

Senate Bill 751

Sponsored by Senator MONNES ANDERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Office for Oregon Health Policy and Research to require reporting of health-related information from health insurers, third party administrators and other specified entities.

A BILL FOR AN ACT

1 Relating to health planning; creating new provisions; and amending ORS 731.988.

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

3 **SECTION 1. As used in sections 2 and 3 of this 2009 Act, "reporting entity" means:**

4 (1) **An insurer as defined in ORS 731.106 or fraternal benefit society as described in ORS**
5 **748.106 required to have a certificate of authority to transact health insurance business in**
6 **this state.**

7 (2) **A health care service contractor as defined in ORS 750.005 that issues medical insur-**
8 **ance in this state.**

9 (3) **A third party administrator required to obtain a license under ORS 744.702.**

10 (4) **A pharmacy benefit manager or fiscal intermediary, or other person that is by stat-**
11 **ute, contract or agreement legally responsible for payment of a claim for a health care item**
12 **or service.**

13 (5) **A prepaid managed care health services organization as defined in ORS 414.736.**

14 (6) **An insurer providing coverage funded under Part A, Part B or Part D of Title XVIII**
15 **of the Social Security Act, subject to approval by the United States Department of Health**
16 **and Human Services.**

17 **SECTION 2. (1) The Administrator of the Office for Oregon Health Policy and Research**
18 **shall establish and maintain a program that requires reporting entities to report health care**
19 **data for the following purposes:**

20 (a) **Determining the maximum capacity and distribution of existing resources allocated**
21 **to health care.**

22 (b) **Identifying the demands for health care.**

23 (c) **Allowing health care policy makers to make informed choices.**

24 (d) **Evaluating the effectiveness of intervention programs in improving health outcomes.**

25 (e) **Comparing the costs and effectiveness of various treatment settings and approaches.**

26 (f) **Providing information to consumers and purchasers of health care.**

27 (g) **Improving the quality and affordability of health care and health care coverage.**

28 (h) **Assisting the administrator in furthering the health policies expressed by the Legis-**
29 **lative Assembly in ORS 442.025.**

30 (2) **The administrator shall adopt rules establishing the time, place, form and manner of**
31

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 reporting information under this section, including but not limited to:

2 (a) Requiring the use of unique patient and provider identifiers; and

3 (b) Specifying a uniform coding system that reflects all health care utilization, costs and
4 resources in this state, and health care utilization and costs for health care services provided
5 to Oregon residents in other states.

6 (3) The administrator shall adopt rules establishing the types of information to be re-
7 ported under this section, including but not limited to:

8 (a) Health care claims and enrollment information used by reporting entities and paid
9 health care claims data; and

10 (b) Reports, data, schedules, statistics or other information relating to health care costs,
11 prices, quality, utilization or resources determined by the administrator to be necessary to
12 carry out the purposes of this section.

13 (4) The administrator shall use data collected under this section to provide information
14 to consumers of health care to empower the consumers to make economically sound and
15 medically appropriate decisions. The information must include, but not be limited to, the
16 prices and quality of health care services.

17 (5) The administrator may contract with a third party to collect and process the health
18 care data reported under this section. The contract must prohibit the collection of Social
19 Security numbers and must prohibit the disclosure or use of the data for any purpose other
20 than those specifically authorized by the contract. The contract must require the third party
21 to transmit all data collected and processed under the contract to the Office for Oregon
22 Health Policy and Research.

23 (6) The administrator shall facilitate a collaboration between the Department of Human
24 Services, the Department of Consumer and Business Services and interested stakeholders to
25 develop a comprehensive health care information system using the information reported
26 under this section and collected by the office under ORS 442.120 and 442.400 to 442.463. The
27 administrator, in consultation with interested stakeholders, shall:

28 (a) Formulate the data sets that will be included in the system;

29 (b) Establish the criteria and procedures for the development of limited use data sets;

30 (c) Establish the criteria and procedures to ensure that limited use data sets are acces-
31 sible and compliant with federal and state privacy laws; and

32 (d) Establish a time frame for the creation of the comprehensive health care information
33 system.

