

SENATE AMENDMENTS TO SENATE BILL 158

By COMMITTEE ON HUMAN SERVICES AND RURAL HEALTH POLICY

April 30

1 On page 1 of the printed bill, line 4, after “443.015” insert “, 443.025”.

2 In line 5, delete “443.065,” and delete “659A.233,”.

3 In line 6, delete the third “and”.

4 In line 7, before the period insert “; and appropriating money”.

5 Delete lines 11 through 25 and insert:

6 **“SECTION 2. (1) An ambulatory surgical center shall evaluate all of a patient’s risk fac-**
7 **tors before permitting a surgical procedure to be performed on the patient in the facility.**

8 **“(2) An ambulatory surgical center shall post a notice in the facility, in a prominent place**
9 **and in prominent font size, advising patients of the manner in which patients may express**
10 **concerns regarding the ambulatory surgical center and services provided at the ambulatory**
11 **surgical center. The posting must include but need not be limited to the address and tele-**
12 **phone number for contacting the Department of Human Services to express the concerns.**

13 **“(3) The department shall adopt rules classifying ambulatory surgical centers in three**
14 **categories:**

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

17 **“(b) High complexity noncertified ambulatory surgical centers, which must comply with**
18 **rules adopted by the department; and**

19 **“(c) Moderate complexity noncertified ambulatory surgical centers, which must comply**
20 **with rules adopted by the department and which may use only conscious sedation and**
21 **analgesia.”.**

22 On page 2, delete line 4 and insert:

23 **“(b) ‘Financial interest’ means a five percent or greater direct or indirect ownership interest.”.**

24 Delete lines 12 through 45.

25 On page 3, delete lines 1 through 15 and insert:

26 **“(3) In obtaining informed consent for treatment that will take place at a facility, a health**
27 **practitioner shall disclose the manner in which care will be provided in the event that complications**
28 **occur that require health services beyond what the facility has the capability to provide.**

29 **“SECTION 4. ORS 441.020 is amended to read:**

30 **“441.020. [(1) Licenses for health care facilities including long term care facilities, as defined in**
31 **ORS 442.015, shall be obtained from the Department of Human Services.]**

32 **“(1) A health care facility must obtain a license from the Department of Human Services.**

33 **“(2) Applications shall be upon such forms and shall contain such information as the department**
34 **may reasonably require, which may include affirmative evidence of ability to comply with such**
35 **reasonable standards and rules as may lawfully be prescribed under ORS [441.055] 441.025.**

1 “(3) Each application shall be accompanied by the license fee. If the license is denied, the fee
2 shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State
3 Treasury to the credit of the Department of Human Services Account for carrying out the functions
4 under ORS 441.015 to 441.063 and 431.607 to 431.619.

5 “(4) Except as otherwise provided in subsection [(5)] (7) of this section, for hospitals with:

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

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

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

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

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

11 “(5) **A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under
12 its license.**

13 “(6) **The department may charge a reduced hospital fee or hospital satellite fee if the
14 department determines that charging the standard fee constitutes a significant financial
15 burden to the facility.**

16 “[5] (7) For long term care facilities with:

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

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

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

20 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to
21 \$450.

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

23 “[6] *For special inpatient care facilities with:*

24 “[a] *Fewer than 26 beds, the annual license fee shall be \$750.*]

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

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

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

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

29 “[7] (8) For ambulatory surgical centers, the annual license fee shall be [\$1,000]:

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

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

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

35 “[8] (9) For birthing centers, the annual license fee shall be [\$250] **\$750.**

36 “[9] (10) For outpatient renal dialysis facilities, the annual license fee shall be [\$1,500]
37 **\$2,000.**

38 “[10] (11) During the time the licenses remain in force holders thereof are not required to pay
39 inspection fees to any county, city or other municipality.

40 “[11] (12) Any health care facility license may be indorsed to permit operation at more than
41 one location. In such case the applicable license fee shall be the sum of the license fees which would
42 be applicable if each location were separately licensed. **The department may include hospital
43 satellites on a hospital’s license in accordance with rules adopted by the department.**

44 “[12] (13) Licenses for health maintenance organizations shall be obtained from the Director
45 of the Department of Consumer and Business Services pursuant to ORS 731.072.

