

**HOUSE AMENDMENTS TO
A-ENGROSSED SENATE BILL 158
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 26

1 On page 29 of the printed A-engrossed bill, after line 17, insert:

2 “**SECTION 51.** If House Bill 2009 becomes law, section 2 of this 2009 Act is amended to read:

3 “**Sec. 2.** (1) An ambulatory surgical center shall evaluate all of a patient’s risk factors before
4 permitting a surgical procedure to be performed on the patient in the facility.

5 “(2) An ambulatory surgical center shall post a notice in the facility, in a prominent place and
6 in prominent font size, advising patients of the manner in which patients may express concerns re-
7 garding the ambulatory surgical center and services provided at the ambulatory surgical center. The
8 posting must include but need not be limited to the address and telephone number for contacting the
9 [Department of Human Services] **Oregon Health Authority** to express the concerns.

10 “(3) The [department] **authority** shall adopt rules classifying ambulatory surgical centers in
11 three categories:

12 “(a) Certified ambulatory surgical centers, which must comply with federal Centers for Medicare
13 and Medicaid Services rules, 42 C.F.R. 416 and rules adopted by the [department] **authority**;

14 “(b) High complexity noncertified ambulatory surgical centers, which must comply with rules
15 adopted by the [department] **authority**; and

16 “(c) Moderate complexity noncertified ambulatory surgical centers, which must comply with
17 rules adopted by the [department] **authority** and which may use only conscious sedation and
18 analgesia.

19 “**SECTION 52.** If House Bill 2009 becomes law and House Bill 2442 does not become law,
20 section 4 of this 2009 Act (amending ORS 441.020) is repealed and ORS 441.020, as amended
21 by section 720, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:

22 “441.020. (1) Licenses for health care facilities, except long term facilities as defined in ORS
23 442.015, must be obtained from the Oregon Health Authority.

24 “(2) Licenses for long term care facilities must be obtained from the Department of Human
25 Services.

26 “(3) Applications shall be upon such forms and shall contain such information as the authority
27 or the department may reasonably require, which may include affirmative evidence of ability to
28 comply with such reasonable standards and rules as may lawfully be prescribed under ORS
29 [441.055] **441.025**.

30 “(4) Each application shall be accompanied by the license fee. If the license is denied, the fee
31 shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State
32 Treasury to the credit of:

33 “(a) The Oregon Health Authority Fund for the purpose of carrying out the functions of the
34 Oregon Health Authority under ORS 441.015 to 441.063; or

1 “(b) The Department of Human Services Account for the purpose of carrying out the functions
2 of the Department of Human Services under ORS 441.015 to 441.063 and 431.607 to 431.619.

3 “(5) Except as otherwise provided in subsection [(5)] (8) of this section, for hospitals with:

4 “(a) Fewer than 26 beds, the annual license fee shall be \$750.

5 “(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.

6 “(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$1,900.

7 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.

8 “(e) Two hundred or more beds, the annual license fee shall be \$3,400.

9 “(6) **A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under
10 its license.**

11 “(7) **The authority may charge a reduced hospital fee or hospital satellite fee if the au-
12 thority determines that charging the standard fee constitutes a significant financial burden
13 to the facility.**

14 “[(6)] (8) For long term care facilities with:

15 “(a) Fewer than 16 beds, the annual license fee shall be up to \$120.

16 “(b) Sixteen beds or more but fewer than 50 beds, the annual license fee shall be up to \$175.

17 “(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be up to \$350.

18 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to
19 \$450.

20 “(e) Two hundred beds or more, the annual license fee shall be up to \$580.

21 “[(7) For special inpatient care facilities with:]

22 “[(a) Fewer than 26 beds, the annual license fee shall be \$750.]

23 “[(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.]

24 “[(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be \$1,900.]

25 “[(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.]

26 “[(e) Two hundred beds or more, the annual license fee shall be \$3,400.]

27 “[(8)] (9) For ambulatory surgical centers, the annual license fee shall be [\$1,000]:

28 “(a) **\$1,750 for certified and high complexity noncertified ambulatory surgical centers
29 with more than two procedure rooms.**

30 “(b) **\$1,250 for certified and high complexity noncertified ambulatory surgical centers
31 with no more than two procedure rooms.**

32 “(c) **\$1,000 for moderate complexity noncertified ambulatory surgical centers.**

33 “[(9)] (10) For birthing centers, the annual license fee shall be [\$250] **\$750.**

34 “[(10)] (11) For outpatient renal dialysis facilities, the annual license fee shall be [\$1,500]
35 **\$2,000.**

36 “[(11)] (12) During the time the licenses remain in force holders thereof are not required to pay
37 inspection fees to any county, city or other municipality.

38 “[(12)] (13) Any health care facility license may be indorsed to permit operation at more than
39 one location. In such case the applicable license fee shall be the sum of the license fees which would
40 be applicable if each location were separately licensed. **The authority may include hospital sat-
41 ellites on a hospital’s license in accordance with rules adopted by the authority.**

42 “[(13)] (14) Licenses for health maintenance organizations shall be obtained from the Director
43 of the Department of Consumer and Business Services pursuant to ORS 731.072.

44 “(15) **As used in this section:**

45 “(a) **‘Hospital satellite’ has the meaning prescribed by the authority by rule.**

1 “(b) ‘Procedure room’ means a room where surgery or invasive procedures are per-
2 formed.

3 “**SECTION 52a. If House Bill 2009 becomes law and House Bill 2442 does not become law,**
4 **section 4a of this 2009 Act (amending ORS 441.020) and section 50 of this 2009 Act are re-**
5 **pealed and ORS 441.020, as amended by section 720, chapter __, Oregon Laws 2009 (Enrolled**
6 **House Bill 2009), and section 52 of this 2009 Act, is amended to read:**

7 “441.020. (1) Licenses for health care facilities, except long term facilities as defined in ORS
8 442.015, must be obtained from the Oregon Health Authority.

9 “(2) Licenses for long term care facilities must be obtained from the Department of Human
10 Services.

11 “(3) Applications shall be upon such forms and shall contain such information as the authority
12 or the department may reasonably require, which may include affirmative evidence of ability to
13 comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

14 “(4) Each application shall be accompanied by the license fee. If the license is denied, the fee
15 shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State
16 Treasury to the credit of:

17 “(a) The Oregon Health Authority Fund for the purpose of carrying out the functions of the
18 Oregon Health Authority under ORS 441.015 to 441.063; or

19 “(b) The Department of Human Services Account for the purpose of carrying out the functions
20 of the Department of Human Services under ORS 441.015 to 441.063 and 431.607 to 431.619.

21 “(5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

22 “(a) Fewer than 26 beds, the annual license fee shall be [~~\$750~~] **\$1,250**.

23 “(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be [~~\$1,000~~]
24 **\$1,850**.

25 “(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be [~~\$1,900~~] **\$3,800**.

26 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be
27 [~~\$2,900~~] **\$6,525**.

28 “(e) Two hundred or more beds, **but fewer than 500 beds**, the annual license fee shall be
29 [~~\$3,400~~] **\$8,500**.

30 “(f) **Five hundred or more beds, the annual license fee shall be \$12,070.**

31 “(6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under its li-
32 cense.

33 “(7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority
34 determines that charging the standard fee constitutes a significant financial burden to the facility.

35 “(8) For long term care facilities with:

36 “(a) Fewer than 16 beds, the annual license fee shall be up to \$120.

37 “(b) Sixteen beds or more but fewer than 50 beds, the annual license fee shall be up to \$175.

38 “(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be up to \$350.

39 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to
40 \$450.

41 “(e) Two hundred beds or more, the annual license fee shall be up to \$580.

42 “(9) For ambulatory surgical centers, the annual license fee shall be:

43 “(a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more
44 than two procedure rooms.

45 “(b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no

1 more than two procedure rooms.

2 “(c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.

3 “(10) For birthing centers, the annual license fee shall be \$750.

4 “(11) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.

5 “(12) During the time the licenses remain in force holders thereof are not required to pay in-
6 spection fees to any county, city or other municipality.

7 “(13) Any health care facility license may be indorsed to permit operation at more than one lo-
8 cation. In such case the applicable license fee shall be the sum of the license fees which would be
9 applicable if each location were separately licensed. The authority may include hospital satellites
10 on a hospital’s license in accordance with rules adopted by the authority.

11 “(14) Licenses for health maintenance organizations shall be obtained from the Director of the
12 Department of Consumer and Business Services pursuant to ORS 731.072.

