

House Bill 2006

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**.

Creates Health Services Cost Review Board to set hospital rates for health care facilities. Directs board to develop and implement payment policies, rate-setting methodologies, data reporting requirements and compliance requirements for health care facilities. Modifies duties of Office for Oregon Health Policy and Research. Imposes civil penalties on health care facilities for noncompliance.

Makes hospital rate provisions operative on July 1, 2010.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

1
2 Relating to hospital rate regulation; creating new provisions; amending ORS 441.030, 442.120,
3 442.400, 442.405, 442.420 and 442.425; and declaring an emergency.

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

5 **SECTION 1. (1) The Health Services Cost Review Board is created in the Department of**
6 **Human Services.**

7 **(2) The board shall consist of seven members appointed by the Governor. The member-**
8 **ship of the board shall reflect the diversity of health care facilities, providers, insurers,**
9 **health care purchasers, health care facility employees and consumers who are involved in**
10 **health care.**

11 **(3) The board shall have a majority of members who are not involved in the operation**
12 **or management of a health care facility and who do not have a pecuniary interest or direct**
13 **financial interest in a health care facility.**

14 **(4) The term of office of each member of the board is four years. Each member serves**
15 **at the pleasure of the Governor. Before the expiration of the term of a member, the Gover-**
16 **nor shall appoint a successor whose term begins on July 1 next following. A member is eli-**
17 **gible for reappointment for one additional term. If there is a vacancy for any cause, the**
18 **Governor shall make an appointment to become immediately effective for the unexpired**
19 **term. The board shall nominate a slate of candidates whenever a vacancy occurs or is an-**
20 **nounced, and shall forward the recommended candidates to the Governor for consideration.**

21 **(5) The board shall select one of its members as chairperson and another as vice chair-**
22 **person for the terms and with the duties and powers the board considers necessary for the**
23 **performance of the functions of those offices. The board shall adopt bylaws as necessary for**
24 **the efficient and effective operation of the board.**

25 **(6) The Governor may remove any member of the board at any time at the pleasure of**
26 **the Governor. The board may remove a member as specified in the bylaws of the board.**

27 **(7) The board may appoint subcommittees and advisory groups as needed to assist the**
28 **board.**

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 (8) A quorum of the board shall consist of a majority of the members of the board then
2 in office. All decisions of the board shall be made by a majority of all the members then in
3 office.

4 (9) Members are entitled to compensation and expenses as provided in ORS 292.495.

5 **SECTION 2.** Notwithstanding the term of office specified by section 1 of this 2009 Act,
6 of the members first appointed to the Health Services Cost Review Board under section 1
7 of this 2009 Act:

8 (1) Two shall serve for terms ending July 1, 2011;

9 (2) Two shall serve for terms ending July 1, 2012; and

10 (3) Three shall serve for terms ending July 1, 2013.

11 **SECTION 3.** (1) The Health Services Cost Review Board shall regulate hospital rates
12 charged by health care facilities. The board shall establish for each health care facility a base
13 rate and an annually adjusted rate that the facility shall charge for each hospital service
14 provided by the facility.

15 (2) The board shall develop and implement payment policies, rate-setting methodologies,
16 data reporting requirements and compliance requirements for health care facilities.

17 (3) The board may:

18 (a) Obtain information on income, revenue, assets, operating expenses, outlays, liabilities,
19 prospective budgets, current hospital rate schedules and units of services from each health
20 care facility in the state;

21 (b) Obtain data prepared by the Office for Oregon Health Policy and Research under ORS
22 442.120 and 442.400 to 442.463;

23 (c) Hold public hearings, conduct investigations and subpoena witnesses, papers, records
24 and documents that the board considers material or relevant;

25 (d) Require the filing of any additional information necessary to establish the rates for
26 hospital services charged by health care facilities; and

27 (e) Establish rate-setting methodologies.

28 (4) The board shall consider the use of, but is not limited to using, the following compo-
29 nents when developing a rate-setting system:

30 (a) A full review process to establish base rates;

31 (b) A method for annually adjusting base rates;

32 (c) Units of payment;

33 (d) Establishing an average charge per case and setting targets for average charge per
34 case;

35 (e) Incentive rates based on staffing levels that ensure that the aggregate and individual
36 needs of patients are met;

37 (f) Incentive rates based on the amount of charity care a health care facility provides;
38 and

39 (g) Labor cost expenditures by a health care facility.

40 (5) When establishing base rates and annually adjusted rates for each hospital service
41 provided by a health care facility, the board shall ensure that:

42 (a) The total costs of all services offered by a health care facility are reasonable;

43 (b) The aggregate rates of the health care facility are reasonably related to the aggregate
44 costs of the health care facility; and

45 (c) Rates are set equitably among all health care purchasers.