1 “(14) As used in this section:
2 “(a) ‘Hospital satellite’ has the meaning prescribed by the Department of Human Services
3 by rule.
4 “(b) ‘Procedure room’ means a room where surgery or invasive procedures are per-
5 formed.
6 “**SECTION 4a.** ORS 441.020, as amended by section 4 of this 2009 Act, is amended to read:
7 “441.020. (1) A health care facility must obtain a license from the Department of Human Ser-
8 vices.
9 “(2) Applications shall be upon such forms and shall contain such information as the department
10 may reasonably require, which may include affirmative evidence of ability to comply with such
11 reasonable standards and rules as may lawfully be prescribed under ORS 441.025.
12 “(3) Each application shall be accompanied by the license fee. If the license is denied, the fee
13 shall be refunded to the applicant. If the license is issued, the fee shall be paid into the State
14 Treasury to the credit of the Department of Human Services Account for carrying out the functions
15 under ORS 441.015 to 441.063 and 431.607 to 431.619.
16 “(4) Except as otherwise provided in subsection (7) of this section, for hospitals with:
17 “(a) Fewer than 26 beds, the annual license fee shall be [~~\$750~~] **\$1,250**.
18 “(b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be [~~\$1,000~~]
19 **\$1,850**.
20 “(c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be [~~\$1,900~~] **\$3,800**.
21 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be
22 [~~\$2,900~~] **\$6,525**.
23 “(e) Two hundred or more beds, **but fewer than 500 beds**, the annual license fee shall be
24 [~~\$3,400~~] **\$8,500**.
25 “(f) **Five hundred or more beds, the annual license fee shall be \$12,070**.
26 “(5) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under its li-
27 cense.
28 “(6) The department may charge a reduced hospital fee or hospital satellite fee if the department
29 determines that charging the standard fee constitutes a significant financial burden to the facility.
30 “(7) For long term care facilities with:
31 “(a) Fewer than 16 beds, the annual license fee shall be up to \$120.
32 “(b) Sixteen beds or more but fewer than 50 beds, the annual license fee shall be up to \$175.
33 “(c) Fifty beds or more but fewer than 100 beds, the annual license fee shall be up to \$350.
34 “(d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be up to
35 \$450.
36 “(e) Two hundred beds or more, the annual license fee shall be up to \$580.
37 “(8) For ambulatory surgical centers, the annual license fee shall be:
38 “(a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more
39 than two procedure rooms.
40 “(b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no
41 more than two procedure rooms.
42 “(c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.
43 “(9) For birthing centers, the annual license fee shall be \$750.
44 “(10) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.
45 “(11) During the time the licenses remain in force holders thereof are not required to pay in-

1 speciation fees to any county, city or other municipality.

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

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

8 “(14) As used in this section:

9 “(a) ‘Hospital satellite’ has the meaning prescribed by the Department of Human Services by
10 rule.

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

12 “**SECTION 4b. (1) In addition to an annual fee, the Department of Human Services may**
13 **charge a hospital a fee for:**

14 “(a) **Complaint investigation, in an amount not to exceed \$850.**

15 “(b) **Full compliance survey, in an amount not to exceed \$7,520.**

16 “(c) **On-site follow-up survey to verify compliance with a plan of correction, in an amount**
17 **not to exceed \$225.**

18 “(d) **Off-site follow-up survey to verify compliance with a plan of correction, in an**
19 **amount not to exceed \$85.**

20 “(2) **During one calendar year, the department may charge to all hospitals a total amount**
21 **not to exceed:**

22 “(a) **\$91,000 for complaint investigations.**

23 “(b) **\$15,000 for full compliance surveys.**

24 “(c) **\$6,700 for follow-up surveys.**

25 “(3)(a) **The department shall apportion the total amount charged under subsection (2) of**
26 **this section among hospitals at the end of each calendar year based on the number of com-**
27 **plaint investigations, full compliance surveys and follow-up surveys performed at each hos-**
28 **pital during the calendar year.**

29 “(b) **The department may not include investigations of employee complaints in a hospi-**
30 **tal’s total number of complaint investigations.**

