

# House Bill 3145

Sponsored by Representative MCLANE; Representative BUEHLER

## 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**.

Requires private pay home care workers registered with Home Care Commission to be subject to at least same standards as licensed in-home care agencies. Requires commission to conduct periodic evaluations of private pay home care workers.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to home care workers; amending section 2, chapter 116, Oregon Laws 2014; and declaring  
3 an emergency.

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

5 **SECTION 1.** Section 2, chapter 116, Oregon Laws 2014, is amended to read:

6 **Sec. 2.** (1) This section establishes a program, administered by the Home Care Commission, to  
7 enable private individuals to purchase home care services from the commission through the home  
8 care registry. The commission shall administer the program in a manner that:

9 (a) Builds and strengthens the home care workforce that provides home care services to medical  
10 assistance recipients by offering home care workers the opportunity to obtain additional work from  
11 private payers and by attracting additional home care workers to the home care registry;

12 (b) Provides an opportunity for the rapidly growing population of elderly individuals and indi-  
13 viduals with disabilities in this state, who are not eligible for medical assistance, to obtain high  
14 quality and affordable home care services from qualified, committed, experienced and well-trained  
15 home care workers;

16 (c) Protects medical assistance recipients' access to and receipt of home care services; and

17 (d) Ensures that this state incurs no liability for the costs of home care services purchased by  
18 private payers through the program, or for any other associated program costs, that exceed the  
19 amount of revenue generated by the payments described in subsection (5) of this section.

20 (2) The commission shall establish by rule the types and scope of home care services or other  
21 services that may be offered through the program. The commission shall make available to con-  
22 sumers and potential consumers of home care services, information about the scope of the services  
23 offered through the program, about the long term care services and support that are not available  
24 through the program and about other community resources that are available to individuals seeking  
25 long term care services and support.

26 (3) The commission shall adopt standards for home care services offered through the program.  
27 The standards[, *to the greatest extent practicable, shall be compatible with the standards for home care*  
28 *services reimbursed as medical assistance and by*] **must include, at a minimum, the standards**  
29 **adopted by the Oregon Health Authority for** in-home care agencies licensed under ORS 443.315.

30 (4) Private payers purchasing home care services through the program must complete a standard

**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 assessment instrument prescribed by the commission that evaluates the capacity and willingness of  
 2 the individual receiving services, or a person selected by the individual to act on the individual's  
 3 behalf, to effectively manage and direct the home care services. A private payer and a private pay  
 4 home care worker must enter into a written service plan based on the assessment instrument that  
 5 is consistent with the private pay home care worker's capabilities, training and experience. The  
 6 standard assessment instrument must be completed prior to the commencement of services.

7 (5) The commission shall establish payment rates for home care services purchased by private  
 8 payers through the home care registry and shall publish the rates online, showing the projected cost  
 9 of each component included in calculating the payment rates. The commission shall establish the  
 10 rates at levels expected to generate total revenue sufficient to reimburse up to 107 percent of the  
 11 costs associated with the program including, but not limited to, the costs for:

12 (a) Screening, registering and training private pay home care workers and maintaining and ex-  
 13 panding the home care registry;

14 (b) Hiring additional staff;

15 (c) Providing referrals of private pay home care workers to private payers;

16 (d) Paying the private pay home care workers' wages;

17 (e) Paying payroll taxes;

18 (f) Paying for health insurance and employee benefits, either directly or through a trust account;

19 (g) Processing payments from private payers and payments to private pay home care workers;

20 (h) Paying workers' compensation and unemployment insurance;

21 (i) Publicizing the availability of the home care registry; and

22 (j) Other activities undertaken to ensure the quality of private pay home care workers, the ad-  
 23 equate provision of home care services and other administrative expenses associated with the pro-  
 24 gram.

25 (6) A private payer who purchases home care services through the program shall pay the com-  
 26 mission in advance for the services.

27 (7) The commission shall establish the wage rates, pay the wages and provide for employee  
 28 benefits for private pay home care workers. A private pay home care worker may not accept any  
 29 additional compensation for hours of work that were compensated by the program.

30 (8) Private pay home care workers are subject to the same requirements as home care workers  
 31 providing services reimbursed as medical assistance with respect to:

32 (a) Home care worker qualifications;

33 (b) Application and enrollment in the home care registry; and

34 (c) Suspension or termination of enrollment in the registry.

35 (9) The commission may specify requirements and procedures, in addition to those described in  
 36 subsection (8) of this section, for private pay home care workers.

37 (10) The commission, with the assistance of the Department of Human Services, [may] **shall**  
 38 conduct periodic evaluations of private pay home care workers [, or] **and may** take other measures  
 39 to determine whether the private pay home care workers continue to meet provider enrollment re-  
 40 quirements or for other appropriate purposes.

41 (11)(a) If revenue generated by the payments described in subsection (5) of this section is insuf-  
 42 ficient to pay the costs of home care services purchased by private payers through the program, and  
 43 other costs associated with administering the program, the commission may modify the payment  
 44 rates described in subsection (5) of this section as necessary to generate sufficient revenue to pay  
 45 the costs.

1 (b) If the commission determines that modifying the payment rates will not generate sufficient  
2 revenue to pay the costs of the program, the commission may suspend the program following 30 days  
3 advance written notice to private payers and home care workers participating in the program.

4 (c) If the commission suspends the program under paragraph (b) of this subsection, the commis-  
5 sion shall report to the Legislative Assembly in the manner provided in ORS 192.245, no later than  
6 30 days after the suspension begins:

7 (A) The reasons for the suspension;

8 (B) Any costs incurred by this state that exceed the revenue generated by the payments de-  
9 scribed in subsection (5) of this section; and

10 (C) Any additional costs, during the remainder of the biennium in which the suspension occurs,  
11 that are anticipated to exceed the revenue generated by the payments described in subsection (5)  
12 of this section.

13 **SECTION 2. This 2015 Act being necessary for the immediate preservation of the public**  
14 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
15 **on its passage.**