

House Bill 2664

Sponsored by Representatives NOSSE, LIVELY, Senator MONNES ANDERSON, Representative BUEHLER; Representatives KENNEMER, WHISNANT, Senators GELSER, KNOPP, KRUSE, STEINER HAYWARD, WINTERS (Presession 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**.

Specifies criteria for licensing of extended stay centers and requires Oregon Health Authority to adopt rules. Requires authority and Department of Consumer and Business Services to convene extended stay center advisory group.

Adjusts inappropriate series references.

A BILL FOR AN ACT

1
2 Relating to health care facilities; creating new provisions; and amending ORS 192.660, 441.020,
3 441.025, 441.030, 441.065, 441.077, 442.015, 442.700 and 677.515.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 441.015 to**
6 **441.087.**

7 **SECTION 2. (1) The Oregon Health Authority shall adopt rules for the licensing of ex-**
8 **tended stay centers. The rules must ensure that each licensed extended stay center:**

9 (a) **Is sponsored by a medical facility that has demonstrated safe operating procedures**
10 **in an outpatient surgery setting and has been in compliance with rules applicable to the fa-**
11 **ility for no less than 24 consecutive months;**

12 (b) **Has an emergency transfer agreement with a local hospital or has emergency proce-**
13 **dures in place for transferring patients in need of hospitalization to a local hospital;**

14 (c) **Is located in close proximity to the facility where the extended stay patients are re-**
15 **ceiving surgical services;**

16 (d) **Conforms to all requirements applicable to hospitals in this state with regard to op-**
17 **erations, environmental sanitation, physical plant maintenance, safety, food service and pa-**
18 **tient care;**

19 (e) **Orally and in writing, clearly notifies patients with Medicare coverage that services**
20 **provided in an extended stay center are not covered by Medicare;**

21 (f) **Requires certification by a patient's physician prior to the patient's admission to the**
22 **extended stay center that the patient requires services provided in the extended care center;**
23 **and**

24 (g) **Admits patients for no more than 48 hours from the time of admission to the ex-**
25 **tended stay center except as medically necessary.**

26 (2) **The authority shall license no more than 15 extended stay centers.**

27 **SECTION 3. (1) The Oregon Health Authority shall submit a request to the Centers for**
28 **Medicare and Medicaid Services to waive provisions of the Medicaid Act (Title XIX of the**
29 **Social Security Act) that prevent federal financial participation in the costs of extended stay**

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 center services provided to medical assistance recipients.

2 (2) No later than September 10, 2022, the authority shall report to the interim commit-
3 tees of the Legislative Assembly related to health, in the manner provided in ORS 192.245,
4 the following information regarding extended stay centers:

5 (a) The number of facilities that have applied for an extended stay center license;

6 (b) The number of extended stay center licenses granted;

7 (c) With respect to patients served by licensed extended stay centers in this state:

8 (A) The number of patients served;

9 (B) The average duration of patient stays;

10 (C) The range of and average acuity of patients served;

11 (D) The types of surgeries performed that resulted in care in an extended stay center;

12 (E) The cost of care provided in extended stay centers compared to the cost of post-
13 surgical care provided in a hospital and any differences in efficiencies between extended stay
14 centers and hospitals;

15 (F) The rate of infection; and

16 (G) Patient satisfaction;

17 (d) The frequency of transfers from extended stay centers to hospitals and the patients'
18 health outcomes; and

19 (e) National trends in the extended stay center industry and in insurance coverage of
20 extended stay center services.

21 **SECTION 4.** (1) The Oregon Health Authority and the Department of Consumer and
22 Business Services shall convene and provide staff support to an extended stay center advi-
23 sory group consisting of:

24 (a) One member of the Senate appointed by and serving at the pleasure of the President
25 of the Senate;

26 (b) One member of the House of Representatives appointed by and serving at the pleasure
27 of the Speaker of the House of Representatives; and

28 (c) The following members appointed by the authority in collaboration with the depart-
29 ment:

30 (A) One member representing a hospital or health system;

31 (B) One member representing the insurance industry;

32 (C) One member from a statewide organization that represents physicians in this state;

33 (D) One member of an organization that advocates on behalf of health care consumers
34 in this state;

35 (E) One member representing long term care facilities in this state;

36 (F) One member from an organization that represents ambulatory surgery centers in this
37 state; and

38 (G) One member from a statewide organization representing orthopedic physicians in this
39 state.

40 (2) The advisory group shall meet at least two times each calendar year for the purpose
41 of advising the authority and the department regarding the implementation of section 2 of
42 this 2017 Act and other matters related to the regulation of extended stay centers.

43 (3) If there is a vacancy for any cause, the appointing authority shall make an appoint-
44 ment to become immediately effective.

