

B-Engrossed
Senate Bill 569

Ordered by the House May 16
Including Senate Amendments dated April 16 and House Amendments
dated May 16

Sponsored by Senators STEINER HAYWARD, KRUSE, Representative HARKER; Senators BAERTSCHIGER JR, BATES, BEYER, BOQUIST, BURDICK, CLOSE, COURTNEY, DEVLIN, DINGFELDER, EDWARDS, FERRIOLI, GEORGE, GIROD, HANSELL, HASS, JOHNSON, KNOPP, MONNES ANDERSON, MONROE, OLSEN, PROZANSKI, ROBLAN, ROSENBAUM, SHIELDS, STARR, THOMSEN, WHITSETT, WINTERS, Representatives BAILEY, BARKER, BARNHART, BENTZ, BERGER, BOONE, CONGER, DAVIS, DEMBROW, DOHERTY, ESQUIVEL, FREDERICK, FREEMAN, GARRETT, GILLIAM, GORSEK, GREENLICK, HICKS, HOLVEY, HUFFMAN, JOHNSON, KENNEMER, KOMP, KRIEGER, LIVELY, MATTHEWS, OLSON, PARRISH, READ, SMITH, SPRENGER, THATCHER, THOMPSON, VEGA PEDERSON, WEIDNER, WHITSETT, WITT

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.

Requires Oregon Health Authority to adopt uniform documentation requirements for credentialing providers of telemedicine services. Authorizes hospital to accept documentation of credentials of telemedicine providers either by agreement with distant-site hospital or by providers meeting documentation requirements established by authority.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to telemedicine; creating new provisions; amending ORS 442.015 and 442.807; and declaring
3 an emergency.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 441.**

6 **SECTION 2. (1) The Oregon Health Authority shall prescribe by rule the information and**
7 **documents that a governing body of an originating-site hospital may request for credential-**
8 **ing a telemedicine provider located at a distant-site hospital.**

9 **(2) The rules adopted by the authority under subsection (1) of this section must:**

10 **(a) Prescribe a standard list of information and documents that shall be provided by a**
11 **distant-site hospital;**

12 **(b) Prescribe a list of information and documents that may be requested by an**
13 **originating-site hospital in addition to the standard list of information and documents;**

14 **(c) Prescribe a list of information and documents that may not be requested by an**
15 **originating-site hospital; and**

16 **(d) Be consistent with all applicable legal and accreditation requirements of an**
17 **originating-site hospital and the health plans with which the originating-site hospital con-**
18 **tracts.**

19 **(3) Except as provided in subsection (4) of this section, an originating-site hospital in this**
20 **state must comply with the rules adopted under this section if the telemedicine provider is**
21 **located at a distant-site hospital that is located in this state. This section does not prevent**

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 hospitals located outside of this state from using or require such hospitals to use the pre-
2 scribed list of information and documents in credentialing a telemedicine provider.

3 (4) An originating-site hospital is not limited to the information and documents pre-
4 scribed by the authority if the originating-site hospital has a delegated credentialing agree-
5 ment with the distant-site hospital where the telemedicine provider is located and the
6 governing body of the originating-site hospital accepts the recommendation of the medical
7 staff to credential the telemedicine provider.

8 (5) In the adoption of the rules described in subsections (1) and (2) of this section, the
9 authority shall consult with representatives of distant-site hospitals and originating-site
10 hospitals in this state. Once adopted, the authority may not amend the rules to alter the
11 prescribed lists without first consulting representatives of distant-site hospitals and
12 originating-site hospitals in this state.

13 (6) This section does not affect the responsibilities of a governing body under ORS 441.055
14 and does not require a governing body of a hospital to grant privileges to a telemedicine
15 provider.

16 **SECTION 3.** ORS 442.015 is amended to read:

17 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

18 (1) “Acquire” or “acquisition” means obtaining equipment, supplies, components or facilities by
19 any means, including purchase, capital or operating lease, rental or donation, [*with intention*] **for**
20 **the purpose** of using such equipment, supplies, components or facilities to provide health services
21 in Oregon. When equipment or other materials are obtained outside of this state, acquisition is
22 considered to occur when the equipment or other materials begin to be used in Oregon for the
23 provision of health services or when such services are offered for use in Oregon.

