

# House Bill 2387

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Health Care)

## SUMMARY

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

Requires Health Resources Commission to develop and implement medical technology assessment program. Specifies procedures for medical technology assessment. Requires commission to appoint medical technology advisory committee to provide recommendations. Requires open meetings and public access to records.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the Health Resources Commission; amending ORS 414.720, 442.583 and 442.589; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 442.583 is amended to read:

6 442.583. (1)(a) The Health Resources Commission shall develop **and implement** a medical tech-  
7 nology assessment program **in accordance with this section** that addresses the introduction, dif-  
8 fusion and utilization of medical technologies and their associated services [*and shall make*  
9 *recommendations regarding the program's implementation*].

10 [*(b) The assessment program developed pursuant to paragraph (a) of this subsection shall include*  
11 *the results of at least two medical technology assessments to be selected by the commission. The com-*  
12 *mission shall select one new and emerging medical technology and one established medical technology*  
13 *to be assessed.*]

14 [*(c) The program shall include criteria for selection of the medical technologies to be assessed.*]

15 [*(d)*] **(b)** The commission shall appoint and work with [*an*] **a program** advisory committee whose  
16 members shall have the appropriate expertise to develop a medical technology assessment program.  
17 [*The advisory committee shall present its recommendations to the commission at a public hearing. The*  
18 *commission shall conduct public hearings to solicit testimony and information from health care con-*  
19 *sumers prior to making the report described in subsection (2) of this section. The commission shall give*  
20 *strong consideration to the recommendations of the advisory committee and public testimony in devel-*  
21 *oping its report.*]

22 **(c) The commission shall adopt comprehensive program policies and procedures, updated**  
23 **at least yearly, for the administration of the program. The procedures must include, but need**  
24 **not be limited to:**

25 **(A) Identifying potential medical technologies;**

26 **(B) Screening potential medical technologies;**

27 **(C) Selecting medical technologies for assessment;**

28 **(D) Conducting the assessment, including the formulation of key questions for review and**  
29 **appointing a medical technology advisory committee described in subsection (2) of this sec-**

**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 **tion;**

2 **(E) Selecting an evidence-based vendor and the source documents;**

3 **(F) Producing a technical report and a policy report that includes recommendations re-**  
 4 **garding the medical technology and services associated with the technology, giving strong**  
 5 **consideration to the findings of the medical technology advisory committee and information**  
 6 **received from the public; and**

7 **(G) A formal appeals process for interested persons to obtain further review of the rec-**  
 8 **ommendations.**

9 **(d) At each procedural step described in paragraph (c) of this subsection, the commission**  
 10 **shall allow for public input including opportunities to provide oral and written testimony. The**  
 11 **commission shall actively solicit public input from health care consumers, physicians, phy-**  
 12 **sician specialty organizations, patient advocacy groups, medical technology industry repre-**  
 13 **sentatives and other professional organizations. All meetings of the commission or any**  
 14 **medical technology advisory committee appointed by the commission shall be subject to ORS**  
 15 **192.610 to 192.690.**

16 *[(2)(a) The commission shall present its findings and recommendations in a report to the Governor*  
 17 *and the appropriate interim legislative committees on or before April 1, 1994. The report shall include,*  
 18 *in addition to at least two medical technology assessments, a determination of the supply and distrib-*  
 19 *ution of medical technology and associated services that are required to meet the need for medical*  
 20 *technology in the five years following the completion of the assessment.]*

21 *[(b) The report also shall identify strategies and contain recommendations:]*

22 *[(A) Regarding the program's implementation, including which agency should implement the pro-*  
 23 *gram;]*

24 *[(B) To promote compliance with the program regarding the introduction, diffusion and utilization*  
 25 *of those medical technologies assessed;]*

26 *[(C) Regarding whether the state should have a regulatory function and, if so, which agency should*  
 27 *carry out that function; and]*

