

Chapter 443

1971 REPLACEMENT PART

Group Care Homes

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CROSS REFERENCES

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| Administrative procedures and rules of state agencies, Ch. 183 | Public bathing facilities, 448.005 to 448.090 |
| Deaths or injuries, report to medical investigator, Ch. 146 | 443.210 |
| Discrimination by race, creed, color or national origin prohibited, 30.670 | Child welfare, Ch. 418 |
| Employees, labor-management relations, 662.705 to 662.795 | 443.230 |
| Fire safety law, 479.210 to 479.220 | Persons with venereal disease may not engage in care of children, 434.180 |
| | 443.240 |
| | Disease control in schools, 433.255 to 433.270 |

443.010 [Amended by 1963 c.164 §1; repealed by 1969 c.641 §19]

443.020 [Amended by 1957 c.697 §4; 1961 c.316 §10; 1967 c.89 §6; repealed by 1969 c.641 §19]

443.030 [Repealed by 1969 c.641 §19]

443.040 [Repealed by 1969 c.641 §19]

443.050 [Repealed by 1969 c.641 §19]

443.060 [Amended by 1963 c.164 §2; repealed by 1969 c.641 §19]

443.210 Definitions. As used in this chapter:

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

(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 children under the age of 18 years or one or more mentally retarded persons of any age who because of well-established retarded intellectual development require special care by any person who is not the parent or guardian of, and who is not related by blood or marriage to, such children or persons, but does not include:

(a) Any child-caring institution or agency of the type presently required to be licensed by the Children's Services Division, 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 Public Welfare Division.

(c) Any private institution or educational facility accredited by the Department of Education or State Board of Higher Education.

(d) Any facility presently licensed or regulated by the Health Division.

(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; 1965 c.230 §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 Health Division.

(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; 1971 c.650 §21]

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 Health Division, on forms provided for that purpose by the Health Division. 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 Health Division 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, the rules and regulations of the Health Division and which has not within the time specified received from the State Fire Marshal, his deputy, or approved authority a certificate of noncompliance pursuant to ORS 479.220. 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; 1961 c.316 §11; 1967 c.89 §7]

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 Health Division. The Health Division shall refuse to renew a certificate if the State Fire Marshal, his deputy, or approved authority has issued a certificate of non-compliance pursuant to ORS 479.215. [1953 c.659 §7; 1961 c.316 §12; 1967 c.89 §8]

443.270 Temporary certificates. Temporary certificates for a period not longer than one year may be issued by the Health Division 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 Health Division. 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 Health Division 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 Health Division, and to consult with and advise the certificate holders concerning methods of child care, records, housing and equipment. Representatives of the Health Division 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 Health Division, 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 Health Division 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 Health Division 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 [1953 c.659 §13; repealed by 1971 c.734 §21]

443.330 Enjoining operation of home without valid certificate. In addition to the penalty provided by subsection (2) of ORS 443.990, the Health Division 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]

443.335 Hearings; rules; orders; judicial review of rules and orders. (1) Where the Health Division proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Promulgation of rules, conduct of hearings and issuance of orders and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.500.

[1971 c.734 §60]

443.990 Penalties. 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; 1969 c.641 §17]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 1, 1971.

Robert W. Lundy
Legislative Counsel