

# House Bill 3088

Sponsored by COMMITTEE ON HEALTH CARE

## 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**.

Prohibits hospitals from billing to or attempting to collect from uninsured patients charges that exceed either Medicare rate or rate paid by hospital's highest volume commercial insurer. Allows patient to claim treble damages and attorney fees if hospital bills or attempts to collect charges in violation of Act.

Requires Office for Oregon Health Policy and Research to establish standards for hospital cost efficiency and performance. Requires office to set total margin based upon standards. Imposes annual charge upon hospital in amount that earnings exceed allowable margin.

Establishes Excess Revenue Fund. Continuously appropriates moneys in fund to Office for Oregon Health Policy and Research and Department of Human Services for purposes of Act and of providing Oregon Health Plan standard medical assistance.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to hospitals; creating new provisions; amending ORS 442.025, 442.400, 442.405 and 442.460;  
3 appropriating money; prescribing an effective date; and providing for revenue raising that re-  
4 quires approval by a three-fifths majority.

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

6 **SECTION 1. Sections 2 to 5 of this 2007 Act are added to and made a part of ORS chapter**  
7 **441.**

8 **SECTION 2. As used in sections 2, 3, 4 and 5 of this 2007 Act:**

9 (1) "Health benefit plan" has the meaning given that term in ORS 743.730.

10 (2) "Hospital" has the meaning given that term in ORS 442.015, exclusive of special in-  
11 patient care and inpatient psychiatric facilities operated by the state.

12 (3) "Uninsured" means not enrolled in any public or private health benefit plan.

13 **SECTION 3. A hospital may not charge to or attempt to collect from an uninsured pa-**  
14 **tient an amount for a service in excess of the amount paid to the hospital for the same**  
15 **service by Medicare or the hospital's highest volume insurer. A hospital must choose one**  
16 **payor scale for charges to all uninsured patients.**

17 **SECTION 4. (1) A hospital shall provide patients with a written notice explaining the**  
18 **hospital's policy for charges to uninsured patients and providing contact information for a**  
19 **hospital employee or office from which a person may obtain a copy of and further informa-**  
20 **tion about the policy. The hospital also shall provide notice to patients who receive emer-**  
21 **gency or outpatient care and who may be billed for that care, but who were not admitted to**  
22 **the hospital. The notice shall be provided in English and in languages other than English as**  
23 **required by state and federal law.**

24 (2) The hospital shall post notices of the hospital's policy on charges to uninsured pa-  
25 tients in conspicuous locations that are visible to the public including, but not limited to:

26 (a) Emergency departments;

**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 (b) Billing offices;
- 2 (c) Admitting offices; and
- 3 (d) Patient waiting areas in outpatient care settings.

4 **SECTION 5.** (1) If a hospital initiates an action for collection in violation of section 3 of  
 5 this 2007 Act, the patient or the patient’s representative or estate may maintain an action  
 6 in any court of general equitable jurisdiction of this state, to prevent, restrain or enjoin the  
 7 violation or threatened violation. If in such action, a violation or threatened violation of  
 8 section 3 of this 2007 Act is established, the court shall enjoin and restrain or otherwise  
 9 prohibit such violation or threatened violation, and the plaintiff in the action is entitled to  
 10 recover treble the amount of damages that the patient incurred. Damages shall be the  
 11 amount by which the hospital charge exceeded the amount allowed under section 3 of this  
 12 2007 Act. The court may award reasonable attorney fees to the prevailing plaintiff in an  
 13 action under this section.

14 (2) Actions brought under this section shall be commenced within four years from the  
 15 date of the first billing.

16 **SECTION 6.** Sections 7 and 8 of this 2007 Act are added to and made a part of ORS 442.400  
 17 to 442.463.

18 **SECTION 7.** (1) The Administrator of the Office for Oregon Health Policy and Research  
 19 shall establish by rule a reasonable total margin that a hospital may earn. A reasonable total  
 20 margin must be no less than five percent. The margin may exceed five percent for a hospital  
 21 demonstrating outstanding performance in both cost efficiency and quality, according to  
 22 standards adopted by the office.

23 (2) The office shall impose a charge upon a hospital equal to the dollar amount by which  
 24 the hospital’s total margin for a calendar year exceeds the reasonable total margin estab-  
 25 lished under subsection (1) of this section.

26 (3) Annually the office shall collect the charges imposed under subsection (2) of this  
 27 section and pay the charges into the Excess Revenue Fund established under section 8 of this  
 28 2007 Act.

