

House Bill 3284

Sponsored by Representative HAYDEN

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**.

Repeals requirement for health care facility to obtain certificate of need.

A BILL FOR AN ACT

1
2 Relating to certificate of need requirement for health care facilities; amending ORS 101.030, 408.370,
3 408.380, 430.021, 430.315, 431.120, 441.025, 441.060, 441.065, 441.550, 441.710, 442.015, 442.361,
4 442.405, 479.210, 677.450 and 742.400; and repealing ORS 101.090, 442.315, 442.325, 442.342,
5 442.344 and 442.347.

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

7 **SECTION 1. ORS 101.090, 442.315, 442.325, 442.342, 442.344 and 442.347 are repealed.**

8 **SECTION 2.** ORS 101.030 is amended to read:

9 101.030. (1) A new continuing care retirement community provider shall register with the De-
10 partment of Human Services before the provider:

11 (a) Enters into a residency agreement with a nonresident;

12 (b) Solicits either a prospective resident or nonresident to pay an application fee or execute a
13 residency agreement; or

14 (c) Collects an entrance fee.

15 (2) The provider shall apply for registration with the department on forms prescribed by the
16 department. The application shall include a disclosure statement as described in ORS 101.050. The
17 disclosure statement must include an explanation, in boldfaced type, whether and in what manner
18 and amount entrance fees are refunded to prospective residents in the event a prospective resident
19 withdraws from the residency agreement prior to occupancy.

20 (3) Within 10 business days after receipt of the completed application for registration of a new
21 continuing care retirement community, the department shall issue a notice of filing to the applicant.
22 Within 60 days of the notice of filing, the department shall enter an order registering the provider
23 or rejecting the registration. If no order of rejection is entered within 60 days from the date of no-
24 tice of filing, the provider shall be considered registered unless the provider and the department
25 agree in writing to an extension of time. If no order of rejection is entered within the time period
26 as so extended, the provider shall be considered registered.

27 (4) If the department determines that the requirements of ORS 101.050, 101.060[,] **and** 101.070
28 [*and 101.090*] have been met, it shall enter an order registering the provider. If the department de-
29 termines that any of the requirements of ORS 101.050, 101.060[,] **or** 101.070 [*or 101.090*] have not
30 been met, the department shall notify the applicant that the application for registration must be
31 corrected within 30 days in such particulars as are designated by the department. If the require-
32 ments are not met within the time allowed, the department may enter an order rejecting the regis-

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 tration. The order shall include the findings of fact upon which the order is based and which shall
 2 not become effective until 20 days after the end of the foregoing 30-day period. During the 20-day
 3 period, the applicant may petition for reconsideration and shall be entitled to a hearing. An order
 4 of rejection shall not take effect, in any event, until such time as the hearing, once requested, has
 5 been given to the applicant and a decision is rendered by the administrative law judge that sustains
 6 the department's decision to reject the registration.

7 **SECTION 3.** ORS 408.370 is amended to read:

8 408.370. [(1)] In addition to the other uses for the Oregon Housing Fund set forth in ORS 458.600
 9 to 458.665, financial support for an Oregon Veterans' Home is a permitted use of moneys from the
 10 Oregon Housing Fund.

11 [(2) *Notwithstanding ORS 442.315 and 442.325, an Oregon Veterans' Home is not subject to any*
 12 *certificate of need requirement.*]

13 **SECTION 4.** ORS 408.380 is amended to read:

14 408.380. (1) The Oregon Veterans' Home authorized by section 1, chapter 591, Oregon Laws 1995,
 15 is subject to all state laws and administrative rules and all federal laws and administrative regu-
 16 lations to which long term care facilities operated by nongovernmental entities are subject[, *except*
 17 *for the requirement to obtain a certificate of need under ORS 442.315 from the Oregon Health*
 18 *Authority*].

19 (2) As used in this section, "long term care facility" has the meaning given that term in ORS
 20 442.015.

21 **SECTION 5.** ORS 430.021 is amended to read:

22 430.021. Subject to ORS 417.300 and 417.305:

23 (1) The Department of Human Services shall directly or through contracts with private entities,
 24 counties under ORS 430.620 or other public entities:

25 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for
 26 persons with developmental disabilities.

27 (b) Promote, correlate and coordinate the developmental disabilities activities of all govern-
 28 mental organizations throughout the state in which there is any direct contact with developmental
 29 disabilities programs.

30 (c) Establish, coordinate, assist and direct a community developmental disabilities program in
 31 cooperation with local government units and integrate such a program with the state developmental
 32 disabilities program.

33 (d) Promote public education in this state concerning developmental disabilities and act as the
 34 liaison center for work with all interested public and private groups and agencies in the field of
 35 developmental disabilities services.

36 (2) The Oregon Health Authority shall directly or by contract with private or public entities:

37 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for
 38 persons with mental or emotional disturbances, alcoholism or drug dependence.

