

Senate Bill 330

Sponsored by Senator SHIELDS; Representative GREENLICK (Pre-session filed.)

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 nonprofit hospital to adopt formula meeting specified criteria for executive compensation. Requires hospital to solicit public comment on formula. Requires hospital to annually report to Oregon Health Authority on compensation paid to executives, directors, trustees and specified employees.

Authorizes civil penalty for violations.

A BILL FOR AN ACT

Relating to executive compensation; creating new provisions; and amending ORS 441.025.

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

SECTION 1. Sections 2 and 3 of this 2015 Act are added to and made a part of ORS chapter 441.

SECTION 2. (1) As used in this section and section 3 of this 2015 Act:

(a) "Awards and bonuses" means compensation and benefits, in cash or in-kind, other than salary and wages, paid directly or indirectly to an executive as compensation for the performance of services.

(b)(A) "Executive" includes any:

(i) Chief executive officer;

(ii) Chief financial officer;

(iii) President;

(iv) Vice president;

(v) Hospital administrator; or

(vi) Individual who works as an employee or an independent contractor and who has executive, managerial or administrative authority over a hospital, a health system or an outpatient facility operating under a hospital's license.

(B) "Executive" does not include an individual if 50 percent or more of the individual's work for the hospital, health system or outpatient facility is providing direct patient care or the direct supervision of staff who work exclusively at providing direct patient care.

(c) "Health system" means a corporate entity that owns or operates one or more nonprofit hospitals.

(d) "Key employee" means an employee who is paid more than \$150,000 in compensation.

(e) "Nonprofit hospital" includes:

(A) A hospital that is a public benefit corporation as defined in ORS 65.001.

(B) A hospital operated by the Oregon Health and Science University.

(2) A nonprofit hospital shall develop a formula for the payment of awards and bonuses to executives of the nonprofit hospital.

(3) A nonprofit hospital shall widely disseminate to the public any proposed payment

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 formula no less than 30 days before the proposal is submitted to the board of directors for
 2 approval. The hospital shall solicit public comment on the formula. The hospital shall take
 3 into consideration the public comment and submit a final proposal to the board of directors
 4 for approval. The final proposal submitted to the board must include a summary of the
 5 public comments received.

6 (4) The board of directors may approve a payment formula if the formula is designed to
 7 ensure that at least 75 percent of the annual aggregate awards and bonuses paid to each
 8 executive is based on:

9 (a) Patient satisfaction;

10 (b) The attainment of measurable quality outcomes;

11 (c) The reduction of employee turnover;

12 (d) Employee satisfaction; or

13 (e) Incentives paid to the hospital by the Centers for Medicare and Medicaid Services
 14 under 42 U.S.C. 1395ww(o).

15 (5) Each nonprofit hospital shall annually report to the Oregon Health Authority, in the
 16 form and manner and in such detail as prescribed by the authority:

17 (a) The payment formula for executive awards and bonuses approved by the board of di-
 18 rectors;

19 (b) The salary and wages paid to each executive of the hospital;

20 (c) The awards and bonuses paid to each executive of the hospital;

21 (d) Compensation of any kind paid to current and former directors and trustees of the
 22 hospital;

23 (e) Compensation of any kind paid to key employees; and

24 (f) The names of the five most highly compensated employees other than officers, direc-
 25 tors or trustees and the amount of compensation paid to each employee.

26 (6) The reports described in subsection (5) of this section are public records and are not
 27 exempt from disclosure under ORS 192.410 to 192.505.

28 **SECTION 3.** (1) In addition to any other liability or penalty provided by law, the Oregon
 29 Health Authority may impose a civil penalty on a nonprofit hospital that:

30 (a) Adopts a payment formula for executive awards and bonuses that does not comply
 31 with section 2 (4) of this 2015 Act;

32 (b) Pays to an executive an award or bonus that is not based on the payment formula
 33 approved by the board of directors under section 2 (4) of this 2015 Act; or

34 (c) Fails to report as required by section 2 (5) of this 2015 Act.

35 (2) The authority shall adopt by rule a formula for civil penalties imposed under sub-
 36 section (1)(a) and (b) of this section to ensure that each penalty reflects the amount of
 37 moneys diverted by the violation from the factors described in section 2 (4) of this 2015 Act.

38 (3) Civil penalties under this section shall be imposed in the manner provided by ORS
 39 183.745.

40 (4) All penalties recovered under this section shall be paid into the State Treasury and
 41 credited to the General Fund and are available for general governmental expenses.

