

Senate Bill 827

Sponsored by Senator STEINER HAYWARD

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**.

Clarifies which activities of groups forming coordinated care organizations are exempt from state and federal antitrust laws under state action doctrine. Specifies which activities of groups forming coordinated care organizations are not exempt from state and federal antitrust laws under state action doctrine.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to antitrust exemption of groups forming coordinated care organizations; amending ORS
3 646.735; and declaring an emergency.

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

5 **SECTION 1.** ORS 646.735, as amended by section 22, chapter 8, Oregon Laws 2012, is amended
6 to read:

7 646.735. (1) The Legislative Assembly declares that collaboration among public payers, private
8 health carriers, third party purchasers and providers to identify appropriate service delivery systems
9 and reimbursement methods to align incentives in support of integrated and coordinated health care
10 delivery is in the best interest of the public. The Legislative Assembly therefore declares its intent
11 to exempt from state antitrust laws, and to provide immunity from federal antitrust laws through the
12 state action doctrine, **participation by** coordinated care organizations **in activities specified in**
13 **subsections (3) and (4) of this section** that might otherwise be constrained by such laws.

14 (2) The Director of the Oregon Health Authority or the director's designee shall engage in ap-
15 propriate state supervision necessary to promote state action immunity under state and federal
16 antitrust laws, and may inspect or request additional documentation to verify that the Oregon In-
17 tegrated and Coordinated Health Care Delivery System established under ORS 414.620 is imple-
18 mented in accordance with the legislative intent expressed in ORS 414.018.

19 (3) Groups that include, but are not limited to, health insurance companies, health care centers,
20 hospitals, health service organizations, employers, health care providers, health care facilities, state
21 and local governmental entities and consumers, may meet to facilitate the development, implemen-
22 tation and operation of a coordinated care organization in accordance with criteria and require-
23 ments adopted by the Oregon Health Authority under ORS 414.625. Any participation by such
24 entities and individuals shall be on a voluntary basis.

25 (4) The authority may conduct a survey of the entities and individuals specified in subsection
26 (3) of this section concerning payment and delivery reforms.

27 *[(5) A survey or meeting under subsection (3) or (4) of this section is not a violation of state anti-*
28 *trust laws and shall be considered state action for purposes of federal antitrust laws through the state*
29 *action doctrine.]*

30 **(5) Groups described in subsection (3) of this section are not exempt from state antitrust**

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 laws or immune from federal antitrust laws through the state action doctrine to the extent
2 that the groups are:

3 (a) Contracting for the provision of or the reimbursement of health care services to:

4 (A) Policyholders or certificate holders in the health insurance market;

5 (B) Insureds under self-insured health plans; or

6 (C) Individuals who are not recipients of medical assistance under ORS chapter 414; or

7 (b) Transacting insurance, as defined in ORS 731.146, regardless of whether the insurance
8 is offered through the health insurance exchange as defined in ORS 741.300.

9 SECTION 2. This 2013 Act being necessary for the immediate preservation of the public
10 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
11 on its passage.
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