39 (b) Promote, correlate and coordinate the mental health activities of all governmental organ-
 40 izations throughout the state in which there is any direct contact with mental health programs.

41 (c) Establish, coordinate, assist and direct a community mental health program in cooperation
 42 with local government units and integrate such a program with the state mental health program.

43 (d) Promote public education in this state concerning mental health and act as the liaison center
 44 for work with all interested public and private groups and agencies in the field of mental health
 45 services.

1 (3) The department and the authority shall develop cooperative programs with interested private
2 groups throughout the state to effect better community awareness and action in the fields of mental
3 health and developmental disabilities, and encourage and assist in all necessary ways community
4 general hospitals to establish psychiatric services.

5 (4) To the greatest extent possible, the least costly settings for treatment, outpatient services
6 and residential facilities shall be widely available and utilized except when contraindicated because
7 of individual health care needs. State agencies that purchase treatment for mental or emotional
8 disturbances shall develop criteria consistent with this policy. *[In reviewing applications for certifi-*
9 *icates of need, the Director of the Oregon Health Authority shall take this policy into account.]*

10 (5) The department and the authority shall accept the custody of persons committed to its care
11 by the courts of this state.

12 (6) The authority shall adopt rules to require a facility and a nonhospital facility as those terms
13 are defined in ORS 426.005, and a provider that employs a person described in ORS 426.415, if sub-
14 ject to authority rules regarding the use of restraint or seclusion during the course of mental health
15 treatment of a child or adult, to report to the authority each calendar quarter the number of inci-
16 dents involving the use of restraint or seclusion. The aggregate data shall be made available to the
17 public.

18 **SECTION 6.** ORS 430.315 is amended to read:

19 430.315. The Legislative Assembly finds alcoholism or drug dependence is an illness. The alco-
20 holic or drug-dependent person is ill and should be afforded treatment for that illness. To the
21 greatest extent possible, the least costly settings for treatment, outpatient services and residential
22 facilities shall be widely available and utilized except when contraindicated because of individual
23 health care needs. State agencies that purchase treatment for alcoholism or drug dependence shall
24 develop criteria consistent with this policy in consultation with the Oregon Health Authority. *[In*
25 *reviewing applications for certificate of need, the Director of the Oregon Health Authority shall take*
26 *this policy into account.]*

27 **SECTION 7.** ORS 431.120 is amended to read:

28 431.120. In addition to the duties described in ORS 431.115, the Oregon Health Authority shall:

29 (1) Enforce the laws, rules and policies of this state related to health.

30 (2) Routinely conduct epidemiological investigations for each case of sudden infant death syn-
31 drome, including the identification of risk factors such as birth weight, maternal age, prenatal care,
32 history of apnea and socioeconomic characteristics. The authority may conduct the investigations
33 through local health departments only upon adoption by rule of a uniform epidemiological data col-
34 lection method.

35 (3) Adopt rules related to loans and grants awarded under ORS 285B.560 to 285B.599 or 541.700
36 to 541.855 for the improvement of drinking water systems for the purpose of maintaining compliance
37 with applicable state and federal drinking water quality standards. In adopting rules under this
38 subsection, the authority shall coordinate the authority's rulemaking process with the Water Re-
39 sources Department and the Oregon Business Development Department to ensure that rules adopted
40 under this subsection are consistent with rules adopted under ORS 285B.563 and 541.845.

41 *[(4) Control health care capital expenditures by administering the state certificate of need program*
42 *under ORS 442.325 to 442.344.]*

43 **SECTION 8.** ORS 441.025 is amended to read:

44 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
45 other than a long term care facility, the Oregon Health Authority shall review the application and

1 conduct an on-site inspection of the health care facility. The authority shall issue a license if it finds
2 that the applicant and health care facility comply with ORS 441.015 to 441.063 and 441.196 and the
3 rules of the authority provided that the authority does not receive within the time specified a cer-
4 tificate of noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant
5 to ORS 479.215.

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

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

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

11 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the
12 Department of Human Services shall review the application and conduct an on-site inspection of the
13 long term care facility. The department shall issue a license if the department finds that the appli-
14 cant and long term care facility comply with ORS 441.015 to 441.063, 441.087 and 441.196 and the
15 rules of the department provided that it does not receive within the time specified a certificate of
16 noncompliance issued by the State Fire Marshal, deputy, or approved authority pursuant to ORS
17 479.215.

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

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

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

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

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

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

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

33 *[(6)]* (5) No license shall be issued or renewed for any skilled nursing facility or intermediate
34 care facility, unless the applicant has included in the application the name and such other informa-
35 tion as may be necessary to establish the identity and financial interests of any person who has
36 incidents of ownership in the facility representing an interest of 10 percent or more thereof. If the
37 person having such interest is a corporation, the name of any stockholder holding stock representing
38 an interest in the facility of 10 percent or more shall also be included in the application. If the
39 person having such interest is any other entity, the name of any member thereof having incidents
40 of ownership representing an interest of 10 percent or more in the facility shall also be included in
41 the application.