31 “(c) **A hospital that was licensed in 2008 may not be charged fees under this subsection**
32 **for more complaint investigations than the number of complaint investigations that occurred**
33 **at the hospital in 2008.**

34 “(d) **A hospital that was not licensed in 2008 may be charged fees under this subsection**
35 **for an unlimited number of complaint investigations.**

36 “(4) **As used in this section, ‘full compliance survey’ means a survey conducted by the**
37 **department following a complaint investigation to determine a hospital’s compliance with the**
38 **Centers for Medicare and Medicaid Services Conditions of Participation.”.**

39 In line 38, after “organization” delete the rest of the line and delete lines 39 and 40 and insert
40 “that is required to obtain a certificate of need under ORS 442.315 until a certificate of need has
41 been granted. An ambulatory surgical center is not subject to the certificate of need requirements
42 in ORS 442.315.”.

43 On page 7, line 23, delete “shall” and insert “may”.

44 In line 27, after “facility” insert “, and may report information obtained during an investigation
45 to a health professional regulatory board as defined in ORS 676.160 as that information pertains to

1 a licensee of the board”.

2 In lines 33 and 34, delete the boldfaced material.

3 On page 8, delete lines 5 and 6.

4 Delete lines 15 through 20 and insert:

5 “(3) In lieu of an on-site inspection as required by ORS 441.025 and 441.060, the department may
6 accept a certification or accreditation from a federal agency or an accrediting body approved by the
7 department that the state licensing standards have been met, if:

8 “(a) The certification or accreditation is recognized by the department as addressing the stan-
9 dards and condition of participation requirements of the Centers for Medicare and Medicaid Ser-
10 vices and other standards set by the department;

11 “(b) The health care facility notifies the department to participate in any exit interview con-
12 ducted by the federal agency or accrediting body; and

13 “(c) The health care facility provides copies of all documentation concerning the certification
14 or accreditation requested by the department.”.

15 In line 32, delete “of Human Services”.

16 In line 34, after “penalty” delete the rest of the line and delete line 35 and insert “imposed un-
17 der this section may not exceed \$5,000.”.

18 After line 37, insert:

19 “(6) Civil penalties recovered under this section shall be paid into the State Treasury and
20 credited to the Department of Human Services Account. Moneys credited to the account under this
21 section are continuously appropriated to the department for the administration of ORS 441.015 to
22 441.087.”.

23 On page 9, delete lines 4 through 10.

24 After line 12, insert:

25 “(3)(a) “Ambulatory surgical center” means a facility or portion of a facility that operates ex-
26 clusively for the purpose of providing surgical services to patients who do not require
27 hospitalization and for whom the expected duration of services does not exceed 24 hours following
28 admission.

29 “(b) “Ambulatory surgical center” does not mean:

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

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

35 On page 10, line 34, delete “provides” and insert “is capable of providing”.

36 On page 11, delete lines 36 through 38.

37 In line 39, delete “(23)” and insert “(22)”.

38 In line 42, delete “(24)” and insert “(23)”.

39 On page 12, delete lines 13 through 35 and insert:

40 “**SECTION 14.** ORS 443.005 is amended to read:

41 “443.005. As used in ORS 443.005 to 443.095:

42 “(1) ‘**Caregiver registry**’ means an agency that prequalifies, establishes and maintains a
43 list of qualified private contractor caregivers that is provided to a client for caregiver ser-
44 vices within the client’s place of residence.

45 “[1] (2) ‘Department’ means the Department of Human Services.

1 “[(2)] (3) ‘Home health agency’ means a public or private agency providing coordinated home
2 health services on a home visiting basis. ‘Home health agency’ does not include:

3 “(a) Any visiting nurse service or home health service conducted by and for those who rely upon
4 spiritual means through prayer alone for healing in accordance with the tenets and practices of a
5 recognized church or religious denomination.

6 “(b) Those home health services offered by county health departments outside, and in addition
7 to, programs formally designated and funded as home health agencies.

8 “[3] (4) ‘Home health services’ means items and services furnished to an individual by a home
9 health agency, or by others under arrangements with such agency, on a visiting basis, in a place
10 of temporary or permanent residence used as the individual’s home for the purpose of maintaining
11 that individual at home.

12 “(5) ‘Referral agency’ means an agency that prequalifies, coordinates and arranges for
13 home health services within a client’s place of residence.

