

House Bill 3281

Sponsored by Representative MAURER; Representatives BOQUIST, BRUUN, BUTLER, CAMERON, DALLUM, ESQUIVEL, FLORES, GARRARD, GILLIAM, GIROD, HANNA, KRIEGER, KRUMMEL, LIM, MINNIS, NELSON, OLSON, RICHARDSON, SCOTT, G SMITH, THATCHER, WHISNANT, Senators BEYER, G GEORGE, L GEORGE, KRUSE, WINTERS

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**.

Includes medical facility operated substantially for purpose of performing abortions in definition of ambulatory surgical center.

A BILL FOR AN ACT

Relating to ambulatory surgical centers; amending ORS 442.015.

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

SECTION 1. ORS 442.015 is amended to read:

442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

(1) "Acquire" or "acquisition" means obtaining equipment, supplies, components or facilities by any means, including purchase, capital or operating lease, rental or donation, with intention of using such equipment, supplies, components or facilities to provide health services in Oregon. When equipment or other materials are obtained outside of this state, acquisition is considered to occur when the equipment or other materials begin to be used in Oregon for the provision of health services or when such services are offered for use in Oregon.

(2) "Adjusted admission" means the sum of all inpatient admissions divided by the ratio of inpatient revenues to total patient revenues.

(3) "Affected persons" has the same meaning as given to "party" in ORS 183.310.

(4)(a) "Ambulatory surgical center" means:

(A) A facility that performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements.

(B) A facility that operates substantially for the purpose of performing abortions.

(b) For purposes of this subsection, a facility operates substantially for the purpose of performing abortions if:

(A) Ten or more abortions in any calendar month or 100 or more abortions per calendar year are performed on the premises of the facility;

(B) The facility holds itself out to the public as an abortion provider by any public means, including but not limited to newspaper, telephone directory, magazine or electronic media; and

(C) The facility has at the facility or on call a physician licensed under ORS chapter 677 to perform abortions.

(c) As used in this subsection, "abortion" means the use or prescription of any instrument, medicine, drug or other substance or device approved by the United States Food and Drug Administration to terminate the pregnancy of a woman known to be pregnant, with an

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 **intention other than to:**

- 2 (A) **Increase the probability of a live birth;**
- 3 (B) **Preserve the life or health of a child after live birth; or**
- 4 (C) **Remove a dead fetus.**

5 (5) "Audited actual experience" means data contained within financial statements examined by
 6 an independent, certified public accountant in accordance with generally accepted auditing stan-
 7 dards.

8 (6) "Budget" means the projections by the hospital for a specified future time period of expen-
 9 ditures and revenues with supporting statistical indicators.

10 (7) "Case mix" means a calculated index for each hospital, based on financial accounting and
 11 case mix data collection as set forth in ORS 442.425, reflecting the relative costliness of that hos-
 12 pital's mix of cases compared to a state or national mix of cases.

13 (8) "Commission" means the Oregon Health Policy Commission.

14 (9) "Department" means the Department of Human Services of the State of Oregon.

15 (10) "Develop" means to undertake those activities that on their completion will result in the
 16 offer of a new institutional health service or the incurring of a financial obligation, as defined under
 17 applicable state law, in relation to the offering of such a health service.

18 (11) "Director" means the Director of Human Services.

19 (12) "Expenditure" or "capital expenditure" means the actual expenditure, an obligation to an
 20 expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a
 21 donation or grant in lieu of an expenditure but not including any interest thereon.

22 (13) "Freestanding birthing center" means a facility licensed for the primary purpose of per-
 23 forming low risk deliveries.

24 (14) "Governmental unit" means the state, or any county, municipality or other political subdi-
 25 vision, or any related department, division, board or other agency.

26 (15) "Gross revenue" means the sum of daily hospital service charges, ambulatory service
 27 charges, ancillary service charges and other operating revenue. "Gross revenue" does not include
 28 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

29 (16)(a) "Health care facility" means a hospital, a long term care facility, an ambulatory surgical
 30 center, a freestanding birthing center or an outpatient renal dialysis facility.

31 (b) "Health care facility" does not mean:

32 (A) An establishment furnishing residential care or treatment not meeting federal intermediate
 33 care standards, not following a primarily medical model of treatment, prohibited from admitting
 34 persons requiring 24-hour nursing care and licensed or approved under the rules of the Department
 35 of Human Services or the Department of Corrections; or

36 (B) An establishment furnishing primarily domiciliary care.

37 (17) "Health maintenance organization" or "HMO" means a public organization or a private
 38 organization organized under the laws of any state that:

39 (a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or

40 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
 41 cluding at least the following basic health care services:

- 42 (i) Usual physician services;
- 43 (ii) Hospitalization;
- 44 (iii) Laboratory;
- 45 (iv) X-ray;

1 (v) Emergency and preventive services; and

2 (vi) Out-of-area coverage;

3 (B) Is compensated, except for copayments, for the provision of the basic health care services
4 listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic
5 rate basis; and

6 (C) Provides physicians' services primarily directly through physicians who are either employees
7 or partners of such organization, or through arrangements with individual physicians or one or more
8 groups of physicians organized on a group practice or individual practice basis.