42 *[(7)]* (6) A license may be denied to any applicant for a license or renewal thereof or any
43 stockholder of any such applicant who has incidents of ownership in the health care facility repre-
44 senting an interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease
45 agreement for the facility, if during the five years prior to the application the applicant or any

1 stockholder of the applicant had an interest of 10 percent or more in the facility or of a lease for
2 the facility and has divested that interest after receiving from the authority or the department
3 written notice that the authority or the department intends to suspend or revoke the license or to
4 decertify the facility from eligibility to receive payments for services provided under this section.

5 [(8)] (7) The Department of Human Services may not issue or renew a license for a long term
6 care facility, unless the applicant has included in the application the identity of any person who has
7 incident of ownership in the long term care facility who also has a financial interest in any phar-
8 macy, as defined in ORS 689.005.

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

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

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

16 [(10)] (9) The department shall adopt rules for each type of long term care facility to carry out
17 the purposes of ORS 441.015 to 441.087 including, but not limited to:

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

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

23 [(11)] (10) The authority or department may not adopt a rule requiring a health care facility to
24 serve a specific food as long as the necessary nutritional food elements are present in the food that
25 is served.

26 [(12)] (11) A health care facility licensed by the authority or department may not:

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

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

31 [(13)] (12) A health care facility must reapply for licensure to change the classification assigned
32 or the type of license issued by the authority or department.

33 **SECTION 9.** ORS 441.060 is amended to read:

34 441.060. (1) The Oregon Health Authority shall make or cause to be made on-site inspections of
35 health care facilities licensed under ORS 441.025 (1) at least once every three years.

36 (2) The authority and the Department of Human Services may prescribe by rule that any
37 licensee or prospective applicant desiring to make specified types of alteration or addition to its
38 facilities or to construct new facilities shall, before commencing such alteration, addition or new
39 construction, [*either prior to or after receiving a certificate of need pursuant to ORS 442.315, if re-*
40 *quired,*] submit plans and specifications therefor to the authority or the department for preliminary
41 inspection and approval or recommendations with respect to compliance with the rules authorized
42 by ORS 441.025 and 443.420 and for compliance with National Fire Protection Association standards
43 when the facility is also to be Medicare or Medicaid certified.

44 (3) The authority or the department may require by rule payment of a fee for project review
45 services at a variable rate, dependent on total project cost.

1 (4) For health care facilities, the authority shall develop a review fee schedule as minimally
 2 necessary to support the staffing level and expenses required to administer the program.

3 (5) For long term care facilities and residential care facilities, the department shall develop a
 4 review fee schedule as minimally necessary to support the staffing level and expenses required to
 5 administer the program. The fee for project review of residential care facilities shall equal two-
 6 thirds that required of health care facilities.

7 (6) The authority or the department may also conduct an on-site review of projects as a pre-
 8 requisite to licensure of new facilities, major renovations and expansions. The authority and the
 9 department shall, at least annually, with the advice of the facilities covered by the review, present
 10 proposed rule changes regarding facility design and construction to such agencies for their consid-
 11 eration.

12 (7) The authority shall publish a state submissions guide for health care facility projects and
 13 advise project sponsors of applicable requirements of federal, state and local regulatory agencies.

14 (8) The department shall publish a state submissions guide for long term care facility and resi-
 15 dential care facility projects and advise project sponsors of applicable requirements of federal, state
 16 and local regulatory agencies.

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

18 441.065. (1) ORS 441.015 to 441.063 and 441.196 or the rules adopted pursuant thereto do not
 19 authorize the supervision, regulation or control of the remedial care or treatment of residents or
 20 patients in any home or institution that is described under subsection (2) of this section and is
 21 conducted for those who rely upon treatment solely by prayer or spiritual means, except as to the
 22 sanitary and safe conditions of the premises, cleanliness of operation and its physical equipment.
 23 This section does not exempt such a home or institution from the licensing requirements of ORS
 24 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990[, 442.342, 442.344] and 442.400 to
 25 442.463.

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

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

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

31 (3) As used in this section:

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

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

38 **SECTION 11.** ORS 441.550 is amended to read:

39 441.550. Except as otherwise provided in ORS 441.545, an authority shall have all powers nec-
 40 essary to accomplish the purpose of providing hospital facilities for the people of Oregon, including
 41 without limitation the power:

42 (1) To sue and be sued in its own name.

43 (2) To acquire by purchase, construction, exchange, gift, lease, or otherwise, and to improve,
 44 extend, maintain, equip and furnish hospital facilities, which hospital facilities may be either within
 45 or without the corporate limits of the municipality by which the authority is created.