42 **SECTION 4.** ORS 441.025 is amended to read:

43 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
 44 other than a long term care facility, the Oregon Health Authority shall review the application and
 45 conduct an on-site inspection of the health care facility. The authority shall issue a license if it finds

1 that the applicant and health care facility comply with ORS 441.015 to 441.063 **and section 2 of this**
2 **2015 Act** and the rules of the authority provided that the authority does not receive within the time
3 specified a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved au-
4 thority pursuant to ORS 479.215.

5 (b) The authority shall, following payment of the fee, annually renew each license issued under
6 this subsection unless:

7 (A) The health care facility's license has been suspended or revoked; or

8 (B) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
9 compliance pursuant to ORS 479.215.

10 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the
11 Department of Human Services shall review the application and conduct an on-site inspection of the
12 long term care facility. The department shall issue a license if the department finds that the appli-
13 cant and long term care facility comply with ORS 441.015 to 441.063 and 441.087 and the rules of
14 the department provided that it does not receive within the time specified a certificate of noncom-
15 pliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

16 (b) The department shall, following an on-site inspection and payment of the fee, annually renew
17 each license issued under this subsection unless:

18 (A) The long term care facility's license has been suspended or revoked;

19 (B) The long term care facility is found not to be in substantial compliance following the on-site
20 inspection; or

21 (C) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
22 compliance pursuant to ORS 479.215.

23 (3) Each license shall be issued only for the premises and persons or governmental units named
24 in the application and shall not be transferable or assignable.

25 (4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by
26 rule of the authority or the department.

27 (5) No license shall be issued or renewed for any health care facility or health maintenance
28 organization that is required to obtain a certificate of need under ORS 442.315 until a certificate
29 of need has been granted. An ambulatory surgical center is not subject to the certificate of need
30 requirements in ORS 442.315.

31 (6) No license shall be issued or renewed for any skilled nursing facility or intermediate care
32 facility, unless the applicant has included in the application the name and such other information
33 as may be necessary to establish the identity and financial interests of any person who has incidents
34 of ownership in the facility representing an interest of 10 percent or more thereof. If the person
35 having such interest is a corporation, the name of any stockholder holding stock representing an
36 interest in the facility of 10 percent or more shall also be included in the application. If the person
37 having such interest is any other entity, the name of any member thereof having incidents of own-
38 ership representing an interest of 10 percent or more in the facility shall also be included in the
39 application.

40 (7) A license may be denied to any applicant for a license or renewal thereof or any stockholder
41 of any such applicant who has incidents of ownership in the health care facility representing an
42 interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for
43 the facility, if during the five years prior to the application the applicant or any stockholder of the
44 applicant had an interest of 10 percent or more in the facility or of a lease for the facility and has
45 divested that interest after receiving from the authority or the department written notice that the

1 authority or the department intends to suspend or revoke the license or to decertify the facility from
2 eligibility to receive payments for services provided under this section.

3 (8) The Department of Human Services may not issue or renew a license for a long term care
4 facility, unless the applicant has included in the application the identity of any person who has in-
5 cident of ownership in the long term care facility who also has a financial interest in any pharmacy,
6 as defined in ORS 689.005.

7 (9) The authority shall adopt rules for each type of health care facility, except long term care
8 facilities, to carry out the purposes of ORS 441.015 to 441.087 including, but not limited to:

9 (a) Establishing classifications and descriptions for the different types of health care facilities
10 that are licensed under ORS 441.015 to 441.087; and

11 (b) Standards for patient care and safety, adequate professional staff organizations, training of
12 staff for whom no other state regulation exists, suitable delineation of professional privileges and
13 adequate staff analyses of clinical records.

14 (10) The department shall adopt rules for each type of long term care facility to carry out the
15 purposes of ORS 441.015 to 441.087 including, but not limited to:

16 (a) Establishing classifications and descriptions for the different types of long term care facili-
17 ties that are licensed under ORS 441.015 to 441.087; and

18 (b) Standards for patient care and safety, adequate professional staff organizations, training of
19 staff for whom no other state regulation exists, suitable delineation of professional privileges and
20 adequate staff analyses of clinical records.

21 (11) The authority or department may not adopt a rule requiring a health care facility to serve
22 a specific food as long as the necessary nutritional food elements are present in the food that is
23 served.

24 (12) A health care facility licensed by the authority or department may not:

25 (a) Offer or provide services beyond the scope of the license classification assigned by the au-
26 thority or department; or

27 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-
28 fication assigned by the authority or department.

29 (13) A health care facility must reapply for licensure to change the classification assigned or the
30 type of license issued by the authority or department.

31