

# DRAFT

## SUMMARY

Requires hospitals and emergency departments to maintain written charity care policies meeting specified requirements.

### A BILL FOR AN ACT

Relating to health care costs.

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

**SECTION 1. (1) As used in sections 1 to 7 of this 2015 Act:**

**(a) “Billing entity” means a hospital, an affiliate or a subsidiary of a hospital or any external agency to which a hospital assigns a bill for collection.**

**(b) “Charity care” has the meaning given that term in ORS 442.200.**

**(c) “Federal poverty guidelines” means the federal poverty guidelines published and updated annually in the Federal Register by the United States Department of Health and Human Services.**

**(d) “Financially qualified person” means a patient:**

**(A)(i) Who is a self-pay patient; or**

**(ii) With high medical costs; and**

**(B) Who has a family income that does not exceed 350 percent of the federal poverty guidelines.**

**(e) “High medical costs” means any of the following:**

**(A) Annual out-of-pocket costs incurred by a patient for services provided at a hospital that exceed 10 percent of the patient’s family income in the prior 12 months.**

**(B) Annual out-of-pocket medical expenses, including but not lim-**

1 ited to hospital costs, that exceed 10 percent of the patient's family  
2 income in the prior 12 months, if the patient provides documentation  
3 of the medical expenses.

4 (C) Hospital costs or medical expenses at a lower percentage of the  
5 patient's family income as determined by a hospital in accordance with  
6 the hospital's charity care policy.

7 (f) "Hospital" includes:

8 (A) An acute inpatient care facility as defined in ORS 442.470; and

9 (B) If an acute care facility contracts with an outside entity to  
10 provide services in the facility's emergency department, the outside  
11 entity.

12 (g) "Medical assistance" has the meaning given that term in ORS  
13 414.025.

14 (h) "Patient" means:

15 (A) An individual who receives health care at a hospital or emer-  
16 gency department; or

17 (B) A parent or other person who is financially responsible for the  
18 cost of the individual's health care at a hospital or emergency de-  
19 partment.

20 (i) "Patient's family" means:

21 (A) For persons 18 years of age and older, the patient's spouse and  
22 dependent children under 21 years of age, whether living at home or  
23 not.

24 (B) For persons under 18 years of age, the patient's parents, care-  
25 taker relatives and other children under 21 years of age of a parent  
26 or caretaker relative.

27 (j) "Person with high medical costs" means a patient:

28 (A) Whose family income is less than or equal to 350 percent of the  
29 federal poverty guidelines or a greater percentage as determined by a  
30 hospital; and

31 (B) Who does not qualify for a discounted rate for hospital care as

1 a result of the patient's third-party coverage.

2 (k) "Rural hospital" means a type A hospital, a type B hospital or  
3 a rural critical access hospital, as defined in ORS 315.613.

4 (L) "Self-pay patient" means a patient who does not have health  
5 insurance or coverage under a self-insured employer plan, is not a  
6 beneficiary of a health care service contract or multiple employer  
7 welfare arrangement, does not receive medical assistance or Medicare  
8 and whose care is not compensable by workers' compensation, auto-  
9 mobile insurance or other insurance as determined and documented  
10 by a hospital.

11 (2) A hospital shall comply with the provisions of this section as a  
12 condition of licensing under ORS 441.015.

13 (3)(a) A hospital shall maintain an understandable written policy  
14 regarding charity care. Except as provided in subsection (4) of this  
15 section, financially qualified persons and persons with high medical  
16 costs shall be eligible for charity care.

17 (b) The written charity care policy maintained by the hospital must  
18 explain the process used by the hospital to determine whether a pa-  
19 tient is a financially qualified person or a person with high medical  
20 costs, and the process for a patient to seek review, if denied charity  
21 care, from the business manager, chief financial officer or other per-  
22 son designated in the charity care policy.

23 (c) If an acute care hospital contracts with a separate entity to  
24 provide emergency department services, the entity must have a writ-  
25 ten charity care policy that complies with sections 1 to 7 of this 2015  
26 Act and with ORS 441.094.

27 (d) A charity care policy that requires a patient to pay a portion  
28 of the hospital costs may not require a payment that exceeds the  
29 amount the hospital is permitted to bill Medicare for the same service.

