electronic copies of a
 27 resident's records to the resident or the authorized representative at a reasonable charge.

28 (16) A resident has the right to receive *[30 days' prior]* notice of proposed changes in fees or
 29 services **in accordance with ORS 101.112**. The provider must allow residents a reasonable oppor-
 30 tunity to comment on the proposed changes before the changes become effective.

31 **(17) A provider shall have a procedure in place for a resident to request that a staff**
 32 **person of a particular sex be assigned to assist the resident with activities of daily living.**
 33 **The provider shall accommodate the request unless it would be significantly difficult or**
 34 **costly for the provider to do so. If the provider denies the request, the provider shall provide**
 35 **written notice to the resident explaining the basis for the denial and shall maintain doc-**
 36 **umentation demonstrating why the request would be significantly difficult or costly to ac-**
 37 **commodate.**

38 (18) As used in this section, "resident" includes:

39 (a) A "resident" as that term is defined in ORS 101.020 and members of the resident's
 40 household; and

41 (b) A person in an open bed long term care facility in the continuing care retirement
 42 community who has not signed a residency agreement.

43 **SECTION 4.** ORS 101.150 is amended to read:

44 101.150. (1) The Department of Human Services shall implement the provisions of this chapter.

45 (2) The department shall adopt such rules as are reasonably necessary for the enforcement of

1 this chapter. The department shall submit any proposed rules to the advisory council prior to pro-
2 ceeding with the notice procedures provided for in ORS 183.335. The department shall consider the
3 comments of the advisory council which pertain to a proposed rule before the department adopts the
4 rule.

5 **(3) The department shall adopt a procedure for a resident to file a complaint with the**
6 **department concerning a continuing care retirement community's failure to comply with a**
7 **requirement of this chapter. The department shall investigate each complaint and no later**
8 **than seven days after completing the investigation shall provide a report of the investigation,**
9 **in writing, to the provider and the resident who filed the complaint.**

10 **SECTION 5.** ORS 441.100 is amended to read:

11 441.100. As used in ORS 441.100 to 441.153:

12 (1) "Designee" means an individual appointed by the Long Term Care Ombudsman to serve as
13 a representative in order to carry out the purpose of ORS 441.100 to 441.153.

14 (2) "Residential facility" includes a:

15 (a) Long term care facility;

16 (b) Residential facility as defined in ORS 443.400, excluding a:

17 (A) Facility housing persons committed under ORS 161.327; and

18 (B) Facility licensed by the Oregon Health Authority to provide alcohol and drug treatment;

19 (c) Licensed adult foster home as defined in ORS 443.705; *[and]*

20 (d) Developmental disability child foster home, as defined in ORS 443.830, that is certified by the
21 Department of Human Services; **and**

22 **(e) Continuing care retirement community as defined in ORS 101.020.**
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