13 “(15) As used in this section:

14 “(a) ‘Hospital satellite’ has the meaning prescribed by the authority by rule.

15 “(b) ‘Procedure room’ means a room where surgery or invasive procedures are performed.

16 **“SECTION 52b. If House Bill 2009 becomes law and House Bill 2442 does not become law,
17 the amendments to ORS 441.020 by section 52a of this 2009 Act become operative on January
18 1, 2011.**

19 **“SECTION 53. If House Bill 2009, House Bill 2129 and House Bill 2442 all become law,
20 section 4 of this 2009 Act (amending ORS 441.020) is repealed and ORS 441.020, as amended
21 by section 720, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), and section 84,
22 chapter __, Oregon Laws 2009 (Enrolled House Bill 2129), is amended to read:**

23 “441.020. (1) Licenses for health care facilities, except long term facilities as defined in ORS
24 442.015, must be obtained from the Oregon Health Authority.

25 “(2) Licenses for long term care facilities must be obtained from the Department of Human
26 Services.

27 “(3) Applications shall be upon such forms and shall contain such information as the authority
28 or the department may reasonably require, which may include affirmative evidence of ability to
29 comply with such reasonable standards and rules as may lawfully be prescribed under ORS
30 [441.055] 441.025.

31 “(4) Each application shall be accompanied by the license fee. If the license is denied, the fee
32 shall be refunded to the applicant. Except as provided in subsection [(14)] (15) of this section, if the
33 license is issued, the fee shall be paid into the State Treasury to the credit of:

34 “(a) The Oregon Health Authority Fund for the purpose of carrying out the functions of the
35 Oregon Health Authority under ORS 441.015 to 441.063; or

36 “(b) The Department of Human Services Account for the purpose of carrying out the functions
37 of the Department of Human Services under ORS 441.015 to 441.063 and 431.607 to 431.619.

38 “(5) Except as otherwise provided in subsection [(6)] (8) of this section, for hospitals with:

39 “(a) Fewer than 26 beds, the annual license fee shall be \$750.

40 “(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.

41 “(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$1,900.

42 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.

43 “(e) Two hundred or more beds, the annual license fee shall be \$3,400.

44 **“(6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under
45 its license.**

1 **“(7) The authority may charge a reduced hospital fee or hospital satellite fee if the au-**
2 **thority determines that charging the standard fee constitutes a significant financial burden**
3 **to the facility.**

4 “[(6)] (8) For long term care facilities with:

5 “(a) One to 15 beds, the annual license fee shall be \$180.

6 “(b) Sixteen to 49 beds, the annual license fee shall be \$260.

7 “(c) Fifty to 99 beds, the annual license fee shall be \$520.

8 “(d) One hundred to 150 beds, the annual license fee shall be \$670.

9 “(e) More than 150 beds, the annual license fee shall be \$750.

10 “[(7) For special inpatient care facilities with:]

11 “[(a) Fewer than 26 beds, the annual license fee shall be \$750.]

12 “[(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,000.]

13 “[(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be \$1,900.]

14 “[(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$2,900.]

15 “[(e) Two hundred beds or more, the annual license fee shall be \$3,400.]

16 “[(8)] (9) For ambulatory surgical centers, the annual license fee shall be [\$1,000]:

17 **“(a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers**
18 **with more than two procedure rooms.**

19 **“(b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers**
20 **with no more than two procedure rooms.**

21 **“(c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.**

22 “[(9)] (10) For birthing centers, the annual license fee shall be [\$250] **\$750.**

23 “[(10)] (11) For outpatient renal dialysis facilities, the annual license fee shall be [\$1,500]
24 **\$2,000.**

25 “[(11)] (12) During the time the licenses remain in force, holders are not required to pay in-
26 spection fees to any county, city or other municipality.

27 “[(12)] (13) Any health care facility license may be indorsed to permit operation at more than
28 one location. If so, the applicable license fee shall be the sum of the license fees that would be ap-
29 plicable if each location were separately licensed. **The authority may include hospital satellites**
30 **on a hospital’s license in accordance with rules adopted by the authority.**

31 “[(13)] (14) Licenses for health maintenance organizations shall be obtained from the Director
32 of the Department of Consumer and Business Services pursuant to ORS 731.072.

33 “[(14)] (15) All moneys received pursuant to subsection [(6)] (8) of this section shall be deposited
34 in the Quality Care Fund established in section 1, chapter __, Oregon Laws 2009 (Enrolled House
35 Bill 2442).

36 **“(16) As used in this section:**

37 **“(a) ‘Hospital satellite’ has the meaning prescribed by the authority by rule.**

38 **“(b) ‘Procedure room’ means a room where surgery or invasive procedures are per-**
39 **formed.**

40 **“SECTION 53a. If House Bill 2009, House Bill 2129 and House Bill 2442 all become law,**
41 **section 4a of this 2009 Act (amending ORS 441.020) and section 50 of this 2009 Act are re-**
42 **pealed and ORS 441.020, as amended by section 720, chapter __, Oregon Laws 2009 (Enrolled**
43 **House Bill 2009), section 84, chapter __, Oregon Laws 2009 (Enrolled House Bill 2129), and**
44 **section 53 of this 2009 Act, is amended to read:**

45 “441.020. (1) Licenses for health care facilities, except long term facilities as defined in ORS

1 442.015, must be obtained from the Oregon Health Authority.

2 “(2) Licenses for long term care facilities must be obtained from the Department of Human
3 Services.

4 “(3) Applications shall be upon such forms and shall contain such information as the authority
5 or the department may reasonably require, which may include affirmative evidence of ability to
6 comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

7 “(4) Each application shall be accompanied by the license fee. If the license is denied, the fee
8 shall be refunded to the applicant. Except as provided in subsection (15) of this section, if the license
9 is issued, the fee shall be paid into the State Treasury to the credit of:

10 “(a) The Oregon Health Authority Fund for the purpose of carrying out the functions of the
11 Oregon Health Authority under ORS 441.015 to 441.063; or

12 “(b) The Department of Human Services Account for the purpose of carrying out the functions
13 of the Department of Human Services under ORS 441.015 to 441.063 and 431.607 to 431.619.

14 “(5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

15 “(a) Fewer than 26 beds, the annual license fee shall be [~~\$750~~] **\$1,250**.

16 “(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be [~~\$1,000~~]
17 **\$1,850**.

18 “(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be [~~\$1,900~~] **\$3,800**.

19 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be
20 [~~\$2,900~~] **\$6,525**.

21 “(e) Two hundred or more beds, **but fewer than 500 beds**, the annual license fee shall be
22 [~~\$3,400~~] **\$8,500**.

23 “(f) **Five hundred or more beds, the annual license fee shall be \$12,070**.

24 “(6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under its li-
25 cense.

26 “(7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority
27 determines that charging the standard fee constitutes a significant financial burden to the facility.

28 “(8) For long term care facilities with:

29 “(a) One to 15 beds, the annual license fee shall be \$180.

30 “(b) Sixteen to 49 beds, the annual license fee shall be \$260.

31 “(c) Fifty to 99 beds, the annual license fee shall be \$520.

32 “(d) One hundred to 150 beds, the annual license fee shall be \$670.

33 “(e) More than 150 beds, the annual license fee shall be \$750.

34 “(9) For ambulatory surgical centers, the annual license fee shall be:

35 “(a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more
36 than two procedure rooms.

37 “(b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no
38 more than two procedure rooms.

39 “(c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.

40 “(10) For birthing centers, the annual license fee shall be \$750.

41 “(11) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.

42 “(12) During the time the licenses remain in force, holders are not required to pay inspection
43 fees to any county, city or other municipality.

44 “(13) Any health care facility license may be indorsed to permit operation at more than one lo-
45 cation. If so, the applicable license fee shall be the sum of the license fees that would be applicable

1 if each location were separately licensed. The authority may include hospital satellites on a hospi-
2 tal's license in accordance with rules adopted by the authority.

3 "(14) Licenses for health maintenance organizations shall be obtained from the Director of the
4 Department of Consumer and Business Services pursuant to ORS 731.072.

5 "(15) All moneys received pursuant to subsection (8) of this section shall be deposited in the
6 Quality Care Fund established in section 1, chapter ___, Oregon Laws 2009 (Enrolled House Bill
7 2442).

8 "(16) As used in this section:

9 "(a) 'Hospital satellite' has the meaning prescribed by the authority by rule.

10 "(b) 'Procedure room' means a room where surgery or invasive procedures are performed.

