

Senate Bill 891

Sponsored by Senator STEINER HAYWARD; Senator BOQUIST

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 health care facilities to publish, in manner prescribed by Oregon Health Authority, price data regarding health care services offered. Requires health care facility to timely respond to inquiry regarding charges billed for health care services. Specifies information that must be published and disclosed upon inquiry. Provides antitrust immunity to health care facilities that publish their charges.

Authorizes Oregon Health Authority to impose civil penalty or to deny, suspend or revoke license of health care facility that fails to comply with requirements of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the cost of health care services; creating new provisions; amending ORS 441.030; and
3 declaring an emergency.

4 Whereas a lack of public information on the price of health care services hampers competition
5 and contributes to excessive spending by consumers, insurers, taxpayers, employers and other health
6 care payers; and

7 Whereas the Institute of Medicine estimates that lack of competition and excessive price vari-
8 ation causes \$105 billion in waste in health care spending each year; and

9 Whereas consumers cannot make high value choices without health care price information,
10 which is often unavailable where and when consumers access services; and

11 Whereas health care facilities cannot make informed referrals and help patients compare treat-
12 ment options without health care price information, which is often unavailable to them; and

13 Whereas, without widespread health care price transparency, consumers cannot conduct in-
14 formed research and create tools to amplify competition in the health care marketplace, including
15 web tools, mobile applications and reports with comparative rankings; now, therefore,

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

17 **SECTION 1. (1) As used in this section:**

18 (a) **“Allowed amount” means the amount that a payer has contracted with a health care**
19 **facility to pay for a specific health care service.**

20 (b) **“Billed charge” means the cost of a health care service that is billed to a patient or**
21 **a payer.**

22 (c) **“Health care facility” means a health care facility licensed by the Oregon Health Au-**
23 **thority under ORS 441.020.**

24 (d) **“Payer” includes:**

25 (A) **Medicare;**

26 (B) **The state medical assistance program;**

27 (C) **A coordinated care organization, as defined in ORS 414.025;**

28 (D) **The Public Employees' Benefit Board;**

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 (E) The Oregon Educators Benefit Board; and

2 (F) Each of the largest commercial insurers offering health insurance in this state that,
 3 collectively, insure 95 percent of the insureds in this state who are covered by commercial
 4 health insurance.

5 (2) The Oregon Health Authority shall adopt by rule:

6 (a) A list of the 100 most common inpatient health care services and the 100 most com-
 7 mon outpatient health care services performed in this state; and

8 (b) The form and manner in which a health care facility shall publish billed charges and
 9 make the information available in printed form, at the facility and in machine readable form
 10 on the facility's website.

11 (3) For each of the health care services that is identified by the authority under sub-
 12 section (2)(a) of this section and is provided by a health care facility, the health care facility
 13 shall publish, in the manner prescribed by the authority under subsection (2)(b) of this sec-
 14 tion:

15 (a) The facility's billed charge to each type of payer that is listed in subsection (1)(d) of
 16 this section and that contracts with the facility;

17 (b) The facility's billed charge to a patient who is uninsured; and

18 (c) The allowed amount paid for the service by each type of payer that is listed in sub-
 19 section (1)(d) of this section and that contracts with the facility.

20 (4) A health care facility must respond to an individual's inquiry about the billed charge
 21 for a specific health care service in a timely manner that enables the individual to make an
 22 informed decision concerning the service without unreasonable delay. The response must
 23 include:

24 (a) An estimate of each of the billed charges, including the amount of any physician fees,
 25 facility fees and all other reasonably foreseeable charges that may be billed by the facility
 26 to:

27 (A) The payer that will be primarily responsible for paying the billed charges and the
 28 payer's allowed amount for the billed charges; or

29 (B) The patient who will receive the service, if the patient is uninsured;

30 (b) Oral or written notice cautioning that the actual billed charges may vary from the
 31 estimate of the charges due to unforeseen needs for health care services that may arise
 32 during an inpatient stay or outpatient visit;

33 (c) Information about how to apply for financial assistance or charity care offered by the
 34 health care facility;

35 (d) Information about how to file a complaint with the authority if a health care facility
 36 responds to the inquiry with inaccurate or misleading information; and

37 (e) If the inquiry is from an individual who is enrolled in a health benefit plan as defined
 38 in ORS 743.730:

39 (A) Whether the health care facility and any other medical providers who will provide
 40 health care services during an inpatient stay or outpatient visit are within the network of
 41 facilities covered by the enrollee's plan; and

42 (B) A verbal or written notice that the enrollee can obtain an estimate of the enrollee's
 43 costs from the insurer, in accordance with ORS 743.876.

