

# Senate Bill 1040

Sponsored by COMMITTEE ON RULES (at the request of Governor Theodore R. Kulongoski)

## 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 duties of Administrator of Office for Oregon Health Policy and Research regarding obtaining and reporting health care data. Modifies requirements for health care facilities reporting health care data to Office for Oregon Health Policy and Research.

Provides that Director of Department of Consumer and Business Services may use information obtained during insurer examination to identify and report information regarding payments made by insurers providing health insurance for hospital services and other medical services.

Declares emergency, effective July 1, 2005.

## A BILL FOR AN ACT

1  
2 Relating to health care information; creating new provisions; amending ORS 442.025, 442.045,  
3 442.120, 442.400, 442.405, 442.420, 442.425, 442.450, 442.460 and 442.463; and declaring an emer-  
4 gency.

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

6 **SECTION 1.** ORS 442.025 is amended to read:

7 442.025. (1) The Legislative Assembly finds that the achievement of reasonable access to quality  
8 health care at a reasonable cost is a priority of the State of Oregon.

9 (2) Problems preventing the priority in subsection (1) of this section from being attained include:

10 (a) The inability of many citizens to pay for necessary health care, being covered neither by  
11 private insurance nor by publicly funded programs such as Medicare and Medicaid;

12 (b) Rising costs of medical care which exceed substantially the general rate of inflation;

13 (c) Insufficient price competition in the delivery of health care services that would provide a  
14 greater cost consciousness among providers, payers and consumers;

15 (d) Inadequate incentives for the use of less costly and more appropriate alternative levels of  
16 health care;

17 (e) Insufficient or inappropriate use of existing capacity, duplicated services and failure to use  
18 less costly alternatives in meeting significant health needs; and

19 (f) Insufficient primary and emergency medical care services in medically underserved areas of  
20 the state.

21 (3) As a result of rising health care costs and the concern expressed by health care providers,  
22 health care users, third-party payers and the general public, there is an urgent need to abate these  
23 rising costs so as to place the cost of health care within reach of all Oregonians without affecting  
24 the quality of care.

25 (4) To foster the cooperation of the separate industry forces, there is a need to compile and  
26 disseminate accurate and current data, including but not limited to [*price*] **cost** and utilization data,  
27 to meet the needs of the people of Oregon and improve the appropriate usage of health care ser-  
28 vices.

**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 (5) It is the purpose of this chapter to establish area-wide and state planning for health services,  
 2 staff and facilities in light of the findings of subsection (1) of this section and in furtherance of  
 3 health planning policies of this state.

4 (6) It is further declared that hospital costs should be contained through **disclosure of data on**  
 5 **utilization, costs, billed charges and paid claims, through** improved competition between hospi-  
 6 tals and improved competition between insurers and through financial incentives on behalf of pro-  
 7 viders, insurers and consumers to contain costs. As a safety net, it is the intent of the Legislative  
 8 Assembly to monitor hospital **costs and** performance.

9 **SECTION 2.** ORS 442.045 is amended to read:

10 442.045. The Oregon Health Policy Commission shall perform the following functions:

11 (1) Develop a plan for and monitor the implementation of the state health policy.

12 (2) Act as the policy-making body for a statewide data clearinghouse established within **the**  
 13 **Office for Oregon Health Policy and Research, or** the Department of Human Services or among  
 14 other state agencies as appropriate, for the acquisition, compilation, correlation and dissemination  
 15 of data from health care providers, other state and local agencies including the state Medicaid  
 16 program, third-party payers and other appropriate sources in furtherance of the purpose and intent  
 17 of the Legislative Assembly as expressed in ORS 442.025.

18 (3) Review reports provided at least biennially by the Administrator of the Office for Oregon  
 19 Health Policy and Research on the findings, trends and long-term implications arising from data  
 20 collected pursuant to ORS 442.120 and 442.400 to 442.463 and by the statewide data clearinghouse  
 21 authorized by subsection (2) of this section.

22 (4) Provide a forum for discussion of health policy and health care issues facing the citizens of  
 23 the State of Oregon.

24 (5) Identify and analyze significant health policy and health care issues affecting the state and  
 25 make policy recommendations to the Governor.

26 (6) Prepare and submit to the Governor and the Legislative Assembly resolutions relating to  
 27 health policy and health care reform.