11 "**SECTION 53b. If House Bill 2009, House Bill 2129 and House Bill 2442 all become law, the**
12 **amendments to ORS 441.020 by section 53a of this 2009 Act become operative on January 1,**
13 **2011.**

14 "**SECTION 54.** If House Bill 2009 becomes law, section 4b of this 2009 Act is amended to read:

15 "**Sec. 4b.** (1) In addition to an annual fee, the [*Department of Human Services*] **Oregon Health**
16 **Authority** may charge a hospital a fee for:

17 "(a) Complaint investigation, in an amount not to exceed \$850.

18 "(b) Full compliance survey, in an amount not to exceed \$7,520.

19 "(c) On-site follow-up survey to verify compliance with a plan of correction, in an amount not
20 to exceed \$225.

21 "(d) Off-site follow-up survey to verify compliance with a plan of correction, in an amount not
22 to exceed \$85.

23 "(2) During one calendar year, the [*department*] **authority** may charge to all hospitals a total
24 amount not to exceed:

25 "(a) \$91,000 for complaint investigations.

26 "(b) \$15,000 for full compliance surveys.

27 "(c) \$6,700 for follow-up surveys.

28 "(3)(a) The [*department*] **authority** shall apportion the total amount charged under subsection
29 (2) of this section among hospitals at the end of each calendar year based on the number of com-
30 plaint investigations, full compliance surveys and follow-up surveys performed at each hospital dur-
31 ing the calendar year.

32 "(b) The [*department*] **authority** may not include investigations of employee complaints in a
33 hospital's total number of complaint investigations.

34 "(c) A hospital that was licensed in 2008 may not be charged fees under this subsection for more
35 complaint investigations than the number of complaint investigations that occurred at the hospital
36 in 2008.

37 "(d) A hospital that was not licensed in 2008 may be charged fees under this subsection for an
38 unlimited number of complaint investigations.

39 "(4) As used in this section, 'full compliance survey' means a survey conducted by the [*depart-*
40 *ment*] **authority** following a complaint investigation to determine a hospital's compliance with the
41 Centers for Medicare and Medicaid Services Conditions of Participation.

42 "**SECTION 55. If House Bill 2009 becomes law, section 5 of this 2009 Act (amending ORS**
43 **441.022) is repealed and ORS 441.022, as amended by section 721, chapter ___, Oregon Laws**
44 **2009 (Enrolled House Bill 2009), is amended to read:**

45 "441.022. In determining whether to license a health care facility [*or long term care facility*]

1 pursuant to ORS 441.025, the Oregon Health Authority or the Department of Human Services shall
2 consider only factors relating to the health and safety of individuals to be cared for therein and **the**
3 **ability of the operator of the health care facility to safely operate the facility, and** may not
4 consider whether the health care facility [*or long term care facility*] is or will be a governmental,
5 charitable or other nonprofit institution or whether the facility is or will be an institution for profit.

6 **“SECTION 56. If House Bill 2009 becomes law, section 6 of this 2009 Act (amending ORS**
7 **441.025) is repealed and ORS 441.025, as amended by section 722, chapter __, Oregon Laws**
8 **2009 (Enrolled House Bill 2009), is amended to read:**

9 “441.025. (1) Upon receipt of **a license fee and** an application to operate a health care facility
10 [*and the license fee*] **other than a long term care facility**, the Oregon Health Authority shall **re-**
11 **view the application and conduct an on-site inspection of the health care facility. The au-**
12 **thority shall** issue a license if it finds that the applicant and health care facility comply with ORS
13 441.015 to 441.063 [*and 441.085*] and the rules of the authority provided that the authority does not
14 receive within the time specified a certificate of noncompliance issued by the State Fire Marshal,
15 deputy, or approved authority pursuant to ORS 479.215.

16 “(2) Upon receipt of **a license fee and** an application to operate a long term care facility [*and*
17 *the license fee*], the Department of Human Services shall **review the application and conduct an**
18 **on-site inspection of the long term care facility. The department shall** issue a license if the
19 department finds that the applicant and long term care facility comply with ORS 441.015 to
20 441.063[, *441.085*] and 441.087 and the rules of the department provided that it does not receive
21 within the time specified a certificate of noncompliance issued by the State Fire Marshal, deputy,
22 or approved authority pursuant to ORS 479.215.

23 “(3) Each license, unless sooner suspended or revoked, shall be renewable annually for the cal-
24 endar year upon payment of the fee, provided that a certificate of noncompliance has not been is-
25 sued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

26 “(4) Each license shall be issued only for the premises and persons or governmental units named
27 in the application and shall not be transferable or assignable.

28 “(5) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by
29 rule of the authority or the department.

30 “(6) No license shall be issued or renewed for any health care facility or health maintenance
31 organization [*that offers or proposes to develop a new health service unless a certificate of need has*
32 *first been issued therefor pursuant to ORS 442.340 (1987 Replacement Part) or approval has been*
33 *granted under ORS 442.315 or section 9, chapter 1034, Oregon Laws 1989*] **that is required to obtain**
34 **a certificate of need under ORS 442.315 until a certificate of need has been granted. An**
35 **ambulatory surgical center is not subject to the certificate of need requirements in ORS**
36 **442.315.**

37 “(7) No license shall be issued or renewed for any skilled nursing facility or intermediate care
38 facility, [*as defined in ORS 442.015,*] unless the applicant has included in the application the name
39 and such other information as may be necessary to establish the identity and financial interests of
40 any person who has incidents of ownership in the facility representing an interest of 10 percent or
41 more thereof. If the person having such interest is a corporation, the name of any stockholder
42 holding stock representing an interest in the facility of 10 percent or more shall also be included
43 in the application. If the person having such interest is any other entity, the name of any member
44 thereof having incidents of ownership representing an interest of 10 percent or more in the facility
45 shall also be included in the application.

1 “(8) A license may be denied to any applicant for a license or renewal thereof or any stock-
2 holder of any such applicant who has incidents of ownership in the health care facility [*or long term*
3 *care facility*] representing an interest of 10 percent or more thereof, or an interest of 10 percent or
4 more of a lease agreement for the facility, if during the five years prior to the application the ap-
5 plicant or any stockholder of the applicant had an interest of 10 percent or more in the facility or
6 of a lease for the facility and has divested that interest after receiving from the authority or the
7 department written notice that the authority or the department intends to suspend or revoke the
8 license or to decertify the facility from eligibility to receive payments for services provided under
9 this section.

10 “(9) The Department of Human Services may not issue or renew a license for a long term care
11 facility, [*as defined in ORS 442.015,*] unless the applicant has included in the application the identity
12 of any person who has incident of ownership in the long term care facility who also has a financial
13 interest in any pharmacy, as defined in ORS 689.005.

14 “(10) **The authority shall adopt rules for each type of health care facility, except long**
15 **term care facilities, to carry out the purposes of ORS 441.015 to 441.087 including, but not**
16 **limited to:**

17 “(a) **Establishing classifications and descriptions for the different types of health care**
18 **facilities that are licensed under ORS 441.015 to 441.087; and**

19 “(b) **Standards for patient care and safety, adequate professional staff organizations,**
20 **training of staff for whom no other state regulation exists, suitable delineation of profes-**
21 **sional privileges and adequate staff analyses of clinical records.**

22 “(11) **The department shall adopt rules for each type of long term care facility to carry**
23 **out the purposes of ORS 441.015 to 441.087 including, but not limited to:**

24 “(a) **Establishing classifications and descriptions for the different types of long term care**
25 **facilities that are licensed under ORS 441.015 to 441.087; and**

26 “(b) **Standards for patient care and safety, adequate professional staff organizations,**
27 **training of staff for whom no other state regulation exists, suitable delineation of profes-**
28 **sional privileges and adequate staff analyses of clinical records.**

29 “(12) **The authority or department may not adopt a rule requiring a health care facility**
30 **to serve a specific food as long as the necessary nutritional food elements are present in the**
31 **food that is served.**

32 “(13) **A health care facility licensed by the authority or department may not:**

33 “(a) **Offer or provide services beyond the scope of the license classification assigned by**
34 **the authority or department; or**

35 “(b) **Assume a descriptive title or represent itself under a descriptive title other than the**
36 **classification assigned by the authority or department.**

37 “(14) **A health care facility must reapply for licensure to change the classification as-**
38 **signed or the type of license issued by the authority or department.**

39 “**SECTION 57. If House Bill 2009 becomes law, section 7 of this 2009 Act (amending ORS**
40 **441.030) is repealed and ORS 441.030, as amended by section 723, chapter ___, Oregon Laws**
41 **2009 (Enrolled House Bill 2009), is amended to read:**

42 “441.030. (1) The Oregon Health Authority or the Department of Human Services **may assess**
43 **a civil penalty and**, pursuant to ORS 479.215, shall deny, suspend or revoke a license, in any case
44 where the State Fire Marshal, or the representative of the State Fire Marshal, certifies that there
45 is a failure to comply with all applicable laws, lawful ordinances and rules relating to safety from

1 fire.

