

SENATE AMENDMENTS TO SENATE BILL 86

By COMMITTEE ON HEALTH CARE, HUMAN SERVICES AND RURAL HEALTH
POLICY

April 29

1 On page 1 of the printed bill, delete lines 7 through 28 and delete page 2 and insert:

2 **“SECTION 2. (1) As used in this section and section 3 of this 2011 Act:**

3 **“(a) ‘Control’ means the possession, directly or indirectly, of the power to direct or cause**
4 **the direction of the management and policies of a person, whether through the ownership**
5 **of voting stock, by contract or otherwise. A person who is the owner of 10 percent or more**
6 **ownership interest in a retainer medical practice or applicant for a certificate to operate a**
7 **retainer medical practice is presumed to have control.**

8 **“(b) ‘Primary care’ means outpatient, nonspecialty medical services or the coordination**
9 **of health care for the purpose of:**

10 **“(A) Promoting or maintaining mental and physical health and wellness; and**

11 **“(B) Diagnosis, treatment or management of acute or chronic conditions caused by dis-**
12 **ease, injury or illness.**

13 **“(c) ‘Provider’ means a health care professional licensed or certified under ORS chapter**
14 **677, 678, 684 or 685 who provides primary care in the ordinary course of business or practice**
15 **of a profession.**

16 **“(d) ‘Retainer medical agreement’ means a written agreement between a retainer medical**
17 **practice and a patient or a legal representative or guardian of a patient specifying a defined**
18 **and predetermined set of primary care services to be provided in consideration for a retainer**
19 **medical fee.**

20 **“(e) ‘Retainer medical fee’ means any fee paid to a retainer medical practice pursuant**
21 **to a medical retainer agreement.**

22 **“(f) ‘Retainer medical practice’ means a provider, a group of providers or a person that**
23 **employs or contracts with a provider or a group of providers to provide services under the**
24 **terms of a retainer medical agreement.**

25 **“(2) A retainer medical practice must be certified by the Department of Consumer and**
26 **Business Services. To qualify to become a certified retainer medical practice or to renew a**
27 **certificate, the practice:**

28 **“(a) May not have or have ever had a certificate of authority to transact insurance in**
29 **this state.**

30 **“(b) May not be or have ever been licensed, certified or otherwise authorized in this state**
31 **or any other state to act as an insurer, managed care organization, health care service**
32 **contractor or similar entity.**

33 **“(c) May not be controlled by an entity described in paragraph (a) or (b) of this sub-**
34 **section.**

35 **“(3) A certified retainer medical practice:**

1 “(a) Must provide only primary care and must limit the scope of services provided or the
2 number of patients served to an amount that is within the capacity of the practice to provide
3 in a timely manner;

4 “(b) May not require payment of a retainer medical fee for a period covering more than
5 one month;

6 “(c) Must reimburse any retainer medical fees for services agreed to be provided but that
7 are not provided during the term of the retainer medical agreement;

8 “(d) May not bill an insurer, a self-insured plan or the state medical assistance program
9 for a service provided by the practice to a patient pursuant to a retainer medical agreement;

10 “(e) Must be financially responsible and have the necessary business experience or ex-
11 pertise to operate the practice;

12 “(f) Must give the written disclosures described in subsection (4) of this section;

13 “(g) May not use or disseminate misleading, deceptive or false statements in marketing,
14 advertising, promotional, sales or informational materials regarding the practice or in com-
15 munications with patients or prospective patients;

16 “(h) May not engage in dishonest, fraudulent or illegal conduct in any business or pro-
17 fession; and

18 “(i) May not discriminate based on race, religion, gender, sexual identity, sexual prefer-
19 ence or health status.

20 “(4) A certified retainer medical practice must make the following written information
21 available to prospective patients by prominently disclosing, in the manner prescribed by the
22 department by rule, in marketing materials and retainer medical agreement:

23 “(a) That the practice is not insurance;

24 “(b) That the practice provides only the limited scope of primary care services specified
25 in the retainer medical agreement;

26 “(c) That a patient must pay for all services not specified in the retainer medical agree-
27 ment; and

28 “(d) Any other disclosures required by the department by rule.

29 “(5) The department may by written order deny, suspend or revoke a retainer medical
30 practice certificate or may refuse to renew a retainer medical practice certificate if the de-
31 partment finds that:

32 “(a) The retainer medical practice does not meet the criteria in subsections (2) to (4) of
33 this section;

34 “(b) The retainer medical practice has provided false, misleading, incomplete or inaccur-
35 ate information in the application for a certificate or renewal of a certificate;

36 “(c) The retainer medical practice provides medical services through a provider whose
37 license to provide the medical services offered on behalf of the retainer medical practice is
38 revoked;

39 “(d) The authority of the retainer medical practice to operate a retainer medical practice
40 or similar practice in another jurisdiction is denied, suspended, revoked or not renewed;

41 “(e) The retainer medical practice, a person who has control over the retainer medical
42 practice or a health care provider providing services on behalf of the retainer medical prac-
43 tice is charged with a felony or misdemeanor involving dishonesty; or

44 “(f) The retainer medical practice fails to comply with subsection (7) of this section.

45 “(6) With respect to a certified retainer medical practice or a retainer medical practice

1 operating without a certificate, the department is authorized to:

2 “(a) Investigate;

3 “(b) Subpoena documents and records related to the business of the practice; and

4 “(c) Take any actions authorized by the Insurance Code that are necessary to administer
5 and enforce this section.

6 “(7) A retainer medical practice subject to an investigation under subsection (5) of this
7 section must:

8 “(a) Within five business days, respond to inquiries in the form and manner specified by
9 the department; and

10 “(b) Reimburse the expenses incurred by the department in conducting the investigation.

11 “(8) A retainer medical practice may contest any order made under subsection (5) of this
12 section in accordance with ORS chapter 183.

13 “(9) A certificate issued under subsection (2) of this section is effective for one year or
14 for a longer period as prescribed by the department by rule.

15 “(10) The department may adopt rules necessary or appropriate to implement the pro-
16 visions of this section.

17 “**SECTION 3. A certified retainer medical practice shall:**

18 “(1) Notify the Department of Consumer and Business Services immediately whenever:

19 “(a) The license of a provider who has provided services on behalf of the practice is de-
20 nied, suspended, revoked or not renewed in this state or in any other jurisdiction; or

21 “(b) The authority of the practice to operate in another jurisdiction is denied, suspended,
22 revoked or not renewed.

23 “(2) Notify the department no later than 30 days after any change to the name, address
24 or contact information that is provided in the application for certification under section 2
25 of this 2011 Act.”.

26 On page 3, delete lines 1 through 15.

27 On page 6, delete lines 3 and 4 and insert:

28 “(12) Except as provided in sections 2 and 3 of this 2011 Act, a person certified by the Depart-
29 ment of Consumer and Business Services to operate a retainer medical practice.

30 “**SECTION 5. Notwithstanding section 2 (2) and (4) of this 2011 Act, a retainer medical**
31 **practice certified by the Department of Consumer and Business Services under section 2 of**
32 **this 2011 Act or a retainer medical practice applying for a certificate or the renewal of a**
33 **certificate is permitted to exhaust the practice’s supply of marketing materials created prior**
34 **to the effective date of this 2011 Act.”.**

35 In line 5, delete “5” and insert “6”.
36 _____