45 (4) Members of the advisory group who are not members of the Legislative Assembly are

1 **not entitled to compensation, but may be reimbursed for actual and necessary travel and**
 2 **other expenses incurred by them in the performance of their official duties in the manner**
 3 **and amounts provided for in ORS 292.495. Claims for expenses incurred in performing func-**
 4 **tions of the advisory group shall be paid out of funds appropriated to the authority for pur-**
 5 **poses of the advisory group.**

6 **SECTION 5.** Section 2 of this 2017 Act is amended to read:

7 **Sec. 2.** (1) The Oregon Health Authority shall adopt rules for the licensing of extended stay
 8 centers. The rules must ensure that each licensed extended stay center:

9 (a) Is sponsored by a medical facility that has demonstrated safe operating procedures in an
 10 outpatient surgery setting and has been in compliance with rules applicable to the facility for no
 11 less than 24 consecutive months;

12 (b) Has an emergency transfer agreement with a local hospital or has emergency procedures in
 13 place for transferring patients in need of hospitalization to a local hospital;

14 (c) Is located in close proximity to the facility where the extended stay patients are receiving
 15 surgical services;

16 (d) Conforms to all requirements applicable to hospitals in this state with regard to operations,
 17 environmental sanitation, physical plant maintenance, safety, food service and patient care;

18 (e) Orally and in writing, clearly notifies patients with Medicare coverage that services provided
 19 in an extended stay center are not covered by Medicare;

20 (f) Requires certification by a patient's physician prior to the patient's admission to the extended
 21 stay center that the patient requires services provided in the extended care center; and

22 (g) Admits patients for no more than 48 hours **from the time of admission to the extended**
 23 **stay center except as medically necessary.**

24 (2) The authority [*shall license no more than 15 extended stay centers*] **shall issue the number**
 25 **of extended stay center licenses that the authority deems necessary to address the need for**
 26 **such services in this state.**

27 **SECTION 6.** ORS 441.020 is amended to read:

28 441.020. (1) Licenses for health care facilities, except long term facilities as defined in ORS
 29 442.015, must be obtained from the Oregon Health Authority.

30 (2) Licenses for long term care facilities must be obtained from the Department of Human Ser-
 31 vices.

32 (3) Applications shall be upon such forms and shall contain such information as the authority
 33 or the department may reasonably require, which may include affirmative evidence of ability to
 34 comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

35 (4) Each application shall be accompanied by the license fee. If the license is denied, the fee
 36 shall be refunded to the applicant. Except as provided in subsection [(15)] (16) of this section, if the
 37 license is issued, the fee shall be paid into the State Treasury to the credit of:

38 (a) The Oregon Health Authority Fund for the purpose of carrying out the functions of the
 39 Oregon Health Authority under ORS 441.015 to [441.063] **441.087** and 441.196; or

40 (b) The Department of Human Services Account for the purpose of carrying out the functions
 41 of the Department of Human Services under ORS 431A.050 to 431A.080, 441.015 to 441.063 and
 42 441.196.

43 (5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

44 (a) Fewer than 26 beds, the annual license fee shall be \$1,250.

45 (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,850.

1 (c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$3,800.

2 (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$6,525.

3 (e) Two hundred or more beds, but fewer than 500 beds, the annual license fee shall be \$8,500.

4 (f) Five hundred or more beds, the annual license fee shall be \$12,070.

5 (6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under its li-
6 cense.

7 (7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority
8 determines that charging the standard fee constitutes a significant financial burden to the facility.

9 (8) For long term care facilities with:

10 (a) One to 15 beds, the annual license fee shall be \$180.

11 (b) Sixteen to 49 beds, the annual license fee shall be \$260.

12 (c) Fifty to 99 beds, the annual license fee shall be \$520.

13 (d) One hundred to 150 beds, the annual license fee shall be \$670.

14 (e) More than 150 beds, the annual license fee shall be \$750.

15 (9) For ambulatory surgical centers, the annual license fee shall be:

16 (a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more
17 than two procedure rooms.

18 (b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no
19 more than two procedure rooms.

20 (c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.

21 (10) For birthing centers, the annual license fee shall be \$750.

22 (11) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.

23 **(12) For extended stay centers, the annual license fee shall be \$_____.**

24 ~~[(12)]~~ **(13)** During the time the licenses remain in force, holders are not required to pay in-
25 spection fees to any county, city or other municipality.

26 ~~[(13)]~~ **(14)** Any health care facility license may be indorsed to permit operation at more than one
27 location. If so, the applicable license fee shall be the sum of the license fees that would be applicable
28 if each location were separately licensed. The authority may include hospital satellites on a
29 hospital's license in accordance with rules adopted by the authority.

30 ~~[(14)]~~ **(15)** Licenses for health maintenance organizations shall be obtained from the Director of
31 the Department of Consumer and Business Services pursuant to ORS 731.072.

32 ~~[(15)]~~ **(16)** All moneys received pursuant to subsection (8) of this section shall be deposited in
33 the Quality Care Fund established in ORS 443.001.

34 ~~[(16)]~~ **(17)** As used in this section:

35 (a) "Hospital satellite" has the meaning prescribed by the authority by rule.

36 (b) "Procedure room" means a room where surgery or invasive procedures are performed.

37 **SECTION 7.** ORS 442.015 is amended to read:

38 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

39 (1) "Acquire" or "acquisition" means obtaining equipment, supplies, components or facilities by
40 any means, including purchase, capital or operating lease, rental or donation, for the purpose of
41 using such equipment, supplies, components or facilities to provide health services in Oregon. When
42 equipment or other materials are obtained outside of this state, acquisition is considered to occur
43 when the equipment or other materials begin to be used in Oregon for the provision of health ser-
44 vices or when such services are offered for use in Oregon.

45 (2) "Affected persons" has the same meaning as given to "party" in ORS 183.310.

1 (3)(a) “Ambulatory surgical center” means a facility or portion of a facility that operates ex-
 2 clusively for the purpose of providing surgical services to patients who do not require
 3 hospitalization and for whom the expected duration of services does not exceed 24 hours following
 4 admission.