2 “(2) The authority may:

3 “(a) **Assess a civil penalty or** deny, suspend or revoke a [*health care facility’s*] license **of a**
4 **health care facility other than a long term care facility** in any case where it finds that there
5 has been a substantial failure to comply with ORS 441.015 to 441.063 [*and 441.085*] or the rules or
6 minimum standards adopted under ORS 441.015 to 441.063 [*and 441.085; or*].

7 “(b) **Assess a civil penalty or** suspend or revoke a license issued under ORS 441.025 for failure
8 to comply with an authority order arising from a health care facility’s substantial lack of compliance
9 with the provisions of ORS 441.015 to 441.063, [*441.085,*] 441.162 or 441.166 or the rules adopted under
10 ORS 441.015 to 441.063, [*441.085,*] 441.162 or 441.166[, *or*].

11 “(c) **Suspend or revoke a license issued under ORS 441.025** for failure to pay a civil penalty
12 imposed under ORS 441.170.

13 “(3) The department may:

14 “(a) **Assess a civil penalty or** deny, suspend or revoke a long term care facility’s license in any
15 case where it finds that there has been a substantial failure to comply with ORS 441.015 to
16 441.063[, *441.085*] or 441.087 or the rules or minimum standards adopted under ORS 441.015 to
17 441.063[, *441.085*] or 441.087.

18 “(b) **Assess a civil penalty or** suspend or revoke a long term care facility’s license issued under
19 ORS 441.025 for failure to comply with a department order arising from a long term care facility’s
20 substantial lack of compliance with the provisions of ORS 441.015 to 441.063 or 441.084 to 441.087
21 or the rules adopted under ORS 441.015 to 441.063 or 441.084 to 441.087[, *or*].

22 “(c) **Suspend or revoke a license issued under ORS 441.025** for failure to pay a civil penalty
23 imposed under ORS 441.710.

24 “[*c*] (d) Order a long term care facility licensed under ORS 441.025 to restrict the admission
25 of patients when the department finds an immediate threat to patient health and safety arising from
26 failure of the long term care facility to be in compliance with ORS 441.015 to 441.063 or 441.084 to
27 441.087 and the rules adopted under ORS 441.015 to 441.063 or 441.084 to 441.087.

28 “(4) Any long term care facility that has been ordered to restrict the admission of patients
29 pursuant to subsection [*3*](*c*) (3)(d) of this section shall post a notice of the restriction, provided
30 by the department, on all doors providing ingress to and egress from the facility, for the duration
31 of the restriction.

32 “**SECTION 58. If House Bill 2009 becomes law, section 8 of this 2009 Act (amending ORS**
33 **441.055) is repealed and ORS 441.055, as amended by section 726, chapter __, Oregon Laws**
34 **2009 (Enrolled House Bill 2009), is amended to read:**

35 “441.055. [*1*] *To fulfill the purposes of ORS 441.015 to 441.087:*]

36 “[*a*] *The Oregon Health Authority shall adopt rules with respect to the different types of health*
37 *care facilities; and]*

38 “[*b*] *The Department of Human Services shall adopt rules with respect to long term care*
39 *facilities.]*

40 “[*2*] *No rules shall require any specific food so long as the necessary nutritional food elements are*
41 *present.]*

42 “[*3*] *Rules describing care given in health care facilities or long term care facilities must include,*
43 *but need not be limited to, standards of patient care or patient safety, adequate professional staff or-*
44 *ganizations, training of staff for whom no other state regulation exists, suitable delineation of profes-*
45 *sional privileges and adequate staff analyses of clinical records. The authority or the department may*

1 *accept certificates by the Joint Commission on Accreditation of Hospitals or the Committee on Hospitals*
2 *of the American Osteopathic Association as evidence of compliance with acceptable standards.]*

3 “[4] (1) The governing body of each health care facility [or long term care facility] shall be re-
4 sponsible for the operation of the facility, the selection of the medical staff and the quality of care
5 rendered in the facility. The governing body shall:

6 “(a) Ensure that all health care personnel for whom state licenses, registrations or certificates
7 are required are currently licensed, registered or certified;

8 “(b) Ensure that physicians admitted to practice in the facility are granted privileges consistent
9 with their individual training, experience and other qualifications;

10 “(c) Ensure that procedures for granting, restricting and terminating privileges exist and that
11 such procedures are regularly reviewed to ensure their conformity to applicable law;

12 “(d) Ensure that physicians admitted to practice in the facility are organized into a medical staff
13 in such a manner as to effectively review the professional practices of the facility for the purposes
14 of reducing morbidity and mortality and for the improvement of patient care; and

15 “(e) Ensure that a physician is not denied medical staff membership or privileges at the facility
16 solely on the basis that the physician holds medical staff membership or privileges at another health
17 care facility.

18 “[5] (2) The physicians organized into a medical staff pursuant to subsection [(4)] (1) of this
19 section shall propose medical staff bylaws to govern the medical staff. The bylaws shall include, but
20 not be limited to the following:

21 “(a) Procedures for physicians admitted to practice in the facility to organize into a medical
22 staff pursuant to subsection [(4)] (1) of this section;

23 “(b) Procedures for ensuring that physicians admitted to practice in the facility are granted
24 privileges consistent with their individual training, experience and other qualifications;

25 “(c) Provisions establishing a framework for the medical staff to nominate, elect, appoint or re-
26 move officers and other persons to carry out medical staff activities with accountability to the
27 governing body;

28 “(d) Procedures for ensuring that physicians admitted to practice in the facility are currently
29 licensed by the Oregon Medical Board;

30 “(e) Procedures for ensuring that the facility’s procedures for granting, restricting and termi-
31 nating privileges are followed and that such procedures are regularly reviewed to assure their con-
32 formity to applicable law; and

33 “(f) Procedures for ensuring that physicians provide services within the scope of the privileges
34 granted by the governing body.

35 “[6] (3) Amendments to medical staff bylaws shall be accomplished through a cooperative pro-
36 cess involving both the medical staff and the governing body. Medical staff bylaws shall be adopted,
37 repealed or amended when approved by the medical staff and the governing body. Approval shall
38 not be unreasonably withheld by either. Neither the medical staff nor the governing body shall
39 withhold approval if such repeal, amendment or adoption is mandated by law, statute or regulation
40 or is necessary to obtain or maintain accreditation or to comply with fiduciary responsibilities or
41 if the failure to approve would subvert the stated moral or ethical purposes of the institution.

42 “[7] (4) The Oregon Medical Board may appoint one or more physicians to conduct peer review
43 for a health care facility upon request of such review by all of the following:

44 “(a) The physician whose practice is being reviewed.

45 “(b) The executive committee of the health care facility’s medical staff.

1 “(c) The governing body of the health care facility.

2 “[(8)] (5) The physicians appointed pursuant to subsection [(7)] (4) of this section shall be
3 deemed agents of the Oregon Medical Board, subject to the provisions of ORS 30.310 to 30.400 and
4 shall conduct peer review. Peer review shall be conducted pursuant to the bylaws of the requesting
5 health care facility.

6 “[(9)] (6) Any person serving on or communicating information to a peer review committee shall
7 not be subject to an action for damages for action or communications or statements made in good
8 faith.

9 “[(10)] (7) All findings and conclusions, interviews, reports, studies, communications and state-
10 ments procured by or furnished to the peer review committee in connection with a peer review are
11 confidential pursuant to ORS 192.501 to 192.505 and 192.690 and all data is privileged pursuant to
12 ORS 41.675.

13 “[(11)] (8) Notwithstanding subsection [(10)] (7) of this section, a written report of the findings
14 and conclusions of the peer review shall be provided to the governing body of the health care fa-
15 cility who shall abide by the privileged and confidential provisions set forth in subsection [(10)] (7)
16 of this section.

17 “[(12)] (9) Procedures for peer review established by subsections [(7) to (11)] (4) to (8) of this
18 section are exempt from ORS chapter 183.

