Chapter 443

1957 REPLACEMENT PART

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DAY NURSERIES

443.010 Definitions. As used in ORS 443.010 to 443.060 unless the context requires otherwise, "day nursery" means any institution, establishment or place in which are commonly received at one time three or more children not of common parentage, under the age of 14 years, for a period or periods not exceeding 12 hours, for the purpose of being given board, care or training apart from their parents or guardians, for compensation or reward.

443.020 Licenses; application; issuance; renewal; transfer; fees. (1) No person, firm, association or corporation shall conduct a day nursery without receiving a license from the State Board of Health.

(2) An application for license shall be in a form prescribed by the board, and shall be uniform for all day nurseries. There shall be attached to the application a statement, sworn to by the applicant or by an officer thereof thereunto duly authorized, containing such information as may be required by the board.

(3) If, in the judgment of the board, such statement or any other evidence submitted in relation to the application indicates that the operation of the proposed day nursery will be for the public benefit and welfare, a license, in such form as the board may prescribe, shall be issued to the applicant.

(4) All licenses shall expire on June 30 but may be renewed for the subsequent fiscal year beginning on July 1 on application as provided for their initial issue. No license shall be transferred. For the issue or renewal of each license, a fee shall be charged as follows:

(a) If the capacity of the day nursery is not greater than 10 children, $15.

(b) If the capacity of the day nursery is greater than 10 children, $35.

(5) The State Health Officer shall keep a correct account of all fees received and turn them over to the State Treasurer to be placed in the State Board of Health Account and used by the State Board of Health for the administration of this chapter. [Amended by 1957 c.697 §4]

443.030 Rules and regulations. The State Board of Health shall make rules and regulations, and may revise or change the same, in accordance with which day nurseries shall be licensed and conducted.

443.040 Inspection and reports. (1) The State Board of Health, by its authorized agents, may visit and inspect any day nursery at any time in order to ascertain whether it is licensed and conducted in compliance with law, including ORS 443.010 to 443.060 and the rules and regulations pursuant thereto. Every day nursery shall be visited and inspected at least once in each year.

(2) Every day nursery shall furnish to the board such reports, information and other data as it may require.

443.050 Revocation of license. (1) After 30 days' notice to a licensed day nursery and opportunity to be heard, the State Board of Health may, if in its judgment the public interest so demands, revoke the license of the nursery.

(2) Failure to comply with any rule or regulation of the board shall be sufficient cause for revocation of the license in the manner provided in subsection (1) of this section.

443.060 State or municipal nurseries excepted. ORS 443.010 to 443.060 do not apply to day nurseries conducted by the state or by any city or town thereof.

443.070 to 443.200 [Reserved for expansion]

GROUP CARE HOMES

443.210 Definitions. As used in ORS 443.210 to 443.330:

(1) "Certificate" means a certificate of approval of the State Board of Health.

(2) "Group care home" includes any home or private institution maintained and operated for the care, boarding, housing and training of one or more physically handicapped or mentally handicapped children under the age of 18 years by any person who is not the parent or guardian of, and who is not related by blood or marriage to, such children, but does not include:

(a) Any child-caring institution or agency of the type presently required to be licensed by the State Public Welfare Commission, or any foster home under the direct supervision of such child-caring institution or agency.

(b) Any foster home of a type presently requiring a certificate by the State Public Welfare Commission.

(c) Any private institution or educa-

tional facility accredited by the State Department of Education or State Board of Higher Education.

(d) Any facility presently licensed or regulated by the State Board of Health.

(e) Any detention institution for children operated by a court.

(f) Any facilities operated under the supervision of any state institution. [1953 c.659 §1]

443.220 Certificate of approval necessary to operate a group care home; caring for both mentally handicapped and physically handicapped children simultaneously. (1) No person shall maintain or operate a group care home without a valid certificate of approval from the State Board of Health.

(2) No person shall maintain a group care home where both mentally handicapped and physically handicapped children are cared for simultaneously in the same facility. [1953 c.659 §2]

443.230 Personal qualifications of applicant for certificate. Persons applying for a certificate or maintaining or operating a group care home shall be persons:

(1) Of good character and habits.

(2) Whose attitude toward children and understanding of their needs qualify them for the care of children.

(3) Who have no disqualifying physical or mental handicaps.

(4) Whose household includes only individuals whose presence is conducive to the welfare of children.

(5) Who do not maintain a boarding, nursing or convalescent home providing care for ill, or physically or mentally handicapped adults, or aged persons. [1953 c.659 §3]

443.240 Prerequisites regarding physical facilities and method of operation. (1) The person applying for a certificate or maintaining or operating a group care home shall:

(a) Provide an adequate number of capable persons qualified by education or experience to render the type of care for which the applicant seeks a certificate.

(b) Have a responsible adult on the premises at all times when children are present.