1 (3) To lease such hospital facilities to any one or more political subdivisions of this state or any
 2 private nonprofit corporations which are operating or propose to operate an inpatient care facility
 3 subject to the licensing and supervision requirements of ORS 441.015 to 441.087, 441.525 to 441.595,
 4 441.815, 441.820, 441.990[*442.342, 442.344*] and 442.400 to 442.463 upon such terms and conditions
 5 as the board deems appropriate, to charge and collect rents and to terminate any such lease upon
 6 default of the lessee.

7 (4) To enter into options and agreements for the renewal or extension of such leases of hospital
 8 facilities or for the conveyance of such hospital facilities.

9 (5) To sell, exchange, donate and convey any or all of its hospital facilities or other assets.

10 (6) To borrow money and to issue notes and revenue bonds for the purpose of carrying out its
 11 powers.

12 (7) To mortgage and pledge its assets, or any portion thereof, whether then owned or thereafter
 13 acquired, to pledge the revenues and receipts from such assets, to acquire, hold, and dispose of
 14 mortgages and other similar documents relating to hospital facilities, and to arrange and provide for
 15 guarantee and other security agreements therefor.

16 (8) To loan money for the construction of and improvements to hospital facilities.

17 (9) To enter into contracts, leases and other undertakings in its own name.

18 (10) To adopt and amend ordinances and resolutions.

19 **SECTION 12.** ORS 441.710 is amended to read:

20 441.710. (1) In addition to any other liability or penalty provided by law, the Director of Human
 21 Services may impose a civil penalty on a person for any of the following:

22 (a) Violation of any of the terms or conditions of a license issued under ORS 441.015 to 441.087,
 23 441.525 to 441.595, 441.815, 441.820, 441.990[*442.342, 442.344*] and 442.400 to 442.463 for a long term
 24 care facility, as defined in ORS 442.015.

25 (b) Violation of any rule or general order of the Department of Human Services that pertains
 26 to a long term care facility.

27 (c) Violation of any final order of the director that pertains specifically to the long term care
 28 facility owned or operated by the person incurring the penalty.

29 (d) Violation of ORS 441.605 or of rules required to be adopted under ORS 441.610.

30 (e) Violation of ORS 443.880 or 443.881 if the facility is a residential care facility, residential
 31 training facility or residential training home.

32 (2) In addition to any other liability or penalty provided by law, the Director of the Oregon
 33 Health Authority may impose a civil penalty on a person for a violation of ORS 443.880 or 443.881
 34 if the facility is a residential treatment facility or a residential treatment home.

35 (3) The Director of Human Services may not impose a penalty under subsection (1) of this sec-
 36 tion for violations other than those involving direct patient care or feeding, an adequate staff to
 37 patient ratio, sanitation involving direct patient care or a violation of ORS 441.605 or 443.880 or
 38 443.881 or of the rules required to be adopted by ORS 441.610 unless a violation is found on two
 39 consecutive surveys of a long term care facility. The Director of Human Services in every case shall
 40 prescribe a reasonable time for elimination of a violation:

41 (a) Not to exceed 30 days after first notice of a violation; or

42 (b) In cases where the violation requires more than 30 days to correct, such time as is specified
 43 in a plan of correction found acceptable by the director.

44 (4) The Director of the Oregon Health Authority may not impose a penalty under subsection (2)
 45 of this section for violations other than those involving direct patient care or feeding, an adequate

1 staff to patient ratio, sanitation involving direct patient care or a violation of ORS 443.880 or
 2 443.881. The Director of the Oregon Health Authority in every case shall prescribe a reasonable
 3 time for elimination of a violation:

4 (a) Not to exceed 30 days after first notice of a violation; or

5 (b) In cases where the violation requires more than 30 days to correct, such time as is specified
 6 in a plan of correction found acceptable by the director.

7 **SECTION 13.** ORS 442.015 is amended to read:

8 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

9 [(1) *“Acquire” or “acquisition” means obtaining equipment, supplies, components or facilities by*
 10 *any means, including purchase, capital or operating lease, rental or donation, for the purpose of using*
 11 *such equipment, supplies, components or facilities to provide health services in Oregon. When equip-*
 12 *ment or other materials are obtained outside of this state, acquisition is considered to occur when the*
 13 *equipment or other materials begin to be used in Oregon for the provision of health services or when*
 14 *such services are offered for use in Oregon.*]

15 [(2) *“Affected persons” has the same meaning as given to “party” in ORS 183.310.*]

16 [(3)(a)] (1)(a) *“Ambulatory surgical center” means a facility or portion of a facility that operates*
 17 *exclusively for the purpose of providing surgical services to patients who do not require*
 18 *hospitalization and for whom the expected duration of services does not exceed 24 hours following*
 19 *admission.*