19 “[(13)] (10) The **Oregon Health** Authority shall adopt by rule standards for rural hospitals, as
20 defined in ORS 442.470, that specifically address the provision of care to postpartum and newborn
21 patients so long as patient care is not adversely affected.

22 “[(14)] (11) For purposes of this section, ‘physician’ has the meaning given the term in ORS
23 677.010.

24 “**SECTION 59. If House Bill 2009 becomes law, section 9 of this 2009 Act (amending ORS**
25 **441.057) is repealed and ORS 441.057, as amended by section 727, chapter __, Oregon Laws**
26 **2009 (Enrolled House Bill 2009), is amended to read:**

27 “441.057. (1) Rules adopted pursuant to ORS [441.055] **441.025** shall include procedures for the
28 filing of complaints as to the standard of care in any health care facility [*or long term care facility*]
29 and provide for the confidentiality of the identity of any complainant.

30 “(2) A health care facility [*or a long term care facility*], or person acting in the interest of the
31 facility, may not take any disciplinary or other adverse action against any employee who in good
32 faith brings evidence of inappropriate care or any other violation of law or rules to the attention
33 of the proper authority solely because of the employee’s action as described in this subsection.

34 “(3) Any employee who has knowledge of inappropriate care or any other violation of law or
35 rules shall utilize established reporting procedures of the health care facility [*or long term care fa-*
36 *facility*] administration before notifying the Department of Human Services, Oregon Health Authority
37 or other state agency of the alleged violation, unless the employee believes that patient health or
38 safety is in immediate jeopardy or the employee makes the report to the department or the authority
39 under the confidentiality provisions of subsection (1) of this section.

40 “(4) The protection of health care facility [*or long term care facility*] employees under subsection
41 (2) of this section shall commence with the reporting of the alleged violation by the employee to the
42 administration of the health care facility [*or long term care facility*] or to the department, authority
43 or other state agency pursuant to subsection (3) of this section.

44 “(5) Any person suffering loss or damage due to any violation of subsection (2) of this section
45 has a right of action for damages in addition to other appropriate remedy.

1 “(6) The provisions of this section do not apply to a nursing staff, as defined in ORS 441.172,
2 who claims to be aggrieved by a violation of ORS 441.174 committed by a hospital.

3 “(7) **Information obtained by the department or the authority during an investigation of**
4 **a complaint or reported violation under this section is confidential and not subject to public**
5 **disclosure under ORS 192.410 to 192.505. Upon the conclusion of the investigation, the de-**
6 **partment or the authority may publicly release a report of the department’s or the authori-**
7 **ty’s findings but may not include information in the report that could be used to identify the**
8 **complainant or any patient at the health care facility. The department or the authority may**
9 **use any information obtained during an investigation in an administrative or judicial pro-**
10 **ceeding concerning the licensing of a health care facility, and may report information ob-**
11 **tained during an investigation to a health professional regulatory board as defined in ORS**
12 **676.160 as that information pertains to a licensee of the board.**

13 “**SECTION 60. If House Bill 2009 becomes law, section 10 of this 2009 Act (amending ORS**
14 **441.060) is repealed and ORS 441.060, as amended by section 728, chapter ___, Oregon Laws**
15 **2009 (Enrolled House Bill 2009), is amended to read:**

16 “441.060. (1) The Oregon Health Authority and the Department of Human Services shall make
17 or cause to be made [*such inspections as the authority or the department deem necessary*] **on-site**
18 **inspections of licensed health care facilities at least once every three years.**

19 “(2) The authority and the department may prescribe by rule that any licensee or prospective
20 applicant desiring to make specified types of alteration or addition to its facilities or to construct
21 new facilities shall, before commencing such alteration, addition or new construction, either prior
22 to or after receiving a certificate of need pursuant to ORS [*442.340 (1987 Replacement Part)*]
23 **442.315**, if required, submit plans and specifications therefor to the authority or the department for
24 preliminary inspection and approval or recommendations with respect to compliance with the rules
25 authorized by ORS [*441.055*] **441.025** and 443.420 and for compliance with National Fire Protection
26 Association standards when the facility is also to be Medicare or Medicaid certified.

27 “(3) The authority or the department may require by rule payment of a fee for project review
28 services at a variable rate, dependent on total project cost.

29 “(4) For health care facilities, the authority shall develop a review fee schedule as minimally
30 necessary to support the staffing level and expenses required to administer the program.

31 “(5) For long term care facilities and residential care facilities, the department shall develop a
32 review fee schedule as minimally necessary to support the staffing level and expenses required to
33 administer the program. The fee for project review of residential care facilities shall equal two-
34 thirds that required of health care facilities.

35 “(6) The authority or the department may also conduct an on-site review of projects as a pre-
36 requisite to licensure of new facilities, major renovations and expansions. The authority and the
37 department shall, at least annually, with the advice of the facilities covered by the review, present
38 proposed rule changes regarding facility design and construction to such agencies for their consid-
39 eration.

40 “(7) The authority shall publish a state submissions guide for health care facility projects and
41 advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

42 “(8) The department shall publish a state submissions guide for long term care facility and res-
43 idential care facility projects and advise project sponsors of applicable requirements of federal, state
44 and local regulatory agencies.

45 “**SECTION 61. If House Bill 2009 becomes law, section 11 of this 2009 Act (amending ORS**

1 **441.062) is repealed and ORS 441.062, as amended by section 729, chapter __, Oregon Laws**
2 **2009 (Enrolled House Bill 2009), is amended to read:**

3 “441.062. (1) In conducting inspections for the purpose of licensing health care facilities [*and*
4 *long term care facilities*] under ORS 441.020, the Oregon Health Authority and the Department of
5 Human Services shall avoid unnecessary facility disruption by coordinating inspections performed
6 by the authority or the department with inspections performed by other federal, state and local
7 agencies that have responsibility for health care facility [*or long term care facility*] licensure.

8 “(2) Whenever possible, the authority and the department shall avoid duplication of inspections
9 by accepting inspection reports or surveys prepared by other state agencies that have responsibility
10 for health care facility [*or long term care facility*] licensure for purposes of the inspection required
11 for licensure.

12 “(3) **In lieu of an on-site inspection as required by ORS 441.025 and 441.060, the authority**
13 **or the department may accept a certification or accreditation from a federal agency or an**
14 **accrediting body approved by the authority or the department that the state licensing stan-**
15 **dards have been met, if:**

16 “(a) **The certification or accreditation is recognized by the authority or the department**
17 **as addressing the standards and condition of participation requirements of the Centers for**
18 **Medicare and Medicaid Services and other standards set by the authority or the department;**

19 “(b) **The health care facility notifies the authority or the department to participate in**
20 **any exit interview conducted by the federal agency or accrediting body; and**

21 “(c) **The health care facility provides copies of all documentation concerning the certif-**
22 **ication or accreditation requested by the authority or the department.**

23 “[~~3~~] (4) The authority and the department shall adopt rules necessary to implement this sec-
24 tion.

25 “**SECTION 62. If House Bill 2009 becomes law, section 12 of this 2009 Act (amending ORS**
26 **441.990) is repealed and ORS 441.990, as amended by section 9, chapter 602, Oregon Laws 2007,**
27 **and section 746, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to**
28 **read:**

29 “441.990. (1) Violation of ORS 441.015 (1) is a violation punishable, upon conviction, by a fine
30 of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.
31 Each day of continuing violation after a first conviction shall be considered a subsequent violation.

32 “(2) Any person who willfully prevents, interferes with, or attempts to impede in any way the
33 work of any duly authorized representative of the Department of Human Services in the lawful
34 carrying out of the provisions of ORS 441.087 (1) is guilty of a Class C misdemeanor.

35 “(3) The removal of the notice required by ORS 441.030 (4) by any person other than an official
36 of the department is a Class C misdemeanor.

37 “(4) **In addition to the penalties under this section, the Oregon Health Authority, the**
38 **Department of Human Services or the Department of Consumer and Business Services may**
39 **assess civil penalties against any health care facility or health maintenance organization**
40 **under ORS 441.030 or for a violation of ORS 441.015 (1). A civil penalty imposed under this**
41 **section may not exceed \$5,000.**

42 “(5) **Civil penalties under this section shall be imposed in the manner provided by ORS**
43 **183.745.**

44 “(6) **Civil penalties recovered under this section shall be paid into the State Treasury and**
45 **credited to the General Fund for general governmental purposes.**

1 “**SECTION 63. If House Bill 2009 becomes law, section 13 of this 2009 Act (amending ORS**
2 **442.015) is repealed and ORS 442.015, as amended by section 749, chapter ___, Oregon Laws**
3 **2009 (Enrolled House Bill 2009), is amended to read:**

4 “442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

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

11 “[(2) ‘Adjusted admission’ means the sum of all inpatient admissions divided by the ratio of inpa-
12 tient revenues to total patient revenues.]