5 (b) “Ambulatory surgical center” does not mean:

6 (A) Individual or group practice offices of private physicians or dentists that do not contain a
 7 distinct area used for outpatient surgical treatment on a regular and organized basis, or that only
 8 provide surgery routinely provided in a physician’s or dentist’s office using local anesthesia or
 9 conscious sedation; or

10 (B) A portion of a licensed hospital designated for outpatient surgical treatment.

11 (4) “Delegated credentialing agreement” means a written agreement between an originating-site
 12 hospital and a distant-site hospital that provides that the medical staff of the originating-site hospi-
 13 tal will rely upon the credentialing and privileging decisions of the distant-site hospital in making
 14 recommendations to the governing body of the originating-site hospital as to whether to credential
 15 a telemedicine provider, practicing at the distant-site hospital either as an employee or under con-
 16 tract, to provide telemedicine services to patients in the originating-site hospital.

17 (5) “Develop” means to undertake those activities that on their completion will result in the
 18 offer of a new institutional health service or the incurring of a financial obligation, as defined under
 19 applicable state law, in relation to the offering of such a health service.

20 (6) “Distant-site hospital” means the hospital where a telemedicine provider, at the time the
 21 telemedicine provider is providing telemedicine services, is practicing as an employee or under
 22 contract.

23 (7) “Essential long term care facility” means an individual long term care facility that serves
 24 predominantly rural and frontier communities, as designated by the Office of Rural Health, and
 25 meets other criteria established by the Department of Human Services by rule.

26 (8) “Expenditure” or “capital expenditure” means the actual expenditure, an obligation to an
 27 expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a
 28 donation or grant in lieu of an expenditure but not including any interest thereon.

29 **(9) “Extended stay center” means a facility licensed in accordance with section 2 of this**
 30 **2017 Act.**

31 [(9)] **(10)** “Freestanding birthing center” means a facility licensed for the primary purpose of
 32 performing low risk deliveries.

33 [(10)] **(11)** “Governmental unit” means the state, or any county, municipality or other political
 34 subdivision, or any related department, division, board or other agency.

35 [(11)] **(12)** “Gross revenue” means the sum of daily hospital service charges, ambulatory service
 36 charges, ancillary service charges and other operating revenue. “Gross revenue” does not include
 37 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

38 [(12)(a)] **(13)(a)** “Health care facility” means:

39 (A) A hospital;

40 (B) A long term care facility;

41 (C) An ambulatory surgical center;

42 (D) A freestanding birthing center; [or]

43 (E) An outpatient renal dialysis center[.]; **or**

44 **(F) An extended stay center.**

45 (b) “Health care facility” does not mean:

1 (A) A residential facility licensed by the Department of Human Services or the Oregon Health
 2 Authority under ORS 443.415;

3 (B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;

4 (C) A residential facility licensed or approved under the rules of the Department of Corrections;

5 (D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or

6 (E) Community mental health programs or community developmental disabilities programs es-
 7 tablished under ORS 430.620.

8 ~~[(13)]~~ (14) “Health maintenance organization” or “HMO” means a public organization or a pri-
 9 vate organization organized under the laws of any state that:

10 (a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or

11 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
 12 cluding at least the following basic health care services:

13 (i) Usual physician services;

14 (ii) Hospitalization;

15 (iii) Laboratory;

16 (iv) X-ray;

17 (v) Emergency and preventive services; and

18 (vi) Out-of-area coverage;

19 (B) Is compensated, except for copayments, for the provision of the basic health care services
 20 listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic
 21 rate basis; and

22 (C) Provides physicians’ services primarily directly through physicians who are either employees
 23 or partners of such organization, or through arrangements with individual physicians or one or more
 24 groups of physicians organized on a group practice or individual practice basis.

25 ~~[(14)]~~ (15) “Health services” means clinically related diagnostic, treatment or rehabilitative
 26 services, and includes alcohol, drug or controlled substance abuse and mental health services that
 27 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

28 ~~[(15)]~~ (16) “Hospital” means:

29 (a) A facility with an organized medical staff and a permanent building that is capable of pro-
 30 viding 24-hour inpatient care to two or more individuals who have an illness or injury and that
 31 provides at least the following health services:

32 (A) Medical;

33 (B) Nursing;

34 (C) Laboratory;

35 (D) Pharmacy; and

36 (E) Dietary; or

37 (b) A special inpatient care facility as that term is defined by the authority by rule.

38 ~~[(16)]~~ (17) “Institutional health services” means health services provided in or through health
 39 care facilities and *[includes]* the entities in or through which such services are provided.

40 ~~[(17)]~~ (18) “Intermediate care facility” means a facility that provides, on a regular basis,
 41 health-related care and services to individuals who do not require the degree of care and treatment
 42 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
 43 or physical condition require care and services above the level of room and board that can be made
 44 available to them only through institutional facilities.

45 ~~[(18)(a)]~~ (19)(a) “Long term care facility” means a permanent facility with inpatient beds, pro-

1 viding:

2 (A) Medical services, including nursing services but excluding surgical procedures except as
3 may be permitted by the rules of the Director of Human Services; and

4 (B) Treatment for two or more unrelated patients.