28 *[(D) Regarding the collection, storage and dissemination of data required for a technology assess-*  
 29 *ment program.]*

30 **(2) For each medical technology assessment conducted under the program:**

31 **(a) The commission shall establish a medical technology advisory committee. The mem-**  
 32 **bership of the committee shall include but is not limited to the following, who shall be ap-**  
 33 **pointed on a rotating basis:**

34 **(A) A member who is a physician licensed to practice medicine in this state who has**  
 35 **clinical and practical expertise in the therapeutic area in which the medical technology under**  
 36 **review is used. The chairperson of the commission shall select this member based on rec-**  
 37 **ommendations from the physician specialty organization representing the therapeutic area**  
 38 **or, if there no such physician specialty organization, the Oregon Medical Association; and**

39 **(B) One member who has a personal or family experience with the condition that the**  
 40 **medical technology is designed to treat. The chairperson of the commission shall select this**  
 41 **member based on recommendations from a patient advocacy group concerned with the con-**  
 42 **dition or, if no such patient advocacy group exists, the Oregon Medical Association.**

43 **(b) A medical technology advisory committee appointed by the commission must provide**  
 44 **30 days' advance written notice of any public meeting or hearing. The notice must include**  
 45 **the agenda and any proposed findings, reports and recommendations under consideration by**

1 **the committee.**

2 (c) **A medical technology advisory committee must adopt, as part of its findings, the**  
 3 **conclusions in a National Coverage Determination or a Local Coverage Determination by the**  
 4 **Centers for Medicare and Medicaid Services unless the committee finds that there is sub-**  
 5 **stantial error in the conclusions or that there is new evidence contrary to the conclusions.**

6 (d) **The committee and the commission shall place significant weight on treatment**  
 7 **guidelines developed by physician specialty organizations and patient advocacy groups. If the**  
 8 **commission’s recommendations are inconsistent with treatment guidelines from physician**  
 9 **specialty organizations or patient advocacy groups, the commission shall issue a report de-**  
 10 **tailing the evidence the commission relied upon in making its recommendations.**

11 (3) **Except as provided in subsections (4) and (5) of this section, all materials presented**  
 12 **to, considered by or produced by the commission or any medical technology advisory com-**  
 13 **mittee appointed by the commission are public records subject to inspection under ORS**  
 14 **192.420.**

15 [(3)] (4) To *[insure]* **ensure** that confidentiality is maintained, no identification of a patient or  
 16 a person licensed to provide health services shall be included with the data submitted under this  
 17 section, and the commission shall release such data only in aggregate statistical form. *[All findings*  
 18 *and conclusions, interviews, reports, studies, communications and statements procured by or furnished*  
 19 *to the commission in connection with obtaining the data necessary to perform its functions shall be*  
 20 *confidential pursuant to ORS 192.501 to 192.505.]*

21 [(4)] (5) All data and information collected, analyzed and summarized by professional and trade  
 22 associations conducting quality assurance and improvement programs shall be considered confiden-  
 23 tial and shall not be admissible in any legal proceeding or used to create a legal standard of care.  
 24 However, such data and information may be submitted to the commission on request and shall re-  
 25 main confidential and inadmissible.

26 (6) **The commission shall report its recommendations under the medical technology as-**  
 27 **essment program to the Governor and the appropriate legislative committees in January**  
 28 **of each odd-numbered year.**

29 **SECTION 2.** ORS 442.589 is amended to read:

30 442.589. (1) The Health Resources Commission established by ORS 442.580 shall conduct com-  
 31 parative effectiveness research of new and existing health treatments, procedures and services *[se-*  
 32 *lected]* in accordance with ORS 442.583. *[The commission may conduct the research by comprehensive*  
 33 *review of the comparative effectiveness research undertaken by recognized state, national or interna-*  
 34 *tional entities.]* The commission shall disseminate the research findings to health care consumers,  
 35 providers and third-party payers and to other interested stakeholders.