13 “[(3)] (2) ‘Affected persons’ has the same meaning as given to ‘party’ in ORS 183.310.

14 “[(4) ‘Ambulatory surgical center’ means a facility that performs outpatient surgery not routinely
15 or customarily performed in a physician’s or dentist’s office, and is able to meet health facility licensure
16 requirements.]

17 “[(5) ‘Audited actual experience’ means data contained within financial statements examined by an
18 independent, certified public accountant in accordance with generally accepted auditing standards.]

19 “(3)(a) **‘Ambulatory surgical center’ means a facility or portion of a facility that operates**
20 **exclusively for the purpose of providing surgical services to patients who do not require**
21 **hospitalization and for whom the expected duration of services does not exceed 24 hours**
22 **following admission.**

23 “(b) **‘Ambulatory surgical center’ does not mean:**

24 “(A) **Individual or group practice offices of private physicians or dentists that do not**
25 **contain a distinct area used for outpatient surgical treatment on a regular and organized**
26 **basis, or that only provide surgery routinely provided in a physician’s or dentist’s office using**
27 **local anesthesia or conscious sedation; or**

28 “(B) **A portion of a licensed hospital designated for outpatient surgical treatment.**

29 “[(6)] (4) ‘Budget’ means the projections by the hospital for a specified future time period of
30 expenditures and revenues with supporting statistical indicators.

31 “[(7) ‘Case mix’ means a calculated index for each hospital, based on financial accounting and case
32 mix data collection as set forth in ORS 442.425, reflecting the relative costliness of that hospital’s mix
33 of cases compared to a state or national mix of cases.]

34 “[(8)] (5) ‘Develop’ means to undertake those activities that on their completion will result in
35 the offer of a new institutional health service or the incurring of a financial obligation, as defined
36 under applicable state law, in relation to the offering of such a health service.

37 “[(9)] (6) ‘Expenditure’ or ‘capital expenditure’ means the actual expenditure, an obligation to
38 an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of
39 a donation or grant in lieu of an expenditure but not including any interest thereon.

40 “[(10)] (7) ‘Freestanding birthing center’ means a facility licensed for the primary purpose of
41 performing low risk deliveries.

42 “[(11)] (8) ‘Governmental unit’ means the state, or any county, municipality or other political
43 subdivision, or any related department, division, board or other agency.

44 “[(12)] (9) ‘Gross revenue’ means the sum of daily hospital service charges, ambulatory service
45 charges, ancillary service charges and other operating revenue. ‘Gross revenue’ does not include

1 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

2 “[(13)(a)] **(10)(a)** ‘Health care facility’ means [*a hospital, a long term care facility, an ambulatory*
3 *surgical center, a freestanding birthing center or an outpatient renal dialysis facility.*]:

4 **“(A) A hospital;**

5 **“(B) A long term care facility;**

6 **“(C) An ambulatory surgical center;**

7 **“(D) A freestanding birthing center; or**

8 **“(E) An outpatient renal dialysis center.**

9 “(b) ‘Health care facility’ does not mean:

10 “[*(A) An establishment furnishing residential care or treatment not meeting federal intermediate*
11 *care standards, not following a primarily medical model of treatment, prohibited from admitting per-*
12 *sons requiring 24-hour nursing care and licensed or approved under the rules of the Department of*
13 *Human Services or the Department of Corrections; or]*

14 **“(A) A residential facility licensed by the Department of Human Services or the Oregon**
15 **Health Authority under ORS 443.415;**

16 **“(B) An establishment furnishing primarily domiciliary care[,] as described in ORS 443.205;**

17 **“(C) A residential facility licensed or approved under the rules of the Department of**
18 **Corrections;**

19 **“(D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or**

20 **“(E) Community mental health programs or community developmental disabilities pro-**
21 **grams established under ORS 430.620.**

22 “[*(14)*] **(11)** ‘Health maintenance organization’ or ‘HMO’ means a public organization or a private
23 organization organized under the laws of any state that:

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

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

27 “(i) Usual physician services;

28 “(ii) Hospitalization;

29 “(iii) Laboratory;

30 “(iv) X-ray;

31 “(v) Emergency and preventive services; and

32 “(vi) Out-of-area coverage;

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

36 **“(C) Provides physicians’ services primarily directly through physicians who are either employ-**
37 **ees or partners of such organization, or through arrangements with individual physicians or one or**
38 **more groups of physicians organized on a group practice or individual practice basis.**

39 “[*(15)*] **(12)** ‘Health services’ means clinically related diagnostic, treatment or rehabilitative
40 services, and includes alcohol, drug or controlled substance abuse and mental health services that
41 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

42 “[*(16)*] **(13)** ‘Hospital’ means:

43 **“(a) A facility with an organized medical staff[, with] and a permanent [facilities] building that**
44 **[include inpatient beds and with medical services, including physician services and continuous nursing**
45 **services under the supervision of registered nurses, to provide diagnosis and medical or surgical**

1 *treatment primarily for but not limited to acutely ill patients and accident victims, to provide treatment*
2 *for patients with mental illness or to provide treatment in special inpatient care facilities.] is capable*
3 **of providing 24-hour inpatient care to two or more individuals who have an illness or injury**
4 **and that provides at least the following health services:**

5 **“(A) Medical;**

6 **“(B) Nursing;**

7 **“(C) Laboratory;**

8 **“(D) Pharmacy; and**

9 **“(E) Dietary; or**

10 **“(b) A special inpatient care facility as that term is defined by the Oregon Health Au-**
11 **thority by rule.**

12 *“(17) (14) ‘Institutional health services’ means health services provided in or through health*
13 *care facilities and includes the entities in or through which such services are provided.*

14 *“(18) (15) ‘Intermediate care facility’ means a facility that provides, on a regular basis,*
15 *health-related care and services to individuals who do not require the degree of care and treatment*
16 *that a hospital or skilled nursing facility is designed to provide, but who because of their mental*
17 *or physical condition require care and services above the level of room and board that can be made*
18 *available to them only through institutional facilities.*

19 *“(19) (16) ‘Long term care facility’ means a facility with permanent facilities that include in-*
20 *patient beds, providing medical services, including nursing services but excluding surgical proce-*
21 *dures except as may be permitted by the rules of the Director of Human Services, to provide*
22 *treatment for two or more unrelated patients. ‘Long term care facility’ includes skilled nursing fa-*
23 *ilities and intermediate care facilities but may not be construed to include facilities licensed and*
24 *operated pursuant to ORS 443.400 to 443.455.*

25 *“(20) ‘Major medical equipment’ means medical equipment that is used to provide medical and*
26 *other health services and that costs more than \$1 million. ‘Major medical equipment’ does not include*
27 *medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory ser-*
28 *vices, if the clinical laboratory is independent of a physician’s office and a hospital and has been de-*
29 *termined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and*
30 *(11) of section 1861(s) of that Act.]*

31 *“(21) ‘Net revenue’ means gross revenue minus deductions from revenue.]*

32 *“(22) (17) ‘New hospital’ means a facility that did not offer hospital services on a regular basis*
33 *within its service area within the prior 12-month period and is initiating or proposing to initiate*
34 *such services. ‘New hospital’ also includes any replacement of an existing hospital that involves a*
35 *substantial increase or change in the services offered.*

36 *“(23) (18) ‘New skilled nursing or intermediate care service or facility’ means a service or fa-*
37 *ility that did not offer long term care services on a regular basis by or through the facility within*
38 *the prior 12-month period and is initiating or proposing to initiate such services. ‘New skilled*
39 *nursing or intermediate care service or facility’ also includes the rebuilding of a long term care fa-*
40 *ility, the relocation of buildings that are a part of a long term care facility, the relocation of long*
41 *term care beds from one facility to another or an increase in the number of beds of more than 10*
42 *or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.*

43 *“(24) (19) ‘Offer’ means that the health care facility holds itself out as capable of providing,*
44 *or as having the means for the provision of, specified health services.*

45 *“(25) ‘Operating expenses’ means the sum of daily hospital service expenses, ambulatory service*

1 *expenses, ancillary expenses and other operating expenses, excluding income taxes.]*

2 “[26] (20) ‘Outpatient renal dialysis facility’ means a facility that provides renal dialysis ser-
3 vices directly to outpatients.