24 (2) “Affected persons” has the same meaning as given to “party” in ORS 183.310.

25 (3)(a) “Ambulatory surgical center” means a facility or portion of a facility that operates ex-
26 clusively for the purpose of providing surgical services to patients who do not require
27 hospitalization and for whom the expected duration of services does not exceed 24 hours following
28 admission.

29 (b) “Ambulatory surgical center” does not mean:

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

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

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

37 (4) **“Delegated credentialing agreement” means a written agreement between an**
38 **originating-site hospital and a distant-site hospital that provides that the medical staff of the**
39 **originating-site hospital will rely upon the credentialing and privileging decisions of the**
40 **distant-site hospital in making recommendations to the governing body of the originating-**
41 **site hospital as to whether to credential a telemedicine provider, practicing at the distant-**
42 **site hospital either as an employee or under contract, to provide telemedicine services to**
43 **patients in the originating-site hospital.**

44 (5) “Develop” means to undertake those activities that on their completion will result in the
45 offer of a new institutional health service or the incurring of a financial obligation, as defined under

1 applicable state law, in relation to the offering of such a health service.

2 **(6) “Distant-site hospital” means the hospital where a telemedicine provider, at the time**
3 **the telemedicine provider is providing telemedicine services, is practicing as an employee or**
4 **under contract.**

5 [(6)] (7) “Expenditure” or “capital expenditure” means the actual expenditure, an obligation to
6 an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of
7 a donation or grant in lieu of an expenditure but not including any interest thereon.

8 [(7)] (8) “Freestanding birthing center” means a facility licensed for the primary purpose of
9 performing low risk deliveries.

10 [(8)] (9) “Governmental unit” means the state, or any county, municipality or other political
11 subdivision, or any related department, division, board or other agency.

12 [(9)] (10) “Gross revenue” means the sum of daily hospital service charges, ambulatory service
13 charges, ancillary service charges and other operating revenue. “Gross revenue” does not include
14 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

15 [(10)(a)] (11)(a) “Health care facility” means:

- 16 (A) A hospital;
- 17 (B) A long term care facility;
- 18 (C) An ambulatory surgical center;
- 19 (D) A freestanding birthing center; or
- 20 (E) An outpatient renal dialysis center.

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

- 22 (A) A residential facility licensed by the Department of Human Services or the Oregon Health
23 Authority under ORS 443.415;
- 24 (B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;
- 25 (C) A residential facility licensed or approved under the rules of the Department of Corrections;
- 26 (D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or
- 27 (E) Community mental health programs or community developmental disabilities programs es-
28 tablished under ORS 430.620.

29 [(11)] (12) “Health maintenance organization” or “HMO” means a public organization or a pri-
30 vate organization organized under the laws of any state that:

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

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

- 34 (i) Usual physician services;
- 35 (ii) Hospitalization;
- 36 (iii) Laboratory;
- 37 (iv) X-ray;
- 38 (v) Emergency and preventive services; and
- 39 (vi) Out-of-area coverage;

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

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

1 [(12)] (13) “Health services” means clinically related diagnostic, treatment or rehabilitative
2 services, and includes alcohol, drug or controlled substance abuse and mental health services that
3 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

4 [(13)] (14) “Hospital” means:

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

8 (A) Medical;

9 (B) Nursing;

10 (C) Laboratory;

11 (D) Pharmacy; and

12 (E) Dietary; or

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

15 [(14)] (15) “Institutional health services” means health services provided in or through health
16 care facilities and includes the entities in or through which such services are provided.

17 [(15)] (16) “Intermediate care facility” means a facility that provides, on a regular basis,
18 health-related care and services to individuals who do not require the degree of care and treatment
19 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
20 or physical condition require care and services above the level of room and board that can be made
21 available to them only through institutional facilities.

22 [(16)] (17)(a) “Long term care facility” means a **permanent** facility with [*permanent facilities*
23 *that include*] inpatient beds, providing:

24 (A) Medical services, including nursing services but excluding surgical procedures except as
25 may be permitted by the rules of the Director of Human Services[, *to provide*]; **and**

26 (B) Treatment for two or more unrelated patients.

