

Senate Bill 741

Sponsored by Senator BEYER

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**.

Establishes Hospital Cost Commission to regulate billed charges for hospital services. Specifies duties, powers and functions of commission. Provides remedy for individual or third party payer that is billed unreasonable hospital charges.

Establishes Hospital Cost Commission Fund. Continuously appropriates moneys in fund to commission for purposes of carrying out provisions of Act.

Appropriates moneys from General Fund to Hospital Cost Commission for purposes of initial implementation of commission.

A BILL FOR AN ACT

1
2 Relating to hospital charges; and appropriating money.

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

4 **SECTION 1. As used in sections 1 to 17 of this 2011 Act:**

5 (1) **"Charge" means the amount billed to a patient or to a third party payer that is re-**
6 **sponsible for the hospital expense of the patient for a hospital service or supply provided to**
7 **the patient.**

8 (2) **"Hospital" has the meaning given that term in ORS 442.015.**

9 **SECTION 2. (1) The Hospital Cost Commission is established for the purpose of control-**
10 **ling the rising costs to this state and the public of hospital services. The commission consists**
11 **of three members appointed by the Governor. No more than two members may be of the**
12 **same political party.**

13 (2) **The term of office of each member is four years, but a member serves at the pleasure**
14 **of the Governor. Before the expiration of the term of a member, the Governor shall appoint**
15 **a successor whose term begins on January 1 next following the expiration of the term of the**
16 **member. A member is eligible for reappointment. If there is a vacancy for any cause, the**
17 **Governor shall make an appointment to become immediately effective for the unexpired**
18 **term.**

19 (3) **The appointment of the members of the commission is subject to confirmation by the**
20 **Senate in the manner prescribed in ORS 171.562 and 171.565.**

21 (4) **The Governor shall designate the chairperson, who shall serve at the pleasure of the**
22 **Governor.**

23 (5) **The Governor may at any time remove a member for any cause deemed sufficient by**
24 **the Governor. Before the removal the Governor shall give the member notice of the**
25 **allegations, and an opportunity for a hearing within 10 days thereafter. The hearing shall be**
26 **open to the public. If the member is removed, the Governor shall file in the office of the**
27 **Secretary of State a complete statement of all allegations made against the member and the**
28 **findings with a record of the proceedings. Such power of removal is absolute, and there is**

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 no right of review of the same in any court.

2 (6) A member of the commission is entitled to compensation and expenses as provided in
3 ORS 292.495.

4 (7) A majority of the members of the commission constitutes a quorum for the trans-
5 action of business, for the performance of any duty or for the exercise of any power of the
6 commission.

7 (8) The commission shall meet at least once every six months at a place, day and time
8 determined by the commission. The commission may also meet at other times and places
9 specified by the call of the chairperson or of a majority of the members of the commission.

10 **SECTION 3.** Notwithstanding the term of office specified by section 2 of this 2011 Act,
11 of the members first appointed to the Hospital Cost Commission:

12 (1) One shall serve for a term ending December 31, 2014.

13 (2) One shall serve for a term ending December 31, 2015.

14 (3) One shall serve for a term ending on the earlier of the date four years after the ap-
15 pointment or December 31, 2016.

16 **SECTION 4.** (1) A member of the Hospital Cost Commission may not:

17 (a) Hold any other office of profit;

18 (b) Hold any office or position under any political committee or party;

19 (c) Hold any pecuniary interest in any business entity conducting operations that, if
20 conducted in this state, would be subject to the commission's regulatory jurisdiction; or

21 (d) Hold any pecuniary interest in, have any contract of employment with, or have any
22 substantial voluntary transactions with, any business or activity subject to the commission's
23 regulatory jurisdiction.

24 (2) The prohibitions of subsection (1)(c) and (d) of this section apply to the spouse and
25 minor children of each commissioner.

26 (3) If the Governor determines that any commissioner has done any act prohibited by
27 subsection (1) of this section, or that a commissioner's spouse or minor child has done any
28 act prohibited by subsection (2) of this section, the Governor shall remove the commissioner
29 in the manner provided in section 2 of this 2011 Act.

30 (4) Subsection (3) of this section does not apply to a commissioner if the commissioner,
31 or the commissioner's spouse or minor child, acquires any pecuniary interest prohibited by
32 subsection (1) or (2) of this section, advises the Governor of such acquisition, and causes
33 divestiture of such interest within the time specified by the Governor.

34 **SECTION 5.** (1) The Hospital Cost Commission may:

35 (a) Organize and reorganize the office of the Hospital Cost Commission in the manner
36 that the commission considers necessary to properly discharge the responsibilities of the
37 commission.