4 “[27] (21) ‘Person’ means an individual, a trust or estate, a partnership, a corporation (includ-
5 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
6 or instrumentality, including a municipal corporation, of a state.

7 “[28] (22) ‘Skilled nursing facility’ means a facility or a distinct part of a facility, that is pri-
8 marily engaged in providing to inpatients skilled nursing care and related services for patients who
9 require medical or nursing care, or an institution that provides rehabilitation services for the re-
10 habilitation of individuals who are injured or sick or who have disabilities.

11 “[29] ‘Special inpatient care facility’ means a facility with permanent inpatient beds and other fa-
12 cilities designed and utilized for special health care purposes, including but not limited to a rehabili-
13 tation center, a college infirmary, a chiropractic facility, a facility for the treatment of alcoholism or
14 drug abuse, an inpatient care facility meeting the requirements of ORS 441.065, and any other estab-
15 lishment falling within a classification established by the Oregon Health Authority, after determination
16 of the need for such classification and the level and kind of health care appropriate for such classi-
17 fication.]

18 “[30] ‘Total deductions from gross revenue’ or ‘deductions from revenue’ means reductions from
19 gross revenue resulting from inability to collect payment of charges. Such reductions include bad debts,
20 contractual adjustments, uncompensated care, administrative, courtesy and policy discounts and ad-
21 justments and other such revenue deductions. The deduction shall be net of the offset of restricted do-
22 nations and grants for indigent care.]

23 “**SECTION 64.** If House Bill 2009 becomes law, section 14b of this 2009 Act is amended to read:

24 “**Sec. 14b.** A person may not establish, conduct or maintain a referral agency or caregiver
25 registry, or represent to the public that the person is a referral agency or caregiver registry, with-
26 out first obtaining a referral agency license or caregiver registry license from the [*Department of*
27 *Human Services*] **Oregon Health Authority.**

28 “**SECTION 65.** If House Bill 2009 becomes law, section 14c of this 2009 Act is amended to read:

29 “**Sec. 14c.** The [*Department of Human Services*] **Oregon Health Authority** may adopt rules
30 governing referral agencies and caregiver registries, including but not limited to:

31 “(1) The minimum qualifications of individuals whose services are offered through a referral
32 agency or caregiver registry;

33 “(2) Standards for the organization and quality of patient care;

34 “(3) Procedures for maintaining records;

35 “(4) Requirements for contractual arrangements for professional and ancillary services;

36 “(5) Requiring criminal background checks on individuals placed on a caregiver or referral list
37 by a referral agency or caregiver registry or on individuals placed in a client’s place of residence
38 by a referral agency or caregiver registry;

39 “(6) Procedures for complaints against referral agencies and caregiver registries; and

40 “(7) Procedures for inspection of referral agencies and caregiver registries.

41 “**SECTION 66.** If House Bill 2009 becomes law, section 18 of this 2009 Act is amended to read:

42 “**Sec. 18.** (1) The [*Department of Human Services*] **Oregon Health Authority** shall conduct an
43 on-site inspection of a home health agency, referral agency and caregiver registry prior to licensure
44 and at least once every three years thereafter.

45 “(2) In lieu of an on-site inspection, the [*department*] **authority** may accept a certification or

1 accreditation from a federal agency or an accrediting body approved by the [department] **authority**
2 that the state licensing standards have been met, if:

3 “(a) The certification or accreditation is recognized by the [department] **authority** as addressing
4 the standards and conditions of participation requirements of the Centers for Medicare and
5 Medicaid Services and any additional standards set by the [department] **authority**;

6 “(b) The agency or registry notifies the [department] **authority** to participate in any exit inter-
7 view conducted by the federal agency or accrediting body; and

8 “(c) The agency or registry provides copies of all documentation concerning the certification or
9 accreditation requested by the [department] **authority**.

10 **“SECTION 67.** If House Bill 2009 becomes law, section 19 of this 2009 Act is amended to read:

11 **“Sec. 19.** (1) Rules adopted by the [Department of Human Services] **Oregon Health Authority**
12 pursuant to ORS 443.085 and 443.340 shall include procedures for the filing of complaints as to the
13 care or services provided by home health agencies, in-home care agencies, referral agencies or
14 caregiver registries that ensure the confidentiality of the identity of the complainant.

15 “(2) An employee or contract provider with knowledge of a violation of law or rules of the [de-
16 partment] **authority** shall use the reporting procedures established by the home health agency, in-
17 home care agency, referral agency or caregiver registry before notifying the [department] **authority**
18 or other state agency of the inappropriate care or violation, unless the employee or contract pro-
19 vider:

20 “(a) Believes a patient’s health or safety is in immediate jeopardy; or

21 “(b) Files a complaint in accordance with rules adopted under subsection (1) of this section.

22 “(3) Information obtained by the [department] **authority** during an investigation of a complaint
23 or reported violation under this section is confidential and not subject to public disclosure under
24 ORS 192.410 to 192.505. Upon the conclusion of the investigation, the [department] **authority** may
25 publicly release a report of its findings but may not include information in the report that could be
26 used to identify the complainant or any client of the home health agency, in-home care agency, re-
27 ferral agency or caregiver registry. The [department] **authority** may use any information obtained
28 during an investigation in an administrative or judicial proceeding concerning the licensing of a
29 home health agency, in-home care agency, referral agency or caregiver registry.

30 “(4) As used in this section:

31 “(a) ‘Caregiver registry’ has the meaning given that term in ORS 443.005.

32 “(b) ‘Home health agency’ has the meaning given that term in ORS 443.005.

33 “(c) ‘In-home care agency’ has the meaning given that term in ORS 443.305.

34 “(d) ‘Referral agency’ has the meaning given that term in ORS 443.005.

35 **“SECTION 68.** If House Bill 2009 becomes law and House Bill 2442 does not become law,
36 section 20 of this 2009 Act (amending ORS 443.045) is repealed and ORS 443.045, as amended
37 by section 772, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), is amended to read:

38 “443.045. (1) The Oregon Health Authority may deny, suspend or revoke the license of, **or as-**
39 **sess a civil penalty against,** any **individual,** home health agency, **referral agency or caregiver**
40 **registry** for failure to comply with ORS 443.005 to 443.095 or with the rules of the authority as
41 authorized by ORS 443.085.

42 “(2) License denials, suspensions and revocations, **assessment of civil penalties,** adoption of
43 rules and judicial review thereof shall be in accordance with ORS chapter 183.

44 **“(3) A civil penalty imposed under this section may not exceed \$1,000 per violation and**
45 **may not total more than \$2,000.**

1 “(4) All civil penalties recovered under this section shall be paid into the State Treasury
2 and credited to the Oregon Health Authority Fund. Moneys credited to the fund under this
3 section are continuously appropriated to the authority for the administration of ORS 443.005
4 to 443.095 and 443.305 to 443.350.

5 “**SECTION 69.** If House Bill 2009, House Bill 2129 and House Bill 2442 all become law,
6 section 20 of this 2009 Act (amending ORS 443.045) is repealed and ORS 443.045, as amended
7 by section 772, chapter __, Oregon Laws 2009 (Enrolled House Bill 2009), and section 86,
8 chapter __, Oregon Laws 2009 (Enrolled House Bill 2129), is amended to read:

9 “443.045. (1) The Oregon Health Authority may deny, suspend or revoke the license of, or as-
10 sess a civil penalty against, any individual, home health agency, referral agency or caregiver
11 registry for failure to comply with ORS 443.005 to 443.095 or section 6, chapter __, Oregon Laws
12 2009 (Enrolled House Bill 2442), or with the rules of the authority as authorized by ORS 443.085.

13 “(2) License denials, suspensions and revocations, assessment of civil penalties, adoption of
14 rules and judicial review thereof shall be in accordance with ORS chapter 183.

15 “(3) A civil penalty imposed under this section may not exceed \$1,000 per violation and
16 may not total more than \$2,000.

17 “(4) All civil penalties recovered under this section shall be paid into the State Treasury
18 and credited to the Oregon Health Authority Fund. Moneys credited to the fund under this
19 section are continuously appropriated to the authority for the administration of ORS 443.005
20 to 443.095 and 443.305 to 443.350.