5 (b) “Long term care facility” includes skilled nursing facilities and intermediate care facilities
6 but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

7 [(19)] (20) “New hospital” means:

8 (a) A facility that did not offer hospital services on a regular basis within its service area within
9 the prior 12-month period and is initiating or proposing to initiate such services; or

10 (b) Any replacement of an existing hospital that involves a substantial increase or change in the
11 services offered.

12 [(20)] (21) “New skilled nursing or intermediate care service or facility” means a service or fa-
13 cility that did not offer long term care services on a regular basis by or through the facility within
14 the prior 12-month period and is initiating or proposing to initiate such services. “New skilled
15 nursing or intermediate care service or facility” also includes the rebuilding of a long term care
16 facility, the relocation of buildings that are a part of a long term care facility, the relocation of long
17 term care beds from one facility to another or an increase in the number of beds of more than 10
18 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period in a facility that
19 applied for a certificate of need between August 1, 2011, and December 1, 2012, or submitted a letter
20 of intent under ORS 442.315 (7) between January 15, 2013, and January 31, 2013.

21 [(21)] (22) “Offer” means that the health care facility holds itself out as capable of providing,
22 or as having the means for the provision of, specified health services.

23 [(22)] (23) “Originating-site hospital” means a hospital in which a patient is located while re-
24 ceiving telemedicine services.

25 [(23)] (24) “Outpatient renal dialysis facility” means a facility that provides renal dialysis ser-
26 vices directly to outpatients.

27 [(24)] (25) “Person” means an individual, a trust or estate, a partnership, a corporation (includ-
28 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
29 or instrumentality, including a municipal corporation, of a state.

30 [(25)] (26) “Skilled nursing facility” means a facility or a distinct part of a facility, that is pri-
31 marily engaged in providing to inpatients skilled nursing care and related services for patients who
32 require medical or nursing care, or an institution that provides rehabilitation services for the re-
33 habilitation of individuals who are injured or sick or who have disabilities.

34 [(26)] (27) “Telemedicine” means the provision of health services to patients by physicians and
35 health care practitioners from a distance using electronic communications.

36 **SECTION 8.** ORS 442.015, as amended by section 22, chapter 608, Oregon Laws 2013, is
37 amended to read:

38 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

39 (1) “Acquire” or “acquisition” means obtaining equipment, supplies, components or facilities by
40 any means, including purchase, capital or operating lease, rental or donation, for the purpose of
41 using such equipment, supplies, components or facilities to provide health services in Oregon. When
42 equipment or other materials are obtained outside of this state, acquisition is considered to occur
43 when the equipment or other materials begin to be used in Oregon for the provision of health ser-
44 vices or when such services are offered for use in Oregon.

45 (2) “Affected persons” has the same meaning as given to “party” in ORS 183.310.

1 (3)(a) “Ambulatory surgical center” means a facility or portion of a facility that operates ex-
 2 clusively for the purpose of providing surgical services to patients who do not require
 3 hospitalization and for whom the expected duration of services does not exceed 24 hours following
 4 admission.

5 (b) “Ambulatory surgical center” does not mean:

6 (A) Individual or group practice offices of private physicians or dentists that do not contain a
 7 distinct area used for outpatient surgical treatment on a regular and organized basis, or that only
 8 provide surgery routinely provided in a physician’s or dentist’s office using local anesthesia or
 9 conscious sedation; or

10 (B) A portion of a licensed hospital designated for outpatient surgical treatment.

11 (4) “Delegated credentialing agreement” means a written agreement between an originating-site
 12 hospital and a distant-site hospital that provides that the medical staff of the originating-site hospi-
 13 tal will rely upon the credentialing and privileging decisions of the distant-site hospital in making
 14 recommendations to the governing body of the originating-site hospital as to whether to credential
 15 a telemedicine provider, practicing at the distant-site hospital either as an employee or under con-
 16 tract, to provide telemedicine services to patients in the originating-site hospital.

17 (5) “Develop” means to undertake those activities that on their completion will result in the
 18 offer of a new institutional health service or the incurring of a financial obligation, as defined under
 19 applicable state law, in relation to the offering of such a health service.

20 (6) “Distant-site hospital” means the hospital where a telemedicine provider, at the time the
 21 telemedicine provider is providing telemedicine services, is practicing as an employee or under
 22 contract.

23 (7) “Expenditure” or “capital expenditure” means the actual expenditure, an obligation to an
 24 expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of a
 25 donation or grant in lieu of an expenditure but not including any interest thereon.

26 **(8) “Extended stay center” means a facility licensed in accordance with section 2 of this**
 27 **2017 Act.**

28 [(8)] **(9)** “Freestanding birthing center” means a facility licensed for the primary purpose of
 29 performing low risk deliveries.

30 [(9)] **(10)** “Governmental unit” means the state, or any county, municipality or other political
 31 subdivision, or any related department, division, board or other agency.

32 [(10)] **(11)** “Gross revenue” means the sum of daily hospital service charges, ambulatory service
 33 charges, ancillary service charges and other operating revenue. “Gross revenue” does not include
 34 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

35 [(11)(a)] **(12)(a)** “Health care facility” means:

36 (A) A hospital;

37 (B) A long term care facility;

38 (C) An ambulatory surgical center;

39 (D) A freestanding birthing center; [or]

40 (E) An outpatient renal dialysis center[.]; **or**

41 **(F) An extended stay center.**

42 (b) “Health care facility” does not mean:

43 (A) A residential facility licensed by the Department of Human Services or the Oregon Health
 44 Authority under ORS 443.415;

45 (B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;

1 (C) A residential facility licensed or approved under the rules of the Department of Corrections;

2 (D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or

3 (E) Community mental health programs or community developmental disabilities programs es-
4 tablished under ORS 430.620.