1 (6) The board shall appoint an administrator and may employ other staff as may be nec-
 2 essary to carry out its functions.

3 (7) A health care facility shall file with the board any information required by the board.

4 (8) The board by rule may adopt fees necessary for the administration of this section.

5 (9) The board shall adopt rules necessary to implement this section and section 4 of this
 6 2009 Act.

7 **SECTION 4.** (1) A health care facility shall charge the hospital rates established by the
 8 Health Services Cost Review Board for the facility under section 3 of this 2009 Act.

9 (2) A health care facility may file with the board a petition requesting a rate review and
 10 modification or suspension of any rate established by the board. The board shall hold a rate
 11 review hearing and issue an order within 120 days after receipt of the petition. A decision
 12 by the board on the proposed rate modification or suspension shall be considered a final or-
 13 der for the purposes of ORS 183.480.

14 **SECTION 5.** (1) A health care facility that fails to comply with the requirements of sec-
 15 tion 3 (7) or 4 (1) of this 2009 Act or the rules of the Health Services Cost Review Board may
 16 be subject to a civil penalty.

17 (2) The administrator of the board shall adopt a schedule of penalties in amounts not
 18 exceeding \$500 per day of violation and determined by the severity of the violation.

19 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

20 (4) Civil penalties imposed under this section may be remitted or mitigated upon terms
 21 and conditions the administrator considers proper and consistent with the protection of
 22 public health and safety.

23 (5) Civil penalties incurred under this section are not allowable as costs for the purpose
 24 of rate determination or for reimbursement by a third-party payer.

25 **SECTION 6.** ORS 442.120 is amended to read:

26 442.120. In order to provide data essential for health planning programs **and the regulation of**
 27 **hospital rates:**

28 (1) The Office for Oregon Health Policy and Research [*may*] **shall** request, by July 1 of each
 29 year, each [*general*] hospital to file with the office ambulatory surgery and inpatient discharge ab-
 30 stract records covering all patients discharged during the preceding calendar year. The ambulatory
 31 surgery and inpatient discharge abstract record for each patient must include the following infor-
 32 mation, and may include other information deemed necessary by the office **or the Health Services**
 33 **Cost Review Board** for developing or evaluating statewide health policy **and regulating hospital**
 34 **rates:**

- 35 (a) Date of birth;
- 36 (b) Sex;
- 37 (c) Zip code;
- 38 (d) Inpatient admission date or outpatient service date;
- 39 (e) Inpatient discharge date;
- 40 (f) Type of discharge;
- 41 (g) Diagnostic related group or diagnosis;
- 42 (h) Type of procedure performed;
- 43 (i) Expected source of payment, if available;
- 44 (j) Hospital identification number; and
- 45 (k) Total hospital charges.

1 (2) By July 1 of each year, the office *[may]* **shall** request from ambulatory surgical centers li-
 2 censed under ORS 441.015 ambulatory surgery discharge abstract records covering all patients ad-
 3 mitted during the preceding year. Ambulatory surgery discharge abstract records must include
 4 information similar to that requested from *[general]* hospitals under subsection (1) of this section.

5 (3) In lieu of abstracting and compiling the records itself, the office may solicit the voluntary
 6 submission of such data from Oregon hospitals or other sources to enable it to carry out its re-
 7 sponsibilities under this section. If such data are not available to the office on an annual and timely
 8 basis, the office may establish by rule a fee to be charged to each hospital.

9 (4) *[Subject to prior approval of the Oregon Department of Administrative Services and a report*
 10 *to the Emergency Board, if the Legislative Assembly is not in session, prior to adopting the fee, and*
 11 *within the budget authorized by the Legislative Assembly as the budget may be modified by the*
 12 *Emergency Board,]* The fee established under subsection (3) of this section may not exceed the cost
 13 of abstracting and compiling the records.

14 (5) The office may specify by rule the form in which the records are to be submitted. If the form
 15 adopted by rule requires conversion from the form regularly used by a hospital, reasonable costs of
 16 such conversion shall be paid by the office.

17 (6) Abstract records must include a patient identifier that allows for the statistical matching of
 18 records over time to permit public studies of issues related to clinical practices, health service
 19 utilization and health outcomes. Provision of such a patient identifier must not allow for identifica-
 20 tion of the individual patient.

21 (7) In addition to the records required in subsection (1) of this section, the office may obtain
 22 abstract records for each patient that identify specific services, classified by International Classi-
 23 fication of Disease Code, for special studies on the incidence of specific health problems or diag-
 24 nostic practices. However, nothing in this subsection *[shall authorize]* **authorizes** the publication
 25 of specific data in a form that allows identification of individual patients or licensed health care
 26 professionals.

27 (8) The office may provide by rule for the submission of records for enrollees in a health main-
 28 tenance organization from a hospital associated with such an organization in a form the office de-
 29 termines appropriate to the office's needs for such data and the organization's record keeping and
 30 reporting systems for charges and services.

