

# Enrolled Senate Bill 569

Sponsored by Senators STEINER HAYWARD, KRUSE, Representative HARKER; Senators BAERTSCHIGER JR, BATES, BEYER, BOQUIST, BURDICK, CLOSE, COURTNEY, DEVLIN, DINGFELDER, EDWARDS, FERRIOLI, GEORGE, GIROD, HANSELL, HASS, JOHNSON, KNOPP, MONNES ANDERSON, MONROE, OLSEN, PROZANSKI, ROBLAN, ROSENBAUM, SHIELDS, STARR, THOMSEN, WHITSETT, WINTERS, Representatives BAILEY, BARKER, BARNHART, BENTZ, BERGER, BOONE, CONGER, DAVIS, DEMBROW, DOHERTY, ESQUIVEL, FREDERICK, FREEMAN, GARRETT, GILLIAM, GORSEK, GREENLICK, HICKS, HOLVEY, HUFFMAN, JOHNSON, KENNEMER, KENY-GUYER, KOMP, KRIEGER, LIVELY, MATTHEWS, OLSON, PARRISH, READ, SMITH, SPRENGER, THATCHER, THOMPSON, VEGA PEDERSON, WEIDNER, WHITSETT, WITT

CHAPTER .....

AN ACT

Relating to telemedicine; creating new provisions; amending ORS 442.015 and 442.807; and declaring an emergency.

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

**SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 441.**

**SECTION 2. (1) The Oregon Health Authority shall prescribe by rule the information and documents that a governing body of an originating-site hospital may request for credentialing a telemedicine provider located at a distant-site hospital.**

**(2) The rules adopted by the authority under subsection (1) of this section must:**

**(a) Prescribe a standard list of information and documents that shall be provided by a distant-site hospital;**

**(b) Prescribe a list of information and documents that may be requested by an originating-site hospital in addition to the standard list of information and documents;**

**(c) Prescribe a list of information and documents that may not be requested by an originating-site hospital; and**

**(d) Be consistent with all applicable legal and accreditation requirements of an originating-site hospital and the health plans with which the originating-site hospital contracts.**

**(3) Except as provided in subsection (4) of this section, an originating-site hospital in this state must comply with the rules adopted under this section if the telemedicine provider is located at a distant-site hospital that is located in this state. This section does not prevent hospitals located outside of this state from using or require such hospitals to use the prescribed list of information and documents in credentialing a telemedicine provider.**

**(4) An originating-site hospital is not limited to the information and documents prescribed by the authority if the originating-site hospital has a delegated credentialing agreement with the distant-site hospital where the telemedicine provider is located and the**

**governing body of the originating-site hospital accepts the recommendation of the medical staff to credential the telemedicine provider.**

**(5) In the adoption of the rules described in subsections (1) and (2) of this section, the authority shall consult with representatives of distant-site hospitals and originating-site hospitals in this state. Once adopted, the authority may not amend the rules to alter the prescribed lists without first consulting representatives of distant-site hospitals and originating-site hospitals in this state.**

**(6) This section does not affect the responsibilities of a governing body under ORS 441.055 and does not require a governing body of a hospital to grant privileges to a telemedicine provider.**

**SECTION 3.** ORS 442.015 is amended to read:

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

(1) “Acquire” or “acquisition” means obtaining equipment, supplies, components or facilities by any means, including purchase, capital or operating lease, rental or donation, *[with intention]* **for the purpose** of using such equipment, supplies, components or facilities to provide health services in Oregon. When equipment or other materials are obtained outside of this state, acquisition is considered to occur when the equipment or other materials begin to be used in Oregon for the provision of health services or when such services are offered for use in Oregon.

(2) “Affected persons” has the same meaning as given to “party” in ORS 183.310.

(3)(a) “Ambulatory surgical center” means a facility or portion of a facility that operates exclusively for the purpose of providing surgical services to patients who do not require hospitalization and for whom the expected duration of services does not exceed 24 hours following admission.

(b) “Ambulatory surgical center” does not mean:

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

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

[4] “*Budget*” means the projections by the hospital for a specified future time period of expenditures and revenues with supporting statistical indicators.]

(4) **“Delegated credentialing agreement” means a written agreement between an originating-site hospital and a distant-site hospital that provides that the medical staff of the originating-site hospital will rely upon the credentialing and privileging decisions of the distant-site hospital in making recommendations to the governing body of the originating-site hospital as to whether to credential a telemedicine provider, practicing at the distant-site hospital either as an employee or under contract, to provide telemedicine services to patients in the originating-site hospital.**

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

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

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

[7] (8) “Freestanding birthing center” means a facility licensed for the primary purpose of performing low risk deliveries.

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

[(9)] (10) "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges and other operating revenue. "Gross revenue" does not include contributions, donations, legacies or bequests made to a hospital without restriction by the donors.

