

Senate Bill 901

Sponsored by Senators BOQUIST, WINTERS; Senators ATKINSON, FERRIOLI, GEORGE, GIROD, KRUSE, NELSON, OLSEN, TELFER, THOMSEN, Representative WAND

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**.

Revises definition of ambulatory surgical center to include medical facility operated substantially for purpose of performing abortions. Specifies criteria.

A BILL FOR AN ACT

1
2 Relating to ambulatory surgical centers; amending ORS 442.015.

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

4 **SECTION 1.** ORS 442.015 is amended to read:

5 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

6 (1) "Acquire" or "acquisition" means obtaining equipment, supplies, components or facilities by
7 any means, including purchase, capital or operating lease, rental or donation, with intention of using
8 such equipment, supplies, components or facilities to provide health services in Oregon. When
9 equipment or other materials are obtained outside of this state, acquisition is considered to occur
10 when the equipment or other materials begin to be used in Oregon for the provision of health ser-
11 vices or when such services are offered for use in Oregon.

12 (2) "Affected persons" has the same meaning as given to "party" in ORS 183.310.

13 (3)(a) "Ambulatory surgical center" means:

14 (A) A facility or portion of a facility that operates exclusively for the purpose of providing
15 surgical services to patients who do not require hospitalization and for whom the expected duration
16 of services does not exceed 24 hours following admission.

17 (B) **A facility that operates substantially for the purpose of performing abortions.**

18 (b) **For purposes of this subsection, a facility operates substantially for the purpose of**
19 **performing abortions if:**

20 (A) **Ten or more abortions in any calendar month or 100 or more abortions per calendar**
21 **year are performed on the premises of the facility;**

22 (B) **The facility holds itself out to the public as an abortion provider by any public means,**
23 **including but not limited to newspaper, telephone directory, magazine or electronic media;**
24 **and**

25 (C) **The facility has at the facility or on call a physician licensed under ORS chapter 677**
26 **to perform abortions.**

27 (c) **As used in this subsection, "abortion" means the use or prescription of any instru-**
28 **ment, medicine, drug or other substance or device approved by the United States Food and**
29 **Drug Administration to terminate the pregnancy of a woman known to be pregnant, with an**
30 **intention other than to:**

31 (A) **Increase the probability of a live birth;**

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 **(B) Preserve the life or health of a child after live birth; or**

2 **(C) Remove a dead fetus.**

3 **[(b)] (d) “Ambulatory surgical center” does not mean:**

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

8 (B) A portion of a licensed hospital designated for outpatient surgical treatment.

9 (4) “Budget” means the projections by the hospital for a specified future time period of expen-
10 ditures and revenues with supporting statistical indicators.

11 (5) “Develop” means to undertake those activities that on their completion will result in the
12 offer of a new institutional health service or the incurring of a financial obligation, as defined under
13 applicable state law, in relation to the offering of such a health service.

14 (6) “Expenditure” or “capital expenditure” means the actual expenditure, an obligation to an
15 expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a
16 donation or grant in lieu of an expenditure but not including any interest thereon.

17 (7) “Freestanding birthing center” means a facility licensed for the primary purpose of per-
18 forming low risk deliveries.

19 (8) “Governmental unit” means the state, or any county, municipality or other political subdi-
20 vision, or any related department, division, board or other agency.

21 (9) “Gross revenue” means the sum of daily hospital service charges, ambulatory service
22 charges, ancillary service charges and other operating revenue. “Gross revenue” does not include
23 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

24 (10)(a) “Health care facility” means:

25 (A) A hospital;

26 (B) A long term care facility;

27 (C) An ambulatory surgical center;

28 (D) A freestanding birthing center; or

29 (E) An outpatient renal dialysis center.

30 (b) “Health care facility” does not mean:

31 (A) A residential facility licensed by the Department of Human Services or the Oregon Health
32 Authority under ORS 443.415;

33 (B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;

34 (C) A residential facility licensed or approved under the rules of the Department of Corrections;

35 (D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or

36 (E) Community mental health programs or community developmental disabilities programs es-
37 tablished under ORS 430.620.

