

B-Engrossed Senate Bill 683

Ordered by the House June 3
Including Senate Amendments dated April 22 and House Amendments
dated June 3

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

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 limiting referrals of patients to health care entities in which practitioner or practitioner's family member has financial interest or employment relationship.

Requires full disclosure of financial interests or employment relationship of practitioner. Requires practitioner to inform patient, **in form and manner prescribed by Oregon Health Authority**, regarding patient choice. Makes failure to disclose interest, relationship or notice of patient choice in conjunction with lawful referral subject to civil penalty not to exceed \$1,000.

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 facility that receives Medicare reimbursement as an**
9 **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 a provider in a health maintenance organiza-**
16 **tion as defined in ORS 750.005.**

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

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

21 *[(2)]* (3) If a health practitioner refers a patient for **a diagnostic test or health care** treatment
22 **or service** at a facility in which the health practitioner or an immediate family member **of the**
23 **health practitioner** has a financial interest, the health practitioner **or the practitioner's designee**
24 shall inform the patient orally and in writing of that interest at the time of the referral.

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

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

6 **(B) If the patient chooses a different facility, the patient should contact the patient’s**
7 **insurer regarding the extent of coverage or the limitations on coverage for the test, treat-**
8 **ment or service at the facility chosen by the patient.**

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

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

13 **(B) Be administratively simple; and**

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

15 **(5) A health practitioner may not deny, limit or withdraw a referral to a facility solely**
16 **for the reason that the patient chooses to obtain the test, treatment or service from a dif-**
17 **ferent facility.**

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

21 **[3] (7) In obtaining informed consent for a diagnostic test or health care treatment or ser-**
22 **vice that will take place at a facility, a health practitioner shall disclose the manner in which care**
23 **will be provided in the event that complications occur that require health services beyond what the**
24 **facility has the capability to provide.**

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

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

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

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

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

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

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