

# House Bill 2081

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Health Authority)

## 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 Health Care Cost Growth Target Program and Health Care Cost Growth Target Implementation Committee.

## A BILL FOR AN ACT

1  
2 Relating to health care costs; amending ORS 442.385 and 442.386 and sections 3, 4 and 5, chapter  
3 560, Oregon Laws 2019.

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

5 **SECTION 1.** ORS 442.385 is amended to read:

6 442.385. As used in this section and ORS 442.386:

7 (1) "Health care" means items, services and supplies intended to improve or maintain human  
8 function or treat or ameliorate pain, disease, condition or injury, including but not limited to the  
9 following types of services:

10 (a) Medical;

11 (b) Behavioral;

12 (c) Substance use disorder;

13 (d) Mental health;

14 (e) Surgical;

15 (f) Optometric;

16 (g) Dental;

17 (h) Podiatric;

18 (i) Chiropractic;

19 (j) Psychiatric;

20 (k) Pharmaceutical;

21 (L) Therapeutic;

22 (m) Preventive;

23 (n) Rehabilitative;

24 (o) Supportive; or

25 (p) Geriatric.

26 (2) "Health care cost growth" means the annual percentage change in total health expenditures  
27 in this state.

28 [(3) "*Health care cost growth benchmark*" means the target percentage for health care cost  
29 *growth*.]

30 [(4)] (3) "Health care entity" means a payer or a provider.

31 [(5)] (4) "Health insurance" has the meaning given that term in ORS 731.162.

**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        [(6)] (5) “Net cost of private health insurance” means the difference between health insurance  
2 premiums received by a payer and the claims for the cost of health care paid by the payer under a  
3 policy or certificate of health insurance.

4        [(7)] (6) “Payer” means:

5        (a) An insurer offering a policy or certificate of health insurance or a health benefit plan as  
6 defined in ORS 743B.005;

7        (b) A publicly funded health care program, including but not limited to Medicaid, Medicare and  
8 the State Children’s Health Insurance Program;

9        (c) A third party administrator; and

10        (d) Any other public or private entity, other than an individual, that pays or reimburses the cost  
11 for the provision of health care.

12        [(8)] (7) “Provider” means an individual, organization or business entity that provides health  
13 care.

14        [(9)] (8)(a) “Total health expenditures” means all health care expenditures [*in*] **on behalf of**  
15 **residents of** this state by public and private sources, including:

16        [(a)] (A) All payments on providers’ claims for reimbursement of the cost of health care pro-  
17 vided;

18        [(b)] (B) All payments to providers other than payments described in [*paragraph (a)*] **subpara-**  
19 **graph (A)** of this [*subsection*] **paragraph;**

20        [(c)] (C) All cost-sharing paid by residents of this state, including but not limited to copayments,  
21 deductibles and coinsurance; and

22        [(d)] (D) The net cost of private health insurance.

23        **(b) “Total health expenditures” may include expenditures for care provided to out-of-**  
24 **state residents by in-state providers to the extent practicable.**

25        **SECTION 2.** ORS 442.386 is amended to read:

26        442.386. (1) The Legislative Assembly intends to establish a health care cost growth  
27 [*benchmark,*] **target,** for all providers and payers, to:

28        (a) Support accountability for the total cost of health care across all providers and payers, both  
29 public and private;

30        (b) Build on the state’s existing efforts around health care payment reform and containment of  
31 health care costs; and

32        (c) Ensure the long-term affordability and financial sustainability of the health care system in  
33 this state.

34        (2) The Health Care Cost Growth [*Benchmark*] **Target** program is established. The program shall  
35 be administered by the Oregon Health Authority in collaboration with the Department of Consumer  
36 and Business Services, subject to the oversight of the Oregon Health Policy Board. The program  
37 shall establish a health care cost growth [*benchmark*] **target** for increases in total health expen-  
38 ditures and shall review and modify the [*benchmark*] **target** on a periodic basis.

39        (3) The health care cost growth [*benchmark*] **target** must:

40        (a) Promote a predictable and sustainable rate of growth for total health expenditures as meas-  
41 ured by an economic indicator adopted by the board, such as the rate of increase in this state’s  
42 economy or of the personal income of residents of this state;

43        (b) Apply to all providers and payers in the health care system in this state;

44        (c) Use established economic indicators; and

45        (d) Be measurable on a per capita basis, statewide basis and health care entity basis.