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

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

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

26 [(4)] (2) *“Delegated credentialing agreement” means a written agreement between an*
 27 *originating-site hospital and a distant-site hospital that provides that the medical staff of the*
 28 *originating-site hospital will rely upon the credentialing and privileging decisions of the distant-site*
 29 *hospital in making recommendations to the governing body of the originating-site hospital as to*
 30 *whether to credential a telemedicine provider, practicing at the distant-site hospital either as an*
 31 *employee or under contract, to provide telemedicine services to patients in the originating-site hos-*
 32 *pital.*

33 [(5) *“Develop” means to undertake those activities that on their completion will result in the offer*
 34 *of a new institutional health service or the incurring of a financial obligation, as defined under appli-*
 35 *cable state law, in relation to the offering of such a health service.*]

36 [(6)] (3) *“Distant-site hospital” means the hospital where a telemedicine provider, at the time the*
 37 *telemedicine provider is providing telemedicine services, is practicing as an employee or under*
 38 *contract.*

39 [(7)] (4) *“Essential long term care facility” means an individual long term care facility that*
 40 *serves predominantly rural and frontier communities, as designated by the Office of Rural Health,*
 41 *and meets other criteria established by the Department of Human Services by rule.*

42 [(8)] (5) *“Expenditure” or “capital expenditure” means the actual expenditure, an obligation to*
 43 *an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of*
 44 *a donation or grant in lieu of an expenditure but not including any interest thereon.*

45 [(9)] (6) *“Freestanding birthing center” means a facility licensed for the primary purpose of*

1 performing low risk deliveries.

2 [(10)] (7) “Governmental unit” means the state, or any county, municipality or other political
3 subdivision, or any related department, division, board or other agency.

4 [(11)] (8) “Gross revenue” means the sum of daily hospital service charges, ambulatory service
5 charges, ancillary service charges and other operating revenue. “Gross revenue” does not include
6 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

7 [(12)(a)] (9)(a) “Health care facility” means:

8 (A) A hospital;

9 (B) A long term care facility;

10 (C) An ambulatory surgical center;

11 (D) A freestanding birthing center; or

12 (E) An outpatient renal dialysis [center] **facility**.

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

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

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

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

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

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

21 [(13)] (10) “Health maintenance organization” or “HMO” means a public organization or a pri-
22 vate organization organized under the laws of any state that:

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

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

26 (i) Usual physician services;

27 (ii) Hospitalization;

28 (iii) Laboratory;

29 (iv) X-ray;

30 (v) Emergency and preventive services; and

31 (vi) Out-of-area coverage;

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

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

38 [(14)] (11) “Health services” means clinically related diagnostic, treatment or rehabilitative
39 services, and includes alcohol, drug or controlled substance abuse and mental health services that
40 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

41 [(15)] (12) “Hospital” means:

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

45 (A) Medical;

- 1 (B) Nursing;
- 2 (C) Laboratory;
- 3 (D) Pharmacy; and
- 4 (E) Dietary; or

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

6 [(16)] (13) “Institutional health services” means health services provided in or through health
 7 care facilities and includes the entities in or through which such services are provided.

8 [(17)] (14) “Intermediate care facility” means a facility that provides, on a regular basis,
 9 health-related care and services to individuals who do not require the degree of care and treatment
 10 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
 11 or physical condition require care and services above the level of room and board that can be made
 12 available to them only through institutional facilities.

13 [(18)(a)] (15)(a) “Long term care facility” means a permanent facility with inpatient beds, pro-
 14 viding:

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

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

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

20 [(19) “New hospital” means:]

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

23 [(b) Any replacement of an existing hospital that involves a substantial increase or change in the
 24 services offered.]

25 [(20) “New skilled nursing or intermediate care service or facility” means a service or facility that
 26 did not offer long term care services on a regular basis by or through the facility within the prior
 27 12-month period and is initiating or proposing to initiate such services. “New skilled nursing or inter-
 28 mediate care service or facility” also includes the rebuilding of a long term care facility, the relocation
 29 of buildings that are a part of a long term care facility, the relocation of long term care beds from one
 30 facility to another or an increase in the number of beds of more than 10 or 10 percent of the bed ca-
 31 pacity, whichever is the lesser, within a two-year period in a facility that applied for a certificate of
 32 need between August 1, 2011, and December 1, 2012, or submitted a letter of intent under ORS 442.315
 33 (7) between January 15, 2013, and January 31, 2013.]

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

36 [(22)] (16) “Originating-site hospital” means a hospital in which a patient is located while re-
 37 ceiving telemedicine services.

38 [(23)] (17) “Outpatient renal dialysis facility” means a facility that provides renal dialysis ser-
 39 vices directly to outpatients.

40 [(24)] (18) “Person” means an individual, a trust or estate, a partnership, a corporation (includ-
 41 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
 42 or instrumentality, including a municipal corporation, of a state.