31 **(9) The office shall forward to the Health Services Cost Review Board the data obtained**
 32 **under subsections (1) and (2) of this section, and any additional information requested by the**
 33 **board, by December 31 of each year.**

34 **SECTION 7.** ORS 442.400 is amended to read:

35 442.400. As used in **sections 1 to 5 and 12 of this 2009 Act and** ORS 442.400 to 442.463³, *unless*
 36 *the context requires otherwise, "health care facility" or "facility" means such facility as defined by ORS*
 37 *442.015, exclusive of a long term care facility, and includes all publicly and privately owned and op-*
 38 *erated health care facilities, but does not include facilities described in ORS 441.065.]:*

39 **(1) "Charity care" means the costs of providing inpatient or outpatient care services free**
 40 **of charge or at a reduced charge because of the indigence or lack of health insurance of the**
 41 **patient receiving the care services.**

42 **(2)(a) "Health care facility" means:**

43 **(A) An ambulatory surgical center as defined in ORS 442.015.**

44 **(B) A hospital as defined in ORS 442.015.**

45 **(b) "Health care facility" does not include a facility described in ORS 441.065.**

1 **SECTION 8.** ORS 442.405 is amended to read:

2 442.405. The Legislative Assembly finds that rising costs and charges of health care facilities
3 are a matter of vital concern to the people of this state. The Legislative Assembly finds and declares
4 that it is the policy of this state:

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

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

11 **(3) To achieve access to, accountability for, predictability of and stability of health care**
12 **services and to ensure reasonable rates for the public by the regulation of hospital rates.**

13 **SECTION 9.** ORS 442.420 is amended to read:

14 442.420. (1) The Office for Oregon Health Policy and Research may apply for, receive and accept
15 grants, gifts, payments and other funds and advances, appropriations, properties and services from
16 the United States, the State of Oregon or any governmental body, agency or agencies or from any
17 other public or private corporation or person, and enter into agreements with respect thereto, in-
18 cluding the undertaking of studies, plans, demonstrations or projects.

19 (2) The Administrator of the Office for Oregon Health Policy and Research shall conduct or
20 cause to have conducted *[such]* analyses and studies relating to *[costs of]* health care facilities as
21 considered desirable, including but not limited to **hospital rates, costs and charges**, methods of
22 reducing *[such]* costs, utilization review of services *[of health care facilities]*, peer review, quality
23 control, financial status of any facility subject to ORS 442.400 to 442.463, **staffing levels, amount**
24 **of charity care provided** and sources of public and private financing of financial requirements of
25 *[such]* **the** facilities.

26 (3) The administrator may also:

27 (a) Hold public hearings, conduct investigations and require the filing of information relating to
28 any matter affecting the **rates for**, costs of and charges for services in all health care facilities;

29 (b) Subpoena witnesses, papers, records and documents the administrator considers material or
30 relevant in connection with functions of the office subject to the provisions of ORS chapter 183;

31 (c) Exercise, subject to the limitations and restrictions imposed by ORS 442.400 to 442.463, all
32 other powers which are reasonably necessary or essential to carry out the express objectives and
33 purposes of ORS 442.400 to 442.463; and

34 (d) Adopt rules in accordance with ORS chapter 183 necessary in the administrator's judgment
35 for carrying out the functions of the office.

36 **SECTION 10.** ORS 442.425 is amended to read:

37 442.425. (1) The Administrator of the Office for Oregon Health Policy and Research by rule may
38 specify one or more uniform systems of financial reporting necessary to meet the requirements of
39 ORS 442.400 to 442.463 **and section 3 of this 2009 Act.** *[Such]* **The** systems shall include:

40 **(a)** *[such]* Cost allocation methods *[as may be prescribed]*;

41 **(b)** *[and such]* Records and reports of revenues, expenses, other income and other outlays, assets
42 and liabilities[, *and*];

43 **(c)** Units of service *[as may be prescribed.]*;

44 **(d) Staffing levels; and**

45 **(e) The amount of charity care provided.**

1 (2) Each facility under the administrator’s jurisdiction shall adopt *[such]* systems for its fiscal
 2 period *[starting on or after the effective date of such system]* and shall make the required reports on
 3 *[such]* **the** forms *[as may be]* required by the administrator. The administrator may extend the period
 4 by which compliance is required upon timely application and for good cause. Filings of *[such]* **the**
 5 records and reports shall be made *[at such times as may be reasonably]* **as** required by the adminis-
 6 trator.

7 [(2)] (3) Existing systems of reporting used by health care facilities shall be given due consid-
 8 eration by the administrator in carrying out the duty of specifying the systems of reporting required
 9 by ORS 442.400 to 442.463. The administrator insofar as reasonably possible shall adopt reporting
 10 systems and requirements that will not unreasonably increase the administrative costs of the facil-
 11 ity.