5 [(12)] (13) “Health maintenance organization” or “HMO” means a public organization or a pri-
6 vate organization organized under the laws of any state that:

7 (a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or

8 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
9 cluding at least the following basic health care services:

10 (i) Usual physician services;

11 (ii) Hospitalization;

12 (iii) Laboratory;

13 (iv) X-ray;

14 (v) Emergency and preventive services; and

15 (vi) Out-of-area coverage;

16 (B) Is compensated, except for copayments, for the provision of the basic health care services
17 listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic
18 rate basis; and

19 (C) Provides physicians’ services primarily directly through physicians who are either employees
20 or partners of such organization, or through arrangements with individual physicians or one or more
21 groups of physicians organized on a group practice or individual practice basis.

22 [(13)] (14) “Health services” means clinically related diagnostic, treatment or rehabilitative
23 services, and includes alcohol, drug or controlled substance abuse and mental health services that
24 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

25 [(14)] (15) “Hospital” means:

26 (a) A facility with an organized medical staff and a permanent building that is capable of pro-
27 viding 24-hour inpatient care to two or more individuals who have an illness or injury and that
28 provides at least the following health services:

29 (A) Medical;

30 (B) Nursing;

31 (C) Laboratory;

32 (D) Pharmacy; and

33 (E) Dietary; or

34 (b) A special inpatient care facility as that term is defined by the authority by rule.

35 [(15)] (16) “Institutional health services” means health services provided in or through health
36 care facilities and [includes] the entities in or through which such services are provided.

37 [(16)] (17) “Intermediate care facility” means a facility that provides, on a regular basis,
38 health-related care and services to individuals who do not require the degree of care and treatment
39 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
40 or physical condition require care and services above the level of room and board that can be made
41 available to them only through institutional facilities.

42 [(17)(a)] (18)(a) “Long term care facility” means a permanent facility with inpatient beds, pro-
43 viding:

44 (A) Medical services, including nursing services but excluding surgical procedures except as
45 may be permitted by the rules of the Director of Human Services; and

1 (B) Treatment for two or more unrelated patients.

2 (b) “Long term care facility” includes skilled nursing facilities and intermediate care facilities
3 but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

4 [(18)] (19) “New hospital” means:

5 (a) A facility that did not offer hospital services on a regular basis within its service area within
6 the prior 12-month period and is initiating or proposing to initiate such services; or

7 (b) Any replacement of an existing hospital that involves a substantial increase or change in the
8 services offered.

9 [(19)] (20) “New skilled nursing or intermediate care service or facility” means a service or fa-
10 cility that did not offer long term care services on a regular basis by or through the facility within
11 the prior 12-month period and is initiating or proposing to initiate such services. “New skilled
12 nursing or intermediate care service or facility” also includes the rebuilding of a long term care
13 facility, the relocation of buildings that are a part of a long term care facility, the relocation of long
14 term care beds from one facility to another or an increase in the number of beds of more than 10
15 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

16 [(20)] (21) “Offer” means that the health care facility holds itself out as capable of providing,
17 or as having the means for the provision of, specified health services.

18 [(21)] (22) “Originating-site hospital” means a hospital in which a patient is located while re-
19 ceiving telemedicine services.

20 [(22)] (23) “Outpatient renal dialysis facility” means a facility that provides renal dialysis ser-
21 vices directly to outpatients.

22 [(23)] (24) “Person” means an individual, a trust or estate, a partnership, a corporation (includ-
23 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
24 or instrumentality, including a municipal corporation, of a state.

25 [(24)] (25) “Skilled nursing facility” means a facility or a distinct part of a facility, that is pri-
26 marily engaged in providing to inpatients skilled nursing care and related services for patients who
27 require medical or nursing care, or an institution that provides rehabilitation services for the re-
28 habilitation of individuals who are injured or sick or who have disabilities.

29 [(25)] (26) “Telemedicine” means the provision of health services to patients by physicians and
30 health care practitioners from a distance using electronic communications.

31 **SECTION 9.** ORS 192.660 is amended to read:

32 192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from
33 holding executive session during a regular, special or emergency meeting, after the presiding officer
34 has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

35 (2) The governing body of a public body may hold an executive session:

36 (a) To consider the employment of a public officer, employee, staff member or individual agent.

37 (b) To consider the dismissal or disciplining of, or to hear complaints or charges brought
38 against, a public officer, employee, staff member or individual agent who does not request an open
39 hearing.

40 (c) To consider matters pertaining to the function of the medical staff of a public hospital li-
41 censed pursuant to ORS 441.015 to [441.063] **441.087** and 441.196 including, but not limited to, all
42 clinical committees, executive, credentials, utilization review, peer review committees and all other
43 matters relating to medical competency in the hospital.

44 (d) To conduct deliberations with persons designated by the governing body to carry on labor
45 negotiations.

1 (e) To conduct deliberations with persons designated by the governing body to negotiate real
2 property transactions.

3 (f) To consider information or records that are exempt by law from public inspection.