36 (2) The Health Services Commission established by ORS 414.715 shall develop or identify and  
 37 shall disseminate evidence-based health care guidelines for use by providers, consumers and pur-  
 38 chasers of health care in Oregon.

39 (3) The Office for Oregon Health Policy and Research shall ensure that the work of the Health  
 40 Services Commission and the Health Resources Commission under this section is aligned and coor-  
 41 dinated.

42 (4) The Public Employees’ Benefit Board, the Oregon Educators Benefit Board, the Department  
 43 of Corrections and the Oregon Health Authority shall vigorously pursue health care purchasing  
 44 strategies that adopt the research findings described in subsection (1) of this section and the  
 45 evidence-based health care guidelines described in subsection (2) of this section.

1 (5) Public bodies, as defined in ORS 174.109, that purchase health care or provide health services  
 2 directly shall adopt the research findings described in subsection (1) of this section and the  
 3 evidence-based health care guidelines described in subsection (2) of this section.

4 **SECTION 3.** ORS 414.720 is amended to read:

5 414.720. (1) The Health Services Commission shall conduct public hearings prior to making the  
 6 report described in subsection (3) of this section. The commission shall solicit testimony and infor-  
 7 mation from advocates representing seniors, persons with disabilities, mental health services con-  
 8 sumers and low-income Oregonians, representatives of commercial carriers, representatives of small  
 9 and large Oregon employers and providers of health care, including but not limited to physicians  
 10 licensed to practice medicine, dentists, oral surgeons, chiropractors, naturopaths, hospitals, clinics,  
 11 pharmacists, nurses and allied health professionals.

12 (2) The commission shall actively solicit public involvement in a community meeting process to  
 13 build a consensus on the values to be used to guide health resource allocation decisions.

14 (3) The commission shall report to the Governor a list of health services ranked by priority,  
 15 from the most important to the least important, representing the comparative benefits of each ser-  
 16 vice to the entire population to be served. The list submitted by the commission pursuant to this  
 17 subsection is not subject to alteration by any other state agency. The recommendation may include  
 18 practice guidelines reviewed and adopted by the commission pursuant to subsection (4) of this sec-  
 19 tion.

20 (4) In order to encourage effective and efficient medical evaluation and treatment, the commis-  
 21 sion:

22 (a) May include clinical practice guidelines in its prioritized list of services. The commission  
 23 shall actively solicit testimony and information from the medical community and the public to build  
 24 a consensus on clinical practice guidelines developed by the commission.

25 (b) Shall consider both the clinical effectiveness and cost-effectiveness of health services in de-  
 26 termining their relative importance using peer-reviewed medical literature as defined in ORS  
 27 743A.060.

28 (5) The commission shall make its report by July 1 of the year preceding each regular session  
 29 of the Legislative Assembly and shall submit a copy of its report to the Governor, the Speaker of  
 30 the House of Representatives and the President of the Senate.

31 (6) The commission may alter the list during **the** interim only [*under the following conditions*]  
 32 **for the purpose of taking into account:**

33 (a) Technical changes due to errors and omissions; and

34 (b) Changes due to advancements in medical technology, **including medical technology as-**  
 35 **essment recommendations of the Health Resources Commission under ORS 442.583**, or new  
 36 data regarding health outcomes.

37 (7) If a service is deleted or added and no new funding is required, the commission shall report  
 38 to the Speaker of the House of Representatives and the President of the Senate. However, if a ser-  
 39 vice to be added requires increased funding to avoid discontinuing another service, the commission  
 40 must report to the Emergency Board to request the funding.

41 (8) The report listing services to be provided pursuant to ORS 411.404, 414.065, 414.705 to  
 42 414.725 and 414.735 to 414.750 shall remain in effect from October 1 of the odd-numbered year  
 43 through September 30 of the next odd-numbered year.

44 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**  
 45 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**

1 **on its passage.**

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