

House Bill 2187

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care)

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**.

Modifies definition of "new hospital" to allow new hospitals to open for business without Oregon Health Authority approval of certificate of need.

A BILL FOR AN ACT

1
2 Relating to certificates of need for hospitals; creating new provisions; and amending ORS 442.015.

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

4 **SECTION 1.** ORS 442.015, as amended by section 22, chapter 608, Oregon Laws 2013, and section 6, chapter 50, Oregon Laws 2018, is amended to read:

5
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
9 using [*such*] **the** equipment, supplies, components or facilities to provide health services in Oregon.
10 When equipment or other materials are obtained outside of this state, acquisition is considered to
11 occur when the equipment or other materials begin to be used in Oregon for the provision of health
12 services or when [*such*] **the** 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) "Ambulatory surgical center" means a facility or portion of a facility that operates ex-
15 clusively 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) "Delegated credentialing agreement" means a written agreement between an originating-site
25 hospital and a distant-site hospital that provides that the medical staff of the originating-site hospi-
26 tal will rely upon the credentialing and privileging decisions of the distant-site hospital in making
27 recommendations to the governing body of the originating-site hospital as to whether to credential
28 a telemedicine provider, practicing at the distant-site hospital either as an employee or under con-
29 tract, to provide telemedicine services to patients in the originating-site hospital.

30 (5) "Develop" means to undertake those activities that on their completion will result in the
31 offer of a new institutional health service or the incurring of a financial obligation, as defined under

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 applicable state law, in relation to the offering of such a health service.

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

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

8 (8) “Extended stay center” means a facility licensed in accordance with section 2, chapter 50,
9 Oregon Laws 2018.

10 (9) “Freestanding birthing center” means a facility licensed for the primary purpose of per-
11 forming low risk deliveries.

12 (10) “Governmental unit” means the state, or any county, municipality or other political subdi-
13 vision, or any related department, division, board or other agency.

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

17 (12)(a) “Health care facility” means:

- 18 (A) A hospital;
- 19 (B) A long term care facility;
- 20 (C) An ambulatory surgical center;
- 21 (D) A freestanding birthing center;
- 22 (E) An outpatient renal dialysis facility; or
- 23 (F) An extended stay center.

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

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

32 (13) “Health maintenance organization” or “HMO” means a public organization or a private
33 organization organized under the laws of any state that:

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

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

- 37 (i) Usual physician services;
- 38 (ii) Hospitalization;
- 39 (iii) Laboratory;
- 40 (iv) X-ray;
- 41 (v) Emergency and preventive services; and
- 42 (vi) Out-of-area coverage;

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

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

4 (14) "Health services" means clinically related diagnostic, treatment or rehabilitative services,
 5 and *[includes]* alcohol, drug or controlled substance abuse and mental health services that may be
 6 provided either directly or indirectly on an inpatient or ambulatory patient basis.

7 (15) "Hospital" means:

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

11 (A) Medical;

12 (B) Nursing;

13 (C) Laboratory;

14 (D) Pharmacy; and

15 (E) Dietary; or

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

17 (16) "Institutional health services" means health services provided in or through health care
 18 facilities and the entities in or through which such services are provided.

19 (17) "Intermediate care facility" means a facility that provides, on a regular basis, health-related
 20 care and services to individuals who do not require the degree of care and treatment that a hospital
 21 or skilled nursing facility is designed to provide, but who because of their mental or physical con-
 22 dition require care and services above the level of room and board that can be made available to
 23 them only through institutional facilities.

24 (18)(a) "Long term care facility" means:

25 (A) A permanent facility with inpatient beds, providing:

26 *[(A)] (i) Medical services, including nursing services but excluding surgical procedures except*
 27 *as may be permitted by the rules of the Director of Human Services; and*

28 *[(B)] (ii) Treatment for two or more unrelated patients[.];*

29 *[(b)] (B) ["Long term care facility" includes] A skilled nursing [facilities and] facility; or*

30 *(C) An intermediate care [facilities but does not include facilities] facility.*

31 **(b) "Long term care facility" does not include a facility** licensed and operated pursuant to
 32 ORS 443.400 to 443.455.

33 (19) "New hospital" means[:]

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

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

38 (20) "New skilled nursing or intermediate care service or facility" means:

39 **(a)** A service or facility that did not offer long term care services on a regular basis by or
 40 through the facility within the prior 12-month period and is initiating or proposing to initiate such
 41 services. *"New skilled nursing or intermediate care service or facility" also includes;* **or**

42 **(b)** The rebuilding of a long term care facility, the relocation of buildings that are a part of a
 43 long term care facility, the relocation of long term care beds from one facility to another or an in-
 44 crease in the number of beds of more than 10 or 10 percent of the bed capacity, whichever is the
 45 lesser, within a two-year period.

1 (21) "Offer" means that *[the]* a health care facility holds itself out as capable of providing, or
2 as having the means for the provision of, specified health services.

3 (22) "Originating-site hospital" means a hospital in which a patient is located while receiving
4 telemedicine services.

5 (23) "Outpatient renal dialysis facility" means a facility that provides renal dialysis services
6 directly to outpatients.

7 (24) "Person" means an individual, a trust or estate, a partnership, a corporation (including as-
8 sociations, joint stock companies and insurance companies), a state, or a political subdivision or
9 instrumentality, including a municipal corporation, of a state.

10 (25) "Skilled nursing facility" means a facility or a distinct part of a facility, that is primarily
11 engaged in providing to inpatients skilled nursing care and related services for patients who require
12 medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation
13 of individuals who are injured or sick or who have disabilities.

14 (26) "Telemedicine" means the provision of health services to patients by physicians and health
15 care practitioners from a distance using electronic communications.

16 **SECTION 2. The amendments to ORS 442.015 by section 1 of this 2019 Act apply to an**
17 **application for a certificate of need submitted to the Oregon Health Authority before, on or**
18 **after the effective date of this 2019 Act.**

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