

2017 ORS 443.446¹

Residential Care Quality Measurement Program

- (1) The Residential Care Quality Measurement Program is established in the Department of Human Services. Under the program, the department shall, no later than July 1 of each year, publish an annual report, based on data reported by each residential care facility under subsection (2) of this section. Excluding data that identifies a resident, the report must include data compilation, illustration and narratives to:
- (a) Describe statewide patterns and trends that emerge from the data reported to the department under subsection (2) of this section and compliance data maintained by the department;
 - (b) Identify residential care facilities that substantially failed to report data as required by this section;
 - (c) Allow residential care facilities and the public to compare a residential care facility's performance on each quality metric, by demographics, geographic region, facility type and other categories the department believes may be useful to consumers and facilities;
 - (d) Show trends in performance on each of the quality metrics;
 - (e) Identify patterns of performance by geographic regions and other categories the department believes will be useful to consumers;
 - (f) Identify the number, severity and scope of regulatory violations by each geographic region; **and**
 - (g) Show average timelines for surveys and for investigations of abuse or regulatory noncompliance.
- (2) Each residential care facility shall report, no later than January 31 of each year and in the form and manner prescribed by the Quality Measurement Council established under ORS 443.447 (Quality Measurement Council), the following quality metrics for the prior calendar year, consistent with accepted professional

2017 ORS 443.447¹

Quality Measurement Council

- (1) The Quality Measurement Council is established in the Department of Human Services to prescribe how the department shall implement the Residential Care Quality Measurement Program established under ORS 443.446 (Residential Care Quality Measurement Program).
- (2) The council consists of eight members, appointed by the Governor, as follows:
 - (a) One individual representing the Oregon Patient Safety Commission;
 - (b) One individual representing residential care facilities;
 - (c) One consumer representative from an Alzheimer's advocacy organization;
 - (d) One licensed health care practitioner with experience in geriatrics;
 - (e) Two individuals associated with an academic institution who have expertise in research using data and analytics and in community-based care and quality reporting;
 - (f) The Long Term Care Ombudsman or a designee of the Long Term Care Ombudsman; **and**
 - (g) One individual representing the department.
- (3)
 - (a) On and after January 1, 2022, the council may update by rule the quality metrics to be reported by residential care facilities under ORS 443.446 (Residential Care Quality Measurement Program).
 - (b) In developing quality metrics the council shall consider whether the data that must be reported reflect and promote quality care and whether reporting the data is unnecessarily burdensome on residential care facilities. [2017 c.679 §16]

¹ Legislative Counsel Committee, *CHAPTER 443—Residential Care; Adult Foster Homes; Hospice Programs*,
https://www.oregonlegislature.gov/bills_laws/ors/ors443.html (2017) (last accessed Mar.

standards and excluding information that identifies a resident of the residential care facility:

- (a) The residential care facility's retention of direct care staff;
 - (b) The number of resident falls in the residential care facility that result in physical injury;
 - (c) The incidence in the residential care facility of the use of antipsychotic medications for nonstandard purposes;
 - (d) The residential care facility's compliance with staff training requirements;
 - (e) The results of an annual resident satisfaction survey conducted by an independent entity that meets the requirements established by the Quality Measurement Council; **and**
 - (f) A quality metric recommended by the Quality Measurement Council that measures the quality of the resident experience.
- (3) The department shall make available an annual report to each residential care facility that reports quality metrics under subsection (2) of this section using data compilation, illustration and narratives to allow the residential care facility to measure and compare its quality metrics over time.
- (4) The department shall make available to the public in a standard format and in plain language the data reported by each residential care facility, excluding information that identifies a resident.
- (5) The department shall, using moneys from the Quality Care Fund established under ORS 443.001 (Quality Care Fund):
- (a) Develop online training modules to address the top two statewide issues identified by surveys or reviews of residential care facilities during the previous year; **and**
 - (b) Post and regularly update the data used to prepare the report described in subsection (1) of this section.
- (6) The Quality Measurement Council, in consultation with the department, shall establish a uniform system for residential care facilities to report quality metrics as required by subsection (2) of this section. The system must:
- (a) Allow for electronic reporting of data, to the greatest extent practicable; **and**

- (b) Take into account and utilize existing data reporting systems used by residential care facilities.
- (7) (a) Quality metric data reported to the department under this section may not be used as the basis for an enforcement action by the department nor may the data be disclosed to another agency for use in an enforcement or regulatory action.