4 (g) To consider preliminary negotiations involving matters of trade or commerce in which the
5 governing body is in competition with governing bodies in other states or nations.

6 (h) To consult with counsel concerning the legal rights and duties of a public body with regard
7 to current litigation or litigation likely to be filed.

8 (i) To review and evaluate the employment-related performance of the chief executive officer of
9 any public body, a public officer, employee or staff member who does not request an open hearing.

10 (j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding
11 proposed acquisition, exchange or liquidation of public investments.

12 (k) To consider matters relating to school safety or a plan that responds to safety threats made
13 toward a school.

14 (L) If the governing body is a health professional regulatory board, to consider information ob-
15 tained as part of an investigation of licensee or applicant conduct.

16 (m) If the governing body is the State Landscape Architect Board, or an advisory committee to
17 the board, to consider information obtained as part of an investigation of registrant or applicant
18 conduct.

19 (n) To discuss information about review or approval of programs relating to the security of any
20 of the following:

21 (A) A nuclear-powered thermal power plant or nuclear installation.

22 (B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal
23 power plant or nuclear installation.

24 (C) Generation, storage or conveyance of:

25 (i) Electricity;

26 (ii) Gas in liquefied or gaseous form;

27 (iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

28 (iv) Petroleum products;

29 (v) Sewage; or

30 (vi) Water.

31 (D) Telecommunication systems, including cellular, wireless or radio systems.

32 (E) Data transmissions by whatever means provided.

33 (3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides
34 request that negotiations be conducted in executive session. Labor negotiations conducted in exec-
35 utive session are not subject to the notification requirements of ORS 192.640.

36 (4) Representatives of the news media shall be allowed to attend executive sessions other than
37 those held under subsection (2)(d) of this section relating to labor negotiations or executive session
38 held pursuant to ORS 332.061 (2) but the governing body may require that specified information be
39 undisclosed.

40 (5) When a governing body convenes an executive session under subsection (2)(h) of this section
41 relating to conferring with counsel on current litigation or litigation likely to be filed, the governing
42 body shall bar any member of the news media from attending the executive session if the member
43 of the news media is a party to the litigation or is an employee, agent or contractor of a news media
44 organization that is a party to the litigation.

45 (6) No executive session may be held for the purpose of taking any final action or making any

1 final decision.

2 (7) The exception granted by subsection (2)(a) of this section does not apply to:

3 (a) The filling of a vacancy in an elective office.

4 (b) The filling of a vacancy on any public committee, commission or other advisory group.

5 (c) The consideration of general employment policies.

6 (d) The employment of the chief executive officer, other public officers, employees and staff
7 members of a public body unless:

8 (A) The public body has advertised the vacancy;

9 (B) The public body has adopted regular hiring procedures;

10 (C) In the case of an officer, the public has had the opportunity to comment on the employment
11 of the officer; and

12 (D) In the case of a chief executive officer, the governing body has adopted hiring standards,
13 criteria and policy directives in meetings open to the public in which the public has had the op-
14 portunity to comment on the standards, criteria and policy directives.

15 (8) A governing body may not use an executive session for purposes of evaluating a chief execu-
16 tive officer or other officer, employee or staff member to conduct a general evaluation of an agency
17 goal, objective or operation or any directive to personnel concerning agency goals, objectives, op-
18 erations or programs.

19 (9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650:

20 (a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to
21 the substance and disposition of licensee or applicant conduct investigated by a health professional
22 regulatory board.

23 (b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to
24 the substance and disposition of registrant or applicant conduct investigated by the State Landscape
25 Architect Board or an advisory committee to the board.

26 (10) Notwithstanding ORS 244.290, the Oregon Government Ethics Commission may not adopt
27 rules that establish what entities are considered representatives of the news media that are entitled
28 to attend executive sessions under subsection (4) of this section.

29 **SECTION 10.** ORS 441.025 is amended to read:

30 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
31 other than a long term care facility, the Oregon Health Authority shall review the application and
32 conduct an on-site inspection of the health care facility. The authority shall issue a license if it finds
33 that the applicant and health care facility comply with ORS 441.015 to [441.063] **441.087** and 441.196
34 and the rules of the authority provided that the authority does not receive within the time specified
35 a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority
36 pursuant to ORS 479.215.

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

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

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

42 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the
43 Department of Human Services shall review the application and conduct an on-site inspection of the
44 long term care facility. The department shall issue a license if the department finds that the appli-
45 cant and long term care facility comply with ORS 441.015 to [441.063,] 441.087 and 441.196 and the

1 rules of the department provided that it does not receive within the time specified a certificate of
2 noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS
3 479.215.

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

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

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

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

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

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

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

19 (6) No license shall be issued or renewed for any skilled nursing facility or intermediate care
20 facility, unless the applicant has included in the application the name and such other information
21 as may be necessary to establish the identity and financial interests of any person who has incidents
22 of ownership in the facility representing an interest of 10 percent or more thereof. If the person
23 having such interest is a corporation, the name of any stockholder holding stock representing an
24 interest in the facility of 10 percent or more shall also be included in the application. If the person
25 having such interest is any other entity, the name of any member thereof having incidents of own-
26 ership representing an interest of 10 percent or more in the facility shall also be included in the
27 application.