44 (5) Any contract provision is void and unenforceable if the provision prevents a health
 45 care facility from disclosing:

1 (a) Information that must be published and made available under this section; or

2 (b) Allowed amounts, billed charges or out-of-pocket cost information to a payer.

3 (6) This section is intended to promote transparency in health care cost information in
4 order to enable consumers to make informed health care decisions and to improve competi-
5 tion in the health care industry. The Legislative Assembly therefore declares its intent to
6 exempt from state antitrust laws, and to provide immunity from federal antitrust laws
7 through the state action doctrine, health care facilities that publish and make available to
8 consumers their billed charges in accordance with this section. The Director of the Oregon
9 Health Authority or the director's designee shall engage in appropriate state supervision
10 necessary to promote state action immunity under this subsection and may inspect or re-
11 quest documentation to ensure that this section is implemented in accordance with the leg-
12 islative intent.

13 **SECTION 2.** ORS 441.030 is amended to read:

14 441.030. (1) The Oregon Health Authority or the Department of Human Services may assess a
15 civil penalty and, pursuant to ORS 479.215, shall deny, suspend or revoke a license, in any case
16 where the State Fire Marshal, or the representative of the State Fire Marshal, certifies that there
17 is a failure to comply with all applicable laws, lawful ordinances and rules relating to safety from
18 fire.

19 (2) The authority may:

20 (a) Assess a civil penalty or deny, suspend or revoke a license of a health care facility other
21 than a long term care facility in any case where it finds that there has been a substantial failure
22 to comply with ORS 441.015 to 441.063 or section 1 of this 2015 Act or the rules or minimum
23 standards adopted under ORS 441.015 to 441.063.

24 (b) Assess a civil penalty or suspend or revoke a license issued under ORS 441.025 for failure
25 to comply with an authority order arising from a health care facility's substantial lack of compliance
26 with the provisions of ORS 441.015 to 441.063, 441.162 or 441.166 or the rules adopted under ORS
27 441.015 to 441.063, 441.162 or 441.166.

28 (c) Suspend or revoke a license issued under ORS 441.025 for failure to pay a civil penalty im-
29 posed under ORS 441.170.

30 (3) The department may:

31 (a) Assess a civil penalty or deny, suspend or revoke a long term care facility's license in any
32 case where it finds that there has been a substantial failure to comply with ORS 441.015 to 441.063
33 or 441.087 or the rules or minimum standards adopted under ORS 441.015 to 441.063 or 441.087.

34 (b) Assess a civil penalty or suspend or revoke a long term care facility's license issued under
35 ORS 441.025 for failure to comply with a department order arising from a long term care facility's
36 substantial lack of compliance with the provisions of ORS 441.015 to 441.063, 441.084 or 441.087 or
37 the rules adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

38 (c) Suspend or revoke a license issued under ORS 441.025 for failure to pay a civil penalty im-
39 posed under ORS 441.710.

40 (d) Order a long term care facility licensed under ORS 441.025 to restrict the admission of pa-
41 tients when the department finds an immediate threat to patient health and safety arising from
42 failure of the long term care facility to be in compliance with ORS 441.015 to 441.063, 441.084 or
43 441.087 and the rules adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

44 (4) Any long term care facility that has been ordered to restrict the admission of patients pur-
45 suant to subsection (3)(d) of this section shall post a notice of the restriction, provided by the de-

1 partment, on all doors providing ingress to and egress from the facility, for the duration of the
2 restriction.

3 **SECTION 3. Section 1 of this 2015 Act and the amendments to ORS 441.030 by section 2**
4 **of this 2015 Act become operative on January 1, 2017.**

5 **SECTION 4. The Oregon Health Authority and the Department of Human Services may**
6 **take any action before the operative date specified in section 3 of this 2015 Act that is nec-**
7 **essary to carry out, on and after the operative date specified in section 3 of this 2015 Act,**
8 **the provisions of section 1 of this 2015 Act and the amendments to ORS 441.030 by section 2**
9 **of this 2015 Act.**

10 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
12 **on its passage.**

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