

Enrolled
Senate Bill 683

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

CHAPTER

AN ACT

Relating to health care practitioner referrals to health care entities; creating new provisions; and amending ORS 441.098.

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

SECTION 1. ORS 441.098 is amended to read:

441.098. (1) As used in this section **and sections 2 and 3 of this 2013 Act:**

(a) "Facility" means a hospital, **outpatient clinic owned by a hospital**, ambulatory surgical center, [or] freestanding birthing center **or facility that receives Medicare reimbursement as an independent diagnostic testing facility.**

(b) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(c)(A) "Health practitioner" means a physician, podiatric physician and surgeon, dentist, direct entry midwife, [or] licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner, **certified nurse practitioner, licensed physician assistant or medical imaging licensee under ORS 688.405 to 688.605.**

(B) "Health practitioner" **does not include a provider in a health maintenance organization as defined in ORS 750.005.**

(d) "Physician" has the meaning given that term in ORS 677.010.

(2) **A health practitioner's decision to refer a patient to a facility for a diagnostic test or health care treatment or service shall be based on the patient's clinical needs and personal health choices.**

[(2)] (3) If a health practitioner refers a patient for **a diagnostic test or health care treatment or service** at a facility in which the health practitioner or an immediate family member **of the health practitioner** has a financial interest, the health practitioner **or the practitioner's designee** shall inform the patient orally and in writing of that interest at the time of the referral.

(4)(a) **If a health practitioner refers a patient to a facility for a diagnostic test or health care treatment or service, the health practitioner or the practitioner's designee shall inform the patient, in the form and manner prescribed by the Oregon Health Authority by rule, that:**

(A) **The patient may receive the test, treatment or service at a different facility of the patient's choice; and**

(B) **If the patient chooses a different facility, the patient should contact the patient's insurer regarding the extent of coverage or the limitations on coverage for the test, treatment or service at the facility chosen by the patient.**

(b) **Rules concerning the form and manner for informing a patient as required by this subsection shall:**

(A) Be designed to ensure that the information is conveyed in a timely and meaningful manner;

(B) Be administratively simple; and

(C) Accommodate a provider's adoption and use of electronic health record systems.

(5) A health practitioner may not deny, limit or withdraw a referral to a facility solely for the reason that the patient chooses to obtain the test, treatment or service from a different facility.

(6) The authority may not impose additional restrictions or limitations on any referral described in this section that are in addition to the requirements specified in subsections (3) and (4) of this section.

[3] (7) In obtaining informed consent for a **diagnostic test or health care treatment or service** that will take place at a facility, a health practitioner shall disclose the manner in which care will be provided in the event that complications occur that require health services beyond what the facility has the capability to provide.

(8) Subsections (3) to (5) of this section do not apply to a referral for a **diagnostic test or health care treatment or service**:

(a) For a patient who is receiving inpatient hospital services or services in an emergency department if the referral is for a **diagnostic test or health care treatment or service** to be performed while the patient is in the hospital or emergency department;

(b) Made to a particular facility after the initial referral of the patient to that facility; or

(c) Made by the facility or provider to whom a patient was referred.

SECTION 2. (1) A health practitioner who fails to comply with ORS 441.098 (2), (3), (4) or (5) shall be subject to disciplinary action by the Oregon Health Licensing Agency or by the appropriate health professional regulatory board as defined in ORS 676.160.

(2) The Oregon Health Licensing Agency or the appropriate health professional regulatory board may investigate a claim under ORS 441.098 in accordance with the investigative authority granted under ORS 676.165.

SECTION 3. If the Oregon Health Licensing Agency or the appropriate health professional regulatory board takes disciplinary action under section 2 of this 2013 Act, the agency or board may also impose a civil penalty of not more than \$1,000 on a health practitioner for violating ORS 441.098 (2), (3), (4) or (5).

Passed by Senate April 24, 2013

Repassed by Senate June 18, 2013

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 13, 2013

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State