27 (b) “Long term care facility” includes skilled nursing facilities and intermediate care facilities
28 but [*may not be construed to*] **does not** include facilities licensed and operated pursuant to ORS
29 443.400 to 443.455.

30 [(17)] (18) “New hospital” means:

31 (a) A facility that did not offer hospital services on a regular basis within its service area
32 within the prior 12-month period and is initiating or proposing to initiate such services[. “*New*
33 *hospital*” *also includes*]; **or**

34 (b) Any replacement of an existing hospital that involves a substantial increase or change in the
35 services offered.

36 [(18)] (19) “New skilled nursing or intermediate care service or facility” means a service or fa-
37 cility that did not offer long term care services on a regular basis by or through the facility within
38 the prior 12-month period and is initiating or proposing to initiate such services. “New skilled
39 nursing or intermediate care service or facility” also includes the rebuilding of a long term care
40 facility, the relocation of buildings that are a part of a long term care facility, the relocation of long
41 term care beds from one facility to another or an increase in the number of beds of more than 10
42 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

43 [(19)] (20) “Offer” means that the health care facility holds itself out as capable of providing,
44 or as having the means for the provision of, specified health services.

45 (21) “**Originating-site hospital**” means a hospital in which a patient is located while re-

1 **ceiving telemedicine services.**

2 [(20)] (22) "Outpatient renal dialysis facility" means a facility that provides renal dialysis ser-
3 vices directly to outpatients.

4 [(21)] (23) "Person" means an individual, a trust or estate, a partnership, a corporation (includ-
5 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
6 or instrumentality, including a municipal corporation, of a state.

7 [(22)] (24) "Skilled nursing facility" means a facility or a distinct part of a facility, that is pri-
8 marily engaged in providing to inpatients skilled nursing care and related services for patients who
9 require medical or nursing care, or an institution that provides rehabilitation services for the re-
10 habilitation of individuals who are injured or sick or who have disabilities.

11 **(25) "Telemedicine" means the provision of health services to patients by physicians and**
12 **health care practitioners from a distance using electronic communications.**

13 **SECTION 4.** ORS 442.807 is amended to read:

14 442.807. (1) Within 30 days of receiving the recommendations of the Advisory Committee on
15 Physician Credentialing Information, the Administrator of the Office for Oregon Health Policy and
16 Research shall forward the recommendations to the Director of the Oregon Health Authority. The
17 administrator shall request that the Oregon Health Authority adopt rules to carry out the efficient
18 implementation and enforcement of the recommendations of the committee.

19 (2) The Oregon Health Authority shall:

20 (a) Adopt administrative rules in a timely manner, as required by the Administrative Procedures
21 Act, for the purpose of effectuating the provisions of ORS 442.800 to 442.807; and

22 (b) Consult with each other and with the administrator to ensure that the rules adopted by the
23 Oregon Health Authority are identical and are consistent with the recommendations developed
24 pursuant to ORS 442.805 for affected hospitals and health care service contractors.

25 (3) The uniform credentialing information required pursuant to the administrative rules of the
26 Oregon Health Authority represent the minimum uniform credentialing information required by the
27 affected hospitals and health care service contractors. *[Nothing in ORS 442.800 to 442.807 shall be*
28 *interpreted to prevent an affected hospital or health care service contractor from requesting]* **Except**
29 **as provided in subsection (4) of this section, a hospital or health care service contractor may**
30 **request** additional credentialing information from a licensed physician for the purpose of completing
31 physician credentialing procedures used by the affected hospital or health care service contractor.

32 **(4) In credentialing a telemedicine provider, a hospital is subject to the requirements**
33 **prescribed by rule by the authority under section 2 of this 2013 Act.**

34 **SECTION 5.** (1) Section 2 of this 2013 Act and the amendments to ORS 442.015 and 442.807
35 **by sections 3 and 4 of this 2013 Act become operative October 1, 2013.**

36 **(2) The Director of the Oregon Health Authority may take any actions necessary before**
37 **October 1, 2013, in order to implement section 2 of this 2013 Act and the amendments to ORS**
38 **442.015 and 442.807 by sections 3 and 4 of this 2013 Act on and after October 1, 2013.**

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

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