9 (18) "Health services" means clinically related diagnostic, treatment or rehabilitative services,
10 and includes alcohol, drug or controlled substance abuse and mental health services that may be
11 provided either directly or indirectly on an inpatient or ambulatory patient basis.

12 (19) "Hospital" means a facility with an organized medical staff, with permanent facilities that
13 include inpatient beds and with medical services, including physician services and continuous nurs-
14 ing services under the supervision of registered nurses, to provide diagnosis and medical or surgical
15 treatment primarily for but not limited to acutely ill patients and accident victims, to provide
16 treatment for the mentally ill or to provide treatment in special inpatient care facilities.

17 (20) "Institutional health services" means health services provided in or through health care
18 facilities and includes the entities in or through which such services are provided.

19 (21) "Intermediate care facility" means a facility that provides, on a regular basis, health-related
20 care and services to individuals who do not require the degree of care and treatment that a hospital
21 or skilled nursing facility is designed to provide, but who because of their mental or physical con-
22 dition require care and services above the level of room and board that can be made available to
23 them only through institutional facilities.

24 (22) "Long term care facility" means a facility with permanent facilities that include inpatient
25 beds, providing medical services, including nursing services but excluding surgical procedures ex-
26 cept as may be permitted by the rules of the director, to provide treatment for two or more unre-
27 lated patients. "Long term care facility" includes skilled nursing facilities and intermediate care
28 facilities but may not be construed to include facilities licensed and operated pursuant to ORS
29 443.400 to 443.455.

30 (23) "Major medical equipment" means medical equipment that is used to provide medical and
31 other health services and that costs more than \$1 million. "Major medical equipment" does not in-
32 clude medical equipment acquired by or on behalf of a clinical laboratory to provide clinical labo-
33 ratory services, if the clinical laboratory is independent of a physician's office and a hospital and
34 has been determined under Title XVIII of the Social Security Act to meet the requirements of par-
35 agraphs (10) and (11) of section 1861(s) of that Act.

36 (24) "Net revenue" means gross revenue minus deductions from revenue.

37 (25) "New hospital" means a facility that did not offer hospital services on a regular basis within
38 its service area within the prior 12-month period and is initiating or proposing to initiate such ser-
39 vices. "New hospital" also includes any replacement of an existing hospital that involves a sub-
40 stantial increase or change in the services offered.

41 (26) "New skilled nursing or intermediate care service or facility" means a service or facility
42 that did not offer long term care services on a regular basis by or through the facility within the
43 prior 12-month period and is initiating or proposing to initiate such services. "New skilled nursing
44 or intermediate care service or facility" also includes the rebuilding of a long term care facility, the
45 relocation of buildings that are a part of a long term care facility, the relocation of long term care

1 beds from one facility to another or an increase in the number of beds of more than 10 or 10 percent
2 of the bed capacity, whichever is the lesser, within a two-year period.

3 (27) "Offer" means that the health care facility holds itself out as capable of providing, or as
4 having the means for the provision of, specified health services.

5 (28) "Operating expenses" means the sum of daily hospital service expenses, ambulatory service
6 expenses, ancillary expenses and other operating expenses, excluding income taxes.

7 (29) "Outpatient renal dialysis facility" means a facility that provides renal dialysis services
8 directly to outpatients.

9 (30) "Person" means an individual, a trust or estate, a partnership, a corporation (including as-
10 sociations, joint stock companies and insurance companies), a state, or a political subdivision or
11 instrumentality, including a municipal corporation, of a state.

12 (31) "Skilled nursing facility" means a facility or a distinct part of a facility, that is primarily
13 engaged in providing to inpatients skilled nursing care and related services for patients who require
14 medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation
15 of injured, disabled or sick persons.

16 (32) "Special inpatient care facility" means a facility with permanent inpatient beds and other
17 facilities designed and utilized for special health care purposes, including but not limited to a re-
18 habilitation center, a college infirmary, a chiropractic facility, a facility for the treatment of
19 alcoholism or drug abuse, an inpatient care facility meeting the requirements of ORS 441.065, and
20 any other establishment falling within a classification established by the Department of Human
21 Services, after determination of the need for such classification and the level and kind of health care
22 appropriate for such classification.

23 (33) "Total deductions from gross revenue" or "deductions from revenue" means reductions from
24 gross revenue resulting from inability to collect payment of charges. Such reductions include bad
25 debts, contractual adjustments, uncompensated care, administrative, courtesy and policy discounts
26 and adjustments and other such revenue deductions. The deduction shall be net of the offset of re-
27 stricted donations and grants for indigent care.

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