43 [(25)] (19) “Skilled nursing facility” means a facility or a distinct part of a facility, that is pri-
 44 marily engaged in providing to inpatients skilled nursing care and related services for patients who
 45 require medical or nursing care, or an institution that provides rehabilitation services for the re-

1 habilitation of individuals who are injured or sick or who have disabilities.

2 [(26)] (20) "Telemedicine" means the provision of health services to patients by physicians and
3 health care practitioners from a distance using electronic communications.

4 **SECTION 14.** ORS 442.015, as amended by section 22, chapter 608, Oregon Laws 2013, is
5 amended to read:

6 442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:

7 [(1) "Acquire" or "acquisition" means obtaining equipment, supplies, components or facilities by
8 any means, including purchase, capital or operating lease, rental or donation, for the purpose of using
9 such equipment, supplies, components or facilities to provide health services in Oregon. When equip-
10 ment or other materials are obtained outside of this state, acquisition is considered to occur when the
11 equipment or other materials begin to be used in Oregon for the provision of health services or when
12 such services are offered for use in Oregon.]

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

14 [(3)(a)] (1)(a) "Ambulatory surgical center" means a facility or portion of a facility that operates
15 exclusively for the purpose of providing surgical services to patients who do not require
16 hospitalization and for whom the expected duration of services does not exceed 24 hours following
17 admission.

18 (b) "Ambulatory surgical center" does not mean:

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

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

24 [(4)] (2) "Delegated credentialing agreement" means a written agreement between an
25 originating-site hospital and a distant-site hospital that provides that the medical staff of the
26 originating-site hospital will rely upon the credentialing and privileging decisions of the distant-site
27 hospital in making recommendations to the governing body of the originating-site hospital as to
28 whether to credential a telemedicine provider, practicing at the distant-site hospital either as an
29 employee or under contract, to provide telemedicine services to patients in the originating-site hos-
30 pital.

31 [(5) "Develop" means to undertake those activities that on their completion will result in the offer
32 of a new institutional health service or the incurring of a financial obligation, as defined under appli-
33 cable state law, in relation to the offering of such a health service.]

34 [(6)] (3) "Distant-site hospital" means the hospital where a telemedicine provider, at the time the
35 telemedicine provider is providing telemedicine services, is practicing as an employee or under
36 contract.

37 [(7)] (4) "Expenditure" or "capital expenditure" means the actual expenditure, an obligation to
38 an expenditure, lease or similar arrangement in lieu of an expenditure, and the reasonable value of
39 a donation or grant in lieu of an expenditure but not including any interest thereon.

40 [(8)] (5) "Freestanding birthing center" means a facility licensed for the primary purpose of
41 performing low risk deliveries.

42 [(9)] (6) "Governmental unit" means the state, or any county, municipality or other political
43 subdivision, or any related department, division, board or other agency.

44 [(10)] (7) "Gross revenue" means the sum of daily hospital service charges, ambulatory service
45 charges, ancillary service charges and other operating revenue. "Gross revenue" does not include

1 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

2 [(11)(a)] **(8)(a)** “Health care facility” means:

- 3 (A) A hospital;
- 4 (B) A long term care facility;
- 5 (C) An ambulatory surgical center;
- 6 (D) A freestanding birthing center; or
- 7 (E) An outpatient renal dialysis [center] **facility**.

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

- 9 (A) A residential facility licensed by the Department of Human Services or the Oregon Health
- 10 Authority under ORS 443.415;
- 11 (B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;
- 12 (C) A residential facility licensed or approved under the rules of the Department of Corrections;
- 13 (D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or
- 14 (E) Community mental health programs or community developmental disabilities programs es-
- 15 tablished under ORS 430.620.

16 [(12)] **(9)** “Health maintenance organization” or “HMO” means a public organization or a private

17 organization organized under the laws of any state that:

- 18 (a) Is a qualified HMO under section 1310 (d) of the U.S. Public Health Services Act; or
- 19 (b)(A) Provides or otherwise makes available to enrolled participants health care services, in-
- 20 cluding at least the following basic health care services:

- 21 (i) Usual physician services;
- 22 (ii) Hospitalization;
- 23 (iii) Laboratory;
- 24 (iv) X-ray;
- 25 (v) Emergency and preventive services; and
- 26 (vi) Out-of-area coverage;

27 (B) Is compensated, except for copayments, for the provision of the basic health care services

28 listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic

29 rate basis; and

30 (C) Provides physicians’ services primarily directly through physicians who are either employees

31 or partners of such organization, or through arrangements with individual physicians or one or more

32 groups of physicians organized on a group practice or individual practice basis.