29 **SECTION 8.** The Excess Revenue Fund is established separate and distinct from the  
 30 General Fund. Interest earned by the Excess Revenue Fund shall be credited to the fund.  
 31 Moneys in the fund are continuously appropriated as follows:

32 (1) \_\_\_\_\_ percent to the Department of Human Services for the purpose of providing  
 33 medical assistance to categorically needy persons as defined in ORS 414.025 (2)(s); and

34 (2) \_\_\_\_\_ percent to the Office for Oregon Health Policy and Research to carry out the  
 35 purposes of section 7 of this 2007 Act.

36 **SECTION 9.** ORS 442.025 is amended to read:

37 442.025. (1) The Legislative Assembly finds that the achievement of reasonable access to quality  
 38 health care at a reasonable cost is a priority of the State of Oregon.

39 (2) Problems preventing the priority in subsection (1) of this section from being attained include:

40 (a) The inability of many citizens to pay for necessary health care, being covered neither by  
 41 private insurance nor by publicly funded programs such as Medicare and Medicaid;

42 (b) Rising costs of medical care which exceed substantially the general rate of inflation;

43 (c) Insufficient price competition in the delivery of health care services that would provide a  
 44 greater cost consciousness among providers, payers and consumers;

45 (d) Inadequate incentives for the use of less costly and more appropriate alternative levels of

1 health care;

2 (e) Insufficient or inappropriate use of existing capacity, duplicated services and failure to use  
3 less costly alternatives in meeting significant health needs; *[and]*

4 (f) Insufficient primary and emergency medical care services in medically underserved areas of  
5 the state[.]; **and**

6 **(g) Insufficient incentives for providers of hospital services to provide high quality ser-**  
7 **vices that optimize patient outcomes, contain hospital costs and price services at a reason-**  
8 **able level relative to costs so that provider profits do not exceed the reasonably necessary**  
9 **costs of providing services.**

10 (3) As a result of rising health care costs and the concern expressed by health care providers,  
11 health care users, third-party payers and the general public, there is an urgent need to abate these  
12 rising costs so as to place the cost of health care within reach of all Oregonians without affecting  
13 the quality of care.

14 (4) To foster the cooperation of the separate industry forces, there is a need to compile and  
15 disseminate accurate and current data, including but not limited to price and utilization data, to  
16 meet the needs of the people of Oregon and improve the appropriate usage of health care services.

17 (5) It is the purpose of this chapter to establish area-wide and state planning for health services,  
18 staff and facilities in light of the findings of subsection (1) of this section and in furtherance of  
19 health planning policies of this state.

20 (6) It is further declared that hospital costs should be contained through improved competition  
21 between hospitals and improved competition between insurers and through financial incentives on  
22 behalf of providers, insurers and consumers to contain costs. As a safety net, it is the intent of the  
23 Legislative Assembly to monitor hospital performance.

24 **SECTION 10.** ORS 442.400 is amended to read:

25 442.400. As used in ORS 442.400 to 442.463, unless the context requires otherwise[.]:

26 (1) "Health care facility" or "facility" means *[such]* **a health care** facility as defined by ORS  
27 442.015, exclusive of a long term care facility, and includes all publicly and privately owned and  
28 operated health care facilities, but does not include facilities described in ORS 441.065.

29 **(2) "Hospital" has the meaning given that term in ORS 442.015, exclusive of special in-**  
30 **patient care and inpatient psychiatric facilities operated by the state.**

31 **SECTION 11.** ORS 442.405 is amended to read:

32 442.405. The Legislative Assembly finds that rising costs and charges of health care facilities  
33 are a matter of vital concern to the people of this state. The Legislative Assembly finds and declares  
34 that it is the policy of this state:

35 (1) To require health care facilities to file for public disclosure reports that will enable both  
36 private and public purchasers of services from such facilities to make informed decisions in pur-  
37 chasing such services; *[and]*

38 (2) To encourage development of programs of research and innovation in the methods of delivery  
39 of institutional health care services of high quality with costs and charges reasonably related to the  
40 nature and quality of the services rendered[.]; **and**

41 **(3) To endeavor to improve access to health care for all Oregonians and ensure that**  
42 **health care resources are equitably distributed among all populations.**

43 **SECTION 12.** ORS 442.460 is amended to read:

44 442.460. In order to obtain regional or statewide data about the utilization and cost of health  
45 care services, **and to comply with the requirements of section 7 of this 2007 Act**, the Office for

1 Oregon Health Policy and Research may accept information relating to the **quality**, utilization,  
2 [*and*] cost **and cost efficiency** of health care services identified by the Administrator of the Office  
3 for Oregon Health Policy and Research from physicians, insurers or other third-party payers or  
4 employers or other purchasers of health care.

5 **SECTION 13. Section 7 of this 2007 Act applies to calendar years beginning on or after**  
6 **January 1, 2006.**

7 **SECTION 14. This 2007 Act takes effect on the 91st day after the date on which the**  
8 **regular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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