14 “**SECTION 14a.** Sections 14b and 14c of this 2009 Act are added to and made a part of
15 ORS 443.005 to 443.095.

16 “**SECTION 14b.** A person may not establish, conduct or maintain a referral agency or
17 caregiver registry, or represent to the public that the person is a referral agency or
18 caregiver registry, without first obtaining a referral agency license or caregiver registry li-
19 cense from the Department of Human Services.

20 “**SECTION 14c.** The Department of Human Services may adopt rules governing referral
21 agencies and caregiver registries, including but not limited to:

22 “(1) The minimum qualifications of individuals whose services are offered through a re-
23 ferral agency or caregiver registry;

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

25 “(3) Procedures for maintaining records;

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

27 “(5) Requiring criminal background checks on individuals placed on a caregiver or refer-
28 ral list by a referral agency or caregiver registry or on individuals placed in a client’s place
29 of residence by a referral agency or caregiver registry;

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

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

32 Delete lines 42 through 45.

33 On page 13, delete lines 1 through 16 and insert:

34 “**SECTION 15a.** ORS 443.025 is amended to read:

35 “443.025. [Any] A hospital licensed under ORS 441.015 may provide home health services [*with-*
36 *out paying a separate licensing fee and*] without maintaining a separate governing body and admin-
37 istrative staff so long as the services provided meet the requirements of ORS 443.005 to 443.095 **and**
38 **the hospital pays the home health licensing fee under ORS 443.035.**

39 “**SECTION 16.** ORS 443.035 is amended to read:

40 “443.035. (1) The Department of Human Services may grant a license to a home health agency,
41 **referral agency or caregiver registry** for a calendar year, may annually renew a license and may
42 allow for a change of ownership, upon payment of a fee as follows:

43 “(a) For a new home health agency:

44 “(A) [*\$1,000*] **\$1,600**; and

45 “(B) An additional [*\$1,000*] **\$1,600** for each subunit of a parent home health agency.

1 “(b) For renewal of a **home health agency** license:
2 “(A) [~~\$600~~] **\$850**; and
3 “(B) An additional [~~\$600~~] **\$850** for each subunit of a parent home health agency.
4 “(c) For a change of ownership **of a home health agency** at a time other than the annual re-
5 newal date:
6 “(A) \$500; and
7 “(B) An additional \$500 for each subunit of a parent home health agency.
8 “(d) **For a new referral agency or caregiver registry:**
9 “(A) **\$1,500; and**
10 “(B) **An additional \$750 for each subunit of a referral agency or caregiver registry.**
11 “(e) **For renewal of a referral agency or caregiver registry license:**
12 “(A) **\$750; and**
13 “(B) **An additional \$750 for each subunit of a referral agency or caregiver registry.**
14 “(f) **For a change of ownership of a referral agency or caregiver registry at a time other**
15 **than the annual renewal date:**
16 “(A) **\$350; and**
17 “(B) **An additional \$350 for each subunit of a referral agency or caregiver registry.**
18 “(2) Notwithstanding subsection (1)(c) **or (f)** of this section, the fee for a change in ownership
19 shall be \$100 if a change in ownership does not involve:
20 “(a) The majority owner or partner; or
21 “(b) The administrator operating the agency **or registry.**
22 “(3) All fees received pursuant to subsection (1) of this section shall be paid over to the State
23 Treasurer and credited to the Public Health Account. Such moneys are appropriated continuously
24 to the Department of Human Services for the administration of ORS 443.005 to 443.095.”
25 Delete lines 19 through 45.
26 On page 14, delete lines 1 through 10 and insert:
27 “**SECTION 18. (1) The Department of Human Services shall conduct an on-site inspection**
28 **of a home health agency, referral agency and caregiver registry prior to licensure and at**
29 **least once every three years thereafter.**
30 “(2) **In lieu of an on-site inspection, the department may accept a certification or ac-**
31 **creditation from a federal agency or an accrediting body approved by the department that**
32 **the state licensing standards have been met, if:**
33 “(a) **The certification or accreditation is recognized by the department as addressing the**
34 **standards and conditions of participation requirements of the Centers for Medicare and**
35 **Medicaid Services and any additional standards set by the department;**
36 “(b) **The agency or registry notifies the department to participate in any exit interview**
37 **conducted by the federal agency or accrediting body; and**
38 “(c) **The agency or registry provides copies of all documentation concerning the certif-**
39 **ication or accreditation requested by the department.**
40 “**SECTION 19. (1) Rules adopted by the Department of Human Services pursuant to ORS**
41 **443.085 and 443.340 shall include procedures for the filing of complaints as to the care or**
42 **services provided by home health agencies, in-home care agencies, referral agencies or**
43 **caregiver registries that ensure the confidentiality of the identity of the complainant.**
44 “(2) **An employee or contract provider with knowledge of a violation of law or rules of**
45 **the department shall use the reporting procedures established by the home health agency,**