28 (7) A license may be denied to any applicant for a license or renewal thereof or any stockholder
29 of any such applicant who has incidents of ownership in the health care facility representing an
30 interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for
31 the facility, if during the five years prior to the application the applicant or any stockholder of the
32 applicant had an interest of 10 percent or more in the facility or of a lease for the facility and has
33 divested that interest after receiving from the authority or the department written notice that the
34 authority or the department intends to suspend or revoke the license or to decertify the facility from
35 eligibility to receive payments for services provided under this section.

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

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

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

44 (b) Standards for patient care and safety, adequate professional staff organizations, training of
45 staff for whom no other state regulation exists, suitable delineation of professional privileges and

1 adequate staff analyses of clinical records.

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

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

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

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

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

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

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

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

19 **SECTION 11.** ORS 441.030 is amended to read:

20 441.030. (1) The Oregon Health Authority or the Department of Human Services may assess a
21 civil penalty and, pursuant to ORS 479.215, shall deny, suspend or revoke a license, in any case
22 where the State Fire Marshal, or the representative of the State Fire Marshal, certifies that there
23 is a failure to comply with all applicable laws, lawful ordinances and rules relating to safety from
24 fire.

25 (2) The authority may:

26 (a) Assess a civil penalty or deny, suspend or revoke a license of a health care facility other
27 than a long term care facility in any case where it finds that there has been a substantial failure
28 to comply with ORS 441.015 to [441.063] **441.087** and 441.196 or the rules or minimum standards
29 adopted under ORS 441.015 to [441.063] **441.087** and 441.196.

30 (b) Assess a civil penalty or suspend or revoke a license issued under ORS 441.025 for failure
31 to comply with an authority order arising from a health care facility's substantial lack of compliance
32 with the provisions of ORS 441.015 to [441.063] **441.087**, 441.152 to 441.177 or 441.196 or the rules
33 adopted under ORS 441.015 to [441.063] **441.087**, 441.152 to 441.177 or 441.196.

34 (c) Suspend or revoke a license issued under ORS 441.025 for failure to pay a civil penalty im-
35 posed under ORS 441.175.

36 (3) The department may:

37 (a) Assess a civil penalty or deny, suspend or revoke a long term care facility's license in any
38 case where it finds that there has been a substantial failure to comply with ORS 441.015 to
39 [441.063,] 441.087 or 441.196 or the rules or minimum standards adopted under ORS 441.015 to
40 [441.063,] 441.087 or 441.196.

41 (b) Assess a civil penalty or suspend or revoke a long term care facility's license issued under
42 ORS 441.025 for failure to comply with a department order arising from a long term care facility's
43 substantial lack of compliance with the provisions of ORS 441.015 to [441.063, 441.084,] 441.087 or
44 441.196 or the rules adopted under ORS 441.015 to [441.063, 441.084,] 441.087 or 441.196.

45 (c) Suspend or revoke a license issued under ORS 441.025 for failure to pay a civil penalty im-

1 posed under ORS 441.710.

2 (d) Order a long term care facility licensed under ORS 441.025 to restrict the admission of pa-
 3 tients when the department finds an immediate threat to patient health and safety arising from
 4 failure of the long term care facility to be in compliance with ORS 441.015 to [441.063, 441.084,]
 5 441.087 or 441.196 and the rules adopted under ORS 441.015 to [441.063, 441.084,] 441.087 or 441.196.

6 (4) Any long term care facility that has been ordered to restrict the admission of patients pur-
 7 suant to subsection (3)(d) of this section shall post a notice of the restriction, provided by the de-
 8 partment, on all doors providing ingress to and egress from the facility, for the duration of the
 9 restriction.

10 **SECTION 12.** ORS 441.065 is amended to read:

11 441.065. (1) ORS 441.015 to [441.063] **441.087** and 441.196 or the rules adopted pursuant thereto
 12 do not authorize the supervision, regulation or control of the remedial care or treatment of residents
 13 or patients in any home or institution that is described under subsection (2) of this section and is
 14 conducted for those who rely upon treatment solely by prayer or spiritual means, except as to the
 15 sanitary and safe conditions of the premises, cleanliness of operation and its physical equipment.
 16 This section does not exempt such a home or institution from the licensing requirements of ORS
 17 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342[,] **and** 442.344 [and 442.400
 18 to 442.463].

19 (2) To qualify under subsection (1) of this section, a home or institution must:

20 (a) Be owned by an entity that is registered with the Secretary of State as a nonprofit corpo-
 21 ration and that does not own, hold a financial interest in, control or operate any facility, wherever
 22 located, of a type providing medical health care and services; and

23 (b) Provide 24 hour a day availability of nonmedical care and services.

24 (3) As used in this section:

25 (a) "Medical health care and services" means medical screening, examination, diagnosis,
 26 prognosis, treatment and drug administration. "Medical health care and services" does not include
 27 counseling or the provision of social services or dietary services.

28 (b) "Nonmedical care and services" means assistance or services, other than medical health care
 29 and services, provided by attendants for the physical, mental, emotional or spiritual comfort and
 30 well being of residents or patients.

31 **SECTION 13.** ORS 441.077 is amended to read:

32 441.077. (1) If the governing body of a health care facility or health maintenance organization
 33 excludes or expels a person licensed under ORS chapter 677 from staff membership, or limits in any
 34 way the professional privilege of the person in the health care facility or health maintenance or-
 35 ganization solely because of the school of medicine to which the person belongs, the license of the
 36 health care facility shall be subject to revocation in the manner provided in ORS [441.015 to
 37 441.065] **441.030**. A health maintenance organization which violates this section shall be subject to
 38 penalties provided in ORS 731.988 and 731.992.