28 (7) Review State Medicaid Plan amendments, modifications in Medicaid operational protocols,  
 29 applications for waivers to the Centers for Medicare and Medicaid Services proposed by the De-  
 30 partment of Human Services and administrative rules for the state's medical assistance program and  
 31 other health care programs.

32 (8) Act as the primary advisory committee to the Office for Oregon Health Policy and Research,  
 33 the Governor and the Legislative Assembly.

34 (9) *[Perform all other functions]* **Any other function** authorized or required by state law.

35 **SECTION 3. ORS 442.120 is added to and made a part of ORS 442.400 to 442.463.**

36 **SECTION 4.** ORS 442.120 is amended to read:

37 442.120. In order to provide data essential for health planning programs:

38 (1) The Office for Oregon Health Policy and Research may request, by July 1 of each year, each  
 39 general hospital to file with the office ambulatory surgery and inpatient discharge abstract  
 40 records, **outpatient abstract records and emergency department abstract records** covering all  
 41 patients *[discharged]* **treated** during the preceding calendar year. The *[ambulatory surgery and in-*  
 42 *patient discharge]* abstract record for each patient must include the following information, and may  
 43 include other information deemed necessary by the office for developing or evaluating statewide  
 44 health policy:

45 (a) Date of birth;

- 1 (b) Sex;  
 2 (c) Zip code;  
 3 (d) Inpatient admission date or outpatient service date;  
 4 (e) Inpatient discharge date;  
 5 (f) Type of discharge;  
 6 (g) Diagnostic related group [*or diagnosis*];  
 7 **(h) Disease code from the International Classification of Diseases, Ninth Revision, Clin-**  
 8 **ical Modification;**  
 9 **(i) Race;**  
 10 **(j) Ethnicity;**  
 11 [*h*] **(k)** Type of procedure performed;  
 12 [*i*] **(L)** Expected source of payment, if available;  
 13 [*j*] **(m)** Hospital identification number; and  
 14 [*k*] **(n)** Total hospital charges.

15 (2) By July 1 of each year, the office may request from ambulatory surgery centers licensed  
 16 under ORS 441.015 ambulatory surgery discharge abstract records covering all patients admitted  
 17 during the preceding year. Ambulatory surgery discharge abstract records must include information  
 18 similar to that requested from general hospitals under subsection (1) of this section.

19 (3) In lieu of abstracting and compiling the records itself, the office may solicit the voluntary  
 20 submission of such data from Oregon hospitals or other sources to enable it to carry out its re-  
 21 sponsibilities under this section. If such data is not available to the office on an annual and timely  
 22 basis, the office may establish by rule a fee to be charged each hospital.

23 (4) Subject to prior approval of the Oregon Department of Administrative Services and a report  
 24 to the Emergency Board, if the Legislative Assembly is not in session, prior to adopting the fee, and  
 25 within the budget authorized by the Legislative Assembly as the budget may be modified by the  
 26 Emergency Board, the fee established under subsection (3) of this section shall not exceed the cost  
 27 of abstracting and compiling the records.

28 (5) The office may specify by rule the form in which the records are to be submitted. If the form  
 29 adopted by rule requires conversion from the form regularly used by a hospital, reasonable costs of  
 30 such conversion shall be paid by the office.

31 (6) Abstract records must include a patient identifier that allows for the statistical matching of  
 32 records over time to permit public studies of issues related to clinical practices, health service  
 33 utilization and health outcomes. Provision of such a patient identifier must not allow for identifica-  
 34 tion of the individual patient.

35 (7) In addition to the records required in subsection (1) of this section, the office may obtain  
 36 abstract records for each patient that identify specific services, classified by International Classi-  
 37 fication of [*Disease Code*] **Diseases, Ninth Revision, Clinical Modification**, for special studies on  
 38 the incidence of specific health problems or diagnostic practices. However, nothing in this sub-  
 39 section [*shall authorize*] **authorizes** the publication of specific data in a form that allows identifi-  
 40 cation of individual patients [*or licensed health care professionals*].

41 (8) The office may provide by rule for the submission of records for enrollees in a health main-  
 42 tenance organization from a hospital associated with such an organization in a form the office de-  
 43 termines appropriate to the office's needs for such data and the organization's record keeping and  
 44 reporting systems for charges and services.