(b) Quality metric data are not admissible as evidence in any civil action, including but not limited to judicial, administrative, arbitration or mediation proceedings.

(c) Quality metric data reported to the department are not subject to:

 - (A) Civil or administrative subpoena; or
 - (B) Discovery in connection with a civil action, including but not limited to judicial, administrative, arbitration or mediation proceedings.
- (8) Subsection (7) of this section does not exempt a residential care facility from complying with state law or prohibit the department's use of quality metric data obtained from another source in the normal course of business or compliance activity. [2017 c.679 §15]

Note: The amendments to 443.446 (Residential Care Quality Measurement Program) by section 17, chapter 679, Oregon Laws 2017; become operative January 1, 2022. See section 18, chapter 679, Oregon Laws 2017. The text that is operative on and after January 1, 2022, is set forth for the user's convenience.

443.446 (Residential Care Quality Measurement Program). (1) The Residential Care Quality Measurement Program is established in the Department of Human Services. Under the program, the department shall, no later than July 1 of each year, publish an annual report, based on data reported by each residential care facility under subsection (2) of this section. Excluding data that identifies a resident, the report must include data compilation, illustration and narratives to:

- (a) Describe statewide patterns and trends that emerge from the data reported to the department under subsection (2) of this section and compliance data maintained by the department;
- (b) Identify residential care facilities that substantially failed to report data as required by this section;
- (c) Allow residential care facilities and the public to compare a residential care facility's performance on each quality metric, by demographics, geographic

region, facility type and other categories the department believes may be useful to consumers and facilities;

- (d) Show trends in performance on each of the quality metrics;
 - (e) Identify patterns of performance by geographic regions and other categories the department believes will be useful to consumers;
 - (f) Identify the number, severity and scope of regulatory violations by each geographic region; **and**
 - (g) Show average timelines for surveys and for investigations of abuse or regulatory noncompliance.
- (2) Each residential care facility shall report, no later than January 31 of each year and in the form and manner prescribed by the Quality Measurement Council established under ORS 443.447 (Quality Measurement Council), the quality metrics developed by the council under ORS 443.447 (Quality Measurement Council).
- (3) The department shall make available an annual report to each residential care facility that reports quality metrics under subsection (2) of this section using data compilation, illustration and narratives to allow the residential care facility to measure and compare its quality metrics over time.
- (4) The department shall make available to the public in a standard format and in plain language the data reported by each residential care facility, excluding information that identifies a resident.
- (5) The department shall, using moneys from the Quality Care Fund established under ORS 443.001 (Quality Care Fund):
- (a) Develop online training modules to address the top two statewide issues identified by surveys or reviews of residential care facilities during the previous year; **and**
 - (b) Post and regularly update the data used to prepare the report described in subsection (1) of this section.
- (6) The Quality Measurement Council, in consultation with the department, shall establish a uniform system for residential care facilities to report quality metrics as required by subsection (2) of this section. The system must:

- (a) Allow for electronic reporting of data, to the greatest extent practicable; **and**
 - (b) Take into account and utilize existing data reporting systems used by residential care facilities.

- (7) (a) Quality metric data reported to the department under this section may not be used as the basis for an enforcement action by the department nor may the data be disclosed to another agency for use in an enforcement or regulatory action.
- (b) Quality metric data are not admissible as evidence in any civil action, including but not limited to judicial, administrative, arbitration or mediation proceedings.
- (c) Quality metric data reported to the department are not subject to:
 - (A) Civil or administrative subpoena; **or**
 - (B) Discovery in connection with a civil action, including but not limited to judicial, administrative, arbitration or mediation proceedings.

- (8) Subsection (7) of this section does not exempt a residential care facility from complying with state law or prohibit the department's use of quality metric data obtained from another source in the normal course of business or compliance activity.

Note: Section 19, chapter 679, Oregon Laws 2017, provides:

Sec. 19. (1) The Department of Human Services shall first publish the report described in section 15 (1) of this 2017 Act [443.446 (Residential Care Quality Measurement Program)] no later than July 1, 2020.

- (2) A residential care facility shall first report quality metrics under section 15 (2) of this 2017 Act no later than January 31, 2020. A residential care facility may voluntarily report quality metrics before January 31, 2020, once the reporting system is able to receive reports. [2017 c.679 §19]

¹ Legislative Counsel Committee, *CHAPTER 443—Residential Care; Adult Foster Homes; Hospice Programs*,
https://www.oregonlegislature.gov/bills_laws/ors/ors443.html (2017) (last accessed Mar. 30, 2018).