

A-Engrossed
Senate Bill 683

Ordered by the Senate April 22
Including Senate Amendments dated April 22

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

Corrected 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.

Prohibits health care practitioners from *[referring]* **limiting referrals of** patients to health care entities in which practitioner *[has beneficial interest or with which practitioner has compensation arrangement, subject to specified exceptions]* **or practitioner's family member has financial interest or employment relationship.**

Requires full disclosure of *[beneficial]* **financial** interests or *[compensation arrangements]* **employment relationship** of practitioner. **Requires practitioner to inform patient regarding patient choice.** Makes failure to disclose interest, *[or arrangement]* **relationship or notice of patient choice** in conjunction with lawful referral *[misdemeanor, punishable by fine]* **subject to civil penalty** not to exceed *[\$5,000]* **\$1,000.** *[Prohibits billing for services improperly referred.]*

[Requires health care practitioner who refers patient for physical therapy to provide unrestricted referral to physical therapist of patient's choice.]

Authorizes Oregon Health Licensing Agency or health professional regulatory board to investigate and discipline violations of Act.

A BILL FOR AN ACT

1
2 Relating to health care practitioner referrals to health care entities; creating new provisions; and
3 amending ORS 441.098.

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

5 **SECTION 1.** ORS 441.098 is amended to read:

6 441.098. (1) As used in this section **and sections 2 and 3 of this 2013 Act:**

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

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

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

15 (B) "Health practitioner" **does not include an employee of a health maintenance organ-**
16 **ization as defined in ORS 750.005.**

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

18 (2) **A health practitioner may not limit patient referrals to facilities in which the health**
19 **practitioner or an immediate family member of the health practitioner has a financial in-**
20 **terest or that employ the health practitioner. A health practitioner must refer a patient to**
21 **a facility based solely on consideration of the patient's needs and personal health choices. If**
22 **a health practitioner refers a patient for treatment [at] or a health care service to a facility in**

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 which the health practitioner or an immediate family member **of the health practitioner** has a fi-
2 nancial interest[, *the health practitioner shall inform the patient orally and in writing of that interest*
3 *at the time of the referral.*] **or that employs the health practitioner, the health practitioner or**
4 **the health practitioner's designee shall inform the patient of that interest or employment**
5 **relationship and inform the patient that the patient may receive the treatment or health**
6 **care service at a facility or from a provider of the patient's choice. The Oregon Health Au-**
7 **thority may not impose additional restrictions or limitations on any referral described in this**
8 **section that are in addition to the notice required by this section.**

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

13 **SECTION 2. (1) A health practitioner who fails to comply with the provisions of ORS**
14 **441.098 shall be subject to disciplinary action by the Oregon Health Licensing Agency or by**
15 **the appropriate health professional regulatory board as defined in ORS 676.160.**

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

19 **SECTION 3. In addition to any other liability or penalty provided by law, the Oregon**
20 **Health Licensing Agency or the appropriate health professional regulatory board may impose**
21 **a civil penalty of not more than \$1,000 on a health practitioner for each violation of ORS**
22 **441.098.**