45 **SECTION 5.** ORS 442.400 is amended to read:

1 442.400. As used in ORS 442.400 to 442.463, unless the context requires otherwise, “health care  
2 facility” or “facility” means *[such]* **a publicly or privately owned and operated health care** facil-  
3 ity as defined by ORS 442.015, *[exclusive of a long term care facility, and includes all publicly and*  
4 *privately owned and operated health care facilities,]* but does not include facilities described in ORS  
5 441.065.

6 **SECTION 6.** ORS 442.405 is amended to read:

7 442.405. The Legislative Assembly finds that rising costs and charges of health care facilities  
8 are a matter of vital concern to the people of this state. The Legislative Assembly finds and declares  
9 that it is the policy of this state:

10 (1) To require health care facilities to file for public disclosure reports that will enable *[both]*  
11 **health care consumers and** private and public purchasers of **health care** services from *[such]*  
12 **those** facilities to make informed decisions in purchasing *[such]* **those** services; and

13 (2) To encourage development of programs of research and innovation in the methods of delivery  
14 of institutional health care services of high quality with costs and charges reasonably related to the  
15 nature and quality of the services rendered.

16 (3) **To regularly prepare and publish reports on the costs and utilization of health care**  
17 **facilities to enable health care consumers and private and public purchasers of health care**  
18 **services to make informed decisions in purchasing those services.**

19 **SECTION 7.** ORS 442.420 is amended to read:

20 442.420. (1)(a) The Office for Oregon Health Policy and Research **shall conduct oversight ac-**  
21 **tivities relating to the health care system and establish a statewide data clearinghouse for**  
22 **health care data.**

23 (b) **The office** may apply for, receive and accept grants, gifts, payments and other funds and  
24 advances, appropriations, properties and services from the United States, the State of Oregon or any  
25 governmental body, agency or agencies or from any other public or private corporation or person,  
26 and enter into agreements with respect thereto, including the undertaking of studies, plans, demon-  
27 strations or projects.

28 (2) The Administrator of the Office for Oregon Health Policy and Research shall conduct or  
29 cause to have conducted *[such]* analyses and studies relating to costs of health care facilities as  
30 considered desirable, including but not limited to:

31 (a) Methods of reducing *[such]* **those** costs[,];

32 (b) **Physician and hospital billed charges;**

33 (c) **Paid claims data;**

34 (d) Utilization review of services of health care facilities[,];

35 (e) Peer review[,];

36 (f) Quality control[,];

37 (g) Financial status of any facility subject to ORS 442.400 to 442.463; and

38 (h) Sources of public and private financing of financial requirements of *[such]* **the** facilities.

39 (3)(a) **The administrator shall periodically prepare, publish and distribute reports on the**  
40 **health care data obtained under ORS 442.400 to 442.463.**

41 (b) **The reports:**

42 (A) **May include identification of specific health care facilities or licensed health care**  
43 **professionals.**

44 (B) **May not disclose any information that is identifiable to an individual patient.**

45 [(3)] (4) The administrator may also:

1 (a) Hold public hearings, conduct investigations and require the filing of information relating to  
2 any matter affecting the costs of and charges for services in all health care facilities;

3 (b) Subpoena witnesses, papers, records and documents the administrator considers material or  
4 relevant in connection with functions of the office subject to the provisions of ORS chapter 183;

5 (c) Exercise, subject to the limitations and restrictions imposed by ORS 442.400 to 442.463, all  
6 other powers which are reasonably necessary or essential to carry out the express objectives and  
7 purposes of ORS 442.400 to 442.463; and

8 (d) Adopt rules in accordance with ORS chapter 183 necessary in the administrator's judgment  
9 for carrying out the functions of the office.

10 **SECTION 8.** ORS 442.425 is amended to read:

11 442.425. (1) The Administrator of the Office for Oregon Health Policy and Research by rule may  
12 specify one or more uniform systems of [*financial*] reporting necessary to meet the requirements of  
13 ORS 442.400 to 442.463. [*Such*] **The** systems shall include [*such*] **the** cost allocation methods as may  
14 be prescribed and [*such*] **the** records and reports of revenues, expenses, other income and other  
15 outlays, assets and liabilities, and units of service as may be prescribed. Each facility under the  
16 administrator's jurisdiction shall [*adopt such systems for its fiscal period starting on or after the ef-*  
17 *fective date of such system and shall*] make the required reports on [*such*] **the** forms [*as may be*] re-  
18 quired by the administrator. The administrator may extend the period by which compliance is  
19 required upon timely application and for good cause. Filings of [*such*] **the** records and reports shall  
20 be made at such times as may be reasonably required by the administrator.