33 [(13)] **(10)** “Health services” means clinically related diagnostic, treatment or rehabilitative

34 services, and includes alcohol, drug or controlled substance abuse and mental health services that

35 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

36 [(14)] **(11)** “Hospital” means:

37 (a) A facility with an organized medical staff and a permanent building that is capable of pro-

38 viding 24-hour inpatient care to two or more individuals who have an illness or injury and that

39 provides at least the following health services:

- 40 (A) Medical;
- 41 (B) Nursing;
- 42 (C) Laboratory;
- 43 (D) Pharmacy; and
- 44 (E) Dietary; or

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

1 [(15)] (12) “Institutional health services” means health services provided in or through health
2 care facilities and includes the entities in or through which such services are provided.

3 [(16)] (13) “Intermediate care facility” means a facility that provides, on a regular basis,
4 health-related care and services to individuals who do not require the degree of care and treatment
5 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
6 or physical condition require care and services above the level of room and board that can be made
7 available to them only through institutional facilities.

8 [(17)(a)] (14)(a) “Long term care facility” means a permanent facility with inpatient beds, pro-
9 viding:

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

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

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

15 [(18) “New hospital” means:]

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

18 [(b) Any replacement of an existing hospital that involves a substantial increase or change in the
19 services offered.]

20 [(19) “New skilled nursing or intermediate care service or facility” means a service or facility that
21 did not offer long term care services on a regular basis by or through the facility within the prior
22 12-month period and is initiating or proposing to initiate such services. “New skilled nursing or inter-
23 mediate care service or facility” also includes the rebuilding of a long term care facility, the relocation
24 of buildings that are a part of a long term care facility, the relocation of long term care beds from one
25 facility to another or an increase in the number of beds of more than 10 or 10 percent of the bed ca-
26 pacity, whichever is the lesser, within a two-year period.]

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

29 [(21)] (15) “Originating-site hospital” means a hospital in which a patient is located while re-
30 ceiving telemedicine services.

31 [(22)] (16) “Outpatient renal dialysis facility” means a facility that provides renal dialysis ser-
32 vices directly to outpatients.

33 [(23)] (17) “Person” means an individual, a trust or estate, a partnership, a corporation (includ-
34 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
35 or instrumentality, including a municipal corporation, of a state.

36 [(24)] (18) “Skilled nursing facility” means a facility or a distinct part of a facility, that is pri-
37 marily engaged in providing to inpatients skilled nursing care and related services for patients who
38 require medical or nursing care, or an institution that provides rehabilitation services for the re-
39 habilitation of individuals who are injured or sick or who have disabilities.

40 [(25)] (19) “Telemedicine” means the provision of health services to patients by physicians and
41 health care practitioners from a distance using electronic communications.

42 **SECTION 15.** ORS 442.361 is amended to read:

43 442.361. As used in this section and ORS 442.362 and 442.991:

44 (1)(a) “Capital project” means:

45 (A) The construction, development, purchase, renovation or any construction expenditure by or

1 on behalf of a reporting entity, for which the cost:

- 2 (i) For type A hospitals, exceeds five percent of gross revenue.
- 3 (ii) For type B hospitals, exceeds five percent of gross revenue.
- 4 (iii) For DRG hospitals, exceeds 1.75 percent of gross revenue.
- 5 (iv) For ambulatory surgery centers, exceeds \$2 million.

6 (B) The purchase or lease of, or other comparable arrangement for, a single piece of diagnostic
7 or therapeutic equipment for which the cost or, in the case of a donation, the value exceeds \$1
8 million. The acquisition of two or more pieces of diagnostic or therapeutic equipment that are nec-
9 cessarily interdependent in the performance of ordinary functions shall be combined in calculating
10 the cost or value of the transaction.

11 (b) "Capital project" does not include a project financed entirely through charitable fundraising.

12 (2) "DRG hospital" means a hospital that is not a type A or type B hospital and that receives
13 Medicare reimbursement based upon diagnostic related groups.

14 [(3) "Gross revenue" has the meaning given that term in ORS 442.015.]

15 [(4)] (3) "Reporting entity" includes the following if licensed pursuant to ORS 441.015:

- 16 (a) A type A hospital as described in ORS 442.470.
- 17 (b) A type B hospital as described in ORS 442.470.
- 18 (c) A DRG hospital.
- 19 (d) An ambulatory surgical center as defined in ORS 442.015.

20 **SECTION 16.** ORS 442.405 is amended to read:

21 442.405. The Legislative Assembly finds that rising costs and charges of health care facilities
22 are a matter of vital concern to the people of this state. The Legislative Assembly finds and declares
23 that it is the policy of this state:

24 (1) To require health care facilities to file for public disclosure reports that will enable both
25 private and public purchasers of services from such facilities to make informed decisions in pur-
26 chasing such services; and

27 (2) To encourage development of programs of research and innovation in the methods of delivery
28 of institutional health [*care*] services of high quality with costs and charges reasonably related to
29 the nature and quality of the services rendered.