30 (4) A rural hospital may establish eligibility levels for charity care  
31 at greater than 350 percent of the federal poverty guidelines as appro-

1 **priate to maintain the hospital's financial and operational integrity.**

2 **(5) In determining eligibility for charity care, a hospital may con-**  
3 **sider all of a patient's income and monetary assets, excluding:**

4 **(a) Retirement or deferred compensation plans qualified under the**  
5 **Internal Revenue Code;**

6 **(b) Nonqualified deferred compensation plans;**

7 **(c) The first \$10,000 of a patient's monetary assets; and**

8 **(d) Fifty percent of a patient's monetary assets over the first**  
9 **\$10,000.**

10 **(6)(a) A patient applying for charity care shall make every reason-**  
11 **able effort to provide the billing entity with documentation of income**  
12 **and third-party liability for coverage. If the patient requests charity**  
13 **care and fails to provide information that is reasonable and necessary**  
14 **for the billing entity to make a determination of eligibility, the billing**  
15 **entity shall make its determination based on the information that is**  
16 **available.**

17 **(b) As documentation of income, a billing entity may require only**  
18 **recent pay stubs or income tax returns.**

19 **(c) A billing entity may require the patient to sign a release of in-**  
20 **formation that authorizes the billing entity to obtain account infor-**  
21 **mation from financial or commercial institutions or other entities that**  
22 **hold or maintain the patient's monetary assets to verify the value of**  
23 **the assets.**

24 **(d) Information obtained by a billing entity under this subsection**  
25 **may not be used to collect the debt for which charity care is requested,**  
26 **but may be used in the collection of other debts owed to the billing**  
27 **entity.**

28 **(7) A patient may request charity care at any time.**

29 **SECTION 2. (1) A hospital shall provide each patient with a written**  
30 **notice containing information about the availability of charity care,**  
31 **including but not limited to:**

1 (a) A statement that the patient may qualify for discounted or free  
2 care if the patient lacks, or has inadequate, insurance and meets other  
3 eligibility requirements;

4 (b) The eligibility requirements and the Internet address of the  
5 website where the patient may download an application for charity  
6 care; and

7 (c) The telephone number and electronic mail address for an em-  
8 ployee or office from which the person may obtain an application for  
9 charity care and further information about the charity care policy.

10 (2) The notice must be printed in English and in any other lan-  
11 guages spoken by 10 percent or more of the residents in the commu-  
12 nity served by the hospital. Any written correspondence regarding an  
13 application for charity care must be in the language spoken by the  
14 patient.

15 (3) A hospital must post a clearly written and easily understood  
16 notice of the hospital's charity care policy in locations that are visible  
17 to the public, including but not limited to all of the following:

18 (a) The emergency department, if any.

19 (b) The billing office.

20 (c) The admitting office.

21 (d) Outpatient settings.

22 SECTION 3. (1) A hospital shall make all reasonable efforts to ob-  
23 tain from a patient information about whether a third party may fully  
24 or partially cover the charges for care provided to the patient, in-  
25 cluding but not limited to any of the following:

26 (a) Private health insurance.

27 (b) Medicare.

28 (c) Medical assistance.

29 (2) If a patient has not provided proof of coverage by a third party  
30 at the time the care is provided or upon discharge, the bill shall in-  
31 clude, clearly and conspicuously, all of the following:

1 (a) A statement of charges for services.

2 (b) A request that the patient inform the hospital if the patient has  
3 health insurance coverage, Medicare, medical assistance or other  
4 coverage.

5 (c) A statement that, if the patient does not have health insurance  
6 coverage, the patient may be eligible for medical assistance or charity  
7 care.

8 (d) An explanation of how to apply for medical assistance and  
9 charity care.

10 (e) The notice described in section 2 of this 2015 Act.

11 (3) If a patient does not indicate that the patient has third party  
12 coverage before the patient is discharged from the hospital or emer-  
13 gency department, the hospital or emergency department shall provide  
14 the patient, prior to or upon discharge, with:

15 (a) An application for medical assistance; and

16 (b) An application for charity care.

17 **SECTION 4.** (1) A hospital shall maintain a written policy pre-  
18 scribing the standards and practices for the collection of debt, and  
19 shall obtain a written agreement from any external agency that col-  
20 lects patient debt that the agency will adhere to the written standards  
21 and practices. The policy may not conflict with other applicable laws  
22 and shall not be construed to create a joint venture between the hos-  
23 pital and the external agency or otherwise allow a hospital to govern  
24 the external agency that collects the hospital's patient debts. The  
25 hospital or external agency may consider only income and monetary  
26 assets, as limited by section 1 of this 2015 Act, in determining the  
27 amount of debt that may be recovered.

