

SENATE MINORITY REPORT AMENDMENTS TO SENATE BILL 951

By Nonconcurring Members of COMMITTEE ON HEALTH CARE

April 4

1 On page 1 of the printed bill, line 2, after “care” insert a period and delete the rest of the line
2 and line 3.

3 Delete lines 4 through 20.

4 On page 2, delete lines 1 through 3.

5 Delete lines 5 through 45 and delete pages 3 through 12 and insert:

6 **“SECTION 1. (1) As used in this section:**

7 **“(a) ‘Board’ has the meaning given that term in ORS 413.164.**

8 **“(b) ‘Health care funder’ means a person that provides money, materials, in-kind services**
9 **or materials, capital investment or any other contribution of value to a professional medical**
10 **entity for the purpose of enabling the professional medical entity to engage in the practice**
11 **of medicine or to enable the professional medical entity to render professional health care**
12 **services to patients.**

13 **“(c) ‘Health care investor’ means a person, other than a health care provider, that owns**
14 **or controls shares or an ownership interest in a professional medical entity.**

15 **“(d) ‘Health care provider’ has the meaning given that term in ORS 413.164.**

16 **“(e) ‘Professional medical entity’ means:**

17 **“(A) A professional corporation, as described in ORS 58.375;**

18 **“(B) A professional corporation, as described in ORS 58.376; or**

19 **“(C) A limited liability company or foreign limited liability company with authority to**
20 **transact business in this state, a partnership or foreign partnership with authority to**
21 **transact business in this state, a limited partnership or foreign limited partnership with au-**
22 **thority to transact business in this state or a limited liability partnership or foreign limited**
23 **liability partnership with authority to transact business in this state, any of which is or-**
24 **ganized for the purpose of practicing medicine or for the purpose of allowing physicians,**
25 **physician associates and nurse practitioners to jointly render professional health care ser-**
26 **vices.**

27 **“(2) A health care investor or health care funder may not:**

28 **“(a) Direct, control or attempt to direct or control the clinical practice or professional**
29 **medical judgment of a health care provider or limit a health care provider’s choices, deci-**
30 **sions or judgments with respect to:**

31 **“(A) Developing a treatment plan;**

32 **“(B) Prescribing or recommending medications or medical devices for a patient;**

33 **“(C) Referring a patient to a specialist or other provider;**

34 **“(D) Specifying staff-to-patient ratios in a clinical setting; or**

“(E) Whether to engage or not engage in any other activity that constitutes the practice of medicine, as described in ORS 677.085, or that otherwise falls within the scope of practice of a health care provider; or

“(b) Restrict or attempt to restrict funding for a professional medical entity in a manner that would affect a health care provider’s clinical practice or the nature or quality of health care that the health care provider delivers to a patient.

“(3)(a) A health care investor or health care funder that engages in an act or practice prohibited under subsection (2) of this section:

“(A) Violates ORS 677.080 (4) and commits a Class C felony, as provided in ORS 677.990 (2), if the Oregon Medical Board determines that the violation constitutes an unlawful practice of medicine; and

“(B) Engages in an unlawful practice of a health care provider’s profession if a board that issues a license to a health care provider determines that the health care funder’s or health care investor’s act or practice falls within the scope of practice of a health care provider to whom the board issued a license.

“(b) A board that makes a determination described in paragraph (a)(B) of this subsection may impose a civil penalty of not more than \$5,000 for each instance of a violation and in the case of a continuing violation may impose a civil penalty for each day of the violation for a total amount that does not exceed \$100,000.

“(4)(a) A health care provider or professional medical entity that disputes an act or practice of a health care investor or health care funder that is or may be prohibited under subsection (2) of this section may petition the board that issues the health care provider’s license to mediate the dispute or to make a finding that an act or practice of the health care investor or health care funder is a violation of subsection (2) of this section.

“(b) If the Oregon Medical Board determines that an act or practice described in paragraph (a) of this subsection is a violation of subsection (2) of this section, the Oregon Medical Board may, in addition to and not in lieu of imposing a civil penalty under subsection (3)(b) of this section, refer the matter to an appropriate law enforcement official for prosecution.

“(c) A board may not consider a health care provider’s petition to the board under paragraph (a) of this subsection a ground for suspending, revoking or refusing to grant or renew a license or as grounds for discipline, unless the board finds that the health care provider made the petition in bad faith or on false or fraudulent grounds.”.

/s/ Cedric Hayden
Senator

/s/ Diane Linthicum
Senator