30 **SECTION 17.** ORS 479.210, as amended by section 51, chapter 106, Oregon Laws 2016, is
31 amended to read:

32 479.210. As used in ORS 479.215 to 479.220, unless the context requires otherwise, "institution"
33 means:

34 (1) A child-caring facility that provides residential care and that receives state aid under ORS
35 412.001 to 412.161, 418.005 to 418.025, 418.205 to 418.327, 418.470, 418.475, 418.625 to 418.685, 418.647
36 and 418.950 to 418.970;

37 (2) An inpatient care facility required to be licensed under ORS 441.015 to 441.087, 441.525 to
38 441.595, 441.815, 441.820, 441.990[, 442.342, 442.344] and 442.400 to 442.463; or

39 (3) A residential facility subject to licensure under ORS 443.400 to 443.455.

40 **SECTION 18.** ORS 677.450 is amended to read:

41 677.450. The Oregon Medical Board may release information received under ORS 441.820 con-
42 cerning the revocation or restriction of a physician's activities at a health care facility to any other
43 health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820,
44 441.990[, 442.342, 442.344] and 442.400 to 442.463 at which that physician holds or has applied for
45 staff privileges or other right to practice medicine or podiatry at the facility.

1 **SECTION 19.** ORS 742.400 is amended to read:

2 742.400. (1) As used in this section:

3 (a) "Claim" means a written demand for payment from or on behalf of a covered practitioner for
4 an injury alleged to have been caused by professional negligence that is made in a complaint filed
5 with a court of appropriate jurisdiction.

6 (b) "Covered practitioner" means a chiropractic physician, physician or physician assistant li-
7 censed under ORS chapter 677, nurse practitioner, optometrist, dentist, dental hygienist or
8 naturopath.

9 (c) "Disposition of a claim" means:

10 (A) A judgment or award against the covered practitioner by a court, a jury or an arbitrator;

11 (B) A withdrawal or dismissal of the claim; or

12 (C) A settlement of the claim.

13 (d) "Reporter" means:

14 (A) A primary insurer;

15 (B) A public body required to defend, save harmless and indemnify an officer, employee or agent
16 of the public body under ORS 30.260 to 30.300;

17 (C) An entity that self-insures or indemnifies for claims alleging professional negligence on the
18 part of a covered practitioner; or

19 (D) A health maintenance organization as defined in ORS 750.005.

20 (2) Within 30 days after receiving notice of a claim, a reporter shall report the claim to the
21 appropriate board, as follows:

22 (a) The Oregon Medical Board if the covered practitioner is a physician or physician assistant
23 licensed under ORS chapter 677;

24 (b) The Oregon State Board of Nursing if the covered practitioner is a nurse practitioner;

25 (c) The Oregon Board of Optometry if the covered practitioner is an optometrist;

26 (d) The Oregon Board of Dentistry if the covered practitioner is a dentist or dental hygienist;

27 (e) The Oregon Board of Naturopathic Medicine if the covered practitioner is a naturopath; or

28 (f) The State Board of Chiropractic Examiners if the covered practitioner is a chiropractic
29 physician.

30 (3) The report required under subsection (2) of this section shall include:

31 (a) The name of the covered practitioner;

32 (b) The name of the person that filed the claim;

33 (c) The date on which the claim was filed; and

34 (d) The reason or reasons for the claim, except that the report may not disclose any data that
35 is privileged under ORS 41.675.

36 (4) Within 30 days after the date of an action taken in disposition of a claim, a reporter shall
37 notify the appropriate board identified in subsection (2) of this section of the disposition.

38 (5)(a) A board that receives a report of a claim under this section shall publicly post the report
39 on the board's website if the claim results in a judicial finding or admission of liability or a money
40 judgment, award or settlement that involves a payment to the claimant. The board may not publicly
41 post information about claims that did not result in a judicial finding or admission of liability or a
42 money judgment, award or settlement that involves a payment to the claimant but shall make the
43 information available to the public upon request.

44 (b) If a board discloses information about a claim that is the subject of a report received under
45 this section, the board shall indicate in the disclosure whether the claim resulted in a judicial

1 finding or an admission of liability or a money judgment, an award or a settlement that involves a
2 payment to the claimant. A board may not publicly disclose or publish any allegations or factual
3 assertions included in the claim unless the complaint resulted in a judicial finding or an admission
4 of liability or a money judgment, an award or a settlement that involves a payment to the claimant.

5 (c) For purposes of this subsection, "judicial finding" means a finding of liability by a court, a
6 jury or an arbitrator.

7 (6) A board that receives a report under this section shall provide copies of the report to each
8 health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820,
9 441.990[~~442.342, 442.344~~] and 442.400 to 442.463 that employs or grants staff privileges to the cov-
10 ered practitioner.

11 (7) A person that reports in good faith concerning any matter required to be reported under this
12 section is immune from civil liability by reason of making the report.

13