

House Bill 2326

Sponsored by Representative SALINAS (Pre-session 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**.

Requires hospitals, ambulatory surgical centers and health systems to report specified financial and other information to Oregon Health Authority.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health system transparency; creating new provisions; amending ORS 442.015 and 442.445;
3 and declaring an emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS**
6 **chapter 442.**

7 **SECTION 2. (1) As used in this section, "reporting entity" includes a hospital, an**
8 **ambulatory surgical center and a health system.**

9 **(2) In addition to financial data reported to the Oregon Health Authority under ORS**
10 **442.400 to 442.463 and 442.602, a reporting entity shall submit to the authority, in the form**
11 **and manner prescribed by the authority, the following information:**

12 **(a) A list of services provided by the reporting entity and the aggregate revenue received**
13 **for each service;**

14 **(b) For any service that generates more than \$50,000 cumulatively during a reporting**
15 **period, the amount charged for the service;**

16 **(c) Total expenses incurred by the reporting entity for each expense category defined by**
17 **the authority by rule, and for any expense that does not fall within a defined category, a**
18 **description of the expense;**

19 **(d) For any expense that cumulatively exceeds \$50,000 during a reporting period, the**
20 **amount of the expense;**

21 **(e) Contractual allowances;**

22 **(f) Bad debt;**

23 **(g) Total units of inpatient and outpatient services;**

24 **(h) Other financial and employee compensation prescribed by the authority by rule; and**

25 **(i) If the reporting entity owns or operates a provider-based clinic that charges or bills**
26 **a separate facility fee:**

27 **(A) The number of such provider-based clinics;**

28 **(B) The number of patient visits at each such provider-based clinic;**

29 **(C) The revenue received by the reporting entity from facility fees at each provider-based**
30 **clinic; and**

31 **(D) The range of facility fees paid by public or private payers at each provider-based**

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 **clinic.**

2 **(3) In addition to the information reported under subsection (2) of this section, a health**
3 **system shall report:**

4 **(a) Any financial exchanges between:**

5 **(A) The health system and a hospital or ambulatory surgical center within the health**
6 **system;**

7 **(B) A hospital and an ambulatory surgical center within the health system; and**

8 **(C) An explanation of the nature of any exchange that exceeds \$50,000; and**

9 **(b) The total number of full-time equivalent positions at each hospital and ambulatory**
10 **surgical center within the health system.**

11 **(4) A health system shall report the data described in subsection (2) of this section for**
12 **each hospital or ambulatory surgical center that comprises the health system.**

13 **SECTION 3. (1) A provider-based clinic, owned or operated by a hospital, that charges a**
14 **facility fee shall notify a patient before providing a nonemergency service that the clinic is**
15 **licensed as part of the hospital and that the patient may receive a separate charge or billing**
16 **for the service, which may result in higher out-of-pocket costs to the patient.**

17 **(2) A provider-based clinic, owned or operated by a hospital, shall post prominently in**
18 **locations easily accessible to and visible by patients and on the clinic's website a statement**
19 **that the clinic is licensed as part of the hospital and that a patient may receive a separate**
20 **charge or billing for the service, which may result in higher out-of-pocket costs to the pa-**
21 **tient.**

22 **SECTION 4. ORS 442.015 is amended to read:**

23 **442.015. As used in ORS chapter 441 and this chapter, unless the context requires otherwise:**

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

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

31 **(3)(a) "Ambulatory surgical center" means a facility or portion of a facility that operates ex-**
32 **clusively for the purpose of providing surgical services to patients who do not require**
33 **hospitalization and for whom the expected duration of services does not exceed 24 hours following**
34 **admission.**

35 **(b) "Ambulatory surgical center" does not mean:**

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

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

41 **(4) "Delegated credentialing agreement" means a written agreement between an originating-site**
42 **hospital and a distant-site hospital that provides that the medical staff of the originating-site hospi-**
43 **tal will rely upon the credentialing and privileging decisions of the distant-site hospital in making**
44 **recommendations to the governing body of the originating-site hospital as to whether to credential**
45 **a telemedicine provider, practicing at the distant-site hospital either as an employee or under con-**

1 tract, to provide telemedicine services to patients in the originating-site hospital.

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

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

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

11 (8) “Extended stay center” means a facility licensed in accordance with ORS 441.026.

12 (9) **“Facility fee” means any separate charge or billing by a provider-based clinic that is**
13 **in addition to a professional fee for physicians’ services and is intended to cover the clinic’s**
14 **building costs, costs of electronic medical records systems, billing costs or other adminis-**
15 **trative and operational expenses.**

16 [(9)] (10) “Freestanding birthing center” means a facility licensed for the primary purpose of
17 performing low risk deliveries.

18 [(10)] (11) “Governmental unit” means the state, or any county, municipality or other political
19 subdivision, or any related department, division, board or other agency.

20 [(11)] (12) “Gross revenue” means the sum of daily hospital service charges, ambulatory service
21 charges, ancillary service charges and other operating revenue. “Gross revenue” does not include
22 contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

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

- 24 (A) A hospital;
- 25 (B) A long term care facility;
- 26 (C) An ambulatory surgical center;
- 27 (D) A freestanding birthing center;
- 28 (E) An outpatient renal dialysis facility; or
- 29 (F) An extended stay center.

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

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

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

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

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

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

38 [(13)] (14) “Health maintenance organization” or “HMO” means a public organization or a pri-
39 vate organization organized under the laws of any state that:

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

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

43 (i) Usual physician services;

44 (ii) Hospitalization;

45 (iii) Laboratory;

- 1 (iv) X-ray;
- 2 (v) Emergency and preventive services; and
- 3 (vi) Out-of-area coverage;

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

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

10 [(14)] (15) "Health services" means clinically related diagnostic, treatment or rehabilitative
 11 services, and includes alcohol, drug or controlled substance abuse and mental health services that
 12 may be provided either directly or indirectly on an inpatient or ambulatory patient basis.

13 (16) "Health system" means:

14 (a) A parent corporation of one or more hospitals and any entity affiliated with the par-
 15 ent corporation through ownership, governance, membership or other means; or

16 (b) A hospital and any entity affiliated with the hospital through ownership, governance,
 17 membership or other means.

18 [(15)] (17) "Hospital" means:

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

- 22 (A) Medical;
- 23 (B) Nursing;
- 24 (C) Laboratory;
- 25 (D) Pharmacy; and
- 26 (E) Dietary; or

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

28 [(16)] (18) "Institutional health services" means health services provided in or through health
 29 care facilities and the entities in or through which such services are provided.

30 [(17)] (19) "Intermediate care facility" means a facility that provides, on a regular basis,
 31 health-related care and services to individuals who do not require the degree of care and treatment
 32 that a hospital or skilled nursing facility is designed to provide, but who because of their mental
 33 or physical condition require care and services above the level of room and board that can be made
 34 available to them only through institutional facilities.

35 [(18)(a)] (20)(a) "Long term care facility" means a permanent facility with inpatient beds, pro-
 36 viding:

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

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

40 (b) "Long term care facility" includes skilled nursing facilities and intermediate care facilities
 41 but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

42 [(19)] (21) "New hospital" means:

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

45 (b) Any replacement of an existing hospital that involves a substantial increase or change in the

1 services offered.

2 [(20)] (22) “New skilled nursing or intermediate care service or facility” means a service or fa-
3 cility that did not offer long term care services on a regular basis by or through the facility within
4 the prior 12-month period and is initiating or proposing to initiate such services. “New skilled
5 nursing or intermediate care service or facility” also includes the rebuilding of a long term care
6 facility, the relocation of buildings that are a part of a long term care facility, the relocation of long
7 term care beds from one facility to another or an increase in the number of beds of more than 10
8 or 10 percent of the bed capacity, whichever is the lesser, within a two-year period.

9 [(21)] (23) “Offer” means that the health care facility holds itself out as capable of providing,
10 or as having the means for the provision of, specified health services.

11 [(22)] (24) “Originating-site hospital” means a hospital in which a patient is located while re-
12 ceiving telemedicine services.

13 [(23)] (25) “Outpatient renal dialysis facility” means a facility that provides renal dialysis ser-
14 vices directly to outpatients.

15 [(24)] (26) “Person” means an individual, a trust or estate, a partnership, a corporation (includ-
16 ing associations, joint stock companies and insurance companies), a state, or a political subdivision
17 or instrumentality, including a municipal corporation, of a state.

18 (27)(a) **“Provider-based clinic” means the site of an off-campus clinic or provider office**
19 **that is owned or operated by a hospital licensed under ORS 441.025 or a health system and**
20 **that is primarily engaged in providing diagnostic and therapeutic care, including medical**
21 **history, physical examinations, assessment of health status and treatment monitoring.**

22 (b) **“Provider-based clinic” does not include:**

23 (A) **Clinics exclusively designed for and providing laboratory, X-ray, testing, therapy,**
24 **pharmacy or educational health services; or**

25 (B) **Facilities designated as rural health clinics.**

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

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

32 **SECTION 5.** ORS 442.445 is amended to read:

33 442.445. (1) Any health care facility that fails to perform as required in ORS 442.602 and 442.400
34 to 442.463 or 442.855 **or section 2 or 3 of this 2021 Act**, and rules of the Oregon Health Authority
35 may be subject to a civil penalty.

36 (2) The Oregon Health Authority shall adopt a schedule of penalties not to exceed \$500 per day
37 of violation, determined by the severity of the violation.

38 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

39 (4) Civil penalties imposed under this section may be remitted or mitigated upon such terms and
40 conditions as the authority considers proper and consistent with the public health and safety.

41 (5) Civil penalties incurred under any law of this state are not allowable as costs for the purpose
42 of rate determination or for reimbursement by a third-party payer.

43 **SECTION 6. This 2021 Act being necessary for the immediate preservation of the public**
44 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
45 **on its passage.**

