

House Bill 2094

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Health Authority)

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**.

Aligns state law with federal law allowing clinical laboratories to provide test results directly to patients. Updates terminology and corrects references. Authorizes Oregon Health Authority to review individual patient records for purpose of evaluating health care facility's compliance with Oregon Health Care Acquired Infection Reporting Program. Specifies that evaluation reports are not subject to public disclosure, but aggregate data from reports must be provided to Health Care Acquired Infection Advisory Committee.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public health; creating new provisions; amending ORS 431.045, 438.430, 443.065, 443.075
3 and 443.305 and section 12, chapter 838, Oregon Laws 2007; and declaring an emergency.

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

5 **SECTION 1.** ORS 431.045 is amended to read:

6 431.045. (1) The Director of the Oregon Health Authority shall appoint a physician licensed by
7 the Oregon Medical Board and certified by the American Board of Preventive Medicine who shall
8 serve as the Public Health Officer and be responsible for the medical and paramedical aspects of the
9 health programs within the Oregon Health Authority.

10 **(2) The Public Health Officer is responsible for the duties imposed by 42 U.S.C.**
11 **300ff-133(g) and 300ff-136. The officer may adopt rules to carry out the officer's responsibil-**
12 **ities under this subsection.**

13 **SECTION 2.** ORS 438.430 is amended to read:

14 438.430. (1) Except as otherwise provided in ORS 438.010 to 438.510, a clinical laboratory shall
15 examine specimens only at the request of a physician, dentist[,] or other person authorized by law
16 to use the findings of laboratory examinations.

17 (2) A person may not report the result of any test, examination[,] or analysis of a specimen
18 submitted for evidence of human disease except to:

19 (a) The patient; and

20 (b) A physician, dentist, [*their*] agents **of a physician or dentist**, or [*other*] **another** person au-
21 thorized by law to employ the results [*thereof*] in the conduct of a practice or in the fulfillment of
22 official duties.

23 [*(3) A clinical laboratory shall provide the results of a test, examination or analysis of a specimen*
24 *submitted by a patient in writing to the patient:]*

25 [*(a) Not sooner than seven days after receiving a request for the results from the patient; or]*

26 [*(b) Immediately upon receiving authorization from the doctor, dentist or other person who re-*
27 *quested the test, examination or analysis to provide the results to the patient.]*

28 **SECTION 3.** ORS 443.065 is amended to read:

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.

1 443.065. The home health agency shall:

2 (1) Be primarily engaged in providing skilled nursing services and at least one other service
3 delineated in ORS 443.075 [(2) and (3)] **(1)(b) and (c)**;

4 (2) Have policies established by professional personnel associated with the agency or organiza-
5 tion, including one or more physicians and one or more registered nurses, at least two of whom are
6 neither owners nor employees of the agency, and two consumers, to govern the services that it
7 provides;

8 (3) Require supervision of services that it provides under subsection (1) of this section by a
9 physician, nurse practitioner or registered nurse, preferably a public health nurse;

10 (4) Maintain clinical[,] **and** financial [*and professional*] records on all patients; and

11 (5) Have an overall plan and budget in effect.

12 **SECTION 4.** ORS 443.075 is amended to read:

13 443.075. (1) A home health agency must have an order for treatment, [*and*] plan of treatment
14 **or plan of care** from a physician or nurse practitioner for the following services and supplies:

15 (a) Home nursing care provided by or under the supervision of a registered nurse;

16 (b) Physical, occupational or speech therapy, medical social services or other therapeutic ser-
17 vices;

18 (c) Home health aide services; and

19 (d) Medical supplies, other than drugs and biologicals, and the use of medical appliances.

20 (2) A home health agency shall have each plan of treatment **or plan of care** reviewed by the
21 physician or nurse practitioner periodically, in accordance with rules adopted by the Oregon Health
22 Authority.

23 **SECTION 5.** ORS 443.305 is amended to read:

24 443.305. As used in ORS 443.305 to 443.350:

25 (1) "In-home care agency" means an agency primarily engaged in providing in-home care ser-
26 vices for compensation to an individual in that individual's place of residence. "In-home care
27 agency" does not include a home health agency as defined in ORS 443.005.

28 (2) "In-home care services" means personal care services furnished by an in-home care agency,
29 or an individual under an arrangement or contract with an in-home care agency, that are necessary
30 to assist an individual in meeting the individual's daily needs, but does not include curative or
31 rehabilitative services.

32 (3) "Subunit" means an in-home care agency that provides services for a parent agency in a
33 geographic area different from that of the parent agency and [*generally exceeding one hour of travel*
34 *time*] **more than 60 miles** from the location of the parent agency.

35 **SECTION 6.** Section 7 of this 2013 Act is added to and made a part of sections 1 to 6,
36 chapter 838, Oregon Laws 2007.

37 **SECTION 7.** (1) For the purpose of evaluating a health care facility's compliance with
38 sections 1 to 6, chapter 838, Oregon Laws 2007, the Oregon Health Authority may request,
39 and the health care facility shall make available to the authority for review, individual pa-
40 tient medical records and laboratory reports.

41 (2) The authority shall prepare a report of any evaluation performed based upon infor-
42 mation made available to the authority under this section and shall provide a copy of the
43 report to the health care facility. The report is not subject to disclosure under ORS 192.410
44 to 192.505.

45 (3) The authority shall provide to the Health Care Acquired Infection Advisory Commit-

1 **tee the results of reports prepared under this section, excluding information that identifies**
2 **individuals or facilities.**

3 **SECTION 8.** Section 12, chapter 838, Oregon Laws 2007, is amended to read:

4 **Sec. 12.** [*Sections 1 to 6 of this 2007 Act*] **Sections 1, 2, 3, 4, 5 and 6, chapter 838, Oregon**
5 **Laws 2007, and section 7 of this 2013 Act** are repealed on January 2, 2018.

6 **SECTION 9.** **This 2013 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
8 **on its passage.**

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