12 [(3)] (4) The administrator may allow and provide for modifications in the reporting systems in
 13 order to correctly reflect differences in the scope or type of services and financial structure between
 14 the various categories, sizes or types of health care facilities and in a manner consistent with the
 15 purposes of ORS 442.400 to 442.463.

16 [(4)] (5) The administrator may establish specific annual reporting provisions for facilities that
 17 receive a preponderance of their revenue from associated comprehensive group-practice prepayment
 18 health care service plans. Notwithstanding any other provisions of ORS 441.055 and 442.400 to
 19 442.463, *[such]* **these** facilities *[shall be]* **are** authorized to utilize established accounting systems and
 20 to report costs and revenues in a manner consistent with the operating principles of *[such]* **the** plans
 21 and with generally accepted accounting principles. When *[such]* **the** facilities are operated as units
 22 of a coordinated group of health facilities under common ownership, the facilities shall be authorized
 23 to report as a group rather than as individual institutions, and as a group shall submit a consol-
 24 idated balance sheet, income and expense statement and statement of source and application of
 25 funds for such group of health facilities.

26 **(6) The office shall forward to the Health Services Cost Review Board the data obtained**
 27 **under this section, and any additional information requested by the board, by December 31**
 28 **of each year.**

29 **SECTION 11.** ORS 441.030 is amended to read:

30 441.030. (1) The Department of Human Services, pursuant to ORS 479.215, shall deny, suspend
 31 or revoke a license in any case where the State Fire Marshal, or the representative of the State
 32 Fire Marshal, certifies that there is a failure to comply with all applicable laws, lawful ordinances
 33 and rules relating to safety from fire.

34 (2) The department may deny, suspend or revoke a license in any case where it finds that there
 35 has been a substantial failure to comply with ORS 441.015 to 441.063, 441.085 or 441.087 **or section**
 36 **3 (7) or 4 (1) of this 2009 Act** or the rules or minimum standards adopted under ORS 441.015 to
 37 441.063, 441.085 or 441.087.

38 (3) The department may suspend or revoke a license issued under ORS 441.025 for failure to
 39 comply with a department order arising from a health care facility’s substantial lack of compliance
 40 with the provisions of ORS 441.015 to 441.063, 441.084 to 441.087, 441.162 or 441.166 **or section 3**
 41 **(7) or 4 (1) of this 2009 Act** or the rules adopted under ORS 441.015 to 441.063, 441.084 to 441.087,
 42 441.162 or 441.166 **or section 3 (7) or 4 (1) of this 2009 Act**, or for failure to pay a civil penalty
 43 imposed under ORS 441.170 or 441.710 **or section 5 of this 2009 Act.**

44 (4) The department may order a long term care facility licensed under ORS 441.025 to restrict
 45 the admission of patients when the department finds an immediate threat to patient health and

1 safety arising from failure of the long term care facility to be in compliance with ORS 441.015 to
 2 441.063 or 441.084 to 441.087 [and] or the rules adopted under ORS 441.015 to 441.063 or 441.084 to
 3 441.087.

4 (5) Any long term care facility that has been ordered to restrict the admission of patients pur-
 5 suant to subsection (4) of this section shall post a notice of the restriction, provided by the depart-
 6 ment, on all doors providing ingress to and egress from the facility, for the duration of the
 7 restriction.

8 **SECTION 12. (1) Except as provided in the rules adopted by the Health Services Cost**
 9 **Review Board under subsection (2) of this section, section 4 (1) of this 2009 Act does not**
 10 **apply to the rates a health care facility may charge federal health care purchasers.**

11 **(2) The Department of Human Services shall request necessary approval from the Cen-**
 12 **ters for Medicare and Medicaid Services to test alternative payment approaches and to ex-**
 13 **empt the state from Medicare and Medicaid reimbursement requirements. The department**
 14 **shall report to the Health Services Cost Review Board on the status of the request. Upon**
 15 **receipt of approval by the Centers for Medicare and Medicaid Services, the board shall adopt**
 16 **rules making federal health care purchasers subject to the rate requirements imposed under**
 17 **section 4 (1) of this 2009 Act.**

18 **(3) If the Centers for Medicare and Medicaid Services denies the request by the depart-**
 19 **ment for approval to exempt the state from Medicare and Medicaid reimbursement require-**
 20 **ments, the department shall immediately notify the Health Services Cost Review Board and**
 21 **the Legislative Counsel.**

22 **SECTION 13. Section 4 of this 2009 Act becomes operative on July 1, 2010.**

23 **SECTION 14. This 2009 Act being necessary for the immediate preservation of the public**
 24 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
 25 **July 1, 2009.**
