

A-Engrossed
Senate Bill 669

Ordered by the Senate June 21
Including Senate Amendments dated June 21

Sponsored by Senator MONNES ANDERSON; Representatives HOLVEY, KENY-GUYER

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.

[Modifies requirements for licensing of in-home care agencies. Prohibits retaliation against in-home caregiver for making complaint or reporting violation to Oregon Health Authority. Creates private right of action for retaliation against in-home caregiver who makes complaint or reports violation.]

[Requires all private agency caregivers that provide personal care services to complete specified training.]

Requires Oregon Health Authority to adopt training requirements that include minimum number of hours of orientation and assessment of competency for individual who is not licensed health care provider to complete before providing in-home care services as employee of in-home care agency, home health agency or hospital. Allows authority to deny, suspend or revoke license of in-home care agency or impose civil penalty if agency demonstrates five-year pattern of significant and substantiated violations of employment laws, wage laws or training requirements. Allows authority to deny, suspend or revoke license of in-home care agency for failure to comply with requirements related to criminal records checks.

Requires Department of Human Services to adopt training standards that include minimum number of hours of orientation and assessment of competency before home care worker or personal support worker may provide home care services. Requires department to make recommendations to Legislative Assembly, no later than February 1, 2021, on methods for assessing and monitoring home care services provided by home care workers.

A BILL FOR AN ACT

1
2 Relating to assistance with activities of daily living provided to individuals in their own homes;
3 creating new provisions; and amending ORS 443.065, 443.315 and 443.325 and section 2, chapter
4 75, Oregon Laws 2018.

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

6 **SECTION 1. (1) The Oregon Health Authority shall establish by rule training require-**
7 **ments that must be met before an individual may be permitted to provide in-home care ser-**
8 **VICES, as defined in ORS 443.305. The training requirements must include a minimum number**
9 **of hours of orientation and assessment of competency. The minimum number of hours may**
10 **be greater for an individual who will be providing enhanced care and services, such as**
11 **medication management.**

12 **(2) Except as provided in subsection (3) of this section, the training requirements apply**
13 **to any individual who is not licensed or certified to provide health care in this state and who**
14 **provides in-home care services as an employee or contractor of a licensed:**

- 15 **(a) In-home care agency as defined in ORS 443.305;**
16 **(b) Home health agency as defined in ORS 443.014; or**
17 **(c) Hospital as defined in ORS 442.015.**

18 **(3) The training requirements shall not apply to an individual providing personal care**
19 **services that are incidental to the provision of home health care or hospital services.**

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 **SECTION 2.** (1) The Department of Human Services shall develop recommendations for
2 methods to assess and monitor home care services, as defined in ORS 410.600, provided by
3 home care workers, as defined in ORS 410.600. The recommendations may include electronic
4 monitoring of home care workers or on-site monitoring by case managers or services coordi-
5 nators of home care workers providing care in their clients' homes. The department shall
6 avoid any recommendations regarding assessment and monitoring that might lead to the
7 state being deemed the legal employer of home care workers.

8 (2) No later than February 1, 2021, the department shall report its recommendations to
9 the Legislative Assembly in the manner provided in ORS 192.245.

10 **SECTION 3.** ORS 443.065 is amended to read:

11 443.065. [The] A home health agency licensed in this state shall:

12 (1) Be primarily engaged in providing skilled nursing services and at least one other service
13 delineated in ORS 443.075 (1)(b) and (c);

14 (2) Have policies established by professional personnel associated with the agency or organiza-
15 tion, including one or more physicians or naturopathic physicians and one or more registered nurses,
16 at least two of whom are neither owners nor employees of the agency, and two consumers, to govern
17 the services that it provides;

18 (3) Require supervision of services that it provides under subsection (1) of this section by a
19 physician, physician assistant, nurse practitioner, naturopathic physician or registered nurse, pref-
20 erably a public health nurse;

21 (4) **Ensure that in-home care services, as defined in ORS 443.305, that it provides in ad-**
22 **dition to skilled nursing services are provided by individuals who meet the training require-**
23 **ments established by the Oregon Health Authority under section 1 of this 2019 Act, if**
24 **applicable;**

25 [(4)] (5) Maintain clinical and financial records on all patients; and

26 [(5)] (6) Have an overall plan and budget in effect.