28 (2) The written policy described in subsection (1) of this section  
29 shall include a designation of who has authority to advance a patient  
30 debt for collection, and whether the collection activity is conducted  
31 by the hospital, an affiliate or subsidiary of the hospital, or by an ex-

1 ternal agency.

2 (3) A bill for hospital or emergency department services shall in-  
3 clude the same information concerning services and charges provided  
4 to all other patients who receive care at the hospital or emergency  
5 department.

6 (4) If a patient lacks health insurance coverage or provides infor-  
7 mation indicating that the patient may be a financially qualified per-  
8 son or a person with high medical costs, a billing entity may not  
9 report adverse information to a consumer credit reporting agency or  
10 commence civil action against the patient for nonpayment less than  
11 150 days after the initial billing.

12 (5) If a patient is attempting to qualify for charity care or is at-  
13 tempting in good faith to settle an outstanding bill by negotiating a  
14 reasonable payment plan or by making regular partial payments of a  
15 reasonable amount, the bill may not be assigned to a collection agency  
16 unless the collection agency has agreed to comply with this section.

17 (6) A billing entity shall not, in dealing with patients eligible for  
18 charity care, use any of the following means of collection:

19 (a) A lien on a primary residence.

20 (b) A wage garnishment, except by a court order on a motion served  
21 on the patient and supported by a declaration or affidavit filed by the  
22 movant identifying the basis for concluding that the patient has the  
23 ability to make payments on the judgment under the wage  
24 garnishment. The court, in deciding the motion, shall consider the size  
25 of the judgment and additional information provided by the patient  
26 prior to, or at, the hearing concerning the patient's ability to pay,  
27 including information about probable future medical expenses based  
28 on the current condition of the patient and other obligations of the  
29 patient.

30 (c) Send notice of or conduct a sale of the patient's primary resi-  
31 dence during the life of the patient or the patient's spouse or during

1 the period a child of the patient is a minor, or a child of the patient  
2 who has attained the age of majority still requires care and resides in  
3 the dwelling as the child's primary residence. If the patient owns more  
4 than one dwelling, the primary residence shall be the dwelling that is  
5 the patient's homestead, as that term is used in ORS 18.395.

6 (7) This section does not preclude a billing entity from pursuing  
7 reimbursement and any enforcement remedy from any third parties  
8 that may be liable for the costs.

9 (8) Any extended payment plan offered under a charity care policy  
10 may not charge interest. The billing entity may not find a patient to  
11 be in default on an extended payment plan until:

12 (a) The patient has failed to make all consecutive payments due  
13 during a 90-day period;

14 (b) The billing entity has made a reasonable attempt to contact the  
15 patient by telephone at the patient's last known telephone number,  
16 and to give notice in writing at the patient's last known address, that  
17 the extended payment plan is in default;

18 (c) The billing entity has notified the patient of the opportunity to  
19 renegotiate the extended payment plan; and

20 (d) The billing entity has attempted to renegotiate the terms of the  
21 defaulted extended payment plan, if requested by the patient.

22 (9) A billing entity may not report adverse information to a con-  
23 sumer credit reporting agency or commence a civil action against a  
24 patient for failing to make payments on an extended payment plan  
25 before the billing entity has completed all of the required actions in  
26 subsection (8) of this section.

27 (10) If a patient makes a reasonable effort to notify the billing en-  
28 tity that the patient has initiated an appeal of an adverse benefit de-  
29 termination, as defined in ORS 743.801, denial of Medicare coverage or  
30 denial of medical assistance, the billing entity may not undertake  
31 collection actions until the patient:



1 (a) With respect to an adverse benefit determination, has exhausted  
2 or is deemed to have exhausted the internal appeal process under ORS  
3 743.804, and exhausted or has failed to apply for an external review  
4 under ORS 743.857;

5 (b) With respect to the denial of medical assistance, has received a  
6 final order in a contested case or dismissal of the appeal; or

7 (c) Has received an order from an administrative law judge on the  
8 denial of the Medicare claim.

