

**A-Engrossed**  
**Senate Bill 453**

Ordered by the Senate May 5  
Including Senate Amendments dated May 5

Sponsored by COMMITTEE ON HEALTH CARE AND VETERANS' AFFAIRS (at the request of Oregon Health Fund Board)

**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.

*[Eliminates sunset of Oregon Health Fund Board.]* Authorizes Office for Oregon Health Policy and Research to require reporting of health-related information from health insurers, third party administrators and other specified entities.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to health planning; creating new provisions; amending ORS 731.988; and declaring an  
3 emergency.

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

5 **SECTION 1. (1) The Office for Oregon Health Policy and Research may establish such**  
6 **advisory and technical committees as the office considers necessary for implementation or**  
7 **refinement of, or the further development of, the comprehensive plan created by the Oregon**  
8 **Health Fund Board in accordance with section 11, chapter 697, Oregon Laws 2007, including**  
9 **but not limited to:**

10 (a) **Health care payment systems.**

11 (b) **Evidence-based health care practice guidelines and comparative effectiveness of**  
12 **health treatments.**

13 (c) **A health insurance exchange.**

14 (d) **Medical malpractice insurance.**

15 (2) **The committees may be continuing or temporary. The office shall determine the**  
16 **membership, terms and organization of the committees and shall appoint their members.**

17 (3) **Members of the committees are not entitled to compensation but shall be reimbursed**  
18 **from funds available to the office for actual and necessary travel expenses incurred in the**  
19 **performance of their duties.**

20 **SECTION 2. As used in this section and section 3 of this 2009 Act, "reporting entity"**  
21 **means:**

22 (1) **An insurer as defined in ORS 731.106 or fraternal benefit society as described in ORS**  
23 **748.106 required to have a certificate of authority to transact health insurance business in**  
24 **this state.**

25 (2) **A health care service contractor as defined in ORS 750.005 that issues medical insur-**  
26 **ance in this state.**

**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       **(3) A third party administrator required to obtain a license under ORS 744.702.**

2       **(4) A pharmacy benefit manager or fiscal intermediary, or other person that is by statute, contract or agreement legally responsible for payment of a claim for a health care item**  
3 **or service.**

4       **(5) A prepaid managed care health services organization as defined in ORS 414.736.**

5       **(6) An insurer providing coverage funded under Part A, Part B or Part D of Title XVIII**  
6 **of the Social Security Act, subject to approval by the United States Department of Health**  
7 **and Human Services.**

8       **SECTION 3. (1) The Administrator of the Office for Oregon Health Policy and Research**  
9 **shall establish and maintain a program that requires reporting entities to report health care**  
10 **data for the following purposes:**

11       **(a) Determining the maximum capacity and distribution of existing resources allocated**  
12 **to health care.**

13       **(b) Identifying the demands for health care.**

14       **(c) Allowing health care policymakers to make informed choices.**

15       **(d) Evaluating the effectiveness of intervention programs in improving health outcomes.**

16       **(e) Comparing the costs and effectiveness of various treatment settings and approaches.**

17       **(f) Providing information to consumers and purchasers of health care.**

18       **(g) Improving the quality and affordability of health care and health care coverage.**

19       **(h) Assisting the administrator in furthering the health policies expressed by the Legis-**  
20 **lative Assembly in ORS 442.025.**

21       **(i) Evaluating health disparities, including but not limited to disparities related to race**  
22 **and ethnicity.**

23       **(2) The administrator shall prescribe by rule standards that are consistent with stan-**  
24 **dards adopted by the Accredited Standards Committee X12 of the American National Stan-**  
25 **dards Institute, the Centers for Medicare and Medicaid Services and the National Council for**  
26 **Prescription Drug Programs that:**

27       **(a) Establish the time, place, form and manner of reporting data under this section, in-**  
28 **cluding but not limited to:**

29       **(A) Requiring the use of unique patient and provider identifiers;**

30       **(B) Specifying a uniform coding system that reflects all health care utilization and costs**  
31 **for health care services provided to Oregon residents in other states; and**

32       **(C) Establishing enrollment thresholds below which reporting will not be required.**

33       **(b) Establish the types of data to be reported under this section, including but not limited**  
34 **to:**

35       **(A) Health care claims and enrollment data used by reporting entities and paid health**  
36 **care claims data;**

37       **(B) Reports, schedules, statistics or other data relating to health care costs, prices,**  
38 **quality, utilization or resources determined by the administrator to be necessary to carry**  
39 **out the purposes of this section; and**

40       **(C) Data related to race, ethnicity and primary language, collected in a manner consist-**  
41 **ent with established national standards.**

42       **(3) Any third party administrator that is not required to obtain a license under ORS**  
43 **744.702 and that is legally responsible for payment of a claim for a health care item or service**  
44 **provided to an Oregon resident may report to the Administrator of the Office for Oregon**  
45

1 **Health Policy and Research the health care data described in subsection (2) of this section.**

2 **(4) The administrator shall adopt rules establishing requirements for reporting entities**  
3 **to train providers on protocols for collecting race, ethnicity and primary language data in a**  
4 **culturally competent manner.**

5 **(5) The administrator shall use data collected under this section to provide information**  
6 **to consumers of health care to empower the consumers to make economically sound and**  
7 **medically appropriate decisions. The information must include, but not be limited to, the**  
8 **prices and quality of health care services.**

9 **(6) The administrator may contract with a third party to collect and process the health**  
10 **care data reported under this section. The contract must prohibit the collection of Social**  
11 **Security numbers and must prohibit the disclosure or use of the data for any purpose other**  
12 **than those specifically authorized by the contract. The contract must require the third party**  
13 **to transmit all data collected and processed under the contract to the Office for Oregon**  
14 **Health Policy and Research.**