38 (11) “Health maintenance organization” or “HMO” means a public organization or a private
39 organization organized under the laws of any state that:

40 (a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or

41 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
42 cluding at least the following basic health care services:

43 (i) Usual physician services;

44 (ii) Hospitalization;

45 (iii) Laboratory;

1 (iv) X-ray;

2 (v) Emergency and preventive services; and

3 (vi) Out-of-area coverage;

4 (B) Is compensated, except for copayments, for the provision of the basic health care services
5 listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic
6 rate basis; and

7 (C) Provides physicians' services primarily directly through physicians who are either employees
8 or partners of such organization, or through arrangements with individual physicians or one or more
9 groups of physicians organized on a group practice or individual practice basis.

10 (12) "Health services" means clinically related diagnostic, treatment or rehabilitative services,
11 and includes alcohol, drug or controlled substance abuse and mental health services that may be
12 provided either directly or indirectly on an inpatient or ambulatory patient basis.

13 (13) "Hospital" means:

14 (a) A facility with an organized medical staff and a permanent building that is capable of pro-
15 viding 24-hour inpatient care to two or more individuals who have an illness or injury and that
16 provides at least the following health services:

17 (A) Medical;

18 (B) Nursing;

19 (C) Laboratory;

20 (D) Pharmacy; and

21 (E) Dietary; or

22 (b) A special inpatient care facility as that term is defined by the Oregon Health Authority by
23 rule.

24 (14) "Institutional health services" means health services provided in or through health care
25 facilities and includes the entities in or through which such services are provided.

26 (15) "Intermediate care facility" means a facility that provides, on a regular basis, health-related
27 care and services to individuals who do not require the degree of care and treatment that a hospital
28 or skilled nursing facility is designed to provide, but who because of their mental or physical con-
29 dition require care and services above the level of room and board that can be made available to
30 them only through institutional facilities.

31 (16) "Long term care facility" means a facility with permanent facilities that include inpatient
32 beds, providing medical services, including nursing services but excluding surgical procedures ex-
33 cept as may be permitted by the rules of the Director of Human Services, to provide treatment for
34 two or more unrelated patients. "Long term care facility" includes skilled nursing facilities and
35 intermediate care facilities but may not be construed to include facilities licensed and operated
36 pursuant to ORS 443.400 to 443.455.

37 (17) "New hospital" means a facility that did not offer hospital services on a regular basis within
38 its service area within the prior 12-month period and is initiating or proposing to initiate such ser-
39 vices. "New hospital" also includes any replacement of an existing hospital that involves a sub-
40 stantial increase or change in the services offered.

41 (18) "New skilled nursing or intermediate care service or facility" means a service or facility
42 that did not offer long term care services on a regular basis by or through the facility within the
43 prior 12-month period and is initiating or proposing to initiate such services. "New skilled nursing
44 or intermediate care service or facility" also includes the rebuilding of a long term care facility, the
45 relocation of buildings that are a part of a long term care facility, the relocation of long term care

1 beds from one facility to another or an increase in the number of beds of more than 10 or 10 percent
2 of the bed capacity, whichever is the lesser, within a two-year period.

3 (19) "Offer" means that the health care facility holds itself out as capable of providing, or as
4 having the means for the provision of, specified health services.

5 (20) "Outpatient renal dialysis facility" means a facility that provides renal dialysis services
6 directly to outpatients.

7 (21) "Person" means an individual, a trust or estate, a partnership, a corporation (including as-
8 sociations, joint stock companies and insurance companies), a state, or a political subdivision or
9 instrumentality, including a municipal corporation, of a state.

10 (22) "Skilled nursing facility" means a facility or a distinct part of a facility, that is primarily
11 engaged in providing to inpatients skilled nursing care and related services for patients who require
12 medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation
13 of individuals who are injured or sick or who have disabilities.

14