27 **SECTION 4.** ORS 443.315 is amended to read:

28 443.315. (1) A person may not establish, manage or operate an in-home care agency or purport
29 to manage or operate an in-home care agency without obtaining a license from the Oregon Health
30 Authority.

31 (2) The authority shall establish classification requirements and qualifications for licensure un-
32 der this section by rule. The authority shall issue a license to an applicant that has the necessary
33 qualifications and meets all requirements established by rule, including the payment of required fees.
34 An in-home care agency shall be required to maintain administrative and professional oversight to
35 ensure the quality of services provided **and that the training requirements established by the**
36 **authority under section 1 of this 2019 Act, if applicable, have been met by any individual**
37 **employed by or contracting with the in-home care agency to provide in-home care services.**

38 (3) Application for a license required under subsection (1) of this section shall be made in the
39 form and manner required by the authority by rule and shall be accompanied by any required fees.

40 (4) A license may be granted, or may be renewed annually, upon payment of a fee as follows:

41 (a) For the initial licensure of an in-home care agency that is classified as:

42 (A) Limited, the fee is \$2,000.

43 (B) Basic, the fee is \$2,250.

44 (C) Intermediate, the fee is \$2,500.

45 (D) Comprehensive, the fee is \$3,000.

1 (b) There is an additional fee of \$1,250 for the initial licensure of each subunit in any classi-
2 fication of in-home care agency.

3 (c) For the renewal of a license classified as:

4 (A) Limited or basic, the fee is \$1,000.

5 (B) Intermediate, the fee is \$1,250.

6 (C) Comprehensive, the fee is \$1,500.

7 (d) There is an additional fee of \$1,000 for the renewal of licensure for each subunit in any
8 classification of in-home care agency.

9 (e) For a change of ownership at a time other than the annual renewal date:

10 (A) The fee is \$350; and

11 (B) There is an additional fee of \$350 for each subunit.

12 (5) A license issued under this section is valid for one year. A license may be renewed by pay-
13 ment of the required renewal fee and by demonstration of compliance with requirements for renewal
14 established by rule.

15 (6) A license issued under this section is not transferable.

16 (7) The authority shall conduct an on-site inspection of each in-home care agency prior to ser-
17 vices being rendered and once every [*three*] **two** years thereafter as a requirement for licensing.

18 (8) In lieu of the on-site inspection required by subsection (7) of this section, the authority may
19 accept a certification or accreditation from a federal agency or an accrediting body approved by the
20 authority that the state licensing standards have been met, if the in-home care agency:

21 (a) Notifies the authority to participate in any exit interview conducted by the federal agency
22 or accrediting body; and

23 (b) Provides copies of all documentation concerning the certification or accreditation requested
24 by the authority.

25 **SECTION 5.** ORS 443.325 is amended to read:

26 443.325. (1) The Oregon Health Authority may impose a civil penalty and may deny, suspend or
27 revoke the license of any in-home care agency licensed under ORS 443.315 for failure to comply with
28 ORS 443.305 to 443.350 or with rules adopted thereunder. [*The authority may deny, suspend or revoke*
29 *the license of any in-home care agency licensed under ORS 443.315 for failure to comply with ORS*
30 *443.004.*] A failure to comply with ORS 443.305 to 443.350 includes, but is not limited to:

31 [(1)] (a) Failure to provide a written disclosure statement to the client or the client's represen-
32 tative prior to in-home care services being rendered;

33 [(2)] (b) Failure to provide the contracted in-home care services; [*or*]

34 [(3)] (c) Failure to correct deficiencies identified during an inspection by the authority; **or**

35 **(d) A demonstrated pattern, over the previous five years, of significant and substantiated**
36 **violations of:**

37 **(A) Employment or wage laws in this state, as prescribed by the authority by rule:**

38 **(i) By an in-home care agency licensee as an employer of staff in an in-home care agency;**
39 **or**