34 (7) Information disclosed through the comprehensive health care information system
35 described in subsection (6) of this section:

36 (a) Shall be available as a resource to insurers, employers, providers, purchasers of
37 health care and state agencies to allow for continuous review of health care utilization,
38 expenditures and performance in this state;

39 (b) Shall be available to Oregon programs for quality in health care for use in improving
40 health care in Oregon, subject to rules prescribed by the administrator conforming to state
41 and federal privacy laws or limiting access to limited use data sets;

42 (c) Shall be presented to allow for comparisons of geographic, demographic and economic
43 factors and institutional size;

44 (d) May not disclose any data that contains direct personal identifiers such as names,
45 addresses, electronic mail addresses, telephone numbers or Social Security numbers; and

1 (e) May not disclose trade secrets of reporting entities.

2 (8) The collection, storage and release of health care data and other information under
 3 this section is subject to the requirements of the federal Health Insurance Portability and
 4 Accountability Act.

5 **SECTION 3.** (1) Any reporting entity that fails to report as required in section 2 of this
 6 2009 Act or rules of the Office for Oregon Health Policy and Research adopted pursuant to
 7 section 2 of this 2009 Act may be subject to a civil penalty.

8 (2) The Administrator of the Office for Oregon Health Policy and Research shall adopt a
 9 schedule of penalties not to exceed \$500 per day of violation, determined by the severity of
 10 the violation.

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

12 (4) Civil penalties imposed under this section may be remitted or mitigated upon such
 13 terms and conditions as the administrator considers proper and consistent with the public
 14 health and safety.

15 (5) Civil penalties incurred under any law of this state are not allowable as costs for the
 16 purpose of rate determination or for reimbursement by a third-party payer.

17 **SECTION 4.** ORS 731.988 is amended to read:

18 731.988. (1) *[Any person who violates any provision of the Insurance Code, any lawful rule or final*
 19 *order of the Director of the Department of Consumer and Business Services or any judgment made by*
 20 *any court upon application of the director, shall forfeit and pay to the General Fund of the State*
 21 *Treasury a civil penalty in an amount determined by the director of not more than \$10,000 for each*
 22 *offense. In the case of individual insurance producers, adjusters or insurance consultants, the civil*
 23 *penalty shall be not more than \$1,000 for each offense. Each violation shall be deemed a separate of-*
 24 *fense.]* **A person shall forfeit and pay to the General Fund of the State Treasury a civil penalty**
 25 **in an amount determined by the Director of the Department of Consumer and Business**
 26 **Services of not more than \$10,000 for each violation of:**

- 27 (a) Any provision of the Insurance Code;
- 28 (b) Any lawful rule or final order of the director;
- 29 (c) Any judgment made by a court upon application made by the director; or
- 30 (d) Any rule adopted by the Administrator of the Office for Oregon Health Policy and
 31 Research for the reporting of information pursuant to section 2 of this 2009 Act.

32 (2) In addition to the civil penalty set forth in subsection (1) of this section, any person who
 33 violates any provision of the Insurance Code, any lawful rule or final order of the director or any
 34 judgment made by any court upon application of the director, may be required to forfeit and pay to
 35 the General Fund of the State Treasury a civil penalty in an amount determined by the director but
 36 not to exceed the amount by which such person profited in any transaction which violates any such
 37 provision, rule, order or judgment.

38 (3) In addition to the civil penalties set forth in subsections (1) and (2) of this section, any
 39 insurer that is required to make a report under ORS 742.400 and that fails to do so within the
 40 specified time may be required to pay to the General Fund of the State Treasury a civil penalty in
 41 an amount determined by the director but not to exceed \$10,000.

42 (4) A civil penalty imposed under this section may be recovered either as provided in subsection
 43 (5) of this section or in an action brought in the name of the State of Oregon in any court of ap-
 44 propriate jurisdiction.

45 (5) Civil penalties under this section shall be imposed and enforced in the manner provided by

1 ORS 183.745.

2 (6) The provisions of this section are in addition to and not in lieu of any other enforcement
3 provisions contained in the Insurance Code.

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