39 (2) Nothing in this section is intended to limit the authority of the governing body of a health
 40 care facility or health maintenance organization with respect to a person who has violated the
 41 reasonable rules and regulations of the health care facility or health maintenance organization or
 42 who has violated the provisions of ORS chapter 677 if the governing body has reported the violation
 43 of ORS chapter 677 to the Oregon Medical Board in writing.

44 **SECTION 14.** ORS 442.700 is amended to read:

45 442.700. As used in ORS 442.700 to 442.760:

1 (1) "Board of governors" means the governors of a cooperative program as described in ORS
2 442.720.

3 (2) "Cooperative program" means a program among two or more health care providers for the
4 purpose of providing heart and kidney transplant services including, but not limited to, the sharing,
5 allocation and referral of physicians, patients, personnel, instructional programs, support services,
6 facilities, medical, diagnostic, laboratory or therapeutic services, equipment, devices or supplies, and
7 other services traditionally offered by health care providers.

8 (3) "Health care provider" means a hospital, physician or entity, a significant part of whose
9 activities consist of providing hospital or physician services in this state. For purposes of the im-
10 munities provided by ORS 442.700 to 442.760 and 646.740, "health care provider" includes any offi-
11 cer, director, trustee, employee, or agent of, or any entity under common ownership and control
12 with, a health care provider.

13 (4) "Hospital" means a hospital, a long term care facility or an ambulatory surgical center, as
14 those terms are defined in ORS 442.015, that is licensed under ORS 441.015 to [441.089] 441.087.
15 "Hospital" includes community health programs established under ORS 430.610 to 430.695.

16 (5) "Order" means a decision issued by the Director of the Oregon Health Authority under ORS
17 442.710 either approving or denying an application for a cooperative program and includes modifi-
18 cations of an original order under ORS 442.730 (3)(b) and ORS 442.740 (1) and (4).

19 (6) "Party to a cooperative program agreement" or "party" means an entity that enters into the
20 principal agreement to establish a cooperative program and applies for approval under ORS 442.700
21 to 442.760 and 646.740 and any other entity that, with the approval of the director, becomes a
22 member of a cooperative program.

23 (7) "Physician" means a physician licensed under ORS chapter 677.

24 **SECTION 15.** ORS 677.515 is amended to read:

25 677.515. (1) A physician assistant licensed under ORS 677.512 may provide any medical service,
26 including prescribing and administering controlled substances in schedules II through V under the
27 federal Controlled Substances Act:

28 (a) That is delegated by the physician assistant's supervising physician or supervising physician
29 organization;

30 (b) That is within the scope of practice of the physician assistant;

31 (c) That is within the scope of practice of the supervising physician or supervising physician
32 organization;

33 (d) That is provided under the supervision of the supervising physician or supervising physician
34 organization;

35 (e) That is generally described in and in compliance with the practice agreement; and

36 (f) For which the physician assistant has obtained informed consent as provided in ORS 677.097,
37 if informed consent is required.

38 (2) This chapter does not prohibit a student enrolled in a program for educating physician as-
39 sistants approved by the board from rendering medical services if the services are rendered in the
40 course of the program.

41 (3) The degree of independent judgment that a physician assistant may exercise shall be deter-
42 mined by the supervising physician, or supervising physician organization, and the physician assist-
43 ant in accordance with the practice agreement.

44 (4) A supervising physician, upon the approval of the board and in accordance with the rules
45 established by the board, may delegate to the physician assistant the authority to administer and

1 prescribe medications pursuant to this section and ORS 677.535. The board may not limit the privi-
2 lege of administering, dispensing and prescribing to population groups federally designated as
3 underserved, or to geographic areas of the state that are federally designated health professional
4 shortage areas, federally designated medically underserved areas or areas designated as medically
5 disadvantaged and in need of primary health care providers by the Director of the Oregon Health
6 Authority or the Office of Rural Health. All prescriptions written pursuant to this subsection must
7 bear the name, office address and telephone number of the supervising physician.

8 (5) This chapter does not require or prohibit a physician assistant from practicing in a hospital
9 licensed pursuant to ORS 441.015 to [441.089] **441.087**.

10 (6) Prescriptions for medications prescribed by a physician assistant in accordance with this
11 section and ORS 475.005, 677.010, 677.500, 677.510 and 677.535 and dispensed by a licensed
12 pharmacist may be filled by the pharmacist according to the terms of the prescription, and the filling
13 of such a prescription does not constitute evidence of negligence on the part of the pharmacist if
14 the prescription was dispensed within the reasonable and prudent practice of pharmacy.

15 **SECTION 16. The amendments to section 2 of this 2017 Act by section 5 of this 2017 Act**
16 **become operative on January 2, 2023.**

17 **SECTION 17. Section 3 of this 2017 Act is repealed on January 2, 2023.**

18 **SECTION 18. In addition to and not in lieu of any other appropriation, there is appro-**
19 **propriated to the Oregon Health Authority, for the biennium beginning July 1, 2017, out of the**
20 **General Fund, the amount of \$_____, which may be expended for carrying out the pro-**
21 **visions of sections 2 to 4 of this 2017 Act.**

22