1 in-home care agency, referral agency or caregiver registry before notifying the department
2 or other state agency of the inappropriate care or violation, unless the employee or contract
3 provider:

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

5 “(b) Files a complaint in accordance with rules adopted under subsection (1) of this sec-
6 tion.

7 “(3) Information obtained by the department during an investigation of a complaint or
8 reported violation under this section is confidential and not subject to public disclosure under
9 ORS 192.410 to 192.505. Upon the conclusion of the investigation, the department may publicly
10 release a report of its findings but may not include information in the report that could be
11 used to identify the complainant or any client of the home health agency, in-home care
12 agency, referral agency or caregiver registry. The department may use any information ob-
13 tained during an investigation in an administrative or judicial proceeding concerning the li-
14 censing of a home health agency, in-home care agency, referral agency or caregiver registry.

15 “(4) As used in this section:

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

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

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

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

20 In line 13, delete “or” and insert a comma and after “agency” insert “, referral agency or
21 caregiver registry”.

22 Delete lines 17 through 28 and insert:

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

25 “(4) All civil penalties recovered under this section shall be paid into the State Treasury and
26 credited to the Department of Human Services Account. Moneys credited to the account under this
27 section are continuously appropriated to the department for the administration of ORS 443.005 to
28 443.095 and 443.305 to 443.350.

29 “**NOTE:** Section 21 was deleted by amendment. Subsequent sections were not renumbered.”.

30 In line 32, delete “a prescription” and insert “an order for treatment”.

31 On page 15, delete lines 12 and 13 and insert:

32 “(2) A licensed home health agency that provides personal care services shall comply with all
33 laws and rules concerning in-home care services except for the licensing requirements.”.

34 Delete lines 41 through 45.

35 On page 16, delete lines 1 through 21 and insert:

36 “(8) In lieu of the on-site inspection required by subsection (7) of this section, the department
37 may accept a certification or accreditation from a federal agency or an accrediting body approved
38 by the department that the state licensing standards have been met, if the in-home care agency:

39 “(a) Notifies the department to participate in any exit interview conducted by the federal agency
40 or accrediting body; and

41 “(b) Provides copies of all documentation concerning the certification or accreditation requested
42 by the department.

43 “**SECTION 26.** ORS 443.325 is amended to read:

44 “443.325. The Department of Human Services may impose a civil penalty [*in the manner provided*
45 *in ORS 183.745*] and **may** deny, suspend or revoke the license of any in-home care agency licensed

1 under ORS 443.315 for failure to comply with ORS 443.305 to 443.350 or with rules adopted there-
2 under. A failure to comply with ORS 443.305 to 443.350 includes, but is not limited to:

3 “(1) Failure to provide a written disclosure statement to the client or the client’s representative
4 prior to in-home care services being rendered;

5 “(2) Failure to provide the contracted in-home care services; or

6 “(3) Failure to correct deficiencies identified during a department inspection.

7 “**NOTE:** Sections 27 and 28 were deleted by amendment. Subsequent sections were not renum-
8 bered.”.

9 On page 23, delete lines 44 and 45.

10 On page 24, delete lines 1 through 5 and insert:

11 “**NOTE:** Section 43 was deleted by amendment. Subsequent sections were not renumbered.”.

12 On page 26, after line 22, insert:

13 “**SECTION 50. The amendments to ORS 441.020 by section 4a of this 2009 Act become**
14 **operative on January 1, 2011.**”.

15