[(10)(a)] (11)(a) "Health care facility" means:

- (A) A hospital;
- (B) A long term care facility;
- (C) An ambulatory surgical center;
- (D) A freestanding birthing center; or
- (E) An outpatient renal dialysis center.

(b) "Health care facility" does not mean:

- (A) A residential facility licensed by the Department of Human Services or the Oregon Health Authority under ORS 443.415;
- (B) An establishment furnishing primarily domiciliary care as described in ORS 443.205;
- (C) A residential facility licensed or approved under the rules of the Department of Corrections;
- (D) Facilities established by ORS 430.335 for treatment of substance abuse disorders; or
- (E) Community mental health programs or community developmental disabilities programs established under ORS 430.620.

[(11)] (12) "Health maintenance organization" or "HMO" means a public organization or a private organization organized under the laws of any state that:

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

(b)(A) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services:

- (i) Usual physician services;
- (ii) Hospitalization;
- (iii) Laboratory;
- (iv) X-ray;
- (v) Emergency and preventive services; and
- (vi) Out-of-area coverage;

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

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

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

[(13)] (14) "Hospital" means:

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

- (A) Medical;
- (B) Nursing;
- (C) Laboratory;
- (D) Pharmacy; and
- (E) Dietary; or

(b) A special inpatient care facility as that term is defined by the Oregon Health Authority by rule.

[(14)] (15) "Institutional health services" means health services provided in or through health care facilities and includes the entities in or through which such services are provided.

[(15)] (16) "Intermediate care facility" means a facility that provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment

that a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services above the level of room and board that can be made available to them only through institutional facilities.

[(16)] (17)(a) “Long term care facility” means a **permanent** facility with [*permanent facilities that include*] inpatient beds, providing:

(A) Medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of Human Services[, *to provide*]; **and**

(B) Treatment for two or more unrelated patients.

(b) “Long term care facility” includes skilled nursing facilities and intermediate care facilities but [*may not be construed to*] **does not** include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

[(17)] (18) “New hospital” means:

(a) A facility that did not offer hospital services on a regular basis within its service area within the prior 12-month period and is initiating or proposing to initiate such services. [*New hospital also includes*]; **or**

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

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

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

(21) **“Originating-site hospital” means a hospital in which a patient is located while receiving telemedicine services.**

[(20)] (22) “Outpatient renal dialysis facility” means a facility that provides renal dialysis services directly to outpatients.

[(21)] (23) “Person” means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation, of a state.

[(22)] (24) “Skilled nursing facility” means a facility or a distinct part of a facility, that is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or an institution that provides rehabilitation services for the rehabilitation of individuals who are injured or sick or who have disabilities.

(25) **“Telemedicine” means the provision of health services to patients by physicians and health care practitioners from a distance using electronic communications.**

**SECTION 4.** ORS 442.807 is amended to read:

442.807. (1) Within 30 days of receiving the recommendations of the Advisory Committee on Physician Credentialing Information, the Administrator of the Office for Oregon Health Policy and Research shall forward the recommendations to the Director of the Oregon Health Authority. The administrator shall request that the Oregon Health Authority adopt rules to carry out the efficient implementation and enforcement of the recommendations of the committee.

(2) The Oregon Health Authority shall:

(a) Adopt administrative rules in a timely manner, as required by the Administrative Procedures Act, for the purpose of effectuating the provisions of ORS 442.800 to 442.807; and

(b) Consult with each other and with the administrator to ensure that the rules adopted by the Oregon Health Authority are identical and are consistent with the recommendations developed pursuant to ORS 442.805 for affected hospitals and health care service contractors.

(3) The uniform credentialing information required pursuant to the administrative rules of the Oregon Health Authority represent the minimum uniform credentialing information required by the affected hospitals and health care service contractors. *[Nothing in ORS 442.800 to 442.807 shall be interpreted to prevent an affected hospital or health care service contractor from requesting]* **Except as provided in subsection (4) of this section, a hospital or health care service contractor may request additional credentialing information from a licensed physician for the purpose of completing physician credentialing procedures used by the affected hospital or health care service contractor.**

**(4) In credentialing a telemedicine provider, a hospital is subject to the requirements prescribed by rule by the authority under section 2 of this 2013 Act.**

**SECTION 5. (1) Section 2 of this 2013 Act and the amendments to ORS 442.015 and 442.807 by sections 3 and 4 of this 2013 Act become operative October 1, 2013.**

**(2) The Director of the Oregon Health Authority may take any actions necessary before October 1, 2013, in order to implement section 2 of this 2013 Act and the amendments to ORS 442.015 and 442.807 by sections 3 and 4 of this 2013 Act on and after October 1, 2013.**

**SECTION 6. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.**

Passed by Senate April 18, 2013

Repassed by Senate June 5, 2013

.....  
Robert Taylor, Secretary of Senate

.....  
Peter Courtney, President of Senate

Passed by House May 30, 2013

.....  
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

.....  
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

.....  
Kate Brown, Secretary of State