9 (11) This section shall not be construed to diminish or eliminate any  
10 protections for consumers under existing federal and state debt col-  
11 lection laws, or any other consumer protections available under state  
12 or federal law. If a billing entity has complied with the requirements  
13 of subsection (8) of this section, this section does not limit or alter the  
14 obligation of the patient to make payments on the obligation owing  
15 to the billing entity under any contract or applicable statute from the  
16 date that the billing entity has complied with the requirements of  
17 subsection (8) of this section.

18 **SECTION 5. (1) Prior to commencing collection activities against a**  
19 **patient, a billing entity shall provide the patient with a clear and**  
20 **conspicuous written notice containing a summary of:**

21 (a) Sections 1 to 7 of this 2015 Act;

22 (b) ORS 646.639;

23 (c) The Fair Debt Collection Practices Act (Public Law 95-109, 15  
24 U.S.C. 1692 et seq.); and

25 (d) A statement that the Federal Trade Commission enforces the  
26 federal act and an explanation of the procedure for filing a complaint  
27 with the commission, including the toll-free telephone number and  
28 Internet website of the commission.

29 (2) The summary required by subsection (1) of this section must  
30 include, but is not limited to, a statement that nonprofit credit coun-  
31 seling services may be available in the area and an explanation that

1 state and federal law:

2 (a) Requires a debt collector to treat a debtor fairly;

3 (b) Prohibits debt collectors from making false statement or threats  
4 of violence, or using obscene or profane language;

5 (c) Prohibits a debt collector from making improper communi-  
6 cations with third parties, including the patient's employer;

7 (d) Prohibits a debt collector, except under unusual circumstances,  
8 from contacting a debtor before 8:00 a.m. or after 9:00 p.m.;

9 (e) Prohibits a debt collector from giving information about a debt  
10 to a person, other than the debtor, the debtor's attorney or the  
11 debtor's spouse; and

12 (f) Allows a debt collector to contact another person to confirm the  
13 debtor's location or to enforce a judgment.

14 (3) The notice required by this section must also be included in any  
15 document mailed to the patient that indicates that collection activities  
16 may begin.

17 SECTION 6. (1) A hospital shall provide to the Oregon Health Au-  
18 thority, in the manner prescribed by the authority, the hospital's  
19 charity care policy, the application form for charity care, an explana-  
20 tion of the application procedures for charity care and the process for  
21 reviewing a denial of charity care. The hospital shall provide the in-  
22 formation whenever the hospital significantly changes the information  
23 and, at least biennially, shall provide the information or notify the  
24 authority that no changes were made.

25 (2) The authority shall make the information provided under this  
26 section readily available to the public.

27 SECTION 7. (1) Sections 1 to 7 of this 2015 Act do not prohibit a  
28 hospital from uniformly imposing charges from its established charge  
29 schedule or published rates or preclude the recognition of a hospital's  
30 established charge schedule or published rates for purposes of applying  
31 any payment limit, interim payment amount or other payment calcu-

1 lation based upon a hospital's rates or charges under the medical as-  
2 sistance program, the Medicare program, workers' compensation or  
3 other federal, state or local public program of health benefits. A health  
4 care service contractor, insurer or any other person liable for the cost  
5 of a patient's care may not reduce the amount it would otherwise re-  
6 imburse a claim for hospital services because a hospital has waived,  
7 or will waive, collection of all or a portion of the patient's bill for  
8 hospital services in accordance with the hospital's charity care policy,  
9 notwithstanding any contractual provision.

10 (2) The amounts paid by patients under a charity care policy shall  
11 not constitute a hospital's uniform, published, prevailing or customary  
12 charges, the hospital's usual fees to the general public or the  
13 hospital's charges to the medical assistance program, and may not be  
14 used to calculate a hospital's median non-Medicare or medical assist-  
15 ance charges for purposes of any payment limit under the federal  
16 Medicare program, the medical assistance program or any other pub-  
17 licly financed health care program.

18 (3) If any requirement in sections 1 to 7 of this 2015 Act results in  
19 a federal determination that a hospital's established charge schedule  
20 or published rates are not the hospital's customary or prevailing  
21 charges for services, the requirement shall be inoperative for all hos-  
22 pitals, including but not limited to a hospital that is licensed and op-  
23 erated by a county or a hospital authority pursuant to ORS 441.525 to  
24 441.595.

25 SECTION 8. Sections 1 to 7 of this 2015 Act apply to charges billed  
26 for hospital and emergency department services received on or after  
27 the effective date of this 2015 Act.

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