15 **(7) The administrator shall facilitate a collaboration between the Department of Human**  
16 **Services, the Department of Consumer and Business Services and interested stakeholders to**  
17 **develop a comprehensive health care information system using the data reported under this**  
18 **section and collected by the office under ORS 442.120 and 442.400 to 442.463. The administra-**  
19 **tor, in consultation with interested stakeholders, shall:**

20 **(a) Formulate the data sets that will be included in the system;**

21 **(b) Establish the criteria and procedures for the development of limited use data sets;**

22 **(c) Establish the criteria and procedures to ensure that limited use data sets are acces-**  
23 **sible and compliant with federal and state privacy laws; and**

24 **(d) Establish a time frame for the creation of the comprehensive health care information**  
25 **system.**

26 **(8) Information disclosed through the comprehensive health care information system**  
27 **described in subsection (7) of this section:**

28 **(a) Shall be available, when disclosed in a form and manner that ensures the privacy and**  
29 **security of personal health information as required by state and federal laws, as a resource**  
30 **to insurers, employers, providers, purchasers of health care and state agencies to allow for**  
31 **continuous review of health care utilization, expenditures and performance in this state;**

32 **(b) Shall be available to Oregon programs for quality in health care for use in improving**  
33 **health care in Oregon, subject to rules prescribed by the administrator conforming to state**  
34 **and federal privacy laws or limiting access to limited use data sets;**

35 **(c) Shall be presented to allow for comparisons of geographic, demographic and economic**  
36 **factors and institutional size; and**

37 **(d) May not disclose trade secrets of reporting entities.**

38 **(9) The collection, storage and release of health care data and other information under**  
39 **this section is subject to the requirements of the federal Health Insurance Portability and**  
40 **Accountability Act.**

41 **SECTION 4. (1) Any reporting entity that fails to report as required in section 3 of this**  
42 **2009 Act or rules of the Office for Oregon Health Policy and Research adopted pursuant to**  
43 **section 3 of this 2009 Act may be subject to a civil penalty.**

44 **(2) The Administrator of the Office for Oregon Health Policy and Research shall adopt a**  
45 **schedule of penalties not to exceed \$500 per day of violation, determined by the severity of**

1 **the violation.**

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

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

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

8 **SECTION 5.** ORS 731.988 is amended to read:

9 731.988. (1) *[Any person who violates any provision of the Insurance Code, any lawful rule or final*  
10 *order of the Director of the Department of Consumer and Business Services or any judgment made by*  
11 *any court upon application of the director, shall forfeit and pay to the General Fund of the State*  
12 *Treasury a civil penalty in an amount determined by the director of not more than \$10,000 for each*  
13 *offense. In the case of individual insurance producers, adjusters or insurance consultants, the civil*  
14 *penalty shall be not more than \$1,000 for each offense. Each violation shall be deemed a separate of-*  
15 *fense.]* **A person shall forfeit and pay to the General Fund of the State Treasury a civil penalty**  
16 **in an amount determined by the Director of the Department of Consumer and Business**  
17 **Services of not more than \$10,000 for each violation of:**

18 **(a) Any provision of the Insurance Code;**

19 **(b) Any lawful rule or final order of the director;**

20 **(c) Any judgment made by a court upon application made by the director; or**

21 **(d) Any rule adopted by the Administrator of the Office for Oregon Health Policy and**  
22 **Research for the reporting of data pursuant to section 3 of this 2009 Act.**

23 **(2)** In addition to the civil penalty set forth in subsection (1) of this section, any person who  
24 violates any provision of the Insurance Code, any lawful rule or final order of the director or any  
25 judgment made by any court upon application of the director, may be required to forfeit and pay to  
26 the General Fund of the State Treasury a civil penalty in an amount determined by the director but  
27 not to exceed the amount by which such person profited in any transaction which violates any such  
28 provision, rule, order or judgment.

29 **(3)** In addition to the civil penalties set forth in subsections (1) and (2) of this section, any  
30 insurer that is required to make a report under ORS 742.400 and that fails to do so within the  
31 specified time may be required to pay to the General Fund of the State Treasury a civil penalty in  
32 an amount determined by the director but not to exceed \$10,000.

33 **(4)** A civil penalty imposed under this section may be recovered either as provided in subsection  
34 (5) of this section or in an action brought in the name of the State of Oregon in any court of ap-  
35 propriate jurisdiction.

36 **(5)** Civil penalties under this section shall be imposed and enforced in the manner provided by  
37 ORS 183.745.

38 **(6)** The provisions of this section are in addition to and not in lieu of any other enforcement  
39 provisions contained in the Insurance Code.

40 **SECTION 6.** (1) **The Administrator of the Office for Oregon Health Policy and Research**  
41 **may take any action before the operative date specified in section 7 of this 2009 Act that is**  
42 **necessary to enable the administrator to exercise, on and after the operative date specified**  
43 **in section 7 of this 2009 Act, all of the duties, functions and powers conferred on the ad-**  
44 **ministrator by section 3 of this 2009 Act.**

45 **(2) The administrator shall adopt rules required by section 3 (2) and (4) of this 2009 Act**

1 **no later than December 31, 2009.**

2 **SECTION 7. Section 3 of this 2009 Act becomes operative on July 1, 2010.**

3 **SECTION 8. This 2009 Act being necessary for the immediate preservation of the public**  
4 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
5 **on its passage.**

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