40 **(ii) By an applicant for an in-home care agency license in any business owned or operated**
41 **by the applicant; or**

42 **(B) Caregiver training requirements, as established by the authority by rule, in any in-**
43 **home care agency owned or operated by an in-home care agency licensee.**

44 **(2) The authority may deny, suspend or revoke the license of any in-home care agency**
45 **licensed under ORS 443.315 for failure to comply with ORS 443.004.**

1 **SECTION 6.** Section 2, chapter 75, Oregon Laws 2018, is amended to read:

2 **Sec. 2.** (1) The Department of Human Services, acting on behalf of and subject to the approval
3 of the Home Care Commission, shall adopt by rule minimum training standards for home care
4 workers and personal support workers and shall establish procedures for testing home care workers
5 and personal support workers on their mastery of the skills and knowledge to be acquired through
6 the training. **The training standards must require a minimum number of hours of orientation
7 and assessment of competency before a home care worker or personal support worker is
8 permitted to provide home care services to a client. The minimum number of hours may be
9 greater for home care workers who will be providing enhanced care and services, such as
10 medication management.**

11 (2) The department shall provide training on the mandatory training topics established under
12 this subsection and on any other training that the department or the commission deems appropriate
13 for the professionalization of home care workers and personal support workers. The training pro-
14 vided pursuant to this section may include, but is not limited to, training on the following topics:

15 (a) Safety and emergency measures.

16 (b) Understanding the requirements for providers paid with Medicaid funds.

17 (c) Providing person-centered care.

18 (d) Understanding how to support the physical and emotional needs of the individual who is re-
19 ceiving care.

20 (e) Managing medications.

21 (f) Providing personal care and assistance with activities of daily living.

22 (3) The training provided in accordance with this section must be geographically accessible in
23 all areas of this state and culturally appropriate for workers of all language abilities.

24 (4) In developing the training provided under this section, the department shall:

25 (a) Consider the needs of each worker type, including workers who are relatives of the individ-
26 uals receiving care, workers who provide respite care, experienced workers and new workers; and

27 (b) Strive to align the training with the training requirements for care providers in other long
28 term care settings.

29 (5) The department shall consult with the Developmental Disabilities and Mental Health Com-
30 mittee, unions representing home care workers and personal support workers and other stakeholders
31 in the adoption of rules to carry out the provisions of this section.

32 **SECTION 7.** Section 1 of this 2019 Act and the amendments to ORS 443.065, 443.315 and
33 443.325 and section 2, chapter 75, Oregon Laws 2018, by sections 3 to 6 of this 2019 Act be-
34 come operative on January 1, 2021.

35 **SECTION 8.** Notwithstanding any other provision of law, the General Fund appropriation
36 made to the Oregon Health Authority by section 1 (1), chapter _____, Oregon Laws 2019
37 (Enrolled Senate Bill 5525), for programs, for the biennium beginning July 1, 2019, is in-
38 creased by \$399,587 for the purpose of carrying out the provisions of this 2019 Act.

39 **SECTION 9.** Notwithstanding any other provision of law, the General Fund appropriation
40 made to the Department of Human Services by section 1 (4), chapter _____, Oregon Laws
41 2019 (Enrolled House Bill 5026), for aging and people with disabilities and
42 intellectual/developmental disabilities programs, for the biennium beginning July 1, 2019, is
43 increased by \$125,000 for the purpose of carrying out the provisions of this 2019 Act.

44 **SECTION 10.** Notwithstanding any other law limiting expenditures, the limitation on
45 expenditures established by section 3 (4), chapter _____, Oregon Laws 2019 (Enrolled House

1 **Bill 5026), for the biennium beginning July 1, 2019, as the maximum limit for payment of ex-**
2 **penses from federal funds, excluding federal funds described in section 2, chapter _____,**
3 **Oregon Laws 2019 (Enrolled House Bill 5026), collected or received by the Department of**
4 **Human Services for aging and people with disabilities and intellectual/developmental disabil-**
5 **ities programs, is increased by \$125,000 for the purpose of carrying out the provisions of this**
6 **2019 Act.**

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