21 (2) Existing systems of reporting used by health care facilities shall be given due consideration  
22 by the administrator in carrying out the duty of specifying the systems of reporting required by ORS  
23 442.400 to 442.463. The administrator insofar as reasonably possible shall adopt reporting systems  
24 and requirements that will not unreasonably increase the administrative costs of the facility.

25 (3) The administrator may allow and provide for modifications in the reporting systems in order  
26 to correctly reflect differences in the scope or type of services and financial structure between the  
27 various categories, sizes or types of health care facilities and in a manner consistent with the pur-  
28 poses of ORS 442.400 to 442.463.

29 (4) The administrator may establish specific annual reporting provisions for facilities that re-  
30 ceive a preponderance of their revenue from associated comprehensive group-practice prepayment  
31 health care service plans. Notwithstanding any other provisions of ORS 441.055 and 442.400 to  
32 442.463, [*such*] **the** facilities shall be authorized to utilize established accounting systems and to re-  
33 port costs and revenues in a manner consistent with the operating principles of such plans and with  
34 generally accepted accounting principles. When [*such*] **the** facilities are operated as units of a co-  
35 ordinated group of health facilities under common ownership, the facilities shall be authorized to  
36 report as a group rather than as individual institutions, and as a group shall submit a consolidated  
37 balance sheet, income and expense statement and statement of source and application of funds for  
38 such group of health facilities.

39 **SECTION 9.** ORS 442.450 is amended to read:

40 442.450. (1) [*The following*] **Physicians in private practice, solo or in a group or partnership,**  
41 **who are not employed by, or hold ownership or part ownership in, a health care facility** are  
42 [*not*] subject to ORS 442.400 to 442.463[.].

43 [*(1) Physicians in private practice, solo or in a group or partnership, who are not employed by, or*  
44 *hold ownership or part ownership in, a health care facility; or*]

45 (2) Health care facilities described in ORS 441.065 **are exempt from ORS 442.400 to 442.463.**

1        **SECTION 10.** ORS 442.460 is amended to read:

2        442.460. In order to obtain regional or statewide data about the utilization and cost of health  
 3 care services, the Office for Oregon Health Policy and Research may accept information relating to  
 4 the utilization and cost of health care services identified by the Administrator of the Office for  
 5 Oregon Health Policy and Research from physicians, insurers or other third-party payers, [or] em-  
 6 ployers or other purchasers of health care **and other state and federal agencies.**

7        **SECTION 11.** ORS 442.463 is amended to read:

8        442.463. (1) Each licensed health facility shall file with the Office for Oregon Health Policy and  
 9 Research an annual report containing such information related to the facility's [utilization] **health**  
 10 **care data** as may be required by the Administrator of the Office for Oregon Health Policy and Re-  
 11 search, in such form as the administrator prescribes by rule.

12        (2) The annual report shall contain such information as may be required by rule of the admin-  
 13 istrator and must be approved by the administrator.

14        **SECTION 12.** Section 13 of this 2005 Act is added to and made a part of ORS 731.296 to  
 15 **731.316.**

16        **SECTION 13.** (1) Using information obtained during an examination conducted under ORS  
 17 **731.300 to determine the nature of the operations of an insurer that provides health insur-**  
 18 **ance, including the cost components of providing health insurance, the Director of the De-**  
 19 **partment of Consumer and Business Services may ascertain and report information**  
 20 **regarding payments made by insurers for hospital services and other medical services.**

21        (2) The director may collaborate with and share information obtained during an exam-  
 22 ination with other state and federal agencies as necessary to evaluate the cost components  
 23 of providing health insurance in this state, including but not limited to information regarding  
 24 payments made by insurers for hospital services and other medical services.

25        (3) The director may not disclose any information that is identifiable to an individual  
 26 patient.

27        (4) No cause of action may arise and no liability may be imposed against the director, an  
 28 authorized representative of the director or any examiner appointed by the director for the  
 29 reporting of proprietary information or trade secrets under this section.

30        **SECTION 14.** This 2005 Act being necessary for the immediate preservation of the public  
 31 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect  
 32 **July 1, 2005.**

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