21 “**SECTION 70.** If House Bill 2009 becomes law, section 22 of this 2009 Act (amending ORS
22 443.075) is repealed and ORS 443.075 is amended to read:

23 “443.075. [*The following services and supplies may be prescribed by a physician or a nurse prac-*
24 *titioner in accordance with a plan of treatment which must be established and periodically reviewed*
25 *by the physician or nurse practitioner]* (1) A home health agency must have an order for treat-
26 ment and plan of treatment from a physician or nurse practitioner for the following services
27 and supplies:

28 “[(1)] (a) Home nursing care provided by or under the supervision of a registered nurse;

29 “[(2)] (b) Physical, occupational or speech therapy, medical social services or other therapeutic
30 services;

31 “[(3)] (c) Home health aide services; and

32 “[(4)] (d) Medical supplies, other than drugs and biologicals, and the use of medical appliances.

33 “(2) A home health agency shall have each plan of treatment reviewed by the physician
34 or nurse practitioner periodically, in accordance with rules adopted by the Oregon Health
35 Authority.

36 “**SECTION 71.** If House Bill 2009 becomes law, section 25 of this 2009 Act (amending ORS
37 443.315) is repealed and ORS 443.315, as amended by section 776a, chapter __, Oregon Laws
38 2009 (Enrolled House Bill 2009), is amended to read:

39 “443.315. (1) A person may not establish, manage or operate [*or maintain*] an in-home care
40 agency or purport to manage or operate [*or maintain*] an in-home care agency without obtaining a
41 license from the Oregon Health Authority.

42 “(2) The authority shall establish requirements and qualifications for licensure under this sec-
43 tion by rule. The authority shall issue a license to an applicant that has the necessary qualifications
44 and meets all requirements established by rule, including the payment of required fees. An in-home
45 care agency shall be required to maintain administrative and professional oversight to ensure the

1 quality of services provided.

2 “(3) Application for a license required under subsection (1) of this section shall be made in the
3 form and manner required by the authority by rule and shall be accompanied by any required fees.

4 “(4) A license may be granted, or may be renewed annually, upon payment of a fee as follows:

5 “(a) For the initial licensure of an in-home care agency:

6 “(A) \$1,500; and

7 “(B) An additional \$750 for each subunit.

8 “(b) For renewal of a license:

9 “(A) \$750; and

10 “(B) An additional \$750 for each subunit.

11 “(c) For a change of ownership at a time other than the annual renewal date:

12 “(A) \$350; and

13 “(B) An additional \$350 for each subunit.

14 “(5) A license issued under this section is valid for one year. A license may be renewed by
15 payment of the required renewal fee and by demonstration of compliance with requirements for re-
16 newal established by rule.

17 “(6) A license issued under this section is not transferable.

18 “(7) The authority shall conduct an on-site inspection of each in-home care agency prior to
19 services being rendered and once every three years thereafter as a requirement for licensing.

20 “(8) **In lieu of the on-site inspection required by subsection (7) of this section, the au-**
21 **thority may accept a certification or accreditation from a federal agency or an accrediting**
22 **body approved by the authority that the state licensing standards have been met, if the in-**
23 **home care agency:**

24 “(a) **Notifies the authority to participate in any exit interview conducted by the federal**
25 **agency or accrediting body; and**

26 “(b) **Provides copies of all documentation concerning the certification or accreditation**
27 **requested by the authority.**

28 “**SECTION 72. If House Bill 2009 becomes law, section 31 of this 2009 Act (amending ORS**
29 **192.517) is repealed and ORS 192.517, as amended by section 165, chapter __, Oregon Laws**
30 **2009 (Enrolled House Bill 2009), is amended to read:**

31 “192.517. (1) The system designated to protect and advocate for the rights of individuals shall
32 have access to all records of:

33 “(a) Any individual who is a client of the system if the individual or the legal guardian or other
34 legal representative of the individual has authorized the system to have such access;

35 “(b) Any individual, including an individual who has died or whose whereabouts are unknown:

36 “(A) If the individual by reason of the individual’s mental or physical condition or age is unable
37 to authorize such access;

38 “(B) If the individual does not have a legal guardian or other legal representative, or the state
39 or a political subdivision of this state is the legal guardian of the individual; and

40 “(C) If a complaint regarding the rights or safety of the individual has been received by the
41 system or if, as a result of monitoring or other activities which result from a complaint or other
42 evidence, there is probable cause to believe that the individual has been subject to abuse or neglect;
43 and

44 “(c) Any individual who has a legal guardian or other legal representative, who is the subject
45 of a complaint of abuse or neglect received by the system, or whose health and safety is believed

1 with probable cause to be in serious and immediate jeopardy if the legal guardian or other legal
2 representative:

3 “(A) Has been contacted by the system upon receipt of the name and address of the legal
4 guardian or other legal representative;

5 “(B) Has been offered assistance by the system to resolve the situation; and

6 “(C) Has failed or refused to act on behalf of the individual.

7 “(2) The system shall have access to the name, address and telephone number of any legal
8 guardian or other legal representative of an individual.

9 “(3) The system that obtains access to records under this section shall maintain the
10 confidentiality of the records to the same extent as is required of the provider of the services, except
11 as provided under the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10806)
12 as in effect on January 1, 2003.

13 “(4) The system shall have reasonable access to facilities, including the residents and staff of
14 the facilities.

15 “(5) This section is not intended to limit or overrule the provisions of ORS 41.675 or 441.055
16 [(10)] (7).

17 “**SECTION 73. If House Bill 2009 becomes law, section 44 of this 2009 Act (amending ORS**
18 **677.290) is repealed and ORS 677.290, as amended by section 1052, chapter __, Oregon Laws**
19 **2009 (Enrolled House Bill 2009), is amended to read:**

20 “677.290. (1) All moneys received by the Oregon Medical Board under this chapter shall be paid
21 into the General Fund in the State Treasury and placed to the credit of the Oregon Medical Board
22 Account which is established. Such moneys are appropriated continuously and shall be used only for
23 the administration and enforcement of this chapter.

24 “(2) Notwithstanding subsection (1) of this section, the board may maintain a revolving account
25 in a sum not to exceed \$50,000 for the purpose of receiving and paying pass-through moneys relating
26 to peer review pursuant to its duties under ORS 441.055 [(7) and (8)] (4) and (5) and in administering
27 programs pursuant to its duties under this chapter relating to the education and rehabilitation of
28 licensees in the areas of chemical substance abuse, inappropriate prescribing and medical compe-
29 tence. The creation of and disbursement of moneys from the revolving account shall not require
30 an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260. All moneys in the account
31 are continuously appropriated for purposes set forth in this subsection.

32 “(3) Each year \$10 shall be paid to the Oregon Health and Science University for each
33 [actively] in-state [registered] physician [under ORS 677.265] **licensed under ORS chapter 677,**
34 which amount is continuously appropriated to the Oregon Health and Science University to be used
35 in maintaining a circulating library of medical and surgical books and publications for the use of
36 practitioners of medicine in this state, and when not so in use to be kept at the library of the School
37 of Medicine and accessible to its students. The balance of the money received by the board is ap-
38 propriated continuously and shall be used only for the administration and enforcement of this
39 chapter, but any part of the balance may, upon the order of the board, be paid into the circulating
40 library fund.

41 “**SECTION 74. If House Bill 2243 becomes law, section 48 of this 2009 Act (amending ORS**
42 **678.780) is repealed and ORS 678.780, as amended by section 24, chapter __, Oregon Laws 2009**
43 **(Enrolled House Bill 2243), is amended to read:**

44 “678.780. (1) In the manner prescribed in ORS chapter 183 for contested cases, the Oregon
45 Health Licensing Agency may impose a form of discipline as specified in ORS 676.612 against any

1 person practicing as a nursing home administrator for any of the grounds listed in ORS 676.612 and
2 for any violation of the provisions of ORS 678.710 to 678.840, or the rules adopted under ORS 678.710
3 to 678.840.

4 “(2) In addition to any discipline that may be imposed as provided by subsection (1) of this sec-
5 tion, the agency may impose disciplinary sanctions against a person practicing as a nursing home
6 administrator for any of the following causes:

7 “(a) Violation of or noncompliance with any applicable provisions of ORS 678.710 to 678.840 or
8 of any rule or order of the agency;

9 “(b) Any continuous or substantial violation of the rules adopted under ORS [441.055] **441.025**;
10 or

11 “(c) Discipline imposed by any other licensing body in this or any other state based on conduct
12 that would be grounds for discipline under this section or rules adopted by the agency.”.

13