(c) Have adequate physical facilities for the purpose for which the applicant seeks a certificate. The facilities shall make provision for adequate sanitation, plumbing, number of children in a room, fire protection, water supplies, building construction and maintenance, lighting and ventilation, garbage and refuse disposal, insect and rodent control, the cleanliness of premises, buildings, furniture, bedding and linens.

(d) Make satisfactory arrangements for medical supervision and care with a physician licensed by the Oregon State Board of Medical Examiners; provided, however, that except as to laws and regulations governing the control of communicable diseases, no such arrangements or medical supervision or care shall be required of any group care home conducted exclusively by and for those who rely for healing upon treatment by prayer or spiritual means in the practice of religion.

(e) Provide food that is adequate, wholesome and prepared and served in a sanitary manner.

(2) The practices and policies of the person applying for a certificate or maintaining and operating a group care home must provide adequately for the protection of the health, safety, physical, moral and mental well-being of the children cared for by the applicant or person obtaining a certificate. [1953 c.659 §§4,5]

443.250 Application for certificate; issuance of certificate. (1) Applications for a certificate to maintain and operate a group care home shall be made to the State Board of Health, on forms provided for that purpose by the board. The applicant shall state on the application whether the group care home is to be operated for the care of mentally handicapped children or for the care of physically handicapped children.

(2) Upon receipt of an application, the board shall cause an investigation to be made and issue a certificate to any applicant for operation of a group care home which complies with ORS 443.210 to 443.330, and the rules and regulations of the board. No certificate shall be issued which authorizes the operation of a group care home for the care of both physically handicapped children and mentally handicapped children simultaneously in the same facility. [1953 c.659 §6]

443.260 Expiration of certificate; contents of certificate; renewability. (1) A certificate issued under ORS 443.250 shall be effective for one year from the date of issue unless sooner revoked. Such certificate shall state the name of the person operating the group care home, the address of the

premises to which the certificate applies and the maximum number of children to be maintained or boarded in such group care home at any one time.

(2) Certificates shall be renewable annually upon application to and approval by the State Board of Health. [1953 c.659 §7]

443.270 Temporary certificates. Temporary certificates for a period not longer than one year may be issued by the State Board of Health to applicants who are not able to comply immediately with the standards set by ORS 443.210 to 443.330 and the rules and regulations of the board. Temporary certificates shall not be renewed. [1953 c.659 §8]

443.280 Transferability of certificate; applicable only for address indicated on certificate. No certificate issued under ORS 443.210 to 443.330 is transferable or applicable to any location or facility other than that indicated on the certificate. [1953 c.659 §9]

443.290 Inspection of homes; consultation; access to records. The State Board of Health or duly authorized representative shall visit and inspect every group care home periodically to determine whether it is maintained and operated in accordance with ORS 443.210 to 443.330 and the rules and regulations of the board, and to consult with and advise the certificate holders concerning methods of child care, records, housing and equipment. Representatives of the board shall be permitted access to the records of children in the group care home on request. [1953 c.659 §10]

443.300 Rules and regulations. (1) The State Board of Health, with the cooperation of the State Fire Marshal and the State Department of Education, shall make and publish rules and regulations in implementation of the standards set out in ORS 443.230 and 443.240.

(2) The board shall make and publish rules and regulations relating to the procedure for issuance and renewal of licenses. [1953 c.659 §11]

443.310 Revocation of certificates. The State Board of Health may revoke the certificate of any group care home which is not operated in accordance with ORS 443.210 to 443.330 or with the rules and regulations pursuant thereto. [1953 c.659 §12]

443.320 Appeals from board decisions. Appeals from a decision or order of the State Board of Health may be had as provided in ORS 441.045. [1953 c.659 §13]

443.330 Enjoining operation of home without valid certificate. In addition to the penalty provided by subsection (2) of ORS 443.990, the State Board of Health may, in cases where a group care home is operated without a valid certificate, or after notice of revocation has been given, and a reasonable time for placement of children in other facilities has been allowed, commence a suit in equity to enjoin the operation of the group care home. [1953 c.659 §15]

443.340 to 443.980 [Reserved for expansion]

PENALTIES

443.990 Penalties. (1) Violation of any of the provisions of ORS 443.010 to 443.060 or the rules and regulations made thereunder is punishable, upon conviction, by a fine of not less than $10 nor more than $200 for each offense. Moreover, if a person conducting a day nursery is found guilty of violating any provision of ORS 443.010 to 443.060 or any regulation thereunder, in any particular relating to the safety of or the accommodations for the children, the State Board of Health shall issue an order directing that the nursery be closed, and remain closed until such provision of ORS 443.010 to 443.060 or regulation thereunder has been complied with.

(2) Violation of ORS 443.210 to 443.330 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for a period not exceeding six months, or by both. [Subsection (2) enacted as 1953 c.659 §14]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel