

# House Bill 2268

Sponsored by Representative NOSSE; Senator PATTERSON (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Says that a person that offers or sells a health care cost sharing arrangement to a resident of this state must register with a state agency. Tells the person to submit a report to the agency each year. Tells the person what to say or not say to a resident in making an offer or a sale. (Flesch Readability Score: 70.2).

Requires a person that advertises, solicits, markets, sells or offers a health care cost sharing arrangement in this state or enters into a health care cost sharing arrangement with a resident must register with the Director of the Department of Consumer and Business Services. Specifies the contents required for the application. Requires registrants to file an annual report with the director and specifies the contents of the report. Requires certain disclosures in communications with residents.

Punishes a violation of the Act as an unlawful trade practice under the Unlawful Trade Practices Act.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to health care cost sharing arrangements; creating new provisions; amending ORS 646.607;  
3 and prescribing an effective date.

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

5 **SECTION 1. Sections 2 to 7 of this 2025 Act are added to and made a part of ORS chapter**  
6 **735.**

7 **SECTION 2. As used in sections 2 to 7 of this 2025 Act:**

8 (1) **"Affiliate" means a person that controls, is controlled by or is under common control**  
9 **with another person.**

10 (2) **"Control" means direct or indirect possession of the power to manage, or direct the**  
11 **management of, a person and the person's policies, whether through an ownership interest,**  
12 **by contract or otherwise.**

13 (3) **"Health care cost sharing arrangement" means an agreement between a resident and**  
14 **a subject entity in which:**

15 (a) **The subject entity may require the resident to declare or profess a defined set of**  
16 **ethical or religious beliefs as a condition of entering into the agreement;**

17 (b) **The subject entity provides the resident with a list or schedule of medical services for**  
18 **which the subject entity pledges to pay all or a portion of the costs that a resident incurs**  
19 **in obtaining the medical services to:**

20 (A) **The medical provider that rendered the medical services, or an affiliate of the medical**  
21 **provider; or**

22 (B) **The resident, as a reimbursement; and**

23 (c) **The subject entity pays the costs primarily from fees, premiums or other compen-**  
24 **sation that the subject entity collects from other individuals who also have membership in**

**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 or access to the arrangement on a basis that is substantially similar to the basis on which  
 2 the resident has a membership in or access to the arrangement.

3 (4) “Nationwide Multistate Licensing System” means a system that the Conference of  
 4 State Bank Supervisors and the American Association of Residential Mortgage Regulators,  
 5 or assignees of the Conference of State Bank Supervisors or the American Association of  
 6 Residential Mortgage Regulators, develop and maintain for participating state agencies to  
 7 use in licensing and registering mortgage loan originators, as defined in ORS 86A.200, and  
 8 other persons that provide nondepository financial services.

9 (5) “Registrant” means a subject entity that the Director of the Department of Consumer  
 10 and Business Services registered under this section.

11 (6) “Resident” means a natural person who resides in this state.

12 (7)(a) “Subject entity” means a person that, in exchange for a fee, premium, commission,  
 13 due or other monetary compensation, offers to a resident of this state a membership in, or  
 14 access to, a health care cost sharing arrangement.

15 (b) “Subject entity” does not include a person that has a certificate of authority.

16 **SECTION 3.** (1) A subject entity may not advertise, solicit, market, sell or offer a health  
 17 care cost sharing arrangement in this state or enter into a health care cost sharing ar-  
 18 rangement with a resident unless the subject entity is a registrant.

19 (2)(a) The Director of the Department of Consumer and Business Services by rule shall  
 20 prescribe a form and format for, and the contents of, an application for registration. The  
 21 rules, at a minimum, must specify that an application requires:

22 (A) The applicant’s name, telephone number, electronic mail address and website address,  
 23 and the street address of both the applicant’s principal office and the applicant’s principal  
 24 business location in this state;

25 (B) The name, street address and telephone number of the applicant’s registered agent  
 26 or a person that is an agent of the applicant for service of process;

27 (C) All assumed business names the applicant uses;

28 (D) The names and fingerprints of each of the person’s directors, officers, members or  
 29 managers for the Director of the Department of Consumer and Business Services to conduct  
 30 a criminal background check through the Nationwide Multistate Licensing System;

31 (E) A bond or irrevocable letter of credit in the sum of \$25,000 executed by the applicant  
 32 as obligor and to the State of Oregon and drawn on a corporate surety or financial institu-  
 33 tion, as defined in ORS 706.008, that is authorized to transact business in this state; and

34 (F) A registration fee in an amount the director specifies by rule.

35 (b) The director, consistent with the requirements of this section, may register appli-  
 36 cants under this section by means of an agreement with the Nationwide Multistate Licensing  
 37 System and may, by rule, conform the practices, procedures and information the Department  
 38 of Consumer and Business Services uses to register applicants to the requirements of the  
 39 Nationwide Multistate Licensing System.

40 (3) The director may refuse to register an applicant under this section if the director  
 41 determines that the applicant:

42 (a) Submitted a false statement on the application for registration;

43 (b) Violated sections 2 to 6 of this 2025 Act or a rule the director adopted under sections  
 44 2 to 6 of this 2025 Act;

45 (c) Failed to pay a required registration fee or filing fee or failed to submit a required

1 **bond or irrevocable letter of credit;**

2 **(d) Engaged in dishonest, fraudulent or illegal practices or conduct in any business or**  
3 **profession; or**

4 **(e) Was convicted of a felony or misdemeanor, an essential element of which was fraud**  
5 **or deceit.**

6 **SECTION 4. (1) Each year not later than January 31, a subject entity shall file with the**  
7 **Director of the Department of Consumer and Business Services, in a form and format that**  
8 **the director specifies by rule, a report that:**

9 **(a) Updates and corrects any information that the subject entity submitted in an initial**  
10 **application for registration under section 3 of this 2025 Act, if the subject entity registered**  
11 **with the director and if the information changed in the 12 months preceding the date of the**  
12 **subject entity's report;**

13 **(b) Lists the number of residents with whom the subject entity has an active health care**  
14 **cost sharing arrangement;**

15 **(c) Lists the number of individuals outside this state with whom the subject entity has**  
16 **an active health care cost sharing arrangement;**

17 **(d) States the total amount of fees, premiums, commissions, dues or other monetary**  
18 **compensation the subject entity collected from residents in the 12 months preceding the date**  
19 **of the report;**

20 **(e) States the total amount the subject entity paid as claims under health care cost**  
21 **sharing arrangements with residents;**

22 **(f) States the percentage of the amount described in paragraph (d) of this subsection that**  
23 **the amount described in paragraph (e) of this subsection represents;**

24 **(g) States the sum that the subject entity holds as a reserve against claims from resi-**  
25 **dents and from all individuals with which the subject entity has a health care cost sharing**  
26 **arrangement;**

27 **(h) Includes copies of all scripts, brochures, catalogs, circulars, printed or electronic**  
28 **advertisements or other materials the subject entity used in marketing health care cost**  
29 **sharing arrangements in this state;**

30 **(i) Lists all criminal convictions of any of the subject entity's directors, members, offi-**  
31 **cers or managers in the 12 months preceding the date of the report or states in a sworn**  
32 **affidavit that no convictions occurred;**

33 **(j) Lists all administrative enforcement or other administrative actions against the sub-**  
34 **ject entity by agencies of other jurisdictions in the 12 months preceding the date of the re-**  
35 **port or states in a sworn affidavit that no actions occurred;**

36 **(k) Includes a summary of an annual audit of the subject entity's operations and financial**  
37 **condition;**

38 **(L) Acknowledges that the contents of the report are a public document that is subject**  
39 **to disclosure on the website of the Department of Consumer and Business Services;**

40 **(m) States over the signature of a director, officer, member or manager of the subject**  
41 **entity that to the best of the signatory's knowledge the report is accurate; and**

42 **(n) Includes a filing fee in an amount the Director of the Department of Consumer and**  
43 **Business Services specifies by rule.**

44 **(2) A subject entity shall file the report described in subsection (1) of this section in a**  
45 **format that allows for the director to post all or a portion of the contents of the report on**

1 the Department of Consumer and Business Services website. The director may specify addi-  
 2 tional requirements for the format of the report and a method of filing.

3 (3) The department shall post a copy of each report a subject entity files under this sec-  
 4 tion for public access on the department’s website and shall include with the report:

5 (a) A summary of complaints the department received against the subject entity and the  
 6 resolution of each complaint;

7 (b) A summary of any administrative actions the department has taken against the sub-  
 8 ject entity and the outcome or resolution of each action; and

9 (c) Any other information the department deems useful to disclose to the public to pro-  
 10 mote transparency with respect to the subject entity’s operations and financial condition.

11 (4) A registrant each year shall certify to the director that the bond the registrant sub-  
 12 mitted under section 3 of this 2025 Act is current, valid and remains at the amount required  
 13 under section 3 of this 2025 Act.

14 **SECTION 5.** (1)(a) A subject entity or a person that advertises, solicits, markets, sells  
 15 or offers a health care cost sharing arrangement on behalf of a subject entity, as an affiliate  
 16 of a subject entity or as an employee or agent of a subject entity in all advertising, solicita-  
 17 tions and marketing communications with residents shall clearly, prominently and conspic-  
 18 uously:

19 (A) State that the subject entity is not an insurer, that a health care cost sharing ar-  
 20 rangement with the subject entity is not health insurance and that the subject entity need  
 21 not pay a resident’s cost of medical services except as expressly provided in an executed  
 22 contract to which the resident and the subject entity are parties and signatories; and

23 (B) List medical services that the subject entity does not include in the subject entity’s  
 24 health care cost sharing arrangement but that are commonly included in health insurance  
 25 coverage, such as exclusions for reproductive health services, treatment of sexually trans-  
 26 mitted diseases, medications for HIV or AIDS or gender-affirming care.

27 (b) A statement or list is clear, prominent and conspicuous if the statement or list is:

28 (A) On an electronic page or printed document that is separate from all other commu-  
 29 nications the subject entity has with the resident;

30 (B) In a typeface that is larger, in all capital letters, in boldface or italics or in a different  
 31 color, or that is otherwise noticeably different from other text in a printed or electronic  
 32 document; or

33 (C) At a volume that is louder than preceding or following statements or is preceded with  
 34 a sound or signal that invites attention, if the statement or list is communicated orally.

35 (2) Not less than 60 days before a change becomes effective, a subject entity shall notify  
 36 each resident with whom the subject entity has a health care cost sharing arrangement of  
 37 any change to:

38 (a) The schedule of medical services that the health care cost sharing arrangement cov-  
 39 ers;

40 (b) An amount that the subject entity will pay for a medical service;

41 (c) The percentage or portion of the costs of the medical services for which the subject  
 42 entity will pay;

43 (d) The subject entity’s solvency or financial stability, to the extent that the subject en-  
 44 tity is aware of or can anticipate the change; and

45 (e) Operations that significantly affect the subject entity’s provision of payments or other

1 benefits to or on behalf of residents.

2 **SECTION 6.** (1) Each year not later than January 31, a person that advertises, solicits,  
 3 markets, sells or offers a health care cost sharing arrangement on behalf of a subject entity,  
 4 as an affiliate of a subject entity or as an employee or agent of a subject entity, shall report  
 5 to the Department of Consumer and Business Services, on a form in a format and with  
 6 contents that the department specifies by rule:

7 (a) The commission rate, percentage of sales or other compensation the person receives  
 8 for sales of health care cost sharing arrangements to residents; and

9 (b) The number of health care cost sharing arrangements the person sold to residents in  
 10 the 12 months preceding the date of the report.

11 (2)(a) A subject entity or a person described in subsection (1) of this section, before en-  
 12 tering into a health care cost sharing arrangement with a resident, shall assess a resident's  
 13 eligibility or assist the resident in assessing the resident's eligibility for coverage under the  
 14 Oregon Health Plan or under a qualified health plan, as defined in 42 U.S.C. 18021(a), as in  
 15 effect on the effective date of this 2025 Act, that is offered on a health insurance exchange  
 16 that is under the supervision of the Director of the Oregon Health Authority under ORS  
 17 chapter 741 or that otherwise qualifies as an American Health Benefit Exchange under 42  
 18 U.S.C. 18031, as in effect on the effective date of this 2025 Act.

19 (b) An assessment under paragraph (a) of this subsection must compare the costs, cov-  
 20 erage, limitations, exclusions and benefits of a health insurance plan with similar or equiv-  
 21 alent costs, coverage, limitations, exclusions and benefits under the health care cost sharing  
 22 arrangement the person is advertising, soliciting, marketing, selling or offering to the resi-  
 23 dent.

24 (3) An insurer or a person that has an insurance producer license the Director of the  
 25 Department of Consumer and Business Services issued under ORS 744.062 may not advertise,  
 26 solicit, market, sell or offer a health care cost sharing arrangement to a resident or enter  
 27 into a health care cost sharing arrangement with a resident.

28 **SECTION 7.** (1) A subject entity or a person described in section 6 (1) of this 2025 Act  
 29 that violates a provision of sections 2 to 6 of this 2025 Act engages in an unlawful trade  
 30 practice under ORS 646.607.

31 (2)(a) The Director of the Department of Consumer and Business Services may revoke a  
 32 registrant's registration if the director determines that the registrant has violated a pro-  
 33 vision of sections 2 to 6 of this 2025 Act. The director shall notify the registrant of the  
 34 director's determination in an order that provides an opportunity for a hearing under ORS  
 35 183.413 to 183.470.

36 (b) In addition to revoking a registrant's registration under paragraph (a) of this sub-  
 37 section, the director may assess a civil penalty against the registrant in an amount that does  
 38 not exceed \$5,000 for each violation. The director shall assess the civil penalty in accordance  
 39 with ORS 183.745.

40 (3)(a) An insurer's violation of section 6 (3) of this 2025 Act is an unfair or deceptive act  
 41 or practice in the transaction of insurance that is injurious to the insurance-buying public  
 42 under ORS 746.240. The director may enforce this paragraph as the director deems appro-  
 43 priate under ORS 731.256.

44 (b) The director may place an insurance producer on probation, may suspend, revoke or  
 45 refuse to issue or renew an insurance producer license or may take any other action au-

1 **thorized under ORS 744.074 if the director determines that an insurance producer violated**  
 2 **section 6 (3) of this 2025 Act.**

3 **(4) The director, or a person that suffered an ascertainable loss of money or property as**  
 4 **a result of a registrant’s violation of sections 2 to 6 of this 2025 Act has a right of action**  
 5 **against the bond the registrant submitted to the director under section 3 of this 2025 Act.**  
 6 **The director’s right of action exists without the necessity of assignment and the director**  
 7 **may bring the action on behalf of a resident as a claim of restitution for the resident’s loss**  
 8 **of money or property.**

9 **SECTION 8.** ORS 646.607 is amended to read:

10 646.607. A person engages in an unlawful trade practice if in the course of the person’s business,  
 11 vocation or occupation the person:

12 (1) Employs any unconscionable tactic in connection with selling, renting or disposing of real  
 13 estate, goods or services, or collecting or enforcing an obligation.

14 (2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a  
 15 customer’s request, fails to refund money that the customer gave to the person to purchase the  
 16 undelivered real estate, goods or services and that the person does not retain pursuant to any right,  
 17 claim or defense the person may assert in good faith. This subsection does not create a warranty  
 18 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered  
 19 to a customer.

20 (3) Violates ORS 401.965 (2).

21 (4) Violates a provision of ORS 646A.725 to 646A.750.

22 (5) Violates ORS 646A.530.

23 (6) Employs a collection practice that is unlawful under ORS 646.639.

24 (7) Is a beneficiary that violates ORS 86.726 (1)(a) or (2), 86.729 (4) or 86.732 (1) or (2).

25 (8) Violates ORS 646A.093.

26 (9) Violates a provision of ORS 646A.600 to 646A.628.

27 (10) Violates ORS 646A.808 (2).

28 (11) Violates ORS 336.184.

29 (12) Publishes on a website related to the person’s business, or in a consumer agreement related  
 30 to a consumer transaction, a statement or representation of fact in which the person asserts that  
 31 the person, in a particular manner or for particular purposes, will use, disclose, collect, maintain,  
 32 delete or dispose of information that the person requests, requires or receives from a consumer and  
 33 the person uses, discloses, collects, maintains, deletes or disposes of the information in a manner  
 34 that is materially inconsistent with the person’s statement or representation.

35 (13) Violates ORS 646A.813 (2).

36 (14) Violates ORS 137.930 (1).

37 **(15) Violates a provision of sections 2 to 6 of this 2025 Act, except that an insurer that**  
 38 **is subject to regulation under the Insurance Code or a person that violates section 6 (3) of**  
 39 **this 2025 Act does not engage in an unlawful trade practice under this section.**

40 **SECTION 9.** Sections 2 to 7 of this 2025 Act and the amendments to ORS 646.607 by sec-  
 41 **tion 8 of this 2025 Act apply to health care cost sharing arrangements that a person adver-**  
 42 **tises, solicits, markets, sells or offers to a resident, or to a health care cost sharing**  
 43 **arrangement into which a person enters with a resident, on or after the operative date**  
 44 **specified in section 10 of this 2025 Act.**

45 **SECTION 10.** (1) Sections 2 to 7 of this 2025 Act and the amendments to ORS 646.607 by

1 **section 8 of this 2025 Act become operative on January 1, 2026.**

2 **(2) The Director of the Department of Consumer and Business Services may adopt rules**  
3 **and take any other action before the operative date specified in subsection (1) of this section**  
4 **that is necessary to enable the director to undertake and exercise, on and after the date**  
5 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**  
6 **on the director by sections 2 to 7 of this 2025 Act and the amendments to ORS 646.607 by**  
7 **section 8 of this 2025 Act.**

8 **SECTION 11. This 2025 Act takes effect on the 91st day after the date on which the 2025**  
9 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

10