- 1 (4) The program shall establish a methodology for calculating health care cost growth:  
 2 (a) Statewide;  
 3 (b) For each provider and payer, taking into account the health status of the patients of the  
 4 provider or the beneficiary of the payer; and  
 5 (c) Per capita.  
 6 (5) The program shall establish requirements for providers and payers to report data and other  
 7 information necessary to calculate health care cost growth under subsection (4) of this section.  
 8 (6) Annually, the program shall:  
 9 (a) Hold public hearings on the growth in total health expenditures in relation to the health care  
 10 cost growth in the previous calendar year;  
 11 (b) Publish a report on health care costs and spending trends that includes:  
 12 (A) Factors impacting costs and spending; and  
 13 (B) Recommendations for strategies to improve the efficiency of the health care system; and  
 14 (c) For providers and payers for which health care cost growth in the previous calendar year  
 15 exceeded the health care cost growth [*benchmark*] **target**:  
 16 (A) Analyze the cause for exceeding the health care cost growth [*benchmark*] **target**; and  
 17 (B) If appropriate, require the provider or payer to undertake a performance improvement action  
 18 plan.  
 19 **SECTION 3.** Section 3, chapter 560, Oregon Laws 2019, is amended to read:  
 20 **Sec. 3.** (1) The Health Care Cost Growth [*Benchmark*] **Target** Implementation Committee is es-  
 21 tablished under the direction of the Oregon Health Policy Board.  
 22 (2) The membership of the committee consists of the following:  
 23 (a) The Director of the Oregon Health Authority or the director's designee;  
 24 (b) The Director of the Department of Consumer and Business Services or the director's  
 25 designee;  
 26 (c) An expert in health care financing and administration appointed by the Director of the  
 27 Oregon Health Authority;  
 28 (d) An expert in health economics appointed by the Director of the Oregon Health Authority;  
 29 (e) At least one insurance broker appointed by the Director of the Department of Consumer and  
 30 Business Services; and  
 31 (f) No more than 13 members appointed by the Governor to represent:  
 32 (A) The Health Insurance Exchange Advisory Committee created under ORS 741.004;  
 33 (B) The division of the Oregon Department of Administrative Services that serves as the  
 34 department's office of economic analysis;  
 35 (C) The Oregon Health Leadership Council;  
 36 (D) Health care systems or urban hospitals;  
 37 (E) Rural hospitals;  
 38 (F) Consumers;  
 39 (G) Members of the business community that purchase health insurance for their employees;  
 40 (H) Licensed and certified health care professionals; and  
 41 (I) The insurance industry.  
 42 (3) The committee shall design an implementation plan[, *in accordance with section 4 of this 2019*  
 43 *Act*] for the Health Care Cost Growth [*Benchmark*] **Target** program established in [*section 2 of this*  
 44 *2019 Act*] **ORS 442.386**.  
 45 (4) A majority of the members of the committee constitutes a quorum for the transaction of

1 business.

2 (5) Official action by the committee requires the approval of a majority of the members of the  
3 committee.

4 (6) The Governor shall select one member to serve as chairperson.

5 (7) If there is a vacancy for any cause, the appointing authority shall make an appointment to  
6 become immediately effective.

7 (8) The committee shall meet at times and places specified by the call of the chairperson or of  
8 a majority of the members of the committee.

9 (9) The committee may adopt rules necessary for the operation of the committee.

10 (10) The Oregon Health Authority shall provide staff support to the committee.

11 (11)(a) Members of the committee, other than members representing consumers, are not entitled  
12 to compensation or reimbursement for expenses and serve as volunteers on the committee.

13 (b) Members representing consumers are not entitled to compensation but may be reimbursed  
14 from funds available to the authority for actual and necessary travel and other expenses incurred  
15 by the members in the performance of official duties in the manner and amount provided in ORS  
16 292.495.

17 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist the  
18 committee in the performance of the duties of the committee and, to the extent permitted by laws  
19 relating to confidentiality, to furnish information and advice that the members of the committee  
20 consider necessary to perform their duties.

21 **SECTION 4.** Section 4, chapter 560, Oregon Laws 2019, is amended to read:

22 **Sec. 4.** (1) As used in this section:

23 (a) "Health care" has the meaning given that term in *[section 1 of this 2019 Act]* **ORS 442.385.**

24 (b) "Health care cost growth" has the meaning given that term in *[section 1 of this 2019 Act]*  
25 **ORS 442.385.**

26 (c) "Health care cost growth *[benchmark]* **target**" *[has the meaning given that term in section 1*  
27 *of this 2019 Act]* **means the health care cost growth target established under ORS 442.386.**

28 (d) "Health care entity" has the meaning given that term in *[section 1 of this 2019 Act]* **ORS**  
29 **442.385.**

30 (e) "Health insurance" has the meaning given that term in ORS 731.162.

31 (f) "Payer" has the meaning given that term in *[section 1 of this 2019 Act]* **ORS 442.385.**

32 (g) "Provider" has the meaning given that term in *[section 1 of this 2019 Act]* **ORS 442.385.**

33 (h) "Total health expenditures" has the meaning given that term in *[section 1 of this 2019 Act]*  
34 **ORS 442.385.**

35 (2) The Health Care Cost Growth *[Benchmark]* **Target** Implementation Committee, in designing  
36 the implementation plan for the Health Care Cost Growth *[Benchmark]* **Target** program, shall:

37 (a) Recommend the governance structure for the program.

38 (b) Recommend a methodology to establish the health care cost growth *[benchmark]* **target** and  
39 the economic indicators to be used in establishing the *[benchmark]* **target**.

40 (c) Establish the initial *[benchmark]* **target** and specify the frequency and manner in which the  
41 *[benchmark]* **target** should be reevaluated and updated.

42 (d) Identify the data that providers and payers shall report for the program to be able to:

43 (A) Measure the *[benchmark]* **target**;

44 (B) Validate the *[benchmark]* **target**; and

45 (C) Identify the health care cost growth of an institutional provider or provider group and of

1 providers that are part of the institutional provider or provider group.

2 (e)(A) Determine the technical assistance and support necessary to support providers and payers  
3 working to remain at or below the health care cost growth [*benchmark*] **target**; and

4 (B) Identify opportunities to leverage existing public and private financial resources, or alter-  
5 native funding, to provide the technical assistance and support.

6 (f) Recommend approaches for measuring the quality of care that account for patient health  
7 status.

8 (g) Seek to align the approaches for measuring the quality of care under paragraph (f) of this  
9 subsection with the outcome and quality measures adopted by the Health Plan Quality Metrics  
10 Committee.

11 (h) Identify opportunities for lowering costs, improving the quality of care and improving the  
12 efficiency of the health care system by using innovative payment models for all payers, including  
13 payment models that do not use a per-claim basis for payments.

14 (i) Recommend a system for identifying:

15 (A) Unjustified variations in prices or in health care cost growth; and

16 (B) The factors that contribute to the unjustified variations.

17 (j) Identify providers and payers that are required to report.

18 (k) Recommend accountability and enforcement processes, which may be phased in over time,  
19 including:

20 (A) Measures to ensure compliance with reporting requirements;

21 (B) Procedures for imposing a performance improvement action plan or other escalating  
22 enforcement actions when a provider or payer fails to remain at or below the [*benchmark*] **target**;  
23 and

24 (C) Measures to enforce compliance with the health care cost growth [*benchmark*] **target** in  
25 programs administered by the Oregon Health Authority and the Department of Consumer and Busi-  
26 ness Services, including but not limited to:

27 (i) The medical assistance program;

28 (ii) Medical, dental, vision and other health care benefit plans offered by the Public Employees'  
29 Benefit Board;

30 (iii) Medical, dental, vision and other health care benefit plans offered by the Oregon Educators  
31 Benefit Board;

32 (iv) Insurance offered through the health insurance exchange; and

33 (v) The review of health insurance premium rates by the department.

34 (L) Make recommendations regarding the reporting of data collected by the Health Care Cost  
35 Growth [*Benchmark*] **Target** program, including recommendations for:

36 (A) Publication of an annual health care cost trends report and analyses on the statewide health  
37 care cost growth [*benchmark*] **target**, total health expenditures and spending by each type of health  
38 care entity;

39 (B) Elements to be included in the annual health care cost trends report, such as:

40 (i) Services provided, sorted by provider organization;

41 (ii) Services paid for, sorted by the type of payer;

42 (iii) Variations in cost trends, sorted by category of service; and

43 (iv) Affordability of health care, based on prices, insurance premiums and types of payment;

44 (C) Frequency and format of public hearings conducted in accordance with [*section 2 (6)(a) of*  
45 *this 2019 Act*] **ORS 442.386 (6)(a)**;

1 (D) Publication of recommendations for policies and strategies for achieving the health care cost  
2 growth [*benchmark*] **target**;

3 (E) Publication of performance improvement action plans and other enforcement actions; and

4 (F) Reporting to the Legislative Assembly.

5 (m) Establish an implementation timeline and the phases of implementation that may include the  
6 establishment of the initial health care cost growth [*benchmark*] **target** under paragraph (c) of this  
7 subsection in 2021, with reporting, enforcement and penalties beginning in 2022.

8 **SECTION 5.** Section 5, chapter 560, Oregon Laws 2019, is amended to read:

9 **Sec. 5.** (1) No later than September 15, 2020, the Health Care Cost Growth [*Benchmark*] **Target**  
10 Implementation Committee shall report to the Oregon Health Policy Board for approval, and to the  
11 interim committees of the Legislative Assembly related to health, the committee's recommendations  
12 under section 4, [*of this 2019 Act*] **chapter 560, Oregon Laws 2019**. The report shall include a leg-  
13 islative concept for carrying out the provisions of section 4 (2)(k)(B), [*of this 2019 Act*] **chapter 560,**  
14 **Oregon Laws 2019**, regarding the imposition of performance improvement action plans or other es-  
15 calating enforcement actions when a provider or payer fails to remain at or below the health care  
16 cost growth [*benchmark*] **target**.

17 (2) **Upon approval by the board**, the Oregon Health Authority and the Department of Con-  
18 sumer and Business Services shall implement the recommendations of the committee, except for the  
19 provisions in the legislative concept described in subsection (1) of this section, [*upon approval by the*  
20 *board*] **beginning in 2024 for a provider or payer's failure to remain at or below the health**  
21 **care cost growth target in 2023 and thereafter.**

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