38 (b) Contract for or procure on a fee or part-time basis, or both, experts or technical or
39 other professional services as the commission may require for the discharge of its duties.

40 (c) Obtain other services as the commission considers necessary or desirable.

41 (d) Appoint advisory committees. A member of an advisory committee shall receive no
42 compensation for services as a member. Subject to ORS 292.495, the member shall receive
43 actual and necessary travel and other expenses incurred in the performance of official duties.

44 (2) Subject to ORS 292.495, the commissioners and the officers and employees of the
45 commission shall be reimbursed for such reasonable and necessary travel and other expenses

1 incurred in the performance of their official duties.

2 (3) The chairperson of the commission designated under section 2 of this 2011 Act shall
3 serve as the administrative head of the commission and has the power to:

4 (a) With the consent of one or more of the other members of the commission, appoint
5 and employ all subordinate officers and employees, including, but not limited to, deputies,
6 assistants, examiners, accountants, auditors, inspectors and clerical personnel, prescribe
7 their duties and fix their compensation, subject to ORS chapter 240.

8 (b) Prescribe internal policies and procedures for the governance of the commission, the
9 conduct of its employees, the assignment and performance of its business, and the custody,
10 use and preservation of its records, papers and property, in a manner consistent with appli-
11 cable law.

12 **SECTION 6.** (1) The Hospital Cost Commission shall be responsible for reviewing hospital
13 charges. A hospital may not bill a charge for a service if the charge has not been approved
14 by the commission, unless the charge is equal to or less than the approved Medicare rate.

15 (2) The commission shall prescribe by rule the form, content, manner and frequency of
16 reports made by hospitals to the commission.

17 (3) The commission may not approve a hospital charge that is unreasonable. A charge is
18 unreasonable if it is based on inefficient or inappropriate use of existing capacity, duplicated
19 services and failure to use less costly alternatives in meeting the needs of patients. Any
20 charge that is equal to or less than the approved Medicare rate shall be considered reason-
21 able.

22 (4) If the commission denies approval of a hospital charge, the hospital may request a
23 hearing. Except as provided in subsection (5) of this section, the hearing shall be conducted
24 in accordance with ORS 183.413 to 183.470.

25 (5) A hearing conducted under this section shall be open to the public. No earlier than
26 30 days before the date of the hearing, the commission shall provide notice of the hearing
27 to all interested parties and to individuals who have requested to receive notice of the
28 hearing and shall post the notice to the commission's website.

29 **SECTION 7.** Any person may file a complaint with the Hospital Cost Commission to as-
30 sert that a charge billed to the person was unreasonable under section 6 of this 2011 Act.
31 The commission shall investigate any complaint and, if the commission finds that there is a
32 reasonable basis for the complaint, may institute such proceedings as the commission deems
33 appropriate. Any proceedings under this section shall be subject to all laws governing the
34 disclosure of protected health information.

35 **SECTION 8.** Each employee of the Hospital Cost Commission shall file with the commis-
36 sion a statement regarding holdings of the employee, and the holdings of the employee's
37 spouse and minor children, of any pecuniary interest in any business or activity subject to
38 the commission's regulatory jurisdiction. A supplementary statement shall be filed as such
39 a pecuniary interest is acquired or divested. The statements shall be in such form as the
40 commission prescribes. If the commission determines that an employee or the spouse or a
41 minor child of the employee holds any such pecuniary interest that may interfere with the
42 impartial discharge of the employee's duties, the commission shall order divestiture of that
43 interest.

44 **SECTION 9.** (1) The Hospital Cost Commission shall dismiss an employee:

45 (a) Who fails to file the statement required by section 8 of this 2011 Act before the 11th

1 day after the date of employment.

2 (b) Who fails to file the supplementary statement required by section 8 of this 2011 Act
3 before the 11th day after the acquisition of a pecuniary interest.

4 (c) Who fails to cause divestiture of a pecuniary interest within the time specified in an
5 order issued pursuant to section 8 of this 2011 Act.

6 (2) Dismissal of an employee under subsection (1) of this section is subject to the proce-
7 dure and appeal provided in ORS 240.555 and 240.560. An employee so dismissed is eligible for
8 reemployment.

9 SECTION 10. (1) The Hospital Cost Commission Fund is established in the State Treas-
10 ury, separate and distinct from the General Fund, consisting of all fees and fines collected
11 by the Hospital Cost Commission under sections 11 and 17 of this 2011 Act. Moneys in the
12 fund are continuously appropriated to the Hospital Cost Commission for carrying out the
13 provisions of sections 1 to 17 of this 2011 Act.

14 (2) The Hospital Cost Commission shall keep a record of all moneys deposited in the
15 Hospital Cost Commission Fund. The record shall indicate by separate cumulative accounts
16 the source from which the moneys are derived and the individual activity or program against
17 which each withdrawal is charged.

18 SECTION 11. (1) Subject to the provisions of subsections (2) and (3) of this section, each
19 hospital licensed under ORS chapter 441 shall pay a fee to the Hospital Cost Commission in
20 each calendar year. The amount of the fee shall equal the amount that the commission finds
21 and determines to be necessary, together with the amount of all other fees paid or payable
22 to the commission by such hospitals in the current calendar year, to defray the costs of
23 performing the duties imposed by law upon the commission under sections 1 to 17 of this 2011
24 Act.

25 (2) In each calendar year, the percentage rate of the fee required to be paid to the com-
26 mission by hospitals shall be determined by orders entered by the commission on or after
27 March 1 of each year. Notice of the orders shall be given to each hospital. A hospital shall
28 pay to the commission the fee or portion thereof so computed upon the date specified in the
29 notice. The date of payment shall be at least 15 days after the date of mailing of the notice.

30 (3) The fee payable under subsection (1) of this section by each hospital may be neither
31 less than \$10 nor more than twenty-five hundredths of one percent of the hospital's gross
32 revenue, as defined in ORS 442.015, derived within this state in the preceding calendar year.

33 (4) The commission may use any of its investigatory and enforcement powers provided
34 under section 16 of this 2011 Act for the purpose of administering and enforcing the pro-
35 visions of this section.

36 SECTION 12. Payment of each fee or portion thereof provided for in section 11 of this
37 2011 Act shall be accompanied by a statement verified by the hospital involved, showing the
38 basis upon which the fee or portion thereof is computed. This statement shall be in such
39 form and detail as the Hospital Cost Commission shall prescribe and shall be subject to audit
40 by the commission. The commission may refund any overpayment of any such fee in the
41 same manner as other claims and expenses of the commission are payable as provided by
42 law.

43 SECTION 13. All fees, fines and other moneys collected by the Hospital Cost Commission
44 shall be deposited in the Hospital Cost Commission Fund established in section 10 of this 2011
45 Act.

1 **SECTION 14.** In accordance with applicable provisions of ORS chapter 183, the Hospital
 2 Cost Commission may adopt rules necessary for the administration of the laws that the
 3 commission is charged with administering.

4 **SECTION 15.** Except as otherwise provided in sections 6 and 7 of this 2011 Act, ORS
 5 chapter 183 applies to the Hospital Cost Commission.

6 **SECTION 16.** The Hospital Cost Commission or a designee of the commission may ad-
 7 minister oaths, take depositions and issue subpoenas to compel the attendance of witnesses
 8 and the production of documents or other written information necessary to carry out the
 9 provisions of sections 1 to 17 of this 2011 Act. If any person fails to comply with a subpoena
 10 issued under this section or refuses to testify on matters on which the person lawfully may
 11 be interrogated, the procedure set out in ORS 183.440 shall be followed to compel obedience.

12 **SECTION 17.** (1) Any hospital that fails to comply with an order or subpoena issued
 13 pursuant to sections 1 to 17 of this 2011 Act shall pay a fine of not less than \$50 nor more
 14 than \$1,000.

15 (2) A hospital that bills a charge that has not been approved by the Hospital Cost Com-
 16 mission under section 6 of this 2011 Act shall pay a fine to the commission of no more than
 17 three times the amount of the charge that was billed. The fine shall be imposed for each
 18 billing that is in violation of section 6 of this 2011 Act.

19 (3) In any proceeding commenced by a complaint of an individual under section 7 of this
 20 2011 Act, if the commission finds the charge to be unreasonable, the hospital that billed the
 21 charge shall be liable for the reasonable attorney fees and costs of the complainant.

22 **SECTION 18.** Section 6 of this 2011 Act becomes operative on July 1, 2012.

23 **SECTION 19.** For hospital charges and fees that are based upon a contract in effect on
 24 the operative date of section 6 of this 2011 Act, sections 1 to 17 of this 2011 Act apply to the
 25 renewal or extension of such contracts that occur on or after the operative date of section
 26 6 of this 2011 Act.

27 **SECTION 20.** There is appropriated to the Hospital Cost Commission, for the biennium
 28 beginning July 1, 2011, out of the General Fund, the amount of \$_____ for the purpose of
 29 carrying out the provisions of